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HCS

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 212

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the legal rate of interest; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. DECLARATION OF PURPOSE. (a) the following findings of the
10 legislature regarding the existing legal rates of interest evidence an
11 emergency of unknown duration. The legislature finds that the existing
12 usury rate of eight per cent seriously inhibits the availability of new
13 capital in Alaska. Since Alaska lenders must compete for funds outside the
14 state, the existing maximum legal rate of interest retards effective competi-
15 tion because other states set their maximum interest rates at levels more
16 attractive to investors. The economy of this state suffers adverse effects,
17 some of which will be immediate if relief is not given by the legislature.

18 (b) The legislature finds that the homebuilding industry in the state
19 will come to a virtual halt, with consequential widespread unemployment in
20 the construction trades. If maximum interest rates are too low in relation
21 to the market, the home buyer is deprived of effective freedom of choice
22 and bargaining power because of a lack of new homes from which to choose.
23 As a result, his ability to negotiate for favorable price and terms is
24 diminished. As landlords comprehend that available shelter spaces are
25 restricted because of the home shortage, tenants may find rental rates
26 escalating and poorer service and maintenance provided. When sellers of
27 existing homes are unable to be bought out for cash by buyers who are unable
28 to refinance, the sellers are likely to insist on higher sales prices as a
29 condition for accepting side notes and junior mortgages.

1 (c) The legislature also finds that another adverse effect of unreal-
2 istically low usury limits is the encouragement of investment by state resi-
3 dents in, and the transfer of deposits to, other areas of the country offer-
4 ing better yields on investment. Moreover, as interest levels rise toward
5 the effective usury ceiling, requirements for the maintenance of "compensat-
6 ing balances" usually become more stringent and are administered more rigidly.
7 The result of these requirements is to increase the effective rate. The
8 effect of "compensating balances" on the Alaska economy is doubly adverse
9 when the result is to shift deposits from Alaska banks to institutions out-
10 side the state where these balances must be maintained resulting in less
11 capital available in Alaska for loans.

12 (d) Because the existing emergency conditions are of unknown duration,
13 certain provisions of this Act are temporary in nature and require continu-
14 ing legislative review of the conditions creating the emergency.

15 * Sec. 2. AS 45.45.010(b) is repealed and re-enacted to read:

16 (b) Until April 1, 1970, during any calendar quarter no interest
17 may be charged by express agreement of the parties in a contract which
18 is greater than twice the federal reserve discount rate for the 12th
19 Federal Reserve District that prevailed on the first day of the month
20 preceding the commencement of that calendar quarter. Notice of the
21 prevailing quarterly rate shall be provided by the Department of
22 Commerce. After April 1, 1970, interest at the rate of eight per cent
23 may be charged by express agreement of the parties in a contract after
24 that date.

25 * Sec. 3. AS 45.45.010 is amended by adding a new subsection to read:

26 (c) The maximum rate of interest specified in this section does
27 not apply to transactions involving loans processed through Alaska
28 financial institutions when there is participation by corresponding
29 banks or institutional lenders in other states or countries because the

1 amount of the transaction exceeds the loan limitations on state banks
2 under AS 06.05.205(b) and on national banks under 12 U.S.C. 84 and the
3 regulations and rulings under that section and to those loans made by
4 mutual savings banks, state chartered savings and loan associations,
5 and federally chartered savings and loan associations which exceed 10
6 per cent of surplus, undivided profits and reserves for loan losses.
7 This provision remains in effect until April 1, 1970.

8 * Sec. 4. AS 45.45.060 is amended to read:

9 Sec. 45.45.060. CONTRACT NOT DEEMED USURIOUS BECAUSE OF AGREEMENT
10 TO PAY TAXES. A contract made in the state between borrower and lender,
11 debtor [,] and creditor, or mortgagor and mortgagee, on which the rate
12 of interest is the legal rate of interest specified in sec. 10 of this
13 chapter or less [EIGHT PER CENT OR UNDER], by which one party agrees to
14 pay the taxes on the debt, credit, or mortgage existing or entered into
15 between the parties, is legal and valid and is not usurious.

16 * Sec. 5. AS 44.33.020 is amended by adding a new paragraph to read:

17 (11) before the commencement of each calendar quarter, fur-
18 nish lending institutions, title insurance companies, mortgage companies
19 and clerks of the respective superior courts with the 12th Federal
20 Reserve District discount rate which is to be used during that calendar
21 quarter for computing the maximum rate of interest under AS 45.45.010(b)

22 * Sec. 6. This Act takes effect on the day after its passage and approval
23 or on the day it becomes law without approval.
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