

in two years after such tax was paid or collected, or within three and one-half years from the filing of the return, whichever period is the longer; except that if the claim relates to taxable years beginning after December 31, 1942, and ending before December 31, 1946, such claim will not be entertained unless filed within two years after such tax was paid or collected or within four and one-half years from the filing of the return whichever period is the longer. If the claim relates to an overpayment on account of failure to deduct a loss due to a bad debt or to a security becoming worthless, the period shall be five years from the date the return was filed, and in such case the refund shall be limited to the amount of such overpayment; but no claim for any year ending prior to January 1, 1939, shall be allowed, unless (1) the deduction was claimed by the taxpayer with respect to a subsequent year, and disallowed by the commissioner of taxation prior to January 1, 1943, and (2) the claim is filed before December 1, 1943. If the claim is not filed within three and one-half years after the return is filed, (four and one-half years if the return covers a taxable period beginning after December 31, 1942, and ending before December 31, 1946), or, to the extent that it refers to bad debts or worthless stock losses, within five years after the return is filed, the refund shall not exceed the amount paid within two years prior to the filing of the claim. Upon the filing of a claim the commissioner shall examine the same and shall make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof to the taxpayer at the address stated upon the return. If such claim is allowed in whole or in part, the commissioner shall issue his certificate for the refundment of the excess paid by the taxpayer, with interest at the rate of two percent per annum computed from the date of the payment or collection of the tax until the date the refund is paid to the taxpayer, *however, where the only basis for refund is the carry-back of a net operating loss interest shall be computed from the end of the taxable year in which the net operating loss occurs to the date the refund is paid* and the state auditor shall cause such refund to be paid out of the proceeds of the taxes imposed by this act, as other state moneys are expended. So much of the proceeds of such taxes as may be necessary are hereby appropriated for that purpose.

Approved May 11, 1965.

CHAPTER 391—S. F. No. 1041

An act relating to usurious contracts; amending Minnesota Statutes 1961, Sections 334.03 and 334.05.

Changes or additions indicated by italics, deletions by ~~strikeout~~.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1961, Section 334.03, is amended to read:

334.03 Usurious contracts invalid; exceptions. All bonds, bills, notes, mortgages, and all other contracts and securities, and all deposits of goods, or any other thing, whereupon or whereby there shall be reserved, secured, or taken any greater sum or value for the loan or forbearance of any money, goods, or things in action than hereinbefore prescribed, *except such instruments which are taken or received in accordance with and in reliance upon the provisions of any statute*, shall be void except as to bona fide purchasers of negotiable paper, in good faith, for a valuable consideration and before maturity, as hereinafter provided. No merely clerical error in the computation of interest, made without intent to avoid the provisions of this chapter, shall constitute usury. Interest at the rate of one-twelfth of eight percent for every 30 days shall not be construed to exceed eight percent per annum; nor shall the payment of interest in advance of one year, or any less time, at a rate not exceeding eight percent per annum constitute usury; and nothing herein shall prevent the purchase of negotiable mercantile paper, usurious or otherwise, for a valuable consideration, by an innocent purchaser, at any price before the maturity of the same, when there has been no intent to evade the provisions of this chapter, or where such purchase has not been a part of the original usurious transactions; but where the original holder of a usurious note sells the same to an innocent purchaser, the maker thereof, or his representatives, may recover back from the original holder the amount of principal and interest paid by him on the note.

Sec. 2. Minnesota Statutes 1961, Section 334.05, is amended to read:

334.05 Usurious contracts; cancellation. When it satisfactorily appears to a court that any bond, bill, note, assurance, pledge, conveyance, contract, security, or evidence of debt ~~has been taken or received in violation of~~ *is void under* the provisions of this chapter it shall declare the same to be void, enjoin any proceeding thereon, and order it to be cancelled and given up.

Approved May 11, 1965.

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.