

## CHAPTER 23.

[Engrossed House Bill No. 224.]

COMMERCIAL TRANSACTIONS—CHECKS—  
OUT-OF-STATE LOANS—INTEREST.

AN ACT relating to commercial transactions; and adding a new section to chapter 157, Laws of 1965 extraordinary session and to article 62A.3 RCW; amending section 2, chapter 80, Laws of 1899 and RCW 19.52.020; amending section 7, chapter 80, Laws of 1899 and RCW 19.52.030; adding new sections to chapter 80, Laws of 1899 and to chapter 19.52 RCW; and prescribing penalties.

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

Section 1. There is hereby added to chapter 157, Laws of 1965 extraordinary session and to article 62A.3 RCW a new section to read as follows: New section.

Whenever a check as defined in RCW 62A.3-104 has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen days after written notice by the holder of such check to the last known address of the drawer that such check has been dishonored and the instrument does not provide for the payment of interest, or collection costs and attorneys fees, drawer of such instrument shall also be liable for payment of interest at the rate of twelve percent per annum from the date of dishonor and cost of collection not to exceed twenty dollars or the face amount of the check, whichever is the lesser. In the event of court action on the check the court, after such notice and the expiration of said fifteen days shall award a reasonable attorneys fee as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

Commercial  
transaction—  
Checks dis-  
honored—  
Liability of  
drawer.

Sec. 2. Sections 2 through 8 of this act are enacted in order to protect the residents of this state from debts bearing burdensome interest rates; and in Purpose.

Commercial transactions.

order to better effect the policy of this state to use this state's policies and courts to govern the affairs of our residents and the state; and in recognition of the duty to protect our citizens from oppression generally.

New section.

Sec. 3. There is added to chapter 80, Laws of 1899 and to chapter 19.52 RCW a new section to read as follows:

Interest on loans made outside of state.

Whenever a loan or forbearance is made outside Washington state to a person then residing in this state the usury laws found in chapter 19.52 RCW, as now or hereafter amended, shall be applicable in all courts of this state to the same extent such usury laws would be applicable if the loan or forbearance was made in this state.

RCW 19.52.020 amended.

Sec. 4. Section 2, chapter 80, Laws of 1899 and RCW 19.52.020 are each amended to read as follows:

Interest rate—Usury.

Any rate of interest not exceeding twelve percent per annum 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.

RCW 19.52.030 amended.

Sec. 5. Section 7, chapter 80, Laws of 1899 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 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 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 had acted in person. And where the same person acts as agent of the borrower and lender, he shall be deemed the agent of the lender for the purposes of this act. If the agent of both the borrower and

Usurious  
contracts—  
Remedy—De-  
fense—Agents.

Commercial transaction—  
Usury.

lender, or of the lender only, transacts a usurious loan for a commission or fee, such agent shall be liable to his 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.

New section.

Sec. 6. There is added to chapter 80, Laws of 1899 and to chapter 19.52 RCW a new section to read as follows:

Remedy—  
Declaratory judgment.

The debtor, if a natural person, or the creditor may bring an action for declaratory judgment to establish whether a loan or forbearance contract is or was usurious, and such an action shall be considered an action on the contract for the purposes of applying the provisions of section 5 of this 1967 amendatory act. Such an action shall be brought against the current creditor or debtor on the contract or, if the loan or debt has been fully repaid, by the debtor against the creditor to whom the debtor was last indebted on the contract. No such an action shall be commenced after six months following the date the final payment becomes due, whether by acceleration or otherwise, nor after six months following the date the principal is fully paid, whichever first occurs. If the debtor commences such an action and fails to establish usury, and if the court finds the action was frivolously commenced, the defendant or defendants may, in the court's discretion, recover reasonable attorney's fees from the debtor.

New section.

Sec. 7. There is added to chapter 80, Laws of 1899 and to chapter 19.52 RCW a new section to read as follows:

Unfair business practice act, application.

Entering into or transacting a usurious contract is hereby declared to be an unfair act or practice in the conduct of commerce for the purpose of the application of the consumer protection act found in chapter 19.86 RCW.

Sec. 8. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby. Severability.

Sec. 9. The provisions of this 1967 amendatory act shall not apply to transactions entered into prior to the effective date hereof. Application.

Passed the House March 30, 1967.

Passed the Senate March 29, 1967.

Approved by the Governor April 7, 1967.

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## CHAPTER 24.

[Engrossed House Bill No. 492.]

### HARBOR LINES.

AN ACT relating to harbor lines; and amending section 1, chapter 139, Laws of 1963 (uncodified).

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

Section 1. Section 1, chapter 139, Laws of 1963 (uncodified) is hereby amended to read as follows:

The commission on harbor lines is hereby authorized to change, relocate, or reestablish harbor lines in Guemes Channel and Fidalgo Bay in front of the city of Anacortes, Skagit county; in Grays Harbor in front of the cities of Aberdeen, Hoquiam, and Cosmopolis, Grays Harbor county; Bellingham Bay in front of the city of Bellingham, Whatcom county, in Elliott Bay, Puget Sound and Lake Union within, and in front of the city of Seattle, King county, and within one mile of the limits of such city; Port Angeles harbor in front of the city of Port Angeles, Clallam county; in Lake Washington in

Relocation of  
harbor lines.