

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill No. 160 entitled:

"AN ACT Relating to retail installment sales."

Section 6 of this bill duplicates the substance of a section contained in House Bill 137, but uses slightly different wording. I have determined to veto this section in order to avoid difficulties in codification and future interpretation of the section.

With the exception of Section 6 which I have vetoed, House Bill No. 160 is approved."

## CHAPTER 78

[House Bill No. 137]

### INTEREST—LEGAL RATE—USURY DEFENSE

AN ACT Relating to usury; amending section 2, chapter 80, Laws of 1899 as amended by section 4, chapter 23, Laws of 1967 ex. sess. and RCW 19.52.020; amending section 1, chapter 142, Laws of 1969 ex. sess. as last amended by section 1, chapter 180, Laws of 1975 1st ex. sess. and RCW 19.52.080; adding new sections to chapter 19.52 RCW; adding a new section to chapter 63.14 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 2, chapter 80, Laws of 1899 as amended by section 4, chapter 23, Laws of 1967 ex. sess. and RCW 19.52.020 are each amended to read as follows:

Any rate of interest not exceeding the higher of twelve percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Federal Reserve Bank of San Francisco) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month, agreed to in writing by the parties to the contract, shall be legal, and no person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest (~~(sum or value)~~) for the loan or forbearance of any money, goods, or things in action (~~(than twelve percent per annum)~~): PROVIDED, That in any loan of money in which the funds advanced do not exceed the sum of five hundred dollars, a setup charge may be charged and collected by the lender, and such setup charge shall not be considered interest hereunder: PROVIDED FURTHER, That such setup charge does not exceed four percent of the amount of funds advanced, or fifteen dollars, whichever is the lesser, except that on loans of under one hundred dollars a minimum not exceeding four dollars may be so charged.

Any loan made pursuant to a commitment to lend at an interest rate permitted at the time the commitment is made shall not be usurious. Credit extended pursuant to an open-end credit agreement upon which interest is computed on the basis of a balance or balances outstanding during a billing cycle shall not be usurious if the rate at which interest is charged is not usurious on any day during the billing cycle.

Sec. 2. Section 1, chapter 142, Laws of 1969 ex. sess. as last amended by section 1, chapter 180, Laws of 1975 1st ex. sess. and RCW 19.52.080 are each amended to read as follows:

Profit and nonprofit corporations, Massachusetts trusts, associations, trusts, general partnerships, joint ventures, limited partnerships, and governments and governmental subdivisions, agencies, or instrumentalities may not plead the defense of usury nor maintain any action thereon or therefor, and persons may not plead the defense of usury nor maintain any action thereon or therefor if the transaction was ((exclusively)) primarily for agricultural, commercial, investment, or business purposes: PROVIDED, HOWEVER, That this section shall not apply to a consumer transaction of any amount((; or to a commercial or business transaction not exceeding fifty thousand dollars)).

Consumer transactions, as used in this section, shall mean transactions primarily for personal, family, or household purposes.

NEW SECTION. Sec. 3. There is added to chapter 19.52 RCW a new section to read as follows:

This chapter shall not apply to a retail installment transaction, as defined by RCW 63.14 010, whether or not it is construed to be a loan or forbearance of any money, goods, or things in action.

**\*NEW SECTION. Sec. 4. There is added to chapter 19.52 RCW a new section to read as follows:**

***A sale contract for goods or services providing for the deferred payment of the purchase price is not subject to this chapter, regardless of by whom the contract is sought to be enforced, notwithstanding the existence or occurrence of any one or more of the following events:***

***(1) That the seller has arranged to sell, pledge, indorse, negotiate, assign, or transfer the obligations thereof to any person, including a financing organization, prior to, subsequent to, or concurrently with the making of the sale transaction;***

***(2) That the amount of the finance charge, however denominated, is determined by reference to charts, computations, or information supplied by the person;***

***(3) That the form or forms of instruments used to evidence the sale transaction have been supplied or prepared by the person;***

***(4) That the credit standing of the purchaser is evaluated by the person;***

***(5) That the sale transaction and the execution of any instrument evidencing the transaction is negotiated in the presence or with the assistance of a representative of the person;***

***(6) That the instruments used to evidence the sales transaction are pledged, indorsed, negotiated, assigned, or transferred by the seller to the person;***

*(7) That there is an underlying agreement between the seller and the person concerning the pledging, indorsing, negotiation, assigning, or transferring of sale contracts; or*

*(8) That the financing organization or its affiliates also provide franchising, financing, or other services to the seller-assignor.*

\*Sec. 4. was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 5.** *There is added to chapter 19.52 RCW a new section to read as follows:*

*Nothing contained in this chapter limits any charge made by an assignee of a retail installment contract or charge agreement to the seller-assignor upon the sale, transfer, assignment, or discount of the contract or agreement.*

\*Sec. 5. was vetoed, see message at end of chapter.

**\*NEW SECTION. Sec. 6.** *There is added to chapter 63.14 RCW a new section to read as follows:*

*A lender credit card is a card or device issued under an arrangement pursuant to which the issuer gives to a card holder residing in this state the privilege of obtaining credit from the issuer or other persons in purchasing or leasing property or services, obtaining loans, or otherwise, and the issuer of which is not principally engaged in the business of selling goods.*

*A lender credit card agreement and credit extended pursuant to it is not subject to the provisions of this chapter.*

\*Sec. 6. was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 7.** *If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.*

**NEW SECTION. Sec. 8.** *This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.*

**NEW SECTION. Sec. 9.** *There is added to chapter 19.52 RCW a new section to read as follows:*

*No person may plead the defense of usury or maintain any action thereon or therefor for the interest charged on the unpaid balance of a contract for the sale and purchase of personal property which was not purchased primarily for personal, family or household use or real property if the purchase was made after May 1, 1980 and prior to March 1, 1981.*

**NEW SECTION. Sec. 10.** *Sections 1 through 8 of this act shall apply only to loans or forbearances or transactions which are entered into after the effective date of this act or to existing loans or forbearances, contracts or agreements which were not primarily for personal, family or household use to which there is an addition to the principal amount of the credit outstanding after the effective date of this act: PROVIDED, HOWEVER,*

That nothing in this act shall be construed as implying that agricultural or investment purposes are not already included within the meaning of "commercial or business purposes" as used in section 1, chapter 142, Laws of 1969 ex. sess. and RCW 19.52.080 as in effect prior to the effective date of this act.

Passed the House April 1, 1981.

Passed the Senate April 25, 1981.

Approved by the Governor May 8, 1981, with the exception of Sections 4, 5 and 6 which are vetoed.

Filed in Office of Secretary of State May 8, 1981.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to three sections House Bill No. 137 entitled:

"AN ACT relating to usury."

Sections 4, 5, and 6 of this bill duplicate the substance of three sections contained in House Bill 160, but use slightly different wording. I have determined to veto these sections in order to avoid difficulties in codification and future interpretation of these sections.

With the exception of sections 4, 5, and 6 which I have vetoed, House Bill No. 137 is approved."

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## CHAPTER 79

[House Bill No. 96]

### SECURITIES BROKER-DEALERS—INTEREST CHARGES

AN ACT Relating to commercial lending; and adding a new section to chapter 19.52 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 19.52 RCW a new section to read as follows:

The interest charged by any broker-dealer registered under chapter 21-.20 RCW and under the federal securities and exchange act of 1934, as amended, shall not be subject to the limitations imposed by this chapter if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to the credit regulations of the board of governors of the federal reserve system, or its successor.

Passed the House April 20, 1981.

Passed the Senate April 16, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.