

deposit account opened after July 1, 1980, shall, for a period of not less than 12 months, clearly display on the face thereof the month and year in which the account was opened. This section does not apply to temporary checks, drafts, or similar negotiable or non-negotiable instruments or orders of withdrawal, or to a consumer deposit account where the applicant either demonstrates through the production of monthly statements or represents in a writing which states it is made under penalties of perjury that, for 12 months immediately preceding his application, he has had an account at the same or another financial institution. A written representation made to avoid this section is subject to section 609.48.

For purposes of this section the term "consumer deposit account" means a demand or other similar deposit account established and maintained by a natural person with a financial institution and operated primarily for personal, family or household purposes.

For purposes of this section the term "financial institution" means any bank subject to chapter 48, savings bank subject to chapter 50, savings and loan association subject to chapter 51A, credit union subject to chapter 52, and any federally chartered commercial bank, savings and loan association and credit union, organized and operated in this state pursuant to the laws of the United States.

No liability shall be imposed on any financial institution or printer for an unintentional failure to comply with this section.

Approved April 23, 1980

CHAPTER 606—H.F.No. 2429

An act relating to financial institutions; granting certain lending powers to savings associations and savings and loan associations; providing for interest rates on certain installment loans; changing the penalty for usurious loans made by banks, savings banks, savings associations, credit unions and certain other lenders; amending Laws 1980, Chapter 522, Section 1; Minnesota Statutes 1978, Sections 334.02; 334.03; and Chapter 48, by adding a section.

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

Section 1. Laws 1980, Chapter 522, Section 1, is amended to read:

48.153 INSTALLMENT LOANS; FINANCE CHARGES; MINIMUM CHARGES. Subdivision 1. A bank organized under the laws of this state, or a national banking association doing business in this state making a loan of money not exceeding \$35,000 repayable in installments, may charge upon the unpaid principal balance of the financed amount a rate of interest not in excess of 12 percent a year. A loan made prior to June 30, 1982, at a greater rate than permitted by this subdivision may continue to bear the greater rate of interest if that greater rate was lawful when the loan was made.

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Subd. 1a. (a) Notwithstanding subdivision 1, a bank organized under the laws of this state, or a national banking association doing business in this state, making a loan of money not exceeding \$35,000 repayable in installments, may charge, at the time the loan is made, a rate of interest upon the unpaid principal balance of the amount financed of 12 percent a year, or the rate of interest authorized by section 334.011, whichever is greater. If the rate of interest charged is permitted by section 334.011 at the time the loan is made, the rate does not later become usurious because of a fluctuation in the federal discount rate.

(b) This subdivision supersedes subdivision 1 from its effective date until June 30, 1982.

Subd. 2. Installment payments on loans made pursuant to this section by a bank or national banking association shall not extend beyond a period of 12 years and 32 days from the date of the loan. The loan may be secured by a mortgage, pledge, or other collateral.

Subd. 3. A savings bank organized pursuant to chapter 50, a savings association or savings and loan association subject to the provisions of sections 51A.01 to 51A.57, or a savings and loan association chartered under the laws of the United States, that has its principal place of business in this state, may make a loan for consumer purposes to a natural person in an amount not exceeding \$25,000 repayable in installments, and may charge upon the unpaid principal balance of the financed amount a rate of interest not in excess of 12 percent a year. A loan made prior to June 30, 1982, at a greater rate than permitted by this subdivision may continue to bear the greater rate of interest if that greater rate was lawful when the loan was made.

Subd. 3a. (a) Notwithstanding subdivision 3, a savings bank organized pursuant to chapter 50, a savings association or savings and loan association subject to the provisions of sections 51A.01 to 51A.57, or a savings and loan association chartered under the laws of the United States, that has its principal place of business in this state, may make a loan for consumer purposes to a natural person in an amount not exceeding \$25,000 repayable in installments, and may charge a rate of interest upon the unpaid principal balance of the amount financed of 12 percent a year, or the rate of interest authorized by section 334.011, whichever is greater. If the rate of interest charged is permitted by section 334.011 at the time the loan is made, the rate does not later become usurious because of a fluctuation in the federal discount rate.

(b) This subdivision supersedes subdivision 3 from its effective date until June 30, 1982.

Subd. 4. Installment payments on loans made pursuant to this section by a savings bank, a savings association or savings and loan association subject to the provisions of sections 51A.01 to 51A.57, or a savings and loan association chartered under the laws of the United States shall not extend beyond a period of five 12 years and 32 days from the date of the loan. The loan may be secured by a mortgage, pledge, or other collateral.

Subd. 5. Charges in reference to installment loans under this section shall be computed and collected only on the unpaid principal balance of the amount financed actually outstanding. One day's finance charge means an amount equal to 1/365 of the per annum rate provided for in an installment loan. If the total finance charge determined on an installment loan, single payment or demand loan shall be less than \$10 the amount charged may nevertheless be \$10. No loan shall be made pursuant to this section if over 50 percent of the proceeds of the loan are used to finance the purchase of a borrower's primary residence other than a mobile home.

Sec. 2. Minnesota Statutes 1978, Chapter 48, is amended by adding a section to read:

[48.196] PENALTY FOR USURIOUS INTEREST CHARGED BY BANKS AND SAVINGS BANKS. The taking, receiving, reserving or charging by a lender of a rate of interest greater than is allowed by state law shall be deemed 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 thereon. In case the greater rate of interest has been paid, the person paying it, or his legal representatives, may recover, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the lender taking or receiving the interest, if the action is commenced within two years from the time the usurious transaction occurred. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 3. Minnesota Statutes 1978, Section 334.02, is amended to read:

334.02 USURIOUS INTEREST; RECOVERY. Every person who for any such loan or forbearance shall have paid or delivered any greater sum or value than in section 334.01 allowed to be received may, by himself or his personal representatives, recover in an action against the person who shall have received the same, or his personal representatives, the full amount of interest or premium so paid, with costs, if action is brought within two years after such payment or delivery. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 2 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 4. Minnesota Statutes 1978, 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 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 a holder in due course. 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 a purchaser without notice, 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. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 2 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

Sec. 5. EFFECTIVE DATE. Sections 1 to 4 are effective the day following final enactment.

Approved April 23, 1980

CHAPTER 607—H.F.No. 1121

An act relating to the operation and financing of state and local government; adopting certain federal income tax changes; allowing a subtraction of certain interest and dividend income; increasing the pension exclusion; adopting technical and conforming amendments to income tax and property tax refund provisions; providing an income tax credit for contributions to candidates for federal offices; providing a definition of "quadriplegic"; increasing low income credit amounts, eliminating indexing of that credit, and allowing it to be taken as an alternative tax; modifying provisions of the renewable energy source credit; authorizing deduction of certain interest; increasing the dependent care credit; allowing involuntary conversion treatment of divestitures

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