

(4) Nothing in this section shall validate any term which is otherwise illegal.

Sec. 2. Section 3-109, chapter 157, Laws of 1965 ex. sess. and RCW 62A.3-109 are each amended to read as follows:

(1) An instrument is payable at a definite time if by its terms it is payable

(a) on or before a stated date or at a fixed period after a stated date; or

(b) at a fixed period after sight; or

(c) at a definite time subject to any acceleration; or

(d) at a definite time subject to extension at the option of the holder, or to extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event; or

(e) by variable, graduated, annuity or price-level adjusted payments.

(2) An instrument which by its terms is otherwise payable only upon an act or event uncertain as to time of occurrence is not payable at a definite time even though the act or event has occurred.

Passed the Senate March 3, 1989.

Passed the House March 29, 1989.

Approved by the Governor April 17, 1989.

Filed in Office of Secretary of State April 17, 1989.

## CHAPTER 14

[Substitute Senate Bill No. 5033]

### REVISED CODE OF WASHINGTON—TECHNICAL AMENDMENTS

AN ACT Relating to technical corrections in the Revised Code of Washington; amending RCW 11.98.160, 19.52.020, 43.52.395, 63.14.130, 84.69.100, 19.52.030, 63.14.154, and 70.92.110; and adding a new section to chapter 4.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 4.16 RCW to read as follows:

Except as otherwise provided in this chapter, and except when in special cases a different limitation is prescribed by a statute not contained in this chapter, actions can only be commenced within the periods provided in this chapter after the cause of action has accrued.

Sec. 2. Section 58, chapter 30, Laws of 1985 and RCW 11.98.160 are each amended to read as follows:

For the purposes of ~~((this chapter))~~ RCW 11.98.130 through 11.98.150 the effective date of an instrument purporting to create an irrevocable inter vivos trust is the date on which it is executed by the trustor, and the effective date of an instrument purporting to create either a revocable inter vivos trust or a testamentary trust is the date of the trustor's or testator's death.

Sec. 3. Section 2, chapter 80, Laws of 1899 as last amended by section 1, chapter 224, Laws of 1985 and RCW 19.52.020 are each amended to read as follows:

(1) Any rate of interest shall be legal so long as the rate of interest does not exceed the higher of: (a) Twelve percent per annum; or (b) four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve ((Bank of San Francisco) System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the calendar month immediately preceding the later of (i) the establishment of the interest rate by written agreement of the parties to the contract, or (ii) any adjustment in the interest rate in the case of a written agreement permitting an adjustment in the interest rate. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater interest for the loan or forbearance of any money, goods, or things in action.

(2)(a) 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.

(b) The setup charge shall 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.

(3) 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 on any one day during the billing cycle the rate at which interest is charged for the billing cycle is not usurious.

Sec. 4. Section 2, chapter 1, Laws of 1982 and RCW 43.52.395 are each amended to read as follows:

(1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391(~~(, as now or hereafter amended;)~~) may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve ((Bank of San Francisco) System) 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.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions.

Sec. 5. Section 13, chapter 236, Laws of 1963 as last amended by section 1, chapter 318, Laws of 1987 and RCW 63.14.130 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) Except as provided in subsection (2) of this section, the service charge, in a retail installment contract, shall not exceed the highest of the following:

(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yields (as published by the Board of Governors of the Federal Reserve ((Bank of San Francisco)) System) of the bill rates for twenty-six week treasury bills for the last market auctions conducted during February, May, August, and November of the year prior to the year in which the retail installment contract is executed; or

(b) Ten dollars.

(2) The service charge in a retail installment contract for the purchase of a motor vehicle shall not exceed the highest of the following:

(a) A rate on outstanding unpaid balances which exceeds six percentage points above the average, rounded to the nearest one-quarter of one percent, of the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve ((Bank of San Francisco)) System) of the bill rate for twenty-six week treasury bills for the last market auction conducted during February, May, August, or November, as the case may be, prior to the quarter in which the retail installment contract for purchase of the motor vehicle is executed; or

(b) Ten dollars.

As used in this subsection, "motor vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except for devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(3) The service charge in a retail charge agreement, revolving charge agreement, lender credit card agreement, or charge agreement, shall not exceed one and one-half percent per month on the outstanding unpaid balances. If the service charge so computed is less than one dollar for any month, then one dollar may be charged.

(4) A service charge may be computed on the median amount within a range which does not exceed ten dollars and which is a part of a published schedule of consecutive ranges applied to an outstanding balance, provided

the median amount is used in computing the service charge for all balances within such range.

Sec. 6. Section 84.69.100, chapter 15, Laws of 1961 as last amended by section 1, chapter 319, Laws of 1987 and RCW 84.69.100 are each amended to read as follows:

Refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 shall include interest from the date of collection of the portion refundable or from the date of claim for refund, whichever is later: PROVIDED, That refunds on a state, county, or district wide basis shall not commence to accrue interest until six months following the date of the final order of the court. No written protest by individual taxpayers need to be filed to receive a refund on a state, county, or district wide basis. The rate of interest shall be the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve (~~(Bank of San Francisco)~~) System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid or the claim for refund is filed, whichever is later. The department of revenue shall adopt this rate of interest by rule.

Sec. 7. Section 7, chapter 80, Laws of 1899 as amended by section 5, chapter 23, Laws of 1967 ex. sess. and RCW 19.52.030 are each amended to read as follows:

(1) If a greater rate of interest than is allowed by statute shall be contracted for or received or reserved, the contract shall be usurious, but shall not, therefore, be void. If in any action on such contract proof be made that greater rate of interest has been directly or indirectly contracted for or taken or reserved, the creditor shall only be entitled to the principal, less the amount of interest accruing thereon at the rate contracted for; and if interest shall have been paid, the creditor shall only be entitled to the principal less twice the amount of the interest paid, and less the amount of all accrued and unpaid interest; and the debtor shall be entitled to costs and reasonable attorneys' fees plus the amount by which the amount (~~(he)~~) the debtor has paid under the contract exceeds the amount to which the creditor is entitled: PROVIDED, That the debtor may not commence an action on the contract to apply the provisions of this section if a loan or forbearance is made to a corporation engaged in a trade or business for the purposes of carrying on said trade or business unless there is also, in connection with such loan or forbearance, the creation of liability on the part of a natural person or (~~(his)~~) that person's property for an amount in excess of the principal plus interest allowed pursuant to RCW 19.52.020. The reduction in principal shall be applied to diminish pro rata each future installment of principal payable under the terms of the contract.

(2) The acts and dealings of an agent in loaning money shall bind the principal, and in all cases where there is usurious interest contracted for by the transaction of any agent the principal shall be held thereby to the same

extent as though ((he)) the principal had acted in person. ((And)) Where the same person acts as agent of the borrower and lender, ((he)) that person shall be deemed the agent of the lender for the purposes of this ((act)) chapter. If the agent of both the borrower and lender, or of the lender only, transacts a usurious loan for a commission or fee, such agent shall be liable to ((his)) the principal for the amount of the commission or fee received or reserved by the agent, and liable to the lender for the loss suffered by the lender as a result of the application of this ((act)) chapter.

Sec. 8. Section 12, chapter 234, Laws of 1967 as amended by section 4, chapter 47, Laws of 1972 ex. sess. and RCW 63.14.154 are each amended to read as follows:

(1) In addition to any other rights he may have, the buyer shall have the right to cancel a retail installment transaction for other than the seller's breach by sending notice of such cancellation to the seller at his place of business as set forth in the contract or charge agreement by certified mail, return receipt requested, which shall be posted not later than midnight of the third day (excluding Sundays and holidays) following the date the buyer signs the contract or charge agreement:

(a) If the retail installment transaction was entered into by the buyer and solicited in person by the seller or his representative at a place other than the seller's address, which may be his main or branch office, shown on the contract; and

(b) If the buyer returns goods received or makes them available to the seller as provided in clause (b) of subsection (2) of this section.

~~((c) By sending notice of such cancellation to the seller at his place of business as set forth in the contract or charge agreement by certified mail, return receipt requested, which shall be posted not later than midnight of the third day (excluding Sundays and holidays) following the date the buyer signs the contract or charge agreement.))~~

(2) In the event of cancellation pursuant to this section:

(a) The seller shall, without request, refund to the buyer within ten days after such cancellation all deposits, including any down payment, made under the contract or charge agreement and shall return all goods traded in to the seller on account or in contemplation of the contract less any reasonable costs actually incurred in making ready for sale the goods so traded in;

(b) The seller shall be entitled to reclaim and the buyer shall return or make available to the seller at the place of delivery in its original condition any goods received by the buyer under the contract or charge agreement;

(c) The buyer shall incur no additional liability for such cancellation.

Sec. 9. Section 2, chapter 110, Laws of 1975 1st ex. sess. and RCW 70.92.110 are each amended to read as follows:

The standards and specifications adopted under this chapter shall, as provided in this section, apply to buildings, structures, or portions thereof used primarily for group A-1 through group ((H)) R-1 occupancies, except

for group M occupancies, as defined in the (~~Washington state~~) Uniform Building Code, 1988 edition, published by the International Conference of Building Officials. All such buildings, structures, or portions thereof, which are constructed, substantially remodeled, or substantially rehabilitated after July 1, 1976, shall conform to the standards and specifications adopted under this chapter: PROVIDED, That the following buildings, structures, or portions thereof shall be exempt from this chapter:

(1) Buildings, structures, or portions thereof for which construction contracts have been awarded prior to July 1, 1976;

(2) Any building, structure, or portion thereof in respect to which the administrative authority deems, after considering all circumstances applying thereto, that full compliance is impracticable: PROVIDED, That, such a determination shall be made no later than at the time of issuance of the building permit for the construction, remodeling, or rehabilitation: PROVIDED FURTHER, That the board of appeals provided for in section 204 of the Uniform Building Code shall have jurisdiction to hear and decide appeals from any decision by the administrative authority regarding a waiver or failure to grant a waiver from compliance with the standards adopted pursuant to RCW 70.92.100 through 70.92.160. The provisions of the Uniform Building Code regarding the appeals process shall govern the appeals herein;

(3) Any building or structure used solely for dwelling purposes and which contains not more than two dwelling units;

(4) Any building or structure not used primarily for group A-1 through group (~~H~~) R-1 occupancies, except for group M occupancies, as set forth in the (~~Washington state~~) Uniform Building Code, 1988 edition, published by the International Conference of Building Officials; or

(5) Apartment houses with ten or fewer units.

Passed the Senate April 10, 1989.

Passed the House March 29, 1989.

Approved by the Governor April 17, 1989.

Filed in Office of Secretary of State April 17, 1989.

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## CHAPTER 15

[Senate Bill No. 5089]

### SUPERIOR COURTS—TRANSFER OF CASES

AN ACT Relating to superior courts; and amending RCW 4.12.040.

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

Sec. 1. Section 1, chapter 121, Laws of 1911 as last amended by section 1, chapter 303, Laws of 1961 and RCW 4.12.040 are each amended to read as follows: