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Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.052. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340 e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology

and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.040(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a), and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

By SB 19

Amended

Repealed

Title 45

Title of Chapter

45-45

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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 9, 1981

Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:10 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ciegler, Fahrenkamp and Rodey.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Chairman Mulcahy mentioned that a line of credit funds should be a matter of separate legislation.

Mr. Don Rhoades, President of Peoples Bank in Anchorage, testified on SB 19, citing the Belt & Daniels report, 1980 Federal Deregulation Act, as to impact on banks (tape reading 035 to 150).

Mr. Rhoades stated that Federal regulations pre-empt state usury laws at \$25,000.

Senator Rodey stated that pre-emption for \$25,000 will apply April 1, 1983; we are taking ourselves from within a Federal scheme and developing our own usury statute. Banking deregulation allows us to do it. We are exempting the State of Alaska from the Federal Act and wish to set our own usury rate. Senator Rodey moved to amend SB 19 by deleting the figure \$100,000 in line 17, page 1 of SB 19 to read \$25,000. There were no objections.

SB 19 was passed out of Committee with "Do Pass" recommendations.

Next on the agenda was SB 43 "An Act relating to filing insurance policy forms."

page 2
Senate L & C Committee Meeting
February 9, 1981

Mr. Don Koch, Alaska Division of Insurance testified on SB 43. He stated that the Division of Insurance ask through the Governor to respond to Federal legislation which will put the Federal Government in a position to regulate medicare supplement insurance, unless the State of Alaska takes certain actions:

- 1.) Adopt minimum standards for medicare supplemental policies.
- 2.) Implement loss ratio regulation to examine relationships of benefits to cost - Public Law 96-265 effective July 1, 1982. (tape reading 322 to 546)

Mike Thomas, lobbyist for the American Council of Life Insurance testified on SB 43. He felt that the Federal regulations are not necessarily reflective in SB 43. He also felt there were two problems with the bill:

- 1.) It gives the Division the authority to set and approve regulations in all phases of insurance.
- 2.) This bill may not give enough authority to meet requirements. Present statutes do not give authorities. (tape reading 550 to 640)

Chairman Mulcahy felt that further staff research is needed.

The meeting was adjourned by Mulcahy at 3:40 P.M.

COMMITTEE REPORT

SENATE

1/13/81

FURTHER: None

Date: _____

Mr. President:

The Committee on FINANCE & COMMERCE has had SS 19
Legal rate of interest

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

A M E N D M E N T

OFFERED IN THE SENATE:

BY: SENATE LABOR and COMMERCE

To: LABOR and COMMERCE SENATE BILL No. 19

HOUSE BILL No. _____

PAGE: 1

LINE: 17

In line 17, delete the figure \$100,000 and replace with the figure \$25,000.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

114 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801

(907) 586-6000

MEMBERS

NEW YORK STOCK EXCHANGE INC
AMERICAN STOCK EXCHANGE INC
PACIFIC STOCK EXCHANGE INC
MIDWEST STOCK EXCHANGE INC
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES

IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 9, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

In the testimony I submitted to you a week ago and in the discussion which followed it was mentioned that the particular problem our industry faces might be best addressed in separate legislation or a separate section of current legislation. Attached is a copy of legislation currently under consideration in the State of Washington which addresses my industry's particular problem.

State of Washington
47th Legislature
1981 Regular Session

by Representatives Martins, Lasson,
Dickie, Scott, McJannet, Rowland,
King (R), Struthers

Read first time January 21, 1981, and referred to Committee on FINANCIAL
INSTITUTIONS & INSURANCE.

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

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

6 The interest charged by any broker-dealer registered
7 under chapter 21.20 RCW and under the federal securities and
8 exchange act of 1934, as amended, shall not be subject to the
9 limitations imposed by this chapter if the underlying loans (1)
10 may be paid in full at the option of the borrower and (2) are
11 subject to the credit regulations of the board of governors of
12 the federal reserve system, or its successor. Regarding any
13 such loan, a borrower may not plead the defense of usury nor
14 maintain any action thereon or therefor.

FOSTER & MARSHALL INC.

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

INVESTMENT BANKERS AND BROKERS

114 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801

(907) 588-6000

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 2, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

Security brokerage firms and other businesses that extend open lines of credit to their customers finance these loans through borrowings from major banks. The rate that is paid (the broker call rate/prime lending rate) moves up and down or "floats" with money market rates and the policy of the Federal Reserve Bank. In years past these rates have moved in a fairly narrow range and in an orderly manner. However, in the past eighteen months we have seen the broker call rate/prime lending rate make wide swings in very short periods of time. The current Alaska State usury law does not allow the necessary flexibility to keep pace with these interest rate changes and in fact can cause substantial losses to firms that extend open lines of credit.

EXAMPLE: Foster & Marshall is currently extending approximately \$2,700,000 in credit to Alaska residents. Under current law the maximum that can be charged is 18%. This is 5% above the 13% rate as set by the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter. Our cost of money (the broker call rate) is now 20%. This means we are losing money at an annual rate of \$54,000. Since we normally charge 1% above our cost of money for accepting the risk of these loans and administering them we are actually losing money at an annual rate of \$81,000.

It is not the desire of any legitimate lender to take advantage of the borrower; however neither should the law allow the borrower to take advantage of the lender. In this situation the lender has two alternatives: 1) to continue to carry the loans and incur the loss, or 2) to call the loans and drive Alaska residents outside to do their business.

To correct the current situation two suggestions are offered:

1. Change the existing percentage point spread between the Federal Reserve rate and the usury limit to an eight percentage point spread.
2. Change the language in the existing law that now allows the rate to change only once a quarter and allow the rate to "float". This would mean that when the Federal rate went up so would the usury rate and when the Federal rate goes down so would the usury rate and that the maximum allowed by law would never be more than eight points above the effective annual Federal Reserve rate.

Page 2
Written Testimony
Fred Koken

Such a change would allow the usury limit to move or "float" in a constant relationship to the rate charged member banks by the 12th Federal Reserve District.

For suggestions as to specific language changes to SENATE BILL NO. 19 please review the attachment.

1. On line 12 delete the word [FIVE] and insert the word eight.
2. On line 12 insert the word effective between the words "the" and "annual".
3. On line 13 insert a period (.) after the word District.
4. At the end of line 13, through lines 14 and 15 and ending on line 16, delete the words [ON THE DAY ON WHICH THE CONTRACT OR LOAN COMMITMENT IS MADE.]

Note: The objective of suggestions 2, 3, and 4 is to eliminate the possible tying of the usury limit on open lines of credit to some contract date that might have established the open line of credit months or even years earlier.



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 3, 1981

Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:05 P.M. by Chairman Mulcahy. Those present were: Senators Rodey, Ziegler & Fahrenkamp. Vice Chairman Hohman was in another meeting and arrived late.

Chairman Mulcahy mentioned that we had received a Sponsor Substitute for SB 20.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Senator Rodey addressed SB 19, explaining the intent of the legislation of changing quarterly calculations of interest rates to daily calculations.

Mr. Fred Koken, ^{Footer + Marshall} ~~Director of the~~ Division of Banking testified on SB 19. He offered written testimony re: SB 19 and is in favor of changing the usuary law to allow rate to fluctuate with changes of the Federal Reserve Discount Rate. Would also recommend the rate be raised to 8% rather than five percent (tape reading 100 to 399).

Senator Rodey stated that the bill (SB 19) does not really deal with the area of the 'open line of credit'. He also suggested that the limit be lowered to \$25,000.

Next on the agenda was SB 20 & SB 35, which are very similar and dealing with Corporate Income Tax.

Senator Ziegler requested more background in the area of corporate income tax relief due to a position paper from the Department of Revenue and the bill's possible effect on the present law suit involving the oil companies and the State for liability of income tax.

page two
Senate Labor & Commerce Committee Meeting
February 3, 1981

Commissioner of Revenue, Tom Williams, testified on SB 20 & 35. He spoke in opposition to both bills and listed five (5) policy considerations to be studied by the Committee (tape reading 446 to 702).

Senator Ziegler said he still sees the necessity of some relief to small corporations throughout the State.

Senator Rodey felt small corporations' costs are much higher percentage-wise than that of larger corporations, thus the need for the tax relief. He brought up the legal question as to the impact of the present state lawsuit of the corporate income tax to multi-state corporations in connection with this legislation.

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Senator Dankworth addressed this bill, explaining that a labor incident of this summer where minors lost jobs because of a strike. Work orders had to be pulled because of existing regulations that were adopted by the Department of Labor in connection with the Federal Fair Labor Standards Act. However, minors were still permitted to work picket lines.

Dale Cheek, Director of Wage and Hour Division, Department of Labor testified in favor of this legislation. He said the bill would clarify the law (tape reading 704 to 840).

Senator Rodey questioned as to whether or not it was really necessary for a bill, when possibly repealing a regulation would be all that is necessary.

Earl Deater, Local 302 : State opposition to SB 85 (tape reading 842 to 854).

Scott Edgar from Anchorage, age 15 years, testified in regards to SB 85 and how he was affected by the legal decision by the A.G.'s office to not allow minors to work during a strike (tape reading 000 to 062).

page three
Senate Labor & Commerce Committee Meeting
February 5, 1981

Paul Edgar from Anchorage, and father to Scott Edger testified on the effect of the strike on his son and thirty-six other minors who were prevented from working or collecting unemployment because of the incident (tape reading 064 to 158).

Mr. Dwayne Carlson, President AFL-CIO testified that the proposed legislation would violate the Child Labor Laws. It would set a precedent for hiring youngsters as strike breakers. He offered a compromise amendment as to not allowing youngsters (minors) to work behind pickets as well as businesses involved in disputes (tape reading 263 to 320).

The meeting was adjourned by Chairman Mulcahy at 4:03 P.M.

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1981

SUBJECT: Legal rate of interest -- SB 19
(Work Order Number 12-0492)

TO: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Attn: Linda Otey

FROM: Thomas A. Sofo
Legislative Counsel

You have asked whether SB 19, an act relating to the legal rate of interest in the state, satisfies requirements under the federal usury law enacted April 1, 1980. One of the few things that this memo may be able to accomplish is to more specifically define the question which needs to be considered by the Committee. On March 31, 1980, the United States Congress passed the Depository Institutions Deregulation and Monetary Control Act of 1980, P.L. 96-221, 94 Stat. 132. [Hereafter Monetary Control Act of 1980.] That rather lengthy law involves amendments to more than 100 sections of the United States Code. Various sections of P.L. 96-221 are known as or amended the following statutes:

- Bankholding Company Act of 1956;
- Banking Act of 1935;
- Consumer Checking Equity Act of 1980;
- Depository Institutions Deregulation Act of 1980;
- Equal Credit Opportunity Act;
- Federal Credit Union Act;
- Federal Deposit Insurance Act;
- Federal Home Loan Bank Act;
- Federal Reserve Act;
- Federal Trade Commission Act;
- Financial Regulation Simplification Act of 1980;
- Truth in Lending Act; and
- Truth in Lending Simplification and Reform Act.

As can be seen from the above, the scope of the Monetary Control Act of 1980 was extensive. However, from a review of the pertinent provisions of the act, it does not seem that the state must take any specific action with regard to our own usury laws.

One of the subjects covered by the Monetary Control Act of 1980 is the maximum permissible rate of interest which may be charged on certain transactions by certain institutions. The relevance to the state of those scattered provisions is necessarily tied to the nature of the loan and the institution at which it is made. SB 19 is an attempt to amend the general usury law which applies to loan transactions in the state in which the principal amount is \$100,000 or less. It should be pointed out that AS 45.45.010(h) and the note immediately following AS 45.45.010 make it clear that many types of transactions and institutions are subject to more specific regulation of maximum interest charges and that those more specific statutes prevail over the language contained in AS 45.45.010(b) which SB 19 is concerned with. The Monetary Control Act of 1980 is an example of federal legislation which more specifically addresses certain types of loan transactions and has the effect of preempting usury laws of this state for those transactions. The following is a list of transactions or institutions which are covered by the Monetary Control Act of 1980:

Federally insured residential mortgage transactions
(12 U.S.C. 1735f-7nt);

Business and agricultural loans of \$25,000 or more
(12 U.S.C. 86a);

State-chartered insured banks (12 U.S.C. 1831(d));

Federally insured savings and loan associations
(12 U.S.C. 1730(g));

Federally insured credit unions (12 U.S.C. 1785); and

Small business investment companies (15 U.S.C. 687).

As to each of the entries in the list above, the Monetary Control Act of 1980 has provided for the maximum interest which may be charged and has specifically stated that any state law to the contrary is preempted. The interest rates

which apply since April 1, 1980, except on those loan transactions for which a commitment was made prior to April 1, 1980, are as follows:

Federally insured residential mortgages -- no maximum rate;

Business and agricultural loans of \$25,000 or more -- 5 percent above discount rate on 90 day commercial paper at federal reserve;

State-chartered insured banks -- 1 percent above discount rate on 90 day commercial paper at federal reserve;

Federally insured savings and loan associations -- 1 percent above discount rate on 90 day commercial paper at federal reserve;

Federally insured credit unions -- 1 percent above discount rate on 90 day commercial paper at federal reserve; and

Small business investment companies -- as prescribed by regulation by the small business administration or other alternatives which will require further research.

* As to each of the preempted areas identified above, the Monetary Control Act of 1980 allows a state to specifically adopt a statute after April 1, 1980, which states explicitly ~~that the state does not want the particular provision of the Monetary Control Act of 1980 which preempts the state laws~~ ~~that apply to that state.~~ The only exception to this mechanism to avoid federal preemption is in the federally insured residential mortgage transactions. In that area there is a "window" within which any state action to avoid federal preemption must occur. For federally insured residential mortgages, the state must adopt a law explicitly avoiding the preemptive effect of the Monetary Control Act of 1980 on or after April 1, 1980 and before April 1, 1983.

It is beyond the scope of this memo to address the wisdom in pursuing any state legislation which can avoid the preemptive effect of the Monetary Control Act of 1980. In-depth economic analysis would seem to be warranted before taking any action. However, the timing of such a decision is particularly important in the area of federally insured residential mortgages since

Senator Bob Mulcahy
Page 4
February 2, 1981

the "window" only remains open until April 1, 1983. The short answer to the question originally posed is that SB 19 does not require further amendment to comport with the federal usury statutes which became effective April 1, 1980. However, as I am sure can appreciate, the issues raised by the Monetary Control Act of 1980 are certainly likely subjects of legislation which could be included in a bill similar to SB 19.

TAS:ljb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

February 19, 1981 Phone: 465-2500

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:


RE: Deregulation of Interest Rates

Last year, Congress passed the Depository Institutions Deregulation Act of 1980. The purpose of the act was to do away with limitations on interest rates, which were payable on deposits and accounts, and which discouraged persons from saving money. The act is administered by a committee, including members of the Federal Reserve, FDIC, the Federal Home Loan Bank and others. The committee is called the Depository Institutions Deregulation Committee.

The committee was given the charge of doing away with interest rate limitations on deposits in financial institutions. This limitation is known as "Regulation Q." The committee, in doing away with the interest rate limits, will be raising the limitations a certain percentage for the first two 18-month periods, then a half of a percent a year thereafter until the end of the sixth year. During this period of time, the rates cannot exceed the money market rate. After the six-year period, the Regulation Q limitations will no longer exist. During the six-year phase-out period, the committee is to prescribe rules governing the payments of interest and dividends and the establishment of classes of deposits on accounts.

The concerns you mentioned regarding usury rates and the effect that it may cause upon the free-floating interest rates paid on deposits are valid concerns. The usury rate, after a six-year period, may have the effect of limiting the amount of interest that a financial institution could pay on deposits. That is, if the usury rate on loans was set at a level of 17 percent, a financial institution could not pay interest on deposits in the amount equal to 17 percent and stay in business. Therefore, the usury rate may have the effect of limiting what financial institutions could pay their depositors if the rates on deposits were to float free.

Sincerely,


Charles R. Webber
Commissioner



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 19 - by Senator Rodey

"An Act relating to the legal rate of interest; and providing for an effective date."

Changes to 45.45.010(b):

1. Removes quarterly calculations of interest rates and replaces it with daily calculations of interest rates based on day of contract or committmant.
2. Repeals (d) - requirement for government notice of quarterly rate of interest to all banks and loan institutions.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Commerce & Economic Development	Sponsor (Principal) Labor & Commerce	Bill Number SB-19
Department Position Not opposed		
Division Director Willis [Signature]	Date 1/19/81	Commissioner Charles R. Webber [Signature] Date 1/19/81

GOVERNOR'S OFFICE USE

Comments:

Position Noted By _____ Date _____

SUMMARY

1. a) Related Bills (Similar or Conflicting) None of which I am aware	1. b) Other Agencies Affected by Bill None of which I am aware
2. a) Organizational Support for Bill All Alaska Financial Institution	2. b) Organizational Opposition to Bill None of which I am aware

3. Program Effects of Bill
None if passes as proposed.

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:
Consideration could be given for the removal of all interest rate ceilings. This would let each financial institution compete based on their costs and other competitive factors.

6. Comments:
The present quarterly adjustments do not allow for sudden changes in money market conditions. The daily calculation of the legal rate of interest will allow lenders to quickly adjust their charges as changes in the discount rate occur. AS 45.45.010(d) as stated in the bill must be repealed in order that the lender may quickly calculate the applicable interest rate without the delay of an intervening level of authority. Of necessity, AS 45.45.010 must be self-regulating. X

Div. of Banking

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811

NOTICE OF MAXIMUM LEGAL RATE OF INTEREST EFFECTIVE JANUARY 1, 1981 THROUGH MARCH 31, 1981

In compliance with AS 45.45.010(d), the Commissioner of the department gives public notice that the Federal Reserve discount rate prevailing in the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter beginning January 1, 1980 was 13 percent.

AS 45.45.010(b) provides that:

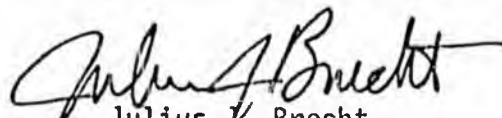
(b) No interest may be charged by express agreement of the parties in contract or loan commitment dated after June 24, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds \$100,000 is exempt from the limitation of this subsection.

THEREFORE, effective January 1, 1981, the maximum legal rate of interest which may be charged by express agreement of the parties in a contract or loan commitment of \$100,000 or less is 18 percent.

On March 31, 1980, President Carter signed into law H.R. 4986, a bill which makes a number of changes affecting banks and financial institutions and state usury laws. In particular, that bill affects the provision of the Alaska usury statute, AS 45.45.010(b) as follows:

1. The ceiling on interest rates allowable on certain home mortgage loans including mobile homes loans, is preempted starting April 1, 1980, and there is no ceiling set by federal law.
2. The ceiling on interest rates allowable on business and agriculture loans over \$1,000 is preempted if that ceiling falls below the ceiling established by the federal law (this provision applies for a period of three years ending at the close of April 1, 1983). Consult the current discount rate from the Federal Reserve Bank in Seattle to determine if preemption has occurred.

Regulations for federally-related mortgage loans have been adopted. See 12 Code Federal Regulations Part 590. For further information relating to the federal legislation, please contact the Alaska Congressional Delegation and refer to Public Laws 96-221 and 96-399.


Julius W. Brecht
Director

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 19

Title An Act relating to the legal rate of interest; and providing effective date

Requested by S. Labor & Commerce Date 1/16/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0		0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 1/19/81

PREPARED BY Willis F. Kirkpatrick, Dir. of Banking
 AGENCY Dept. of Commerce & Economic Development
 PHONE 465-2521

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

205 COLUMBIA STREET
SEATTLE, WASHINGTON 98104
(206) 544-3300

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

November 19, 1980

Mr. Jim Kelly
State of Alaska Banking Committee
Pouch V
Juneau, AK 99811

Dear Jim:

It was a real pleasure speaking with you this morning, particularly since you left me with a sense of optimism toward an eventual solution of the usury burden. As we discussed on the telephone, this letter serves as an addendum to my November 12 letter. It is written because of the one percent increase in the discount rate and a 1 3/4 percent increase in our cost of funds since the last letter.

Based upon the new interest rates we are now losing \$60,750 a year, with an additional \$27,000 lost from our normal spread. When reviewing this \$87,750 loss from our normal income, Foster & Marshall must make one of two decisions: 1) continue carrying the loans and incurring the loss, or 2) calling the loans and discontinue extending credit until the rates are more favorable. The unfortunate part of the latter alternative is that we're in a highly competitive business and it would be relatively easy for Alaskan residents to redirect their business outside the state of Alaska, and therefore be unencumbered by a usury law. It is these same competitive forces that do not allow us to maintain a high interest rate, based upon a previously stated discount rate, during a period of declining rates.

Because our rate of interest charged clients is based upon our cost of money as opposed to the discount rate, we recommend that the wording in AS 45.45.010(b) be amended to read, "... more than eight percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District.", and that the eight percentage points be allowed to fluctuate with the discount rate. The state of Alaska is the only state that I know of that formally notifies interested parties of the discount rate; it is generally the responsibility of the financial institution to be aware of this rate.

I have detailed a list of discount rates that were in force from October 2, 1978 to November 17, 1980; these dates aren't necessarily the dates that the rate changed, but are the applicable rates on the days indicated.

-2-

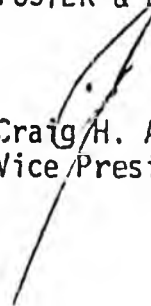
November 19, 1980
Mr. Jim Kelly

October 2, 1978	8%
October 16, 1978	8 1/2%
November 1, 1978	9 1/2%
August 7, 1979	10%
August 31, 1979	10 1/2%
September 19, 1979	11%
October 8, 1979	12%
February 15, 1980	13%
May 29, 1980	12%
June 12, 1980	11%
July 21, 1980	10%
September 26, 1980	11%
November 17, 1980	12%

If I can be of any further assistance please don't hesitate to contact me.

Sincerely,

FOSTER & MARSHALL INC.


Craig H. Abramson
Vice President & Controller

CHA:jb

cc: Mr. Fred Koken

November 12, 1980

Mr. Jim Kelly
State of Alaska Banking Committee
Pouch V
Juneau, AK 99811

3718
Brokers Call
Rate

Dear Mr. Kelly:

This letter is written at the request of Mr. Fred Koken, manager of our Juneau office, concerning the impact of the Alaska state usury law upon Foster & Marshall's profitability and our recommendations for possible change. This opportunity for voicing our concerns and opinions is very much appreciated.

At this writing our average cost of money is (15 1/2%) and the maximum amount that we can charge our customers to whom we have extended credit in the State of Alaska is 15%. With \$2,700,000 in credit extended to Alaskan residents, this equates to a \$1,125 loss on a monthly basis (\$13,500/annual). Since we normally earn approximately 1% on credit extended, this is really a \$3,375/month (\$40,500/annual) loss from our normal operations, and the disparity between our average cost of money and the state usury is sometimes greater than this 1/2%.

I understand you are considering some alternatives to the present usury policy. The alternative of reducing loans exempt from the usury law from \$100,000 to \$50,000 does not benefit us since most of our loans are in the \$5,000-25,000 range. The ideas of eliminating the usury law or increasing the amount that may be charged in excess of the discount rate are very attractive to us (if that increase is 8% or more). Another alternative worth considering is allowing the usury rate to fluctuate with the discount rate; at least for us this is very practical, since all we have to do is call the local Federal Reserve Bank and ask what the current discount rate is every time our cost of money changes.

If I can be of any assistance in this matter or if you would like to pursue anything that has been discussed in this letter, please don't hesitate to contact me. I can be reached at 206/344-8530.

Sincerely,

FOSTER & MARSHALL INC.

Craig H. Abramson
Vice President & Controller

CHA:jb

cc: Mr. Fred Koken

The Depository Institutions Deregulation & Monetary Control Act of 1980 - has an override clause which allows for States to stop intervention of usury laws by the Federal Government if dealt with by April 1, 1983.

For an effective override, States must amend usury laws by specifically including terminology referring to the title of the Act and also ~~clearly~~ clearly stating that the state is overriding the preemption.

TITLE V—STATE USURY LAWS

The Senate amendment contains various amendments providing for Federal overrides of state usury ceilings on business, agricultural and mortgage loans. Similar provisions were enacted as part of Public Law 96-101.

The House receded with an amendment which contains the following provisions:

State usury ceilings on first mortgage loans made by banks, savings and loans, credit unions, mutual savings banks, mortgage bankers and HUD-approved lenders under the National Housing Act will be permanently preempted, subject to a right of affected states to override the preemption if they act within 3 years.

State usury ceilings on business and agricultural loans above \$25,000 made by any person will be preempted for 3 years, subject to a right of affected states to override the preemption. A ceiling of 5 percentage points above the discount rate (including any surcharge) in the Federal Reserve district where the institution is located will apply to such loans. The surcharge is to be included in computing the ceiling as long as it is prescribed by the Federal Reserve, regardless of whether or not it is actually collected against any institution.

State usury ceilings on all loans made by Federally insured depository institutions (except national banks) and small business investment companies will be permanently preempted subject to the right of affected states to override at any time and a ceiling of 1 percentage point above the appropriate Federal Reserve discount rate will apply, except to transactions subject to the preemptions of

usury ceilings on mortgage loans and on business and agricultural loans above \$25,000. Separate usury limits, administered by the Small Business Administration, will apply to small business investment companies.

In order for a state to override a federal preemption of state usury laws provided for in this title the override proposal must explicitly and by its terms indicate that the state is overriding the preemption. Under this requirement the state law, constitutional provision, or other override proposal must specifically refer to this Act and indicate that the state intends to override the federal preemption this Act provides. Since each of the bill's federal preemptions provides for a separate right of state override, the state's override proposal would be required to refer to the specific preemption, such as that on mortgage loans, on business and agricultural loans over \$25,000, or that which permits federally-insured depository institutions to charge 1 percent over the Federal Reserve's discount rate on any loan.

Requirements
for states'
override →

*Business & Agricultural loans:
Intervention of
Fed. law will lock
usury ceiling of
loans only after
\$25,000. Rate will
be 5% above discount
rate including any
surcharge.*