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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3680

02/13/2024 Authored by Kotyza-Witthuhn, Stephenson, Lillie and Lee, K., The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to commerce; consumer loans; rejecting certain federal amendments
1.3 relating to applicable interest rates; amending Minnesota Statutes 2022, section
1.4 47.59, subdivision 3; Minnesota Statutes 2023 Supplement, section 47.59,
1.5 subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2023 Supplement, section 47.59, subdivision 2, is amended
1.8 to read:

1.9 Subd. 2. Application. (a) Extensions of credit or purchases of extensions of credit by
1.10 financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, 48.153, 48.185,
1.11 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061 to
1.12 334.19 may, but need not, be made according to those sections in lieu of the authority set
1.13 forth in this section to the extent those sections authorize the financial institution to make
1.14 extensions of credit or purchase extensions of credit under those sections. If a financial
1.15 institution elects to make an extension of credit or to purchase an extension of credit under
1.16 those other sections, the extension of credit or the purchase of an extension of credit is
1.17 subject to those sections and not this section, except this subdivision, and except as expressly
1.18 provided in those sections. A financial institution may also charge an organization a rate of
1.19 interest and any charges agreed to by the organization and may calculate and collect finance
1.20 and other charges in any manner agreed to by that organization. Except for extensions of
1.21 credit a financial institution elects to make under section 334.01, 334.011, 334.012, 334.022,
1.22 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made
1.23 according to this section or the sections listed in this subdivision. This subdivision does not
1.24 authorize a financial institution to extend credit or purchase an extension of credit under

2.1 any of the sections listed in this subdivision if the financial institution is not authorized to
 2.2 do so under those sections. A financial institution extending credit under any of the sections
 2.3 listed in this subdivision shall specify in the promissory note, contract, or other loan document
 2.4 the section under which the extension of credit is made.

2.5 (b) In accordance with section 525 of the federal Depository Institutions Deregulation
 2.6 and Monetary Control Act of 1980, Public Law 96-221, the legislature declares that the
 2.7 state of Minnesota does not want the amendments to the Federal Deposit Insurance Act,
 2.8 United States Code, title 12, section 1811, et seq., the federal National Housing Act, United
 2.9 States Code, title 12, section 1701, et seq., and the Federal Credit Union Act, United States
 2.10 Code, title 12, section 1757, made by sections 521 to 523 of the federal Depository
 2.11 Institutions Deregulation and Monetary Control Act of 1980, Public Law 96-221, prescribing
 2.12 interest rates and preempting state interest rates to apply to consumer loans made in
 2.13 Minnesota. Consumer loans made in Minnesota are subject to the rates established in this
 2.14 section and as otherwise provided by the laws of Minnesota.

2.15 (c) A consumer loan is deemed to be made in Minnesota and is subject to this section
 2.16 and other applicable laws of Minnesota if the borrower is a Minnesota resident and the
 2.17 borrower completes the transaction, either personally or electronically, while physically
 2.18 located in Minnesota.

2.19 Sec. 2. Minnesota Statutes 2022, section 47.59, subdivision 3, is amended to read:

2.20 Subd. 3. **Finance charge for loans.** (a) With respect to a loan, including a loan pursuant
 2.21 to open-end credit but excluding open-end credit pursuant to a credit card, a financial
 2.22 institution may contract for and receive a finance charge on the unpaid balance of the
 2.23 principal amount not to exceed the greater of:

2.24 (1) an annual percentage rate not exceeding 21.75 percent; or

2.25 (2) the total of:

2.26 (i) 33 percent per year on that part of the unpaid balance of the principal amount not
 2.27 exceeding \$1,350; and

2.28 (ii) 19 percent per year on that part of the unpaid balance of the principal amount
 2.29 exceeding \$1,350.

2.30 With respect to open-end credit pursuant to a credit card, the financial institution may
 2.31 contract for and receive a finance charge on the unpaid balance of the principal amount at
 2.32 an annual percentage rate not exceeding 18 percent per year or, if the financial institution
 2.33 is an out-of-state bank, as defined in section 48.92, or out-of-state credit union, as defined

3.1 in section 52.001, the rate allowed by the financial institution's home state, if that rate
3.2 exceeds 18 percent per year.

3.3 (b) On a loan where the finance charge is calculated according to the method provided
3.4 for in paragraph (a), clause (2), the finance charge must be contracted for and earned as
3.5 provided in that provision or at the single annual percentage rate computed to the nearest
3.6 one-tenth of one percent that would earn the same total finance charge at maturity of the
3.7 contract as would be earned by the application of the graduated rates provided in paragraph
3.8 (a), clause (2), when the debt is paid according to the agreed terms and the calculations are
3.9 made according to the actuarial method.

3.10 (c) With respect to a loan, the finance charge must be considered not to exceed the
3.11 maximum annual percentage rate permitted under this section if the finance charge contracted
3.12 for and received does not exceed the equivalent of the maximum annual percentage rate
3.13 calculated in accordance with Code of Federal Regulations, title 12, part 226, but using the
3.14 definition of finance charge provided in this section.

3.15 (d) This subdivision does not limit or restrict the manner of calculating the finance
3.16 charge, whether by way of add-on, discount, discount points, precomputed charges, single
3.17 annual percentage rate, variable rate, interest in advance, compounding, average daily
3.18 balance method, or otherwise, if the annual percentage rate does not exceed that permitted
3.19 by this section. Discount points permitted by this paragraph and not collected but included
3.20 in the principal amount must not be included in the amount on which credit insurance
3.21 premiums are calculated and charged.

3.22 (e) With respect to a loan secured by real estate, if a finance charge is calculated or
3.23 collected in advance, or included in the principal amount of the loan, and the borrower
3.24 prepays the loan in full, the financial institution shall credit the borrower with a refund of
3.25 the charge to the extent that the annual percentage rate yield on the loan would exceed the
3.26 maximum rate permitted under paragraph (a), taking into account the prepayment. The
3.27 refund need not be made if it would be less than \$9.00.

3.28 (f) With respect to all other loans, if the finance charge is calculated or collected in
3.29 advance, or included in the principal amount of the loan, and the borrower prepays the loan
3.30 in full, the financial institution shall credit the borrower with a refund of the charge to the
3.31 extent the annual percentage rate yield on the loan would exceed the annual percentage rate
3.32 on the loan as originally determined under paragraph (a) and taking into account the
3.33 prepayment. The refund need not be made if it would be less than \$9.00.

4.1 (g) For the purpose of calculating the refund under this subdivision, the financial
4.2 institution may assume that the contract was paid before the date of prepayment according
4.3 to the schedule of payments under the loan and that all payments were paid on their due
4.4 dates.

4.5 (h) For loans repayable in substantially equal successive monthly installments, the
4.6 financial institution may calculate the refund under paragraph (f) as the portion of the finance
4.7 charge allocable on an actuarial basis to all wholly unexpired payment periods following
4.8 the date of prepayment, based on the annual percentage rate on the loan as originally
4.9 determined under paragraph (a), and for the purpose of calculating the refund may assume
4.10 that all payments are made on the due date.

4.11 (i) The dollar amounts in this subdivision, subdivision 6, paragraph (a), clause (4), and
4.12 the dollar amount of original principal amount of closed-end credit in subdivision 6,
4.13 paragraph (d), shall change periodically, as provided in this section, according to and to the
4.14 extent of changes in the implicit price deflator for the gross domestic product, 2005 = 100,
4.15 compiled by the United States Department of Commerce, and hereafter referred to as the
4.16 index. The index for December 2011 is the reference base index for adjustments of dollar
4.17 amounts.

4.18 (j) The designated dollar amounts shall change on July 1 of each even-numbered year
4.19 if the percentage of change, calculated to the nearest whole percentage point, between the
4.20 index for December of the preceding year and the reference base index is ten percent or
4.21 more; but

4.22 (1) the portion of the percentage change in the index in excess of a multiple of ten percent
4.23 shall be disregarded and the dollar amounts shall change only in multiples of ten percent
4.24 of the amounts appearing in Laws 1995, chapter 202, on May 24, 1995; and

4.25 (2) the dollar amounts shall not change if the amounts required by this section are those
4.26 currently in effect pursuant to Laws 1995, chapter 202, as a result of earlier application of
4.27 this section.

4.28 (k) If the index is revised, the percentage of change pursuant to this section shall be
4.29 calculated on the basis of the revised index. If a revision of the index changes the reference
4.30 base index, a revised reference base index shall be determined by multiplying the reference
4.31 base index then applicable by the rebasing factor furnished by the Department of Commerce.
4.32 If the index is superseded, the index referred to in this section is the one represented by the
4.33 Department of Commerce as reflecting most accurately changes in the purchasing power
4.34 of the dollar for consumers.

5.1 (l) The commissioner shall:

5.2 (1) announce and publish on or before April 30 of each year in which dollar amounts
5.3 are to change, the changes in dollar amounts required by paragraph (j);

5.4 (2) announce and publish promptly after the changes occur, changes in the index required
5.5 by paragraph (k) including, if applicable, the numerical equivalent of the reference base
5.6 index under a revised reference base index and the designation or title of any index
5.7 superseding the index; and

5.8 (3) promptly notify the revisor of statutes in writing of the changes announced and
5.9 published by the commissioner pursuant to clauses (1) and (2). The revisor shall publish
5.10 the changes in the next edition of Minnesota Statutes.

5.11 (m) A person does not violate this chapter with respect to a transaction otherwise
5.12 complying with this chapter if that person relies on dollar amounts either determined
5.13 according to paragraph (j), clause (2), or appearing in the last publication of the commissioner
5.14 announcing the then current dollar amounts.

5.15 (n) The adjustments provided in this section shall not be affected unless explicitly
5.16 provided otherwise by law.

5.17 **Sec. 3. EFFECTIVE DATE.**

5.18 Sections 1 and 2 are effective August 1, 2024, and apply to loans executed on or after
5.19 that date.