SB

750

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February 17, 1982

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OUR FILE NO.

Don Magnusson
Executive Director
Alaska Retail Association
310 Second Street
Juneau, AK 99801

Re: Alaska SB 750 - Rate Deregulation

Dear Don:

I have a thought and a question about this bill.

First, the thought. In order to be technically correct, the title of the bill ought to be "An Act relating to the deregulation of interest rates and service charges; and providing for an effective date."

Next, the question. Do you know why at page 3, line 1, the phrase "balances from month to month" was changed to "balance"? Whatever the rate, doesn't it have to be applied to a monthly balance, or balance from month to month? If there is only one balance, which one is it and when is it struck?

Sincerely yours,

Charles McKenney

Charles McKenney

CPM:blp

cc: John Andrew
J. M. Morales

SECTION 7 REPEALERS:

AS 06.20.230 (b) and (c)

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance determined in AS 06.20.285(b) [illegible]

Repeals: AS 06.45.060(5) (A) (vi)

the rate of interest may not exceed the greater of 15% a year or the rate specified as AS 45.45.010(b)

Repeals AS 45.45.010 (b)

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is— 12 USC 1735f-7 note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section; "Federally related mortgage loan."

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home; "Residential loans."

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and 15 USC 1602.

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act. "Lender."

"Depository institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

12 USC 1813.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Effective date.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

Exemption, State action.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points, limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act. Regulations.

(e) For the purpose of this section— Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence. 42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Rules and regulations.

(g) This section takes effect on April 1, 1980. Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS

BUSINESS AND AGRICULTURAL LOANS

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of $25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of $25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS

INSURED BANKS

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1831d.

"SEC. 27. (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for th
reserve, and charge on an
bill of exchange, or other
more than 1 per centum h
commercial paper in effe
Federal Reserve district
branch of a foreign bank is
of the State, territory, or
ever may be greater.

"(b) If the rate prescribe
State bank or such insur
permitted to charge in th
fixed rate is thereby preem
(a), the taking, receiving,
interest than is allowed by s
be deemed a forfeiture of th
other evidence of debt carri
paid thereon. If such greater
who paid it may recover in
appropriate jurisdiction not
such payment, an amount e
paid from such State bank o
taking, receiving, reserving,

INSURED SAVING

SEC. 522. Title IV of the N
seq.) is amended by adding
section:

"SEC. 414. (a) If the appl
exceeds the rate an insured i
in the absence of this section,
any State constitution or stat
purposes of this section, tak
loan or discount made, or up
evidence of debt, interest at a
excess of the discount rate on
at the Federal Reserve bank
such institution is located or
State, territory, or district wh
ever may be greater.

"(b) If the rate prescribed i
institution would be permitt
section, and such State fixed
described in subsection (a), the
ing a greater rate of interest t
when knowingly done, shall
interest which the note, bill, or
or which has been agreed to b
interest has been paid, the per
action commenced in a court
than two years after the date
twice the amount of the intere
receiving such interest.".

LINQUENCY DATA

ing and Urban Development shall asibility of collecting data pertain- encies on an appropriate regional cable, but not later than April 1, port containing the results of such

O SECTION 234

of section 234(c) of the National ing after "Act)" the following: "or rantee, insurance, or a direct loan States Code".

MALL GROUP HOMES AND SIMILAR HE HANDICAPPED

Housing Act of 1959 is amended by lowing: "In the case of housing to rimarily nonelderly) persons, such iring existing housing and related ation, alteration, conversion, or ate rehabilitation, thereof, and the ousing and related facilities are

F PREMIUM CHARGES

Housing Act is amended by adding d thereof:

OF PREMIUM CHARGES

ovisions of titles I, II, IV, VII, VIII, e payment of loan or mortgage inancial institution, other mortga- l Government in connection with a am established pursuant to any of quire that payment of such premi- receipt from the borrower; except ayment of such premiums within eipt if the financial institution, interest, at a rate specified by the r the period beginning twenty days and ending upon payment of the ent.".

E SECTION 203(k) REHABILITATION NCE PROGRAM

National Housing Act is amended e and inserting in lieu thereof the d with respect to loans secured by a r this subsection shall be paid in t that all references in section 204 nce Fund shall be construed as ce Fund. Insurance benefits paid y a mortgage other than a first

mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.". 12 USC 1715k

VALLEY HOMES MUTUAL HOUSING CORPORATION

SEC. 322. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000. Penalty.

STUDY OF FACTORY-BUILT HOUSING

SEC. 323. The Secretary of Housing and Urban Development shall study the feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Native, and shall, not later than eighteen months after the date of enactment of this Act, transmit a report to the Congress containing the findings and conclusions of such study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used. Study; report to Congress. 12 USC 1715d note.

USURY PROVISIONS

SEC. 324. (a) Section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended— *Ante*, p. 161.

(1) by striking out "stock" the first place it appears and inserting in lieu thereof "all stock allocated to a dwelling unit"; and

(2) by striking out "where the loan, mortgage, or advance is used to finance the acquisition of such stock".

OVER

Ante, p. 164.

(b) Section 511 of such Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

Definitions.

"(b) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.".

Ante, p. 164.

(c)(1) Section 512 of such Act is amended—

(A) by inserting "(a)" after "Sec. 512."; and

(B) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980); or

Ante, p. 1614.

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980).".

Effective date.
12 USC 86a note.

(2) The amendments made by paragraph (1) take effect on April 1, 1980.

Ante, p. 164.

(d) Part B of title V of such Act, other than section 512(b), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

Ante, p. 161.

(e) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following: ", and any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence".

LIQUID, HIGHLY RATED CORPORATE DEBT OBLIGATIONS

SEC. 325. (a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act is amended—

12 USC 1425a.

(1) by striking out "and" before "(E)";

(2) by redesignating clause (E) as subparagraph (E);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

Chapter 20. Alaska Small Loans Act.

Sec. 06.20.010. License required. A person may not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of $25,000 or less and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under AS 06.20.010 — 06.20.920, except as authorized by AS 06.20.010 — 06.20.920 and without first obtaining a license from the department. (§ 2 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 23 ch 218 SLA 1976; am § 1 ch 71 SLA 1978; am § 1 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "A" for "No" at the beginning of the section and "$25,000" for "$5,000," and inserted "not" following "A person may" near the beginning of the section.

Sec. 06.20.200. Advertising of misleading statements prohibited. (a) A person may not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of $25,000 or less, which is false, misleading, or deceptive. The department may order any licensee to desist from any conduct which it finds to be in violation of this section.

(b) The department may require rates of charge stated by a licensee to be stated fully and clearly in the manner considered necessary to prevent misunderstanding by prospective borrowers. (§ 13 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 6 ch 71 SLA 1978; am § 2 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "A" for "No" at the beginning of the subsection, and "$25,000" for "$5,000" near the end of the first sentence, and inserted "not" following "A person may" near the beginning of the subsection.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract

for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

REPEALED

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments. — The 1979 amendment added subsection (b).

The 1980 amendment, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the making of the loan contract. The maximum interest permitted on loans made under AS 06.20.010 — 06.20.920 shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(b) A licensee may compute interest for a loan as provided in AS 06.20.010 — 06.20.920 on an interest-bearing or actuarial basis either

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

Sec. 06.40.120. Maximum interest permitted: Prepayment, refund. (a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after substracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of $10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

Sec. 06.40.130. Delinquency charge. (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of $1 and as a maximum shall be subject to the following limits:

(1) for delinquent payments of less than $250, five per cent of the payment or $5, whichever is less; or

(2) for delinquent payments of $250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that service and by paying a $10 separate charge. (§ 1 ch 170 SLA 1978)

Sec. 06.40.140. Cancellation of policy; requirements. (a) When a premium finance agreement contains a power of attorney enabling the licensee to cancel the insurance policy listed in the agreement, the

(3) adopt, use, and alter a common seal;

(4) purchase, hold, and dispose of property;

(5) make loans, the maturities of which may not exceed 12 years except as provided in AS 06.45.010 — 06.45.400, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed $5,000;

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified as AS 45.45.010(b);

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

Under the standard of subsection (e) of this section, the courts have utilized a flexible, ad hoc approach to determine, by an essentially factual inquiry, the extent to which an error in the financing statement would be misleading to one undertaking a reasonable search. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Where a financing statement and its underlying loan documents mistakenly identified a debtor as the predecessor partnership rather than the corporation, the financing statement was seriously misleading and the lender had no perfected security interest in the assets of the corporation. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Article 5. Default.

Sec. 45.09.504. Secured party's right to dispose of collateral after default; effect of disposition.

NOTES TO DECISIONS

Noncompliance with subsection (c). In accord with 1st paragraph in original. See Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If a sale was deficient with respect to either notice or commercial reasonableness, then a burden is placed upon the secured party to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

The burden is on the secured party to prove by clear and convincing evidence the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If the secured party fails to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt, then the presumption leads to the conclusion that the entire debt is discharged. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Factors in determining value of collateral. — The local economic market at the time of sale is a recognized factor in determining the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Chapter 45. Trade Practices.

Article

1. Interest (§ 45.45.010)

Article 1. Interest.

Section

10. Legal rate of interest

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 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

REPEALED

(c) Repealed by § 3 ch
(d) Repealed by § 2 ch
(e) Repealed by § 4 ch
(f) No bank, savings
company or mortgage co
ownership or profits abo
(g) Loan contracts ar
dwellings may be prepa
loans that require a pre
(h) If the limitations
inconsistent with the p
mum interest, service c
the other statute preva
1968; am § 2 ch 69 SL
ch 239 SLA 1970; am §§
1974; am § 1 ch 110 SL
SLA 1980; am §§ 1, 2

Cross references. — A
technology and power resou
AS 45.88.030(e).

Effect of amendments.
amendment, effective July
subsection (b), deleted "dat
1976" following "contract o
ment" and substituted "on
"that prevailed on the 25
month preceding the com
the calendar quarter dur
"which the contract" in th
and substituted "$25,000"

Cited in State v. Alas
Dev. Corp., Sup. Ct. Op.
Nos. 4121, 4122), 630 P.2

Chapter 50. C

Article 4. Unfair

Sec. 45.50.471. U

Similarity to federa
hibition in this sectio
methods of competiti
deceptive acts or practi

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed $1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds $1,000, on so much of the unpaid balance as exceeds $1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than $12, but if the due date of the last installment of the contract is eight months or more after its effective date, $10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed $1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than $1,000, one-twelfth of the annual rate permitted under AS 45.45.010(b) per month on the amount over $1,000 of the outstanding balance;

(3) if the service charge so computed is less than $1 for any month, $1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than $5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966; am § 2 ch [illegible] 1980)

Cross reference. — As to revolving credit plans, see AS 06.05.208.

Effect of amendment. — The 1980 amendment substituted "one-twelfth of the annual rate permitted under AS 45.45.010(b)" for "one per cent" and "more than $1,000" in paragraph (c)(2) of subsection (c).

Sec. 45.10.130. Insurance. If the cost of insurance is included in the retail installment contract or retail charge agreement and a separate charge is made to the buyer for the insurance,

(1) the contract or agree
amount of the insurance,
vehicle, the contract must
under the terms of this con
liability," "public liability,
as applicable;

(2) the contract or agree
be procured by the buyer

(3) the amount include
premiums chargeable in
insurance by the insurer e
if the insurance is cancell
for unearned insurance
insurance, together with t
applicable to the insuran
installments of the ret
agreement, and the rem
premiums shall be refund
required if the amount is

(4) if the insurance is to
within 45 days after deliv
under the contract, delive
the address as specified i
procured, a copy of the p
of the insurance so procu

Sec. 45.10.140. Agree
retail installment contra
buyer agrees not to asse
against the seller or an a

Sec. 45.10.150. Nonw
of the buyer before or at t
installment, retail charge ag
agreement constitutes a
disclaimer or of any remedi
SLA 1962)

Sec. 45.10.160. Contr
SLA 1962. This chapter does
installment contract or
January 1, 1963. (§ 22 c

Sec. 45.10.170. Actio
may bring an action in
violation and prevent a vi

Sec. 45.10.180. Assu
enforcement of this cha

tiff to be just compensation for the property or the interest in it. (§ 13.20 ch 101 SLA 1962)

Cross reference. — See Civ. R. 72-(e)(3).

Where the state has adequate knowledge of separate interests, amounts should be specified for each. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

Sec. 09.55.440. Vesting of title and ..pensation. (a) Upon the filing of the declaration of taking and ..e deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include interest at the rate of six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess. (§ 13.2[illegible] ch 101 SLA 1962)

Cross reference.—See Civ. R. 72-(e)(3).

Condemnor takes estate sought in declaration of taking. — The Alaska declaration of taking statutes are as effective as the federal statutes in effecting the vesting of title in the condemnor of whatever interest in the land it seeks to condem.. If the state undertakes to obtain title to real property in fee simple absolute by the filing of a declaration of taking that is the title which it obtains. 1960 Op. Att'y Gen., No. 15.

Alaska Const., art. I, § 18, necessitates that a property owner be compensated for delays incurred between the dates of the government's taking of property and making payment. If an award were paid immediately upon the taking of the land by the state no damages to the property owner would ensure. But where, due to the necessity of legal proceedings to ascertain fair market value of property, delays ensue, the property owner is entitled to an a[illegible] to reimburse him for the loss of use of the money during the period of such delay. To hold otherwise would constitute a taking of the property without just compensation. Therefore, it is well established that the owner of property is entitled to interest from the date of taking to the date of payment. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

This section provides for [illegible] on the amount awarded which exceeds the amount paid into court under the declaration of taking. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Au-

thority, Sup. Ct. No. 1600), 498 P.

Interest can be the amount paid able for immediat owner or owners terests in the lan Greek Catholic America v. Alaska thority, Sup. Ct. No. 1600), 498 P.2

No interest whe draw funds is attr owner.—In situati ure to withdraw f the registry of th able to the dela owner, no interest on the portion of posited. Russian Catholic Church of Alaska State H Sup. Ct. Op. No. 8 498 P.2d 737 (197

A blanket esti covering several p tended by allocati not an effective ten any parcel. Russia Catholic Church of Alaska State Ho Sup. Ct. Op. No. 80 498 P.2d 737 (1972)

Multiple party in for which lump sum out segregation.— one party has an in and a lump sum is segregation as to mated to be just con various interests, impossible to receiv drawal of the funds.

Sec. 09.55.450. ing of the declara compensation, the which and the ter quired to surrende of entry shall no ning of the time f ration of taking. W of the award and sonable rental for plaintiff during suc

(b) The court n special assessment

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 750
Title An Act relating to the deregulation of interest rates
Requested by Labor, Commerce & Finance Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

DATE February 10, 1982 PREPARED BY

National Conference of State Legislatures

Office of State Federal Relations

444 North Capitol Street, N.W. 2nd Floor Washington, D.C. 20001 202/624-5400

President
Richard S. Hodes
Speaker Pro Tempore, Florida House of Representatives

Executive Director
Earl S. Mackey

September 22, 1980

The Honorable John J. LaFalce
2361 Rayburn House Office Building
Washington, DC 20515

Amendment # 3-4

Dear Representative LaFalce:

On September 23rd, your subcommittee will hold hearings on H.R.7735, which amends the Depository Institutions Deregulation and Monetary Control Act of 1980 to preempt state usury ceilings as applied to consumer finance transactions and state laws regarding access and transaction fees charged to open accounts. While you will hear from many consumer finance companies and small businesses on the impact of H.R.7735, you should be apprised of the position of the National Conference of State Legislatures. States will also be heavily impacted if H.R.7735 is enacted by Congress.

The National Conference of State Legislatures is strongly opposed to any federal legislative or executive action which would permanently or temporarily preempt state interest ceilings. As representatives of state legislators, we are acutely aware of the problems of citizens in our states in these times of inflation and high interest rates, but feel that states should have maximum flexibility in developing their economies. Good consumer finance legislation is as controversial at the state level as the federal level, and forcing legislatures to vote these matters again may prove disruptive because of the current economic situation. Many state legislatures are working to provide usury limits that are more in line with market realities. The ultimate result of this effort may be to provide a better climate for consumer-oriented businesses than federal preemption would provide.

We are particularly disturbed by two provisions in H.R.7735:

1. This bill does not have a sunset provision. Although states may override preemption of usury limits within three years of the enactment of H.R.7735, those states that are unable to adopt constitutional provisions or statutes overriding the preemption permanently lose their jurisdiction over a major portion of consumer finance affairs. This is a rather severe result when one considers that the current economic crisis may be only temporary. If the crisis is permanent, we would need much stronger measures to combat it than this bill would provide. Such measures would require the complete cooperation of state, local and federal governments rather than a preemption-oriented solution.

ALASKA CREDIT UNION LEAGUE

2509 EIDE STREET, SUITE 4
ANCHORAGE, ALASKA 99503
(907) 278-4949

VINCENT L. USERA
PRESIDENT

February 26, 1982

Senator Bob Mulcahy
Chairman, Senate Committee on
Labor & Commerce
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Mulcahy:

This letter is offered for the record in support of Section 7 of Senate Bill 750 presently before your committee for consideration. Section 7 of this bill would amend present state statutes concerning credit unions by entirely removing the existing usury ceiling imposed on credit unions (state chartered).

The Alaska Credit Union League enthusiastically supports this measure and congratulates the committee on its consideration of such progressive legislation.

Though there are, at present, no credit unions chartered by the State of Alaska, a very progressive state law enabling such charters was enacted in 1980. This statute originally specified a usury ceiling of 12%, similar to the then-extant Federal Credit Union Act. In 1981 the state statute was amended to impose a usury ceiling of 15% on credit union loans to members. The state law imposes no ceilings with respect to the rates that a credit union may pay its members on their savings.

Complete removal of rate ceilings, especially when confronted with the volatile economic climate of the 1980s, makes eminently good sense from several aspects.

One, since there are no ceilings on what can be paid, and competitive forces will drive the cost of funds to an institution to the prevailing market levels, the presence of a ceiling on loan rates does little more than impose a disincentive to lend. Thus, rather than provide a consumer protection as originally intended, the rate ceiling effectively limits borrowing. Any financial institution must achieve a spread between the cost of funds and the pricing of loans. This spread must be adequate to ensure, if not profitability, at very least that all costs are met. As market rates on savings approach the loan ceiling, this spread is reduced to the point where it becomes unreasonable to grant loans.

Two, we firmly believe that market pressures will ensure that the absence of rate ceilings is not subject to abuse. The institution that raises rates far beyond what other competitors in the marketplace charge will find itself out of that market. Indeed, unless all lenders were to raise rates to the same levels, widespread abuse would be virtually non-existent. Increasing consumer sophistication, as well, militates against widespread abuse in this area.

Three, under present law, federally chartered credit union may charge up to 21% on loans to members. All Alaskan credit unions are presently operating under a federal charter, yet none but those making a few high risk loans are charging a rate of 21%. Thus, despite there being available authority to charge higher rates, most loans are made at rates well within market parameters. Though it would be no abuse to charge up to 21%, there is still little use for the curb; the marketplace imposes its own limitations.

Traditionally, credit unions have made loans available to members at or below prevailing market rates. The very reason for the existence and popular growth of credit unions has been that rates on savings were higher than found at other lenders, and rates on loans were generally lower than others. There is little liklihood that credit unions will turn their backs on this history, whatever the upper limits of their lending authority might be.

In sum, Mr Chairman, the Alaska Credit Union League heartily supports this piece of legislation as a benefit to credit unions, and thereby a benefit to their members. We respectfully urge that this portion of the bill be given the most favorable consideration.

The Alaska Credit Union League is the trade association representing 27 of Alaska's credit unions and the more than 250,000 members of those institutions. The League is affiliated with the Credit Union National Association.

Thank you for the opportunity to comment.

Respectfully submitted,

ALASKA CREDIT UNION LEAGUE

BY: Vincent L. Usera

Vincent L. Usera
President

VLU/ps

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 26, 1982

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

Dear Senator Mulcahy:

Re: Senate Bill 750 Deregulation of
Interest Rates

The position of the Department of Commerce and Economic Development on the above-subject bill is technical in nature only and not intended to be a position for or against the existence of interest rate limitations. As this bill would effectively repeal all usury control, it will be necessary for the borrowers to seek for themselves the best interest rate.

Sections 1 and 2 of the bill, repeal interest limitations in the Alaska Small Loan Act and the Premium Finance Company Act. Examiners find that most of the violations of these two areas have been problems in interest and refund computations. This amendment, therefore, would have no effect on our regulatory activity for these two industries.

Section 6 further repeals other interest rate limitations of small loan companies and also repeals rate limitations of credit unions. Other cited sections noted in the bill do not fall within the regulatory provisions of our agency.

We will not oppose passage of the bill as we find no evidence that it will have a detrimental effect on financial institutions and it will allow lenders to make funds available in times of high cost of funds. It will, of course, have some effect on consumers. Funds for the borrowing consumer will be readily available but at higher rates. The marketplace competition will be the controlling factor should this bill pass.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

08-H2LH

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THE MACNEIL-LEHRER REPORT

Usury Ceilings

In New York

ROBERT MacNEIL ..... Executive Editor

In Washington

JIM LEHRER ..... Associate Editor
Rep. JOHN LA FALCE ..... Democrat, New York
Rep. BILL PATMAN ..... Democrat, Texas
MEL KUSIN ..... National Home Furnishings Association
BARBARA REID ALEXANDER .... Maine Bureau of Consumer Credit Protection

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Reporter ..... JOE QUINLAN

Funding for this program has been provided by this station and other Public Television Stations and by grants from Exxon Corporation, and American Telephone & Telegraph Company and the Bell System Companies.

A co-production of WNET and WETA Air Date: October 5, 1981

TRANSCRIPT CHARGES: One to ten copies, $2.00 each; additional copies, $1.00 each. Be sure to indicate air date and subject or participants. All orders must be prepaid. Annual subscriptions available at $225 per year. Indicate starting date and enclose payment. Printed transcripts are available on all programs since July 5, 1976. Send self-addressed, stamped envelope for a free listing (updated quarterly).

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Usury Ceilings

ROBERT MacNEIL: Good evening. Several major banks lowered their prime lending rate half a point today to 19%, an interest rate expected to become the standard for business loans across the country. At the same time, the White House urged the Federal Reserve Board to ease its tight money policies slightly. Deputy Press Secretary Larry Speakes said the administration still supported the Fed's policy of monetary restraint; it merely wanted a rollback of recent actions which had increased restraint on the money supply. On Capitol Hill concern over tight money and the high interest rates is surfacing in another way: proposed legislation to do away with state usury laws, or legal limits on interest rates. Bankers, retailers and finance companies backed the effort, claiming that low interest levels are stifling credit. Removing the ceilings, they say, will cause more credit to flow. Consumer groups and some state officials say that argument is false, and oppose the legislation on the ground that it will legalize loan-sharking. Tonight, should Washington take the cap off state interest rates? Jim?

JIM LEHRER: Robin, usury is defined as the loaning of money at an unconscionable or exorbitant rate of interest. There are 44 states with various laws prohibiting its practice. But there's no uniformity to them, either in the types of loans they cover, or when the rate becomes unconscionable or exorbitant, and thus illegal. At one extreme is Arkansas which has a cap on bank consumer loans at 10%. At the other extreme is South Carolina, where the cap is 24%. The others have ceilings somewhere in between. Congressman John J. LaFalce, Democrat of New York, wants all ceilings, all caps, in all states eliminated, and he's the sponsor of legislation in the House that would do just that. Congressman, why should state interest rate ceilings be eliminated?

Rep. JOHN LA FALCE: Well, I think there are a number of reasons. First of all, I think that the economic forces that are at work determining the market interest rates are either national or international in scope, and bear virtually no relationship to state forces. Secondly, the state laws that are on the books now are really relics of ages long past. The usury rates were set at a time when we had interest rates of perhaps 2%, and you might have a usury law prohibiting interest being charged above 12%. But because of the present volatility of our interest rates, those usury laws have, in effect, prevented the availability of credit. So, if you live in a state with a restrictive usury law, you simply can't get credit. Your down payment for a car costing $7,000 would have to be $7,000. Your down payment for a home costing $100,000 would have to be $100,000. And so, really, what—

LEHRER: And that in fact is the case in states where they have usury laws?

Rep. LA FALCE: In fact that is the case in a great many states where they have such restrictive usury laws. In the state of New York, for example, it was impossible until 1980 to obtain a residential mortgage when the market rates were about 20%, and you had a restrictive rate of around 12%. The issue is not what the interest rate should be. The market will determine that. The issue is whether or not credit will be available to the consumer who wants to make a purchase.

LEHRER: Well, what if you take the laws off? Let's assume that your bill is enacted into law, signed by the President and the whole thing. Wouldn't that mean that interest rates would just skyrocket for retail—

Rep. LA FALCE: No, because we have a classic free market competition here in the United States. There are untold numbers of lending institutions. And I think that the free market would have its chance to work, and would work. Would there be a few number of

abuses? That could well be the case. There would be very, very few, however, in my judgment. There are abuses now that are going unprosecuted because of lack of proof, but the point is, the problem that *[audio lost]* of small businesses going out of business, drying up the real estate market prior to the time that the federal government did preempt the usury ceilings on residential mortgages. The good to be accomplished would offset whatever potential harm might exist by perhaps a thousandfold.

LEHRER: Congressman, let me ask you this. Let's say the people of Arkansas — they have 10% interest rates — that the people of Arkansas want a 10% interest rate, and if they want to pay the $7,000, or whatever it takes to live within that law, why should the federal government say, "Hey, no. You've got to charge more than that?"

Rep. LA FALCE: Well, I think we have a federal problem on our hands. I would preserve, however, the right of the individual states to exercise their sovereignty by permitting them a three-year time period to reinstate that usury law if that would be their desire. So they would have the right to effectively veto the federal preemption.

LEHRER: But three years later?

Rep. LA FALCE: No. Within that three-year period of time. They could do it immediately.

LEHRER: I see. Thank you. Robin?

MacNEIL: A number of states have recently raised or abolished their interest rate ceilings. One of them is Texas, and the experience has caused one congressman from Texas to oppose the LaFalce bill. He is freshman Democrat Bill Patman, also a member of the Banking Committee, the committee chaired for many years by his father, Wright Patman. Congressman, why do you oppose the bill?

Rep. BILL PATMAN: I think this is an important state right that should be maintained. We ought to let the states decide for themselves just what should be done about this particular issue. And I don't believe that the take-out provision is adequate, that Congressman LaFalce mentioned.

MacNEIL: What does that mean, the "take-out provision"?

Rep. PATMAN: Where a state could exempt itself from this particular lifting of the usury ceiling. Because it would have to do so before April the 1st of 1983, or in that area. We don't even meet in Texas in the legislature again until January of 1983, in regular session.

MacNEIL: What happened in the Texas experience recently, partially abolishing the interest rate ceiling, that has caused you such anxiety?

Rep. PATMAN: Well, I think it's regrettable that the Texas legislature did act to raise the interest rate ceiling, but that was its option, acting with what it assumed to be the will of the people behind it. That same legislature may in the future decide that it wants to lower that rate, and passage of this bill after the take-out provision is gone will not permit it to do so. I think it's important to realize that the market rate of interest rate — of interest — is not set for the small consumer loans. We in Texas have a super high rate, of up to 109%, and even beyond that, on loans of $100 and under. We're one of only five states in the entire United States that authorized such abuses of the consumer. And if we pass this bill of the Congressman's and we don't have some exemption of a state from that particular type of loan, then you'll have that same type of abuse prevalent throughout the United States.

MacNEIL: Give me an example of the kind of abuse you're talking about.

Rep. PATMAN: Well, a $100 loan for six months would be chargeable — cash loan — would have charges on it amounting to 109%. The lenders in Texas of those particular

loans actually flip them, or renew them every couple of months, and then charge a non-refundable acquisition charge that raises the effective yield, in some instances that we noticed when I was in the Texas Senate, to up to 149%.

MacNEIL: Mr. LaFalce says that his bill is necessary because credit has dried up in states where the usury laws keep the interest rate below a ceiling that is below current market rates. And so people just can't get credit.

Rep. PATMAN: That's a common argument of the loan companies and the finance companies. I've followed this issue for many of the years in which I served in the Texas Senate, and these finance companies will go from state to state now, and seek to jack up the rates. And then they'll go around to the other states that have not increased their rates, and say, "You're out of line." We kept those rates low in Texas, or at least lower than some of these other states, for at least 12 years. And all that time, these finance companies were promising that they would go out of business if we didn't suddenly increase their rates. They made huge profits. In fact, one loan company, we found by examining the records in Massachusetts, regarded Texas as its 11th most profitable state out of some 38 or so in which it operated, even though we kept our rates at what they called a low level.

MacNEIL: Well, do you argue, then, Congressman, that the interest rate ceilings are not preventing the availability of credit?

Rep. PATMAN: Yes. I think in general they could cause some difficulty in obtaining credit in some areas. But there doesn't seem to be a shortage of the availability of credit throughout the nation to call for an extreme measure of this type. I think that once we take off these limits that the states have imposed themselves, we'll never get them back down, and we'll have a large series of abuses, a long series of them, that will really result, I think, ultimately, in a public outcry against this type of thing.

MacNEIL: Well, thank you. Jim?

LEHRER: Among those pushing for federal elimination of state usury ceilings are small businesses which depend on consumer credit. This includes the retail furniture business, and people like Mel Kusin of Texarkana, Texas. Mr. Kusin owns three furniture stores, two in Texas, one next door in Arkansas. He's also on the board of the National Home Furnishings Association, his business's trade organization, and was to testify this week at hearings on the usury law issue — hearings that have now been postponed, you discovered once you got to Washington a while ago, right?

MEL KUSIN: Right.

LEHRER: Okay. Mr. Kusin, in your Texas stores, what interest rate do you charge now?

Mr. KUSIN: Presently we're charging 24%. That's the new limit allowed by the state of Texas under the new legislation.

LEHRER: I see. Now, what do you charge across the— across the street in Arkansas?

Mr. KUSIN: Well, our other store is 32 miles away in Hope, Arkansas. We charge 10%.

LEHRER: Well, now, what's the difference in terms of what people buy, and the success of these stores?

Mr. KUSIN: Well, there's an unbelievable difference, and it's getting more and more painful all the time. In the state of Arkansas, retail furniture prices are normally about 11% higher than those in surrounding states of Texas, and, I believe, Oklahoma.

LEHRER: So you're getting it anyhow? You just have to raise the price of the furniture? Is that it?

Mr. KUSIN: I'll explain to you. We pay— we are lucky to pay approximately prime bank interest in our area, which is about 20%. In Arkansas, with the 10% state limitation, the store has to make up the difference itself. Anybody in the furniture business in Arkansas today who deals in credit sales has to supplement the sale itself, or else raise the price on it.

LEHRER: But the people in Arkansas are still buying furniture, I guess, and doing all these other things. How does it work?

Mr. KUSIN: They're paying more money— more money for their furniture because of the interest differential. The furniture stores there — many of them — are having to decide whether to stay in business or not, because they are the ones supplementing that whole difference in what they have to pay for money, and what the state limit is. Now, our position is this on the money available for something like furniture or automobiles or that. We're in the business of providing our customers with furniture. We're not in the business of credit. We handle the credit more as a convenience, a necessary convenience. If a state could set the rate at which a business borrows money, then it would be fine to set the rate at which it loans the money. But we have, as businessmen, to go by a federal existing loan rate, which would be the bank prime rate. But yet, within states, we are limited by the state law. So unless a furniture store can supplement the difference, it just won't work. And this is why we feel that it should— the interest rate should follow the level of the market.

LEHRER: In other words, what you're saying is that if you could borrow the money yourself in Arkansas, say, for 8% or 9% or even 10%, then you wouldn't mind using— mind giving people credit at 10%.

Mr. KUSIN: Exactly.

LEHRER: I see. What would be the effect of Congressman LaFalce's bill —if it, in fact, was enacted into law — on your particular business — or the small businessman generally that deals in consumer credit?

Mr. KUSIN: Let's say in Arkansas we could then again go to the loaning agencies, which would be banks or large firms — national firms that sell such financing. They would take all of the so-called contracts that a furniture store or any other retailer has if they had the difference to work between. If the— if the new law were to be passed that would allow a floating-up on the interest to a market price, then we wouldn't— we would no longer be in the credit business in the furniture business. We would be selling furniture, as we should be.

LEHRER: I see. You do not share Congressman Patman's fear that this thing will be abused, and could lead to some serious abuses in terms of the amount of— the exorbitant rate of interest that could eventually be charged?

Mr. KUSIN: No, we don't think so at all. Our business, from a- - the furniture business itself is a very competitive business. The prices of furniture will be held down by competition. If the interest rate is allowed to seek its own level, that will also become competitive. But most important, the consumer who wants to buy furniture can buy it on credit. Today in states like Arkansas, when furniture dealers have to withdraw from the market because they can't support it anymore with those high interest rates, the consumer is the one who really suffers, either through high prices, or through the, really, the almost lack of availability within a market place of furniture.

LEHRER: I see. Thank you, Mr. Kusin. Robin?

MacNEIL: A number of consumer organizations, led by the Consumer Federation of America, oppose the usury legislation. Another witness who was in Washington to testify, is Barbara Reid Alexander, superintendent of the Maine Bureau of Consumer Credit Protection, a state agency. Ms. Alexander, why do you oppose these bills? I should say,

there is also a bill in the Senate, correct?

BARBARA R. ALEXANDER: There is. Many state regulators and people associated with the state agencies that control consumer credit around the country oppose these bills because our state laws are the product of a very delicate balancing between the decision as to what interest rate should be mandated, and what consumer protections should be garnered in return for high interest rates. Consumer protections are linked to high rates in most states. They certainly are in Maine. If Congress enacts these bills, we will find that many important consumer protections, that our state legislatures thought were crucial in the regulation of credit, will be destroyed.

MacNEIL: Like what?

Ms. ALEXANDER: Well, for the privilege of higher rates in many states, we regulate substantive contract terms, and limit late fees, attorneys' fees, closing costs, default charges. We require a rebate of interest when a consumer prepays a contract early. We prohibit prepayment penalties. We limit the amount that the creditor can increase a contract when the consumer has troubles and comes in to refinance that contract. All of those protections are gone when we enact HR-2501, which is sponsored by Congressman LaFalce.

MacNEIL: What do you say to a dealer like Mr. Kusin in the retail business, who said that if you don't allow the interest rates to rise to the market level that dealers are going to have to get it another way, simply by putting supplemental prices on their product?

Ms. ALEXANDER: It's interesting that we find ourselves talking about Arkansas in this program. They are the state that is used to push this bill — and has been used to push bills like this for some years, now. The state of Arkansas had a statewide referendum on their 10% usury ceiling, which is in their constitution. The people in that state went to vote, and overwhelmingly defeated an attempt to increase that 10% limitation. I am not going to defend the 10% limitation of Arkansas. That's Arkansas' problem.

MacNEIL: What is the limit in Maine?

Ms. ALEXANDER: Generally 18%, with higher rates allowed for smaller transactions.

MacNEIL: And what effect is that having on consumer credit — on the availability of consumer credit?

Ms. ALEXANDER: I think that most credit is available in Maine at the maximum rates right now, and I think the volume of credit is down, and I think it's because people will not pay those high rates. I think the credit availability argument is really a non-argument. People are not going out to buy cars right now because the rates are too high, and they don't want to buy a car at 18%, 19% and 20% interest rates. The credit in this country is growing nationally at a rate of 7% to 8%. That contrasts with the rate of increase for 1980 — all of 1980 — of only 1%.

MacNEIL: You mean, credit availability— credit is growing faster this year than it was last year?

Ms. ALEXANDER: That's correct, sir.

MacNEIL: Even with the high interest rates?

Ms. ALEXANDER: And that's because most all states have made changes in their interest rate ceilings. Seven to 10 states have totally deregulated interest rates, except for a criminal usury statute that prevent loan-sharking, bills and legislation which would also be totally obliterated by HR-2501. Every time we increase rates nationally 1% in this country, we're costing consumers $3 billion. That's money that doesn't go into economic growth

and development or capital expenditures to expand our economy. That's money that goes into retiring debt service, which is really not what I think Congress should be about at the present time.

MacNEIL: Well, thank you. Jim?

LEHRER: Congressman?

Rep. LA FALCE: Yes, let me make a number of points. First of all, I think that everyone here, and probably everyone in Washington, is against high interest rates, and we want to do all that we possibly can to bring those interest rates down. Secondly, I think there is true—

LEHRER: Yeah, but to her point. Her point, basically, is that it's high interest rates — period — that are causing people not to buy cars and furniture from Mr. Kusin, and all the usury laws don't have a thing in the world to do with it.

Rep. LA FALCE: Well, it's true that high interest rates are causing that, and I have been criticizing high interest rates and calling for actions to cope with high interest rates. But it is also true that regardless of the high interest rates we have right now, if the market interest rates are, say, double the usury ceiling, you're going to have a total closure of the window on credit. And that has happened historically, and that still is happening now for individuals who do believe that they can afford the going interest rates.

LEHRER: Do you agree with that, Congressman Patman?

Rep. PATMAN: No, I certainly don't. The market does not set the small loan rates. The small loan rates are set up to the maximum that the lender can charge. Now, I don't know what's going to happen when this happens — when we pass this bill, if it passes. Mel mentioned going up to 24%. Obviously he did that as soon as he had the opportunity.

LEHRER: What was it before it was— you said that it's now, in Texas law— 24% is what you're now allowed. What was it before the law?

Mr. KUSIN: Eighteen.

LEHRER: Eighteen. So you went up 6% overnight?

Mr. KUSIN: Yes. Well, we do financing through General Electric Credit Corporation and the banks and the— everybody in the state followed the law as it allowed. It eased the pinch, but not completely. Now, that's an interesting thing, because we still— when we sell our accounts receivable through financing companies, we still have to pay a discount. With that 24%—

LEHRER: Let me make sure we explain what that means. You— somebody walks into your furniture store, they buy furniture, you give them credit. You take that paper and then you sell it to a finance company. All right, now, what do you sell it to them? Now, if you charged the customer 24%, what do you sell it to the finance company for?

Mr. KUSIN: Today in Texas I believe the approximate discount that the store has to pay — the store has to pay — is about 4%.

Rep. LA FALCE: So that store is either going to take a loss or it's going to pass that difference on to the customer in some camouflaged way, rather than directly, rather than openly. Another point—

Rep. PATMAN: But the point is, though, that these loan companies always charge the maximum, whether it's 31¼%, as it is under the Uniform Consumer Credit Code in some states, or some— or a higher amount, often 45%. It's gotten grossly out of proportion

LEHRER: Ms. Alexander, let me ask you. If you— if the usury law in Maine suddenly went away tomorrow— it's now 18%, right?

Ms. ALEXANDER: Generally, yes.

LEHRER: What do you think, if the market were allowed to work its magic, where do you think it would go?

Ms. ALEXANDER: I don't know what it would do in Maine, but we know something about what's happening in some of the states that have deregulated. In the state of New York, interest rates increased dramatically. In the state of Arizona—

Rep. LA FALCE: Well, you know, I am from New York, and I know a little bit about that. And she says that interest rates increased dramatically. The fact of the matter is, the market interest rates were already considerably higher than the usury ceiling. So if the usury ceiling is 12, and the market interest rates are 18, and you're able under a new law to charge the market interest rates, of course there's going to be a dramatic interest— dramatic increase. But it wasn't above and beyond what the market was charging.

LEHRER: Well, what's the market in— Yeah, go ahead.

Ms. ALEXANDER: I wasn't characterizing the increase. You asked what happened. That is what happened.

LEHRER: Right.

Ms. ALEXANDER: In the state of Arizona, we find that used car loans are going in the range of 30% to 50%, that people who live near or in the Indian reservations out there, who do not— are not able to shop for credit because the credit availability is not there, are paying 50% interest rates to buy a used car because they have a captive market, and the used car dealers in the area have set a rate at extraordinarily high rates.

LEHRER: Make sure we understand, now. Arizona was a state that had a usury law, had a cap, removed it — deregulated — and that's what you're— what about that, Congressman?

Rep. LA FALCE: Well, first of all, she's complaining about a 30% interest rate, whereas the state of Maine, for small loans, has a 30% usury ceiling. I have no doubt that an individual could always point to a specific instance — a specific example — and say here is an example of abuse. But I can also point to 99% of the cases where I think the classic competition that exists within our free market would work, and I could also point out literally hundreds of thousands of small businesses that have failed, in large part due to restrictive usury laws that are on the books.

Ms. ALEXANDER: I don't know where the Congressman's getting those statistics. Ten thousand small businesses close every year, and it doesn't have anything to do with interest rates they're able to charge consumers. It has to do with rates that are imposed on them by banks so that they can operate. It's the prime rate of 19%, 20% and 21% we were talking about before. But let me get back to— the issue here is not whether or not I can sit here and defend any one state's scheme of things. The point is that the state of Maine has a scheme; it's very happy with that scheme. It's reviewed every year in our legislature. It forms a delicate balance between credit availability, which we want to have available, generally, and consumer protections. And if the legislature and the people in the state of Maine have decided that that approach which we have is the one for Maine, I question whether it's proper for Congress to step in and erase that balance without really understanding the impact of it.

Rep. LA FALCE: If I could address myself to that issue, first of all, a great many state

legislators in states that have the restrictive usury ceilings, have said, "We hope Congress will bail us out because this is a tough political issue. You can't sell it back home. You do the dirty work." Secondly, we do give the states the right to revoke the federal preemption. Third, the Congress has the power, and I think the obligation, to act to effectuate the interstate commerce laws. If this isn't interstate commerce, I don't know what is. In a great many instances, the Congress has already preempted usury ceilings. We've done it for business loans; we've done it for agricultural loans; we've done it for residential loans, etc. In preempting usury ceilings on those type of loans, and permitting credit, therefore, to flow to those type of loans, we have engaged in credit allocation, and we've denied that type of credit, therefore, to the consumer and to the small businesses.

LEHRER: Congressman Patman?

Rep. PATMAN: It's legal for the Congress to do this, but it is wrong. We should never have preempted the states' rights— the states' right to operate in these other areas, and I really believe that we're going to be getting in this— in legalizing loan-sharking throughout the United States by passing this bill. That will be—

LEHRER: How does it legalize loan-sharking?

Rep. PATMAN: Well, loan-sharking is the charging of a rate that is illegal. Right now, or at least when I left the legislature, loaning money over 18% in certain transactions was loan-sharking. Loaning money at 25%, in the other states, was loan-sharking. But we're going to be taking off the lid entirely, and nothing will be loan-sharking. We'll be like legalizing burglaries, and permitting them and licensing them.

LEHRER: But if you have the market rate up at 20%, how could that be loan-sharking? I mean if it's costing that much as a result of the economy, and the prime rate is at 20%—

Rep. PATMAN: Well, the amount that's charged fluctuates from state to state, perhaps. It's something that every state legislature can examine carefully. Sure, it's a tough issue. But the people ought to have a right to talk to folks on the local level about these matters.

LEHRER: We just have a few seconds. Speaking of the local level, back to you, Mr. Kusin. Do you think that the people in Arkansas do not have— should not have the right to do what they want to do in their state, right?

Mr. KUSIN: I believe they should certainly have the right, but the merchants from whom they buy the goods cannot operate under a system where they have to supplement by fully 10% what the interest is.

LEHRER: Thank you. Robin?

MacNEIL: Yes, that's the end of our time this evening. Thank you all for joining us in Washington. Good night, Jim.

LEHRER: Good night, Robin.

MacNEIL: That's all for tonight. We will be back tomorrow night. I'm Robert MacNeil. Good night.

Transcript produced by Journal Graphics, Inc., New York, N.Y.

WESTERN UNITED STATES

MAXIMUM FINANCE CHARGE RATES

For Retail Revolving Credit
as of July 1, 1981

18%

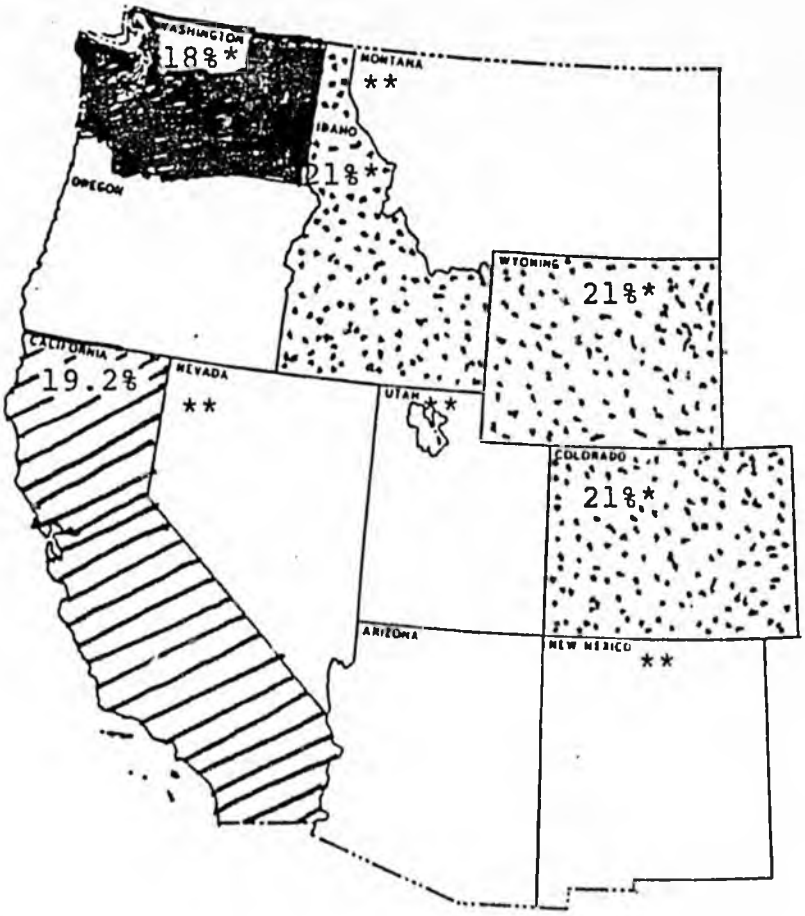
19.2%

21%

No Statutorily Imposed Ceiling

* Raised in 1981

** Ceiling Removed in 1981



WARD Washington Office

MAY 15 1981

UPDATE

SPECIAL STATE EDITION

An UPDATE of State Governmental Legislation and Regulation

1100 Connecticut Avenue, N.W. Washington, D.C. (202) 862-1360

May 1, 1981 Vol. 4 No. 1

IN THIS ISSUE: Report on 1981 State Legislative Sessions . . State Regulatory Actions . . Credit Interest Rates . . Unemployment Compensation . . Appliances . . Energy . . Bankruptcy . . Taxes . . Plain Language . . Service Contracts

CREDIT

STATE INTEREST RATES IN 1981

There was a high degree of success in obtaining interest rate increases... State government affairs lobbied changes in 17 states...MW Credit Division projected this was worth an annual increase in revenues of approximately $20 million...Of MW's top 15 states, 12 were targeted for lobbying (Oregon has no limit; Illinois permits 21.6%; and Michigan, 20.4%)...Bills to increase revenue in one form or another were passed in seven...These included the low rate state of Minnesota from 12% to 16%, and obtaining credit deregulation in New York.

CREDIT INTEREST RATES FOR 1981

The deregulation breakthrough in New York State led to two other deregulation bills in Delaware and New Jersey which have already been signed into law...However, not all states are competing with each other for economic hospitality...Most are content to only consider rate bills that will offer minimum relief to retailers and other credit lenders...MW's major revenue states and low rate states continue as priority targets, with rate relief in Texas being foremost.

Thirty-two states now permit straight 18% or better...Of these, 15 permit a higher rate assessment on all or a substantial part of the account balances...Six of the 32 have no rate limit...This same group consisted of 22 states in 1980, with the additions being 10 of 17 successful bills lobbied.

As of this writing, no-limit bills are awaiting governors' signatures in Montana and Utah; Kansas extended its 21% rate for another year; Wyoming passed a 21% rate bill; Oklahoma has introduced a 24% rate; Colorado and North Carolina have 21% bills pending; Georgia's 21% rate is awaiting governor's signature; Missouri and Washington are considering 18%; Texas has a variable rate bill pending with a floor of 18% and 24% maximum; Illinois, Iowa, Ohio and Louisiana have introduced deregulation bills.

LEGISLATIVE ACTIVITY
FINANCE CHARGE RATES

11/10/81

STATE	PROPOSED RATES	INTRO-DUCED	PASSED HOUSE	PASSED SENATE	GOVERNOR SIGNED	NEW RATES IN EFFECT	COMMENTS
ALABAMA	21%	X	X	X	X	5/15/81	Sunset provision extended to 6/1/83
CALIFORNIA	19.2%	X	X	X	X	5/1/81	Corrected bill - Sunset provision to 10/1/82
COLORADO	21%	X	X	X	X	6/7/81	
CONNECTICUT	18%	X	X	X	X	7/1/81	
DELAWARE	Deregulation	X	X	X	X	6/1/81	
FLORIDA	21%	X					Dead
GEORGIA	21%	X	X	X	X	4/15/81	
HAWAII	21%	X		X			Dead
IDAHO	21%	X	X	X	X	7/1/81	
* ILLINOIS	Deregulation	X	X	X	X	9/26/81	
KANSAS	24%	X					
LOUISIANA	21%	X					House rejected: 53-49
MAINE	24%	X					Dead
MASS.	18%	X	X	X	X	10/7/81	Retail cards now included
MINNESOTA	18%	X	X				18% rate applies only to retailers with annual
							sales volume of $25 million or less
MISSOURI	18%	X	X	X	X	6/3/81	
MONTANA	Deregulation	X	X	X	X	4/6/81	Mandated Adj. Bal. Method 2-year Sunset Provision
NEVADA	Deregulation	X	X	X	X	6/14/81	
NEW JERSEY	Deregulation	X	X	X	X	3/31/81	
NEW MEXICO	Deregulation	X	X	X	X	7/1/81	2-year Sunset Provision
> * OHIO	Deregulation	X	X	X	X	11/10/81	Passed Senate. Sent enrolled to gov. Sunset 1/1/85
OKLAHOMA	21%	X	X	X	X	10/19/81	
WISCONSIN	Floating Rate	X					Hearing this week - bad bill
OREGON	Language clarification	X	X	X	X	8/22/81	
PENN.	Deregulation	X		X			Passed Senate: 26-20
RHODE I.	21%	X					Dead
TENNESSEE	21%	X		X			Dead
TEXAS	18% + tie to T. Bill Rate	X	X	X	X	5/6/81	
UTAH	Deregulation	X	X	X	X	5/12/81	
WASHINGTON	18%	X	X	X	X	5/8/81	
W. VIRGINIA	18%	X	X	X	X	4/10/81	Eliminates break Rate
WYOMING	21%	X	X	X	X	5/20/81	
MICHIGAN	Deregulation	X					
N. CAROLINA	21%	X					Senate defeated: 31-11

*Changes since last update

CONSUMER REPORTS - NOVEMBER 19

Usury: Going legitimate?

As interest-rate ceilings rise or disappear, consumers may lose some hard-won protections

Borrowers and lenders both have important needs, described by Sir Francis Bacon as "the one, that the tooth of usury be grinded that it bite not too much; the other, that there be left open the means to invite moneyed men to lend for the continuing and quickening of trade."

The delicate balance of those two needs now seems to be shifting. Driven by eager lenders, many state legislators and members of Congress appear intent on wiping the concept of usury off the books. If they succeed, consumers will be doubly hurt: Borrowing costs, already extraordinarily high, could soar higher still; vital consumer protections, painfully won over recent years, could be eroded or lost altogether.

Over the last 50 years or so, the states have stitched together a complex patchwork of laws and regulations governing consumer credit. Until recently, one common thread has been the existence of a usury ceiling—a rate of interest, set by law, that a lender cannot exceed.

Within each state, lenders are subject to different usury ceilings depending on the kind of credit activity they engage in—auto installment sales, retail installment sales, revolving credit sales, bank loans, and finance company loans, for example. (The table opposite illustrates how state rate ceilings vary for two types of credit transactions.)

The usury ceiling tied to a particular kind of credit activity is linked—strongly in some states, less so in others—to the degree of consumer protection that creditors engaging in that activity must provide. In general, the higher the usury ceiling, the greater the protection.

For example, most states allow creditors to charge a higher Annual Percentage Rate (APR)* on small loans than on large loans, provided that borrowers also get more protection. The creditors can choose whether to charge higher rates and offer more protection, or to settle for lower ceilings that carry less protection.

Michigan lenders, for instance, can charge up to 31 percent on loans up to $500 (13 percent above $500). In return, such lenders must calculate the interest rate in a prescribed fashion; can lend no more than $3000; must refrain from certain advertising claims; and must not require "wage assignments," under which borrowers agree in advance that their pay will go directly to the lender if they default. Alternatively, lenders can abide by a 16.5 percent ceiling and ignore those protections.

In states that tie usury ceilings and consumer protections together, high-interest loans often carry controls on such provisions as permissible fees and charges, balloon payments, refinancing terms, and the method of calculating the interest rate.

Bumping the ceiling

As interest rates rose and stayed high, state lawmakers began hearing complaints from creditors that the rates they wanted to charge for consumer credit were bumping up against the usury ceilings. If the ceilings weren't raised (or, more to the lenders' liking, eliminated), the lenders claimed, they would have no choice but to curtail consumer credit.

There was a grain of truth to the claim; loans to consumers have been curtailed. During the 19 months from the end of 1979 to August 1981, the amount of outstanding consumer installment debt—total short-term loans (excluding mortgages)—grew from $312-billion to $321-billion—an annual increase of less than 2 percent. During the 1970's, by comparison, outstanding installment debt grew almost 12 percent annually.

The current credit slowdown can be blamed, in part, on a drop in demand, a natural result of high interest rates. But many lenders have restricted the *supply* of consumer credit. Many banks, for example, have become fussier about their loan customers. In Wisconsin, where an 18 percent APR is the limit on consumer loans, bankers are generally making loans primarily to existing customers.

Other banks use another technique. In March of last year, Bankers Trust of South Carolina tightened the statistical profile it uses to screen credit applicants, dropping the percentage of approvals from 76 percent to 70 percent.

But lenders who argue that they *must* curtail consumer credit to avoid losses protest too much. Banks that have reduced their level of consumer-credit activity have done so mainly because commercial lending is more profitable, not because they can't make money on consumer credit.

Complaints from retailers and credit-card issuers about low usury ceilings should be viewed with the same skeptical eye. In practice, retailers have been reluctant to raise their charges for revolving credit, even when allowed to, for fear of driving customers away. New York State furnishes an illuminating example of why credit-card issuers cannot be taken literally. When New York removed all restrictions on credit-card finance charges late in 1980, one would have assumed, from the card issuers' repeated claim that the old 18 percent limit was oppressive, that they would immediately hike their finance charges to a much higher level. In fact, most still charge 18 percent.

Instead of raising rates, credit-card issuers in many states are charging fees not in the APR calculation. Many now charge an annual fee of $10 to $20.

And an increasing number of card issuers are charging a transaction fee every time the card is used. Crocker Bank in California, for example, already levies a 12-cent fee. Other issuers are changing the terms even for users who have avoided finance charges by paying promptly. The approach varies. Several New Jersey banks have begun charging interest from the date of billing to the date of payment. Banks elsewhere are charging interest from the date a purchase is posted to the merchant's account. Tennessee, Alabama, and Missouri residents who hold a Visa or MasterCard from First Tennessee Bank in Memphis will have to pay a monthly "maintenance fee" between 50¢ and $1.50 if they pay off the outstanding balance when billed.

What's behind the drive

Creditors are pushing to do away with usury ceilings for several reasons:

- Creditors would like to eliminate any future threat that usury ceilings will interfere with credit activity. If ceilings are simply lifted to some intermediate level consistent with current market rates, creditors fear that they would have to return to state legislators, hat in hand, to ask for another increase if interest rates climb still higher. From the credi-

* The Annual Percentage Rate most accurately expresses the interest rate charged.

tors' viewpoint, that's uncertain and inefficient. Tomorrow's politicians may be less p[illegible] than today's, and relief in the form of a new law can take weeks or months to pass.

• Ceilings are an obstacle to the introduction and success of variable-rate loans, in which the interest rate charged moves up or down during the term of the loan in step with a prearranged index. Variable-rate loans shift the burden of rising interest rates from the lender to the borrower, so creditors are enthusiastic about the idea. But usury ceilings prevent loan rates from rising without limit.

• Banks—especially large banks—want to operate across state lines. Interstate consumer banking is now restricted to credit cards. If interstate banking is allowed at some point, it would be much easier if the crazy quilt of state usury ceilings didn't exist, since banks could charge what they wanted, anywhere.

Timing is also significant. The current economic climate lends some support to the creditors' case for eliminating ceilings; if interest rates fall significantly, the lawmakers' interest in granting relief to creditors will fall, too.

So, besides lobbying in the states, creditors are pressing their case in Congress. A bill pending in both the House and Senate would wipe out all state usury ceilings on consumer credit, though a state would have three years in which to override sections of the law by passing its own limits. The bill has little chance of approval on its own in the House, but its sponsors—Representative John J. LaFalce (D., N.Y.) and Senator Richard G. Lugar (R., Ind.)—contemplate attaching it to another banking bill that has garnered broad support.

What the states have done

In 1980, as the prime rate moved past 20 percent, 42 states lifted or eliminated their usury ceilings; this year some of them went even further. Other states took action in 1981 for the first time. Ten states now permit banks that issue credit cards to charge any interest rate. Thirteen states, to all intent, no longer limit the interest rate that banks charge on consumer loans.

Several states, including Delaware, Nevada, and New Mexico, have completely wiped out all interest-rate restrictions for all classes of lenders. Most states, however, have elected to lift rather than abolish their ceilings, and to apply the higher rates only to certain classes of creditors.

Many states are still grappling with the usury question. New York lawmakers, for example, are likely to face a proposal to raise or abolish the state's criminal usury ceiling of 25 percent. (Consumer-credit interest rates aren't specifically regulated in New York but charging any rate 25 percent is a criminal act.) Alaska's legislature will also be making a decision whether to remove interest-rate ceilings on all types of retail credit. South Carolina is likely to rewrite its consumer-credit laws extensively next year, with a good chance that some consumer-credit ceilings will be raised. And Arkansas voters will decide in November of next year, in the fourth such referendum since 1968, whether the state's constitutional usury ceiling of 10 percent should be lifted to 17 percent.

"The pressure is on to raise ceilings in those states that have not done so," says Robert E. Gibson, president of the National Foundation for Consumer Credit, sponsor of more than 200 nonprofit credit counseling centers around the country. "I think those states will act quickly."

The arguments of creditors for higher ceilings are shaky, since usury ceilings, even admittedly low ones, don't necessarily dry up consumer credit. Moreover, states that have eliminated rate ceilings, or raised them significantly, have attracted lenders engaging in borderline practices.

The case of Arkansas

When lenders complain that low ceilings force them to restrict consumer credit, they invariably bring up Arkansas as an example. With a 10 percent usury ceiling written into the state constitution, Arkansas is hardly a lender's paradise—that's true. But it needs a closer look.

First, most banks and thrift institutions (savings-and-loan associations, primarily) in Arkansas are permitted by Federal law to lend at one percentage point above the Federal discount rate—giving them the right (in September, as this is written) to charge a 15 percent APR on loans,

How state ceilings vary

The table below illustrates state-to-state differences in the maximum Annual Percentage Rate (APR) for two kinds of credit transactions—bank personal loans and retail installment purchases. The first column shows the highest legal APR for a hypothetical personal loan of $2000, repaid over 24 months, taken from a bank. The second column shows the highest legal APR for a hypothetical purchase of $500, financed for 12 months, from a retail store. The table was compiled with the help of Financial Publishing Co., a supplier of consumer credit information to the financial trade. All terms were current as of late September.

State	Bank personal loan	Retail installment purchase
Alabama	21.35%	26.60%
Alaska	19	19
Arizona	No limit	No limit
Arkansas	15 [1]	10
California	22.76	19.72
Colorado	22.95	24.03
Connecticut	No limit	21
Delaware	No limit	No limit
District of Columbia	15 [1]	No limit
Florida	20.05	21.46
Georgia	16.43	23.19
Hawaii	34.13	28.80
Idaho	28.43	36
Illinois	No limit	No limit
Indiana	27.15	36
Iowa	21	21
Kansas	17.73	20.43
Kentucky	18.02	No limit
Louisiana	34.84	24
Maine	24.67	30
Maryland	23.35	22
Massachusetts	23	21.46
Michigan	15 [1]	21.43
Minnesota	18.5	No limit
Mississippi	21.57	24
Missouri	21.78	26.62
Montana	No limit	No limit
Nebraska	19%	18%
Nevada	No limit	No limit
New Hampshire	No limit	No limit
New Jersey [2]	30	30
New Mexico [2]	45	45
New York [2]	25	25
North Carolina	22.05 [3]	24
North Dakota	No limit	No limit
Ohio	22.42	21.80
Oklahoma	24.67	30
Oregon	No limit	No limit
Pennsylvania	15	24
Rhode Island	21	21
South Carolina	24.76	34.91
South Dakota	18	21.46
Tennessee	15 [1]	17.96
Texas	24 [4]	24 [4]
Utah [2]	45	45
Vermont	20.53	18
Virginia	No limit	24
Washington	20.05 [5]	22.05 [6]
West Virginia	18	18
Wisconsin	14.4	18
Wyoming	22.95	33.03

[1] *Federally insured banks, thrifts, and credit unions can charge an APR of 15% (1% above the "Federal discount rate"), although the state ceiling is lower.*

[2] *No specific regulation of consumer-credit interest rates, but charging any APR above amount indicated constitutes criminal usury.*

[3] *Rate on 6-month Treasury bills (16.05%, as of September 14) plus 6%, or 16%, whichever is more.*

[4] *Twice the rate on 6-month Treasury bills, but no less than 18% or more than 24%.*

[5] *Rate on 6-month Treasury bills plus 4%.*

[6] *Rate on 6-month Treasury bills plus 6%.*

including purchases by credit card.

Second, Arkansas retailers have raised their prices to offset the effect of the 10 percent ceiling. If an Arkansas and a West Virginia retailer each sell a $1000 video recorder with 24-month financing, the West Virginia retailer will probably charge an 18 percent APR, the highest allowed in that state. The Arkansas retailer, limited to 10 percent, is likely to raise the price of the recorder by about $82. So both retailers receive about the same amount each month.

Third, most credit-card issuers located outside Arkansas can levy charges controlled by the state where they are based, not by the state where the holder lives. Thus a card issuer based in New York could charge Arkansas residents 20 percent or even more. Even Arkansas-based card issuers have continued to do business, making up for the 15 percent limit by raising the fee charged to merchants.

Beyond those specifics, the general picture in Arkansas differs little from other states. A 1981 study by the Credit Research Center of Purdue University analyzed the effects of the 10 percent ceiling on credit use and availability, comparing credit patterns in Little Rock with those in similar cities in Illinois, Louisiana, and Wisconsin. The study concluded that, "overall, the data . . . do *not* support the hypothesis that credit is less readily available in Arkansas than in other credit markets . . . they are particularly inconsistent with the hypothesis that low-income borrowers receive less credit in Arkansas." The central reason, the researchers found, is that Arkansans have shifted their credit use away from banks and thrifts, where credit has become more difficult to obtain, to "point of sale" sources—retailers, bank cards, and, in some cases, pawn shops.

The Arkansas experience was confirmed to some degree in West Virginia where, until last spring, the APR ceiling for consumer loans from banks was 12 percent. Yet an officer of the West Virginia Bankers Association affirmed that many banks had active loan programs before the APR went to 18 percent.

The dark side of the coin

In states where usury ceilings have been removed, abuses have appeared—particularly if the state did not beef up its consumer-protection provisions.

Arizona, for example, removed its ceilings for most kinds of loans in April of 1980. Never known as a state with vigorous consumer protections ("We're laissez-faire, otherwise known as anything goes," says state banking official Roy Schuetze, his tone ironic), Arizona has become a haven for "carpetbagger" mortgage brokers from California.

These brokers are arranging second trust deeds (which are like second mortgages) secured by the borrower's home. The second trusts carry interest rates of 30 to 40 percent or more; the finance charges include excessive loan-origination fees that usually amount to 15 to 20 percent of the loan. The loans are generally written so that payments are for interest only; a balloon payment for the entire loan comes due in as little as seven months. If a borrower can't make the balloon payment, the usual practice is for the broker to "flip" the loan—refinance the whole thing—and include a new origination fee. Borrowers who may want to pay off the loan early must pay a heavy prepayment penalty—a requirement that many states flatly forbid.

Elsewhere, some small loan companies in Texas are charging 200 percent on certain loans. In Oklahoma, creditors can charge more than 170 percent on one kind of small loan. By any standard, such rates and practices are unconscionable.

What should be done?

Removing usury ceilings can easily lead to the kind of serious abuses now current in Arizona. Not only would interest rates be free to soar, but, in the opinion of some state consumer-protection officials, it might encourage wage assignments and other such unsavory loan practices. What's more, it's unnecessary. Where economic conditions clearly restrict lenders' ability to make loans at a reasonable profit, the remedy is to raise ceilings, not abolish them. Wiping them out without stengthening existing consumer protections is doubly objectionable.

The Interagency Task Force on Thrift Institutions, a team of Federal banking officials assigned to study the future of thrifts, last year concluded that eliminating "*restrictive* [emphasis ours] usury limits would be in the public interest." But the task force warned: ". . . it is important that unwary borrowers be protected from unscrupulous lenders. This is a major reason that usury laws have persisted—to protect the consumer when disclosure requirements are not a sufficient safeguard."

Reconciling the needs of borrowers and lenders is entirely practicable. Maine, for example, allows most creditors to charge 30 percent on loans up to $540, but less for loans above that amount. That's more generous than many other states allow. But an additional provision stipulates that if a loan with an APR of more than 18 percent has a balance remaining after 37 months, the interest rate must then drop to 8 percent, even if the loan is refinanced. Why? "To prevent consumers from getting locked into high-interest, long-term loans," says Barbara Alexander, superintendent of the Maine Bureau of Consumer Protection. Without such a provision, the borrowers might end up being "flipped," as happens in Arizona.

The table on the previous page suggests that creditors may be far better off than their piteous cries would lead lawmakers to believe.

The dangers of pre-emption

Federal pre-emption of state usury ceilings, as proposed in the Lugar-LaFalce bill, would abolish even those state ceilings that are above current market rates, remove the ability of each state to set ceilings tailored to its residents, expose consumers to increased risk of default and bankruptcy because of high credit costs, and wipe out a host of strong state consumer-protection laws.

The bill, as drafted, would apparently do away with state controls on maximum finance charges, prepayment penalties, the way that interest rates are calculated, late fees, and balloon payments. The bill's supporters deny the measure would have such a sweeping effect, claiming that various credit provisions would be exempted from Federal pre-emption. The language of the bill, however, is very broad. "Their intent is to make the language look like something other than what it is," charges Maine's Barbara Alexander.

The bill is widely opposed by consumer groups. Another opponent is the American Conference of Uniform Consumer Credit Code States, a group of 11 states that have adopted all or part of the Uniform Consumer Credit Code (UCCC). The UCCC's framework of suggested rate ceilings and consumer protections, while balancing the needs of both consumers and lenders, tends to tip in favor of lenders. Even so, Kathleen Goodpasture Smith, a South Carolina state consumer-affairs official, speaking for the conference, told Congress in July that the bill would wipe out most borrower protections in UCCC states.

"Federal pre-emption of the UCCC would be disastrous for consumers and would not be the quick fix for creditors that some may believe," she cautioned. "State rate and charge limitations are so completely intertwined with consumer-protection provisions that the two concepts cannot be separated. . . . with higher rate ceilings, more consumer-protection provisions are necessary."

CU agrees. In their rush to accommodate creditors, many Federal lawmakers seem to be overlooking the basic consumer protections often provided by the same consumer-credit laws that govern usury ceilings. If state ceilings are abolished, as they would be under the Lugar-LaFalce bill, is it likely that the states will take positive action to reinstate those protections? Or are the people's representatives prepared to let the tooth of usury bite too much?

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Move to Ban Usury Ceilings Starts Fight Over Federal Role, Gouging

By Eileen Alt Powell
Staff Reporter of The Wall Street Journal

WASHINGTON—Consumer groups call it the "Loan Shark Revitalization Act." Bankers and retail merchants say it's credit deregulation.

At issue is legislation in Congress to eliminate state interest-rate limits on consumer loans. Despite opposition from consumer groups, supporters of the legislation are optimistic the measure can be enacted.

All but about a dozen states have consumer usury ceilings, ranging from 10% a year in Arkansas to 36% annually on small retail-installment loans in Indiana and Idaho. The laws have evolved in a piecemeal fashion since colonial times, and they vary not only by state but also by the size and type of loan and the lending institutions involved.

The laws started attracting attention about 1980, when market interest rates surpassed some state lending limits. To keep credit flowing, many states raised their interest ceilings, and some abolished their limits. Meanwhile, lenders began pushing for federal legislation to end all state ceilings.

Arizona's Experience

Banks, finance companies and other financial institutions argue that some state ceilings are still so low that they can't cover lending costs. One result, they say, is that consumer credit dries up. In Pennsylvania, where there is a 15% ceiling on credit-card interest charges, Philadelphia National Corp., a bank holding company, has applied to move its operations to neighboring Delaware. And First Pennsylvania Corp., a Philadelphia institution, recently challenged the credit-card ceiling in court. The suit was settled last month with a tentative agreement that would require First Pennsylvania to roll back its rate on credit-card purchases to 15% from 19.8% but would allow it to charge 19.8% interest on credit-card cash advances.

Consumer groups contend that interest ceilings are needed to protect borrowers from excessive credit costs. They point to what has happened in states such as Arizona, which in April 1980 removed most of its usury limits.

Used-car dealers there who used to charge about 21% annual interest now charge about 32%, says Chuck Pyle, an attorney with Southern Arizona Legal Aid in Tucson. He says his agency recently handled a case involving a woman who bought a used car under a contract calling for 50.98% annual interest.

The Reagan administration backs federal preemption of interest rates even though it favors increased government powers for the states philosophically. "Usury ceilings only distort financial markets and credit flows and don't reduce the cost of credit in the economy," Treasury Secretary Donald Regan told the Senate Banking Committee.

The debate is focusing on bills introduced by Democratic Rep. John LaFalce of New York and Republican Sen. Richard Lugar of Indiana. Both bills would eliminate state interest-rate limits on credit extended for personal, family or household use. In addition, states wouldn't be allowed to prohibit lenders from charging borrowers certain fees, such as a fee for obtaining a credit card.

But the states would retain some authority. The bills say other state consumer-protection provisions, such as disclosure requirements and criminal loan-sharking statutes, would be left intact. And, under both bills, states would get three years to override the federal preemption, thus allowing reinstatement of ceilings.

The federal preemption is needed because "we are no longer a series of little colonies, each independent of the other," Rep. LaFalce says. "We are dealing with regional, national and world markets." He sees little merit in trying to substitute a federal ceiling. The markets, if unfettered, will produce competitive lending rates, he argues.

"We are no longer a series of little colonies, each independent of the other," says Rep. John LaFalce, who favors eliminating state interest-rate ceilings.

The Second Step

Messrs. LaFalce and Lugar see their proposals as the next logical step in a credit deregulation process that began with the Monetary Control Act. That law, enacted in March 1980, nullified state ceilings on home mortgages in the states that had them. For three years, it also overrode state limits on business and agricultural loans of $25,000 or more.

It also provided an alternate lending limit—set at one percentage point above the Federal Reserve's discount rate, currently at 12%—for federally insured financial institutions. States were given three years to override the Monetary Control Act interest-rate provisions. So far only 11 states have done so in whole or in part.

Backers of the interest-ceiling legislation are optimistic despite the hurdles that remain in Congress. Efforts to get the LaFalce bill moving toward the House floor were slowed in October when the House Banking consumer affairs subcommittee voted to table the proposal. But proponents in both houses of Congress believe the legislation could be enacted if approved in the Senate as part of a controversial omnibus banking bill introduced by Banking Committee Chairman Jake Garn, the Utah Republican.

April Deadline

Still, Sen. Garn's recent decision to delay consideration of the banking bill until after the Christmas holiday recess worries some supporters of the interest-ceiling provision. They figure that for political reasons the bill must pass by April. Federal preemption of usury ceilings, says a Senate aide, "is such an emotional issue" that Congress probably won't deal with it too close to next fall's elections.

The American Bankers Association supports the legislation. Sam Baptista, an ABA lobbyist, argues that for many financial institutions the legislation is "a question of equity." The federal government, primarily at the urging of large banks and over the objections of many small banks and thrift institutions, has begun deregulating the interest rates that financial institutions can pay on deposits. "In fairness, it must deregulate the asset (loan) side, too," he says.

Asked if declining market interest rates won't defuse the issue, Mr. Baptista responds, "Who's to say they won't go back up again?" He adds that even the rate decline "won't help in states like Arkansas, Pennsylvania and Michigan," where he says usury limits are too low to be reasonable.

Consumer Groups Angry

Consumer groups see things differently. "This legislation will eliminate state usury ceilings designed to protect the highest-risk and most-vulnerable group of borrowers," charges the Consumer Federation of America, a coalition of consumer and labor groups. Federal elimination of the rate limits, it says, will cost Americans billions of dollars in additional finance charges, precipitate personal bankruptcies and allow creditors to impose extra fees that will make shopping for credit "difficult, if not impossible."

The consumer groups argue that the issue of interest ceilings should be left to the states. Attorney Ellen Broadman of the Consumers Union, a nonprofit consumer education organization that publishes Consumer Reports magazine, says that more than 40 states acted in 1980 to raise or abolish outdated interest-rate limits. This year more states have revised or are reviewing their laws, some for the second time. "The states, in other words, have moved to respond to changing economic conditions," she says. "There's no need for unfounded federal paternalism."

The Federal Reserve Board also opposes federal legislation. Fed member Nancy Teeters told Congress that while the board is against rate ceilings, it should be each state's responsibility to correct the problem

STATES WITH RATES OVER 18%

1. Kentucky
2. New York (D) (S) 6-30-83
3. Arizona (D)
4. New Hampshire
5. Oregon (D)
6. Alabama (S) Extended to June 1983
7. California (S) 10-1-82
8. Kansas (S) 7-1-82
9. Mississippi (S) 6-30-82
10. Nebraska
11. South Carolina (S) 7-30-82
12. South Dakota (S) 7-1-83
13. Delaware (D)
14. Georgia
15. Idaho
16. Montana (D) (S) 7-1-83
17. New Jersey (D)
18. New Mexico (D) (S) 7-1-83
19. Texas
20. Utah (D)
21. Wyoming
22. Oklahoma
23. Michigan
24. Illinois (D)
25. Nevada (D)
26. Colorado
27. Ohio (D) (S) 1-1-85

D = Deregulation
S = Sunset and date of expiration

1981 States Recent Activity On Rate Increases

1. Pennsylvania (D) (passed Senate) (held over to September)
2. Minnesota (18%) (for retailers with annual volume under 25 million)
3. Connecticut (18%) (passed and signed by the Governor)
4. Michigan (D) (Introduced)
5. Washington (18%) Passed and signed
6. Wisconsin (Floating Rate Introduced)

SB

751

MMF'S/December 21, 1981

Talked today by telephone with Jim McLaughlin, a representative of the American Bankers Association who is the expert on Bank Mutual Funds. His number is 202-467-5778.

He stated that he is not aware of any financial institution offering MMF's, despite the fact it is allowed by law in Washington State, and by interpretive ruling in New York State.

He further says the federal laws which describe the allowable (and prohibitive) securities activities of banks are the Banking Act of 1933 (Glass-Steagle), and the Investment Company Act of 1940. He says the prohibition on MF's in banks is applicable to all national banks and all state-chartered, Fed member banks. Consequently, all state-chartered banks in Alaska would be eligible because they are not Fed members.

He cited the following laws as particularly important: G-S: sections 20,21,and 32; 12USC24 para Seventh, sections 77,377,378.

In short, Alaskan state-chartered banks would be able to participate provided they followed the rules as delineated in the two federal acts. He also noted that the Securities Subcommittee of one of the Banking Committees will be holding hearings on these in early February. He is sending information.

A contact with the ABA who specializes in Glass-Steagle is Bob Bevan 202-467-4206

Volcker Opposes Banks' Offering Money Funds

Fed Chief Also Has Qualms On Bank Power for S&Ls But Wants Looser Laws

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The chairman of the Federal Reserve Board said many banking laws need to be loosened, but he opposes at least for now some proposals backed by the Reagan administration, including one that would let banks offer money market funds.

Paul Volcker also voiced reservations about granting banking powers to savings and loan associations. The Fed says that idea raises "knotty" problems with the fundamental U.S. philosophy of having a diverse field of financial institutions.

At a Senate Banking Committee hearing, Mr. Volcker sounded a note of restraint to Congress as it takes up far-reaching legislation designed to restructure powers of financial institutions. Mr. Volcker said the issues raised are complex and doubly difficult in this time of high interest rates.

S&L Mergers Supported

He said the Fed supports broader powers for federal regulators to deal with troubled S&Ls, including mergers with healthier S&Ls and, as a last resort, with commercial banks. He also said the board supports federal action that would bar assumptions of low-interest home mortgages.

But he said the Fed opposes a move by Congress to strike down state interest rate ceilings on commercial loans, unless there is "a clear national interest at stake." Otherwise, he said it's a decision that should be left to individual states.

The Fed chief also said the central bank strongly opposes a provision in the Senate legislation that would allow nationally chartered banks to boost the limit on the amount of money they lend to a single borrower. The bill would raise the ceiling to 25% from 10% of a bank's capital and surplus funds. He said the Fed wants banks to spread their loan risk over several borrowers, but conceded an exception might be made for small banks. For them, he suggested lifting the limit to 15%.

White House View

The Fed's opposition to banks running money market funds, as well as its reservations about giving banking power to S&Ls, comes after Treasury Secretary Donald Regan urged Congress last week to give the institutions those powers. The administration has recommended beefing up competition among financial institutions, and is eager for Congress to throw out several [illegible] the White House says are outdated.

Mr. Volcker said the Fed opposes money-market funds for banks and S&Ls because it thinks current interest rates would impose higher costs on the institutions and "bring still heavier pressure on the earnings" of those banks and S&Ls that are being hurt by long-term low interest loans. He suggested it might be better to wait until after interest rates come down before considering the issue.

In the meantime, he said, banks should be given broader powers for offering investment management services. Although the Fed didn't propose it, Mr. Volcker said that if Congress allows banks to set up investment companies, they should be created as bank holding subsidiaries, barred from charging sales commissions and also from using the bank's name.

Mr. Volcker said the Fed supports letting banks underwrite municipal revenue bonds. Mr. Volcker also suggested banks be permitted to offer travel and data processing services and to sell commercial paper.

The Fed's reservations about giving banking powers to S&Ls stem partly from a concern that the thrift's might abandon the housing business they were designed to support, Mr. Volcker said. He said some S&L's might simply convert to commercial banks, under the provisions in the Senate legislation. Instead of giving S&Ls such sweeping banking powers, he suggested they be allowed to provide insurance and trust services for individuals, as well as being given limited powers to offer commercial loans to small businesses. He urged that steps be taken "within a broad framework of a concept of (S&L's) as community, family-oriented institutions."

Mutual Funds Set For New York Banks With State Charters

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—The state banking superintendent, Muriel Siebert, said state-chartered banks and trust companies can organize open-end investment funds or mutual funds through subsidiaries.

The ruling is significant because it outlines ways banks can operate mutual funds without violating the Glass-Steagall Act, the federal law that prevents commercial banks from doing many brokerage activities, such as operating a mutual fund. It is limited, however, because it covers only 56 banks and trust companies with assets totaling $16.7 billion operating in New York that don't have federal charters and excludes the state's banking giants, such as Citicorp, Chase Manhattan Corp. and Manufacturers Hanover Corp. Citicorp's assets alone are $115 billion.

Still, the ruling was sufficient to raise the ire of the Investment Company Institute, a Washington D.C.-based trade group. Its officials view the New York ruling as a weapon the country's big banks—which have loudly been seeking to operate money funds to compete with the likes of Merrill Lynch, Pierce, Fenner & Smith Inc.—might use to convince Congress to end Glass-Steagall prohibition.

"I'm not saying this is some sort of conspiracy, but clearly the larger money center banks are interested in overturning Glass-Steagall. My guess is that if they could cause enough confusion on the state level, Congress may reconsider," said William Tartikoff, counsel for the institute. "In our opinion the law isn't unclear. It's very clear."

The banking commissioner's ruling came in response to an application from a trust company, which wasn't identified, to operate a mutual fund. To prevent such an operation from violating the Glass-Steagall act, the state superintendent said banks and trust companies must adhere to certain restrictions.

Among the restrictions: limits on how much of the fund's securities could be bought for the bank's customers; the bank and its subsidiary can't advertise or offer sales literature on the fund to the public; the fund must have a separate address from the bank; bank officers and directors can't work for the fund.

New York State BANKING DEPARTMENT

NEWS RELEASE

For Release:
Friday, A.M.
September 25, 1981

Muriel Siebert • Superintendent • Two World Trade Center • New York, N.Y. 10047

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NEW YORK STATE SUPERINTENDENT OF BANKS MURIEL SIEBERT DETERMINES THAT NON-FED-MEMBER STATE-CHARTERED BANKS AND TRUST COMPANIES MAY SPONSOR, ORGANIZE AND ADVISE OPEN-END INVESTMENT FUNDS

Muriel Siebert, New York State Superintendent of Banks, announced today that a New-York-State-chartered bank or trust company, which is not a member bank of the Federal Reserve System, could sponsor, organize and advise an open-end investment fund.

The Banking Department reached this conclusion in response to a proposal by a New-York-State-chartered trust company to set up an open-end investment fund through a separate subsidiary. The fund would be registered as an investment company under the Investment Company Act of 1940 and the subsidiary would be registered as an investment adviser under the Investment Advisers Act of 1940.

The Banking Department concluded that it would be permissible under the New York Banking Law for the subsidiary of a bank or trust company to sponsor and organize the fund and, subject to approval by the shareholders of the fund, to advise the fund. The bank or trust company would agree to observe certain restrictions. These include:

Prohibition on directors, officers or employees of the bank or its subsidiary working for the fund, and on major shareholders of the bank or its subsidiary having similar controlling positions with the fund.

more

Certain limitations on the purchase of the fund's securities for the accounts of the bank's customers.

Provision that:

1) a majority of the fund's directors will not be "interested persons" within the meaning of the Investment Company Act of 1940;

2) the fund have separate addresses from the bank and the subsidiary;

3) the bank and the subsidiary not advertise or offer sales literature on the fund to the public.

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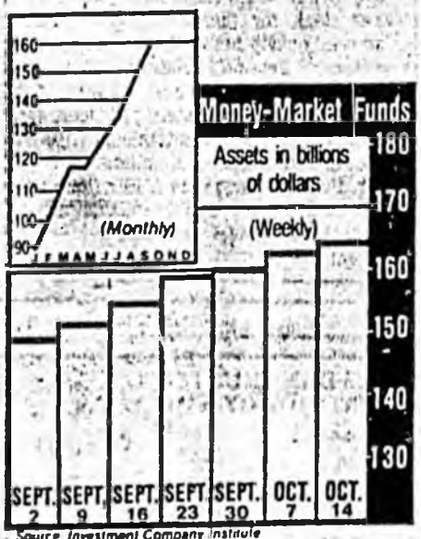
Money Fund Assets Kept on Climbing During Past Week

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—Money market fund assets kept climbing in the week ended Wednesday, indicating that investors are getting the money for tax-exempt "all savers" certificates from other sources.

Assets of the 81 "general purpose" funds geared to individual investors rose $520 million, to $50.52 billion, for the week, according to the Investment Company Institute, a Washington-based mutual fund trade group. That exceeds last week's asset growth of $464 million in the genera. purpose funds.



Source: Investment Company Institute

The 28 funds geared to institutional investors, however, declined $342 million in assets to $28.84 billion, in sharp contrast to last week's $1.4 billion climb. The institute blamed the drop on higher short-term interest rates.

Over all, assets of the nation's 146 funds rose $1.33 billion, to $164.55 billion, the trade group said. Last week, the funds grew $2.5 billion.

Many analysts had predicted that at least some significant portion of the billions of dollars flowing into the new all savers certificates would come from money funds. Since the beginning of the year, investors have turned to money funds in record numbers for their high yields and liquidity.

But so far, those expectations haven't come true. Fund managers say there has been little or no drop in assets at any point since the all saver's program began two weeks ago. "We're doing as well as we ever have," said James Benham, chairman of the Capital Preservation Funds of Palo Alto, Calif.

The money funds continued to outpace other investment tools designed for individual investors, even though their own yields dropped slightly. The average seven-day yield for money funds declined to 15.6% from 15.75%, according to William E. Donoghue's Money Fund Report of Holliston, Mass. The average 30-day yield also dipped, to 15.98% from 16.33%. Both are still higher than the 13.75% that banks and thrift institutions can pay on six-month money market certificates.

The decline in assets of the funds geared to institutions stemmed from higher interest rates. Institutions can move money overnight to take quick advantage of a changing rate situation. Yields of money funds don't rise as quickly as interest rates in general, so big investors have been switching to investments such as certificates of deposit and commercial paper, which aren't within the financial reach of most individuals.

The Donoghue report confirmed the money funds' increase in assets, stating that they rose $1.1 billion, to $163.7 billion, and

"The fact is, the fraud artist knows the system, strikes early and hard"

and I support it, that Mastercard is a bank product—or, more accurately, a financial institution's product; the board will forgo short-term card growth for long-term marketing advantages.

"We can doubtlessly pick up a couple million cardholders but I don't want to be the president of Mastercard when major retailers become the largest 'Mastercard issuer.' "

Sears' clout. "Speaking of retailers and competition, don't look beyond Sears," Hogg related. "It was interesting that the day we announced our Money Manager Account, Sears also announced its intention to form a money market fund as a major strategic direction.

"When you talk about Sears, the numbers are astounding. Imagine if it diverted 10% of its advertising budget to help launch this major new strategic direction.

"Sears is the second largest advertiser in the U.S. Do you know what 10% of its advertising budget is? Just over $60 million! Can you imagine the impact of those numbers on the financial services market?

"The question is, however, whether the Mastercard membership at large shares these concerns. Do you really care whether we are a 'pure' bank card or whether Channel Lumber markets a Mastercard?"

Powerful foes. "I worry about competitors that feel their dominant market holds being loosened, and try to make a case that we are being too aggressive," Hogg declared.

"And I am *not* talking about Visa.

"Mastercard and Visa have *both*

Banks may get their own money market funds

They're still referred to as the national card associations, but it's obvious that Visa and Mastercard have moved far beyond their original functions as licensors and and operators of the two national credit card systems. First came debit cards, then travelers checks. The latest offering from the two associations is money market funds.

Visa was the first to announce its intent to offer a money market product, but Mastercard beat its West Coast rival to the punch by announcing its plan early in September. That was two weeks ahead of Visa's official announcement at a press conference during the ABA National Bank Card Convention.

New Tools. Despite this one-upsmanship, the two plans are really designed more as tools to help banks compete against other money market mutual funds rather than as new weapons in the traditional Mastercard/Visa battle.

Neither plan, at press time, had been officially presented to the Securities and Exchange Commission. So neither organization could go into too many details. Yet, sufficient information was provided to show that the two programs are quite different from each other. A description of each follows.

Mastercard plan. The Mastercard people reached an agreement with Fidelity Management Group, the Boston-based investment management and discount brokerage firm, to create the Mastercard Money Manager Account. Essentially, the plan calls for Mastercard to provide the link between customers of participating Mastercard member banks and a new money market fund being established and operated by Fidelity.

The core of the plan is the linkage of a customer's checking/NOW account with the Fidelity money market fund. Funds in the checking account above a certain amount (set by the bank) are swept on a daily basis into the money market fund. Conversely, when the checking account falls below a certain level, funds are drawn out of the money fund to make up the difference. The linkage used is Mastercard's INET electronic settlement system.

Customers do not deal directly with the money fund, the transfers are made by the bank acting as agent for the customer. Fidelity will manage the fund.

Optional accounts. Beyond this basic arrangement, the bank could also arrange for the customer's checking account to be linked to a discount brokerage account which in turn could be linked to a Fidelity margin account. Again, the linkage used would be Mastercard's INET system.

Additional flexibility allows banks to attach their own package of investment accounts (CDs, retail repos, All-Savers Certificates, etc.) to the overall money market/brokerage/checking account.

Access to this multi-faceted account may be by check, by the Mastercard II (debit) card, or by telephone transfer. Mastercard officials acknowledge that their new plan does not fully solve the problem of disintermediation of deposits from banks to money market funds. They expect part of the money sent to the new Fidelity fund to be reinvested in participating banks' CDs, but not all of it.

However, Mastercard officials believe the new plan allows banks to remain in a pivotal position as suppliers of financial services, rather than operating simply as backroom processors.

Visa plan. Rather than turning to an outside investment firm to provide access to a money market fund, Visa U.S.A. is proposing to set up its own money fund. However, Visa will be advised by Alliance Capital Management Corp., a subsidiary of Donaldson, Lufkin, and Jenrette.

Pooling. The Visa fund is designed to invest primarily in certificates of deposit of participating member banks. The CDs purchased will reflect the amounts of investment in the fund by customers of each institution. Smaller banks will participate through a pooling arrangement with larger, correspondent members.

Other features of the Visa plan:

- The yield will be tied to the daily open market rate on 90-day Treasury bills;
- The fund will carry an indemnification feature so customers cannot suffer a credit loss;
- State Street Bank & Trust, Boston, will serve as custodian and transfer agent.

BASE is link. In operation, the Visa plan would work much like the Mastercard plan. Funds in a transaction account over a certain amount will be swept automatically into the fund.

Visa's electronic BASE system will provide the link. Banks will have the flexibility to set the terms and pricing for their customers, and may combine the fund with other financial services.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 751
Title An Act relating to Money Market Mutual Funds
Requested by Labor and Commerce Date 2/10/82

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	Ø					
200 TRAVEL	Ø					
300 CONTRACTUAL	Ø					
400 COMMODITIES	Ø					
500 EQUIPMENT	Ø					
600 LAND & STRUCTURES	Ø					
700 GRANTS,CLAIMS,ETC.	Ø					
TOTAL	Ø					

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø					
FEDERAL FUNDS	Ø					
OTHER (Specify Source)	Ø					

POSITIONS

FULL TIME	Ø					
PART TIME	Ø					
TEMPORARY	Ø					

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

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans & Corp.
PHONE 465-2521

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

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

March 1, 1982

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

Dear Senator Mulcahy:

Re: Senate Bill 751 an Act Providing for Money Market Mutual Fund Accounts

You have asked for the position of the Department of Commerce and Economic Development on the above subject bill. It is the position of the department not to oppose Senate Bill 751. The previous Director of the Division of Banking, Securities, Small Loans and Corporations was one of the prime movers of this idea nationally. This bill sets in place a vehicle by which State chartered financial institutions could establish a special uninsured account as a money market mutual fund.

The purpose of the bill is to provide a means by which State chartered financial institutions could compete with the money market mutual funds being offered in Alaska. It would, of course, be a management decision by the financial institutions whether to offer this account or not. Surveys done in 1980 and 1981 of the state banks have indicated little or no interest at this time in these accounts.

It is our finding that this form of account is presently prohibited by Federal law. If and when the Federal law should change, Alaska would have in place a vehicle that would allow the State-chartered financial institutions to offer these accounts.

Therefore, the Department of Commerce and Economic Development has a favorable position on this bill based on the attempt to set in place a vehicle to provide financial institutions a means by which to compete in financial services.

Sincerely,

E. W. Ebech

Edward W. Ebech
Deputy Commissioner

EWE/krb 5/5

involving extraordinary circumstances requiring immediate action, the department may take action without notice and public hearing, but upon application to rescind the action taken, the department shall promptly hold a hearing on the application.

(c) Hearings required or authorized under this title are not subject to AS 44.62.330 — 44.62.630 of the Administrative Procedure Act, except as required by AS 44.62.560 and 44.62.570.

(d) The department shall adopt regulations, consistent with the provisions of this title, establishing procedures for hearings held under this section. The Administrative Procedure Act (AS 44.62) applies to all regulations adopted or authorized under this title.

(e) For the purpose of hearings, investigations or proceedings under this title, and except as otherwise provided in this title, the department or an officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the department considers relevant or material to the inquiry. (§ 42 ch 169 SLA 1978)

As to facts requiring hearing under former AS 06.05.010 and Administrative Procedure Act, see 1960 Op. Att'y Gen., No. 7.

Sec. 06.01.040. Examination policy. It shall be the policy of the department to conduct, whenever reasonably possible, joint examinations with the Federal Deposit Insurance Corporation of those institutions subject to this title whose accounts are insured through that corporation. (§ 42 ch 169 SLA 1978)

Sec. 06.01.050. Definitions. As used in this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of commerce and economic development or his designee;

(2) "department" means the Department of Commerce and Economic Development;

(3) "financial institution" means an institution subject to the regulation of the department under this title. (§ 42 ch 169 SLA 1978)

Chapter 05. Alaska Banking Code.

Article

Effect of amendment. — The 1978 amendment, in the second sentence, substituted "conviction of a corporation for violation of this chapter" for "violation by a corporation" and increased the maximum fine from $5,000 to $20,000.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.525. Injunction. If a state bank fails to comply with the provisions of this chapter, or the regulations of the department, or is found by the department to be in an unsafe or unsound condition the result of which will cause substantial injury to the bank or to its depositors, creditors or stockholders, the superior court may, upon the suit of the department, issue an injunction restraining the violation and may issue an order prohibiting the transaction of all or any part of the bank's business until the circumstances upon which the suit is based no longer exist. (§ 3.510 ch 129 SLA 1951; am § 9 ch 63 SLA 1969)

Article 6. General Provisions.

Sec. 06.05.530. Effect on existing banks. The charters of state banks existing on March 26, 1951, continue in full force and effect. All state banks and, to the extent applicable, all banks shall thereafter operate in accordance with this chapter. Any state bank, by filing an application for an amendment of its charter or for a merger, consolidation or sale of all, or substantially all, of its assets or the assets of any department of the bank under this chapter and its charter is thereafter subject to this chapter. (§ 1.104 ch 129 SLA 1951)

Sec. 06.05.535. Construction with subsequent legislation. No part of this chapter shall be considered to be impliedly repealed by subsequent legislation not specifically repealing it if that construction can be avoided. (§ 1.106 B ch 129 SLA 1951)

Effect of Business Corporation Act. — This chapter is in no way amended by the Alaska Business Corporation Act (AS 10.05). 1959 Op. Atty. Gen., No. 17.

On formation of banking corporation. — A banking corporation may lawfully be formed under the Alaska Business Corporation Act (AS 10.05). It is equally certain that a banking corporation may be formed under this chapter, since it has not been repealed in whole or in part by the Alaska Business Corporation Act. 1959 Op. Atty. Gen., No. 17.

Sec. 06.05.540. General definitions. As used in this chapter unless the context otherwise requires

(1) "action" in the sense of a judicial proceeding includes any proceeding in which rights are determined;

(2) "bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction;

(3) "banking" means the negotiation for and the discounting of promissory notes, drafts, bills of exchange and other evidences of indebtedness; receiving deposits, selling and buying exchange, coin, and bullion, and lending money on personal, real and other security, and other kindred financial operations;

(4) "branch bank" includes a branch bank, branch office, branch agency, additional office, or any branch place of business located in the state, at which deposits are received, checks are paid, or money is lent;

(5) "commissioner" means the commissioner of commerce and economic development or his designee;

(6) "community" means a city, town, unincorporated village, or, in absence of any one of the foregoing, a trade area;

(7) "court" means a court of competent jurisdiction;

(8) "department" means the Department of Commerce and Economic Development;

(9) "domestic bank holding company" means a domestic corporation that is organized under AS 10.05 and that has control over a bank or another domestic bank holding company through one of the following:

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per cent or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the department determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management of policies of the bank or company.

(10) "executive officer" when referring to a bank, means the president, vice president, treasurer, cashier, comptroller and secretary, or any person who performs the duties appropriate to those offices or any person designated in the bylaws as an executive officer;

(11) "fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

(12) "good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

(13) "item" means any instrument for the payment of money negotiable or nonnegotiable but does not include money;

(14) "officer" when referring to a bank means any person designated as an officer in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller, or other person who performs the duties appropriate to those offices;

(15) "reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

(16) "state bank" means any bank chartered by this state;

(17) "undivided profits" means the accumulated, undistributed net profit of a bank, including any residue after

(A) provision for payment of taxes and expenses operations,

(B) transfers to reserves allocated to a particular asset or class of assets,

(C) losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated for it,

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign. (§§ 1.102, 1.103 ch 129 SLA 1951; § 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 7 ch 56 SLA 1971; am § 19 ch 218 SLA 1976; am §§ 39, 40, 43 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (5) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (8).

The 1978 amendment added "or his designee" to the end of paragraph (5), rewrote paragraph (9), and added paragraphs (17) and (18).

Editor's notes. — Section 8 ch. 56, SLA 1971, provides: "Any branch or limited banking facility operating under a charter from the State of Alaska on January 1, 1971, is a duly chartered branch."

Section 55, ch. 169, SLA 1978, contains a severability clause.

Applicability of Alaska Banking Code to building and loan associations. — See American Bldg. & Loan Ass'n, Inc. v. State, Sup. Ct. Op. No. 112 (File No. 149), 376 P. (2d) 370.

Commissioner subject to provisions of Administrative Procedure Act. — The Administrative Procedure Act (AS 44.62) provides that the commissioner shall be subject to its provisions. 1960 Op. Atty. Gen., No. 7.

Sec. 06.05.545. Short title. This chapter may be cited as the Alaska Banking Code. (§ 1.101 ch 129 SLA 1951)

Chapter 10. Model Foreign Bank Loan Act.