

## LEGISLATIVE BILL 143

Approved by the Governor April 18, 1986

Introduced by Pappas, 42

AN ACT relating to interest, loans, and debt; to amend sections 45-101.04 and 45-338, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to installment contracts; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section. 1. That section 45-101.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-101.04. The limitation on the rate of interest provided in section 45-101.03 shall not apply to:

(1) Other rates of interest authorized for loans made by any licensee or permittee operating under a license or permit duly issued by the Department of Banking and Finance pursuant to subsection (4) of section 8-319, sections 8-401 to 8-417, 8-815 to 8-823, 8-825 8-826 to 8-829, 21-1760 to 21-1764, 21-1766 to 21-1796, 21-1799 to 21-17,108, 21-17,110 to 21-17,119, 45-114, 45-116 to 45-140, or 45-142 to 45-155;

(2) Loans made to any corporation, partnership, or trust;

(3) The guarantor or surety of any loan to a corporation, partnership, or trust;

(4) Loans made when the aggregate principal amount of the indebtedness is twenty-five thousand dollars or more of the borrower to any one financial institution, licensee, or permittee;

(5) Loans insured, guaranteed, sponsored, or participated in, either in whole or part, by any agency, department, or program of the United States or state government;

(6) Loans or advances of money, repayable on demand, which are made solely upon securities, as defined in subdivision (12) of section 8-1101, pledged as collateral for such repayment and in which such loans or advances are used by the borrower only for the purchase of securities as so defined. It shall be lawful to contract for and receive any rate of interest on such transaction as the parties thereto may expressly agree;

(7) Interest charges made on open credit accounts by a person who sells goods or services on credit when the interest charges do not exceed one and one-third per cent per month for any charges which remain unpaid for more than thirty days following rendition of the statement of account;

(8) A minimum charge of ten dollars per loan which may be charged by the lender in lieu of all interest charges;

(9) Loans described in subsection (4) of section 8-319 made by a state or federal savings and loan association at a rate not to exceed nineteen per cent per annum; or

(10) Loans made primarily for business or agricultural purposes or loans secured by real estate when such loans are made (a) by a licensee or permittee operating under a license or permit duly issued by the Department of Banking and Finance, (b) by any bank or savings and loan association chartered by the United States, or (c) by any lender approved by the Federal Housing Administration or Veterans' Administration; or

(11) Interest charges made on any goods or services sold under an installment contract pursuant to Chapter 45, article 3. Subject to section 45-338, it shall be lawful to contract for and receive any rate of interest on such contract as the parties may expressly agree to in writing.

Sec. 2. That section 45-338, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-338. (1) Notwithstanding the provisions of any other law, the time price differential for any goods or services sold under an installment contract shall be stated as a fixed or variable annual percentage rate and shall be at a rate agreed to in writing, not to exceed eighteen per cent per annum, except that; PROVIDED; a minimum time price differential of ten dollars may be charged on any installment contract. Nothing in sections 45-334 to 45-353 shall prohibit a seller or holder of an installment contract from contracting for, computing, and charging a time price differential based upon the application of the rate charged to the unpaid principal balance for the number of days actually elapsed, and the charges so computed shall be used for the purpose of calculating the time price differential, the time price balance, the amount of each installment, and the time sale price. When the installment contract is payable in substantially equal and consecutive monthly installments, the time price differential shall

be computed on the basic time price of each contract, as determined under the provisions of section 45-336, from the date of the contract until the due date of the final installment, notwithstanding that the time price balance is required to be paid in installments.

(2) When an installment contract provides for payment other than in substantially equal and consecutive monthly installments, the time price differential may be at a rate which will provide the same return as is permitted on substantially equal monthly payment contracts under subsection (1) of this section, having due regard for the schedule of payments.

(3) Every contract payable in two or more installments shall provide for payment of such installments at approximately equal periodic intervals of time and be so arranged that no installment is substantially greater in amount than any preceding installment, PROVIDED, that in order to facilitate payment in accordance with the buyer's seasonal or intermittent income a contract may reduce or omit payments over any period or periods in which the buyer's income is reduced or suspended by stating the date and amount of each installment or the method by which any variable rate or installment shall be determined.

Sec. 3. That original sections 45-101.04 and 45-338, Reissue Revised Statutes of Nebraska, 1943, are repealed.