

FILED FEB 27 1980

SENATE FILE 2261  
BY COMMITTEE ON COMMERCE  
(FORMERLY SENATE STUDY BILL 2002)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to statutory limitations on interest rates  
2 which were affected by the provisions of Acts of the  
3 Sixty-eighth General Assembly, 1979 Session, chapters  
4 one hundred seventeen (117), one hundred twenty-eight  
5 (128) and one hundred thirty (130).

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7  
8

SENATE FILE 2261

S-5261

- 1 Amend Senate File 2261 as follows:
- 2 1. Page 11, line 26, by striking the word
- 3 "SEMITRAILER" and inserting in lieu thereof the words
- 4 "SEMITRAILER, MOBILE HOME, OR TRAVEL TRAILER".
- 5 2. Page 11, line 29, by striking the word
- 6 "semitrailer" and inserting in lieu thereof the words
- 7 "semitrailer, mobile home or travel trailer".
- 8 3. Page 11, line 31, by striking the word
- 9 "semitrailer" and inserting in lieu thereof the words
- 10 "semitrailer, mobile home or travel trailer".
- 11 4. Page 11, line 33, by striking the word "one-
- 12 fourth" and inserting in lieu thereof the words "one-
- 13 fourth one-half".
- 14 5. Page 12, line 1, by striking the word
- 15 "semitrailer" and inserting in lieu thereof the words
- 16 "semitrailer, mobile home or travel trailer".
- 17 6. Page 12, line 7, by striking the word
- 18 "semitrailer" and inserting in lieu thereof the words
- 19 "semitrailer, mobile home or travel trailer".
- 20 7. Page 12, lines 20 and 21, by striking the words
- 21 "which is for an agricultural purpose,".

S-5261 FILED  
MARCH 5, 1980

BY W. R. HANSEN

1 Section 1. Section four hundred seventy-six point six  
2 (476.6), unnumbered paragraph six (6), Code 1979, as amended  
3 by Acts of the Sixty-eighth General Assembly, 1979 Session,  
4 chapter one hundred seventeen (117), section one (1), is  
5 amended to read as follows:

6 However, a public utility ~~shall have the right~~ may at any  
7 time after ~~said~~ rates, charges, schedules or regulations have  
8 been suspended for ninety days ~~to~~ place in effect any or all  
9 of ~~such~~ the suspended rates, charges, schedules or regulations  
10 by filing with the commission a bond or other undertaking  
11 approved by the commission conditioned upon the refund in  
12 a manner to be prescribed by the commission of any amounts  
13 collected ~~thereunder~~ in excess of the amounts which would  
14 have been collected under rates, charges, schedules or  
15 regulations finally approved by the commission. The commission  
16 shall establish a rate of interest to be paid by a public  
17 utility to persons receiving refunds. ~~Such~~ The rate of  
18 interest shall be a reasonable rate as determined by the  
19 commission, but not less than five percent per annum, nor  
20 more than twelve percent per annum, and the interest shall  
21 be compounded annually.

22 Sec. 2. Section five hundred thirty-five point two (535.2),  
23 subsection one (1), Code 1979 Supplement, is amended to read  
24 as follows:

25 1. ~~Except as provided in subsection 2 hereof, the~~ The  
26 rate of interest shall be five cents on the hundred by the  
27 year in the following cases, unless the parties ~~shall~~ agree  
28 in writing for the payment of interest at a different rate  
29 not exceeding ~~the rate that~~ permitted by subsection two (2)  
30 or 3 of this section:

- 31 a. Money due by express contract.
- 32 b. Money after the same becomes due.
- 33 c. Money loaned.
- 34 d. Money received to the use of another and retained  
35 beyond a reasonable time, without the owner's consent, express

1 or implied.

2 e. Money due on the settlement of accounts from the day  
3 the balance is ascertained.

4 f. Money due upon open accounts after six months from  
5 the date of the last item.

6 g. Money due, or to become due, where there is a contract  
7 to pay interest, and no rate is stipulated.

8 Sec. 3. Section five hundred thirty-five point two (535.2),  
9 subsection two (2), Code 1979 Supplement, is amended to read  
10 as follows:

11 2. a. Any domestic-or-foreign-corporation, and any real  
12 estate-investment-trust-as-defined-in-section-856-of-the  
13 Internal-Revenue-Code, and any person purchasing securities  
14 as-defined-in-chapter-502-on-credit-from-a-broker-or-dealer  
15 registered-or-licensed-under-chapter-502-or-under-the  
16 Securities-Exchange-Act-of-1934, 48 Stat. 881, 15 United  
17 States-Code-78A, as amended, and any person borrowing money  
18 or-obtaining-credit-in-the-amount-of-one-hundred-thousand  
19 dollars-or-more, exclusive-of-interest, for-business-purposes,  
20 and-any-person-borrowing-money-or-obtaining-credit-in-the  
21 amount-of-five-hundred-thousand-dollars-or-more, exclusive  
22 of-interest, for-agricultural-purposes, of the following  
23 persons may agree in writing to pay any rate of interest in  
24 excess-of-the-rate-permitted-by-this-section, and no such  
25 corporation-or-real-estate-investment-trust-or a person so  
26 agreeing in writing shall not plead or interpose the claim  
27 or defense of usury in any action or proceeding:

28 (1) A domestic or foreign corporation.

29 (2) A real estate investment trust, as defined in the  
30 Internal Revenue Code, I.R.C. s. 856.

31 (3) A person purchasing securities as defined in chapter  
32 five hundred two (502) of the Code on credit from a broker  
33 or dealer registered or licensed under chapter five hundred  
34 two (502) of the Code or under the Securities Exchange Act  
35 of 1934, 48 Stat. 881, 15 U.S.C. 78A, as amended.

1     (4) A person borrowing money or obtaining credit for  
2 business purposes. As used in this subparagraph, a business  
3 purpose does not include an agricultural purpose referred  
4 to in subparagraph five (5) of this paragraph.

5     (5) A person borrowing money or obtaining credit for an  
6 agricultural purpose if the debt is secured by a first lien  
7 on real property or if the amount of the loan or credit, ex-  
8 clusive of interest, exceeds one hundred thousand dollars;  
9 or, a vendee under a contract for deed to real property which  
10 is used or to be used for an agricultural purpose. As used  
11 in this subparagraph, agricultural purpose means and includes  
12 any of the purposes referred to in section five hundred thirty-  
13 seven point one thousand three hundred one (537.1301),  
14 subsection four (4) of the Code.

15     (6) A person borrowing money to finance the construction  
16 or acquisition of real property which is used or to be used  
17 as residential property, including the refinancing of a  
18 contract for deed, the refinancing of a prior loan, whether  
19 or not the borrower also was the borrower under the prior  
20 loan, and, subject to the limitation contained in section  
21 five hundred thirty-five point eight (535.8), subsection two  
22 (2), paragraph c of the Code, the assumption of a prior loan;  
23 or, a vendee under a contract for deed to real property which  
24 is used or to be used as residential property.

25     b. Where a provision of the Code establishes a higher  
26 maximum rate of interest for a transaction than is permitted  
27 under this section, the parties may agree to the payment of  
28 any rate of interest not exceeding the maximum rate established  
29 by that provision.

30     Sec. 4. Section five hundred thirty-five point two (535.2),  
31 subsection three (3), paragraph a, unnumbered subparagraph  
32 one (1), Code 1979 Supplement, is amended to read as follows:

33     The Except when a higher rate is permitted by subsection  
34 two (2) of this section, the maximum lawful rate of interest  
35 which may be provided for in any written agreement for the

1 payment of interest entered into during any calendar month  
2 commencing on or after April 13, 1979, shall be two percentage  
3 points above the monthly average ten-year constant maturity  
4 interest rate of United States government notes and bonds  
5 as published by the board of governors of the federal reserve  
6 system for the calendar month second preceding the month  
7 during which the maximum rate based thereon will be effective,  
8 rounded to the nearest one-fourth of one percent per year.

9 Sec. 5. Section five hundred thirty-five point two (535.2),  
10 subsection four (4), Code 1979 Supplement, is amended to read  
11 as follows:

12 4. Notwithstanding the provisions of subsection 3, with  
13 respect to any agreement which was executed prior to August  
14 ~~3, 1978~~ July 28, 1978, and which contained a provision for  
15 the adjustment of the rate of interest specified in that  
16 agreement, the maximum lawful rate of interest which may be  
17 imposed under that agreement shall be nine cents on the hundred  
18 by the year, and any excess charge shall be a violation of  
19 section 535.4.

20 Notwithstanding the provisions of subsections two (2) and  
21 three (3) of this section, with respect to any agreement which  
22 was executed on or after July 28, 1978, and prior to the  
23 effective date of this Act and which contained a provision  
24 for the adjustment of the rate of interest specified in that  
25 agreement, the maximum lawful rate of interest which may be  
26 imposed under that agreement shall be the highest of the  
27 various maximum rates of interest which were in effect under  
28 the provisions of subsection three (3) of this section on  
29 or after July 28, 1978, and prior to the effective date of  
30 this Act, and any excess charge shall be a violation of section  
31 five hundred thirty-five point four (535.4) of the Code;  
32 provided that the limitation contained in this paragraph does  
33 not apply to any transaction which was exempt from interest  
34 rate limitations as provided in subsection two (2), paragraph  
35 a, of this section as it existed prior to the effective date

1 of this Act.

2 Sec. 6. Section five hundred thirty-five point six (535.6),  
3 Code 1979, is amended to read as follows:

4 535.6 INTEREST IN EXCESS OF TWO PERCENT PER MONTH. Every  
5 person ~~or persons, company, corporation, or firm,~~ and every  
6 agent of any person, ~~persons, company, corporation, or firm,~~  
7 who ~~shall take~~ takes or ~~receive~~ receives, or agree agrees  
8 to take or receive, directly or indirectly, by means of  
9 commissions or brokerage charges, or otherwise, for the  
10 forbearance or use of money, ~~in the sum or amount of more~~  
11 ~~than five hundred dollars~~ a rate greater than two percent  
12 per month, ~~shall be deemed~~ is guilty of a serious misdemeanor.  
13 ~~Nothing herein contained shall be construed as authorizing~~  
14 This section does not authorize a higher rate of interest  
15 than is now provided by law. ~~Provided, however, this~~ This  
16 section ~~shall~~ does not apply to ~~lawful~~ retail installment  
17 transactions which are lawful under section three hundred  
18 twenty-two point nineteen (322.19) of the Code, or to  
19 transactions which are exempt from interest rate limitations  
20 as provided in section five hundred thirty-five point two  
21 (535.2), subsection two (2), paragraph a of the Code, or to  
22 loans which are lawful under chapter 536 or five hundred  
23 thirty-six A (536A) of the Code.

24 Sec. 7. Section three hundred twenty-two point nineteen  
25 (322.19), Code 1979, is amended by adding the following new  
26 unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. The limitations contained in  
28 this section do not apply if the buyer is a person referred  
29 to in section five hundred thirty-five point two (535.2),  
30 subsection two (2), paragraph a, of the Code.

31 Sec. 8. Section five hundred twenty-four point nine hundred  
32 six (524.906), subsection seven (7), paragraph c, Code 1979,  
33 is amended to read as follows:

34 c. ~~Are the obligations of a customer which is a cor-~~  
35 peration Arise out of transactions that are referred to in

1 section five hundred thirty-five point two (535.2), subsec-  
 2 tion two (2), paragraph a, of the Code.

3 Sec. 9. Section five hundred thirty-three point four-  
 4 teen (533.14), Code 1979, as amended by Acts of the Sixty-  
 5 eighth General Assembly, 1979 Session, chapter one hundred  
 6 thirty (130), section seven (7), is amended to read as fol-  
 7 lows:

8 533.14 INTEREST RATES.

9 1. Interest rates on loans made by a credit union, ~~ether~~  
 10 ~~than loans secured by a mortgage or deed of trust which is~~  
 11 ~~a first lien upon real property~~ shall not exceed one percent  
 12 a per month on unpaid balances, except that with respect to  
 13 consumer loans, a credit union may charge the finance charge  
 14 permitted in sections 537.2401 and 537.2402.

15 ~~2. With respect to a loan secured by a mortgage or deed~~  
 16 ~~of trust which is a first lien upon real property, a credit~~  
 17 ~~union shall not charge a rate of interest which exceeds the~~  
 18 ~~maximum rate permitted by section 535.2.~~

19 3 2. The provisions of this section do This section does  
 20 not apply to a loan which is subject to section 682.46, and  
 21 does not apply in transactions that are referred to in section  
 22 five hundred thirty-five point two (535.2), subsection two  
 23 (2), paragraph a, of the Code.

24 Sec. 10. Section five hundred thirty-four point nineteen  
 25 (534.19), subsection six (6), Code 1979, as the section is  
 26 amended by Acts of the Sixty-eighth General Assembly, 1979  
 27 Session, chapter one hundred twenty-nine (129), section seven  
 28 (7), is amended to read as follows:

29 6. PROPERTY IMPROVEMENT LOANS. To make loans for  
 30 maintenance, repair, landscaping, modernization, furniture  
 31 and fixtures, improvement and equipment, with or without  
 32 security provided that no such loan without security shall  
 33 exceed ten thousand dollars, and provided further that not  
 34 in excess of twenty percent of the assets of the association  
 35 shall be so invested, said twenty percent to be exclusive

1 of the forty percent of assets power set out in section 534.21  
2 hereof. The provisions of the Iowa consumer credit code shall  
3 apply to consumer loans made by a savings and loan association  
4 and a provision of that code shall-supersede supersedes any  
5 conflicting provision of this chapter with respect to a  
6 consumer loan. Loans made pursuant to this subsection shall  
7 be for terms not exceeding fifteen years and shall not be  
8 made at interest rates in excess of rates allowed for consumer  
9 loans. The interest rate limitation contained in this section  
10 does not apply in transactions that are referred to in section  
11 five hundred thirty-five point two (535.2), subsection two  
12 (2), paragraph a, of the Code.

13 Sec. 11. Section five hundred thirty-six point thirteen  
14 (536.13), subsection four (4), Code 1979, as the section is  
15 amended by Acts of the Sixty-eighth General Assembly, 1979  
16 Session, chapter one hundred thirty-one (131), section two  
17 (2), is amended by adding the following new unnumbered  
18 paragraph:

19 NEW UNNUMBERED PARAGRAPH. The interest-rate limitations  
20 fixed by this section or fixed by the board pursuant to this  
21 section do not apply in transactions that are referred to  
22 in section five hundred thirty-five point two (535.2),  
23 subsection two (2), paragraph a, of the Code.

24 Sec. 12. Section five hundred thirty-six A point twenty-  
25 three (536A.23), subsection one (1), unnumbered paragraph  
26 three (3), Code 1979 Supplement, is amended to read as follows:

27 The limitation on interest rate which is contained in this  
28 subsection shall does not apply ~~to any loan in which the~~  
29 ~~borrower is a corporation or investment trust or any other~~  
30 ~~person who is~~ in transactions that are referred to in section  
31 535.2, subsection 2, paragraph a, of the Code.

32 Sec. 13. Section five hundred thirty-seven point one  
33 thousand three hundred one (537.1301), subsection thirteen  
34 (13), Code 1979, is amended to read as follows:

35 13. CONSUMER CREDIT SALE.

1 a. Except as provided in paragraph "b", a consumer credit  
2 sale is a sale of goods, services, or an interest in land  
3 in which all of the following are applicable:

4 (1) Credit is granted either pursuant to a seller credit  
5 card or by a seller who regularly engages as a seller in  
6 credit transactions of the same kind.

7 (2) The buyer is a person other than an organization.

8 (3) The goods, services or interest in land are purchased  
9 primarily for a personal, family, household or agricultural  
10 purpose.

11 (4) Either the debt is payable in installments or a finance  
12 charge is made.

13 (5) With respect to a sale of goods or services for  
14 personal, family or household purposes, the amount financed  
15 does not exceed thirty-five thousand dollars; or, with respect  
16 to a sale of goods or services for agricultural purposes,  
17 the amount financed does not exceed one hundred thousand  
18 dollars.

19 b. A "consumer credit sale" does not include:

20 (1) A sale in which the seller allows the buyer to purchase  
21 goods or services pursuant to a lender credit card.

22 (2) A sale of an interest in land if ~~the finance charge~~  
23 ~~does not exceed twelve percent per year calculated on the~~  
24 ~~actuarial method on the assumption that the debt will be paid~~  
25 ~~according to the agreed terms and will not be paid before~~  
26 ~~the end of the agreed term~~ the finance charge, calculated  
27 according to the actuarial method on the assumption that the  
28 debt will be paid according to the agreed terms and will not  
29 be paid before the end of the agreed term, does not exceed  
30 the maximum rate in effect under section five hundred thirty-  
31 five point two (535.2), subsection three (3) of the Code.

32 (3) A sale of an interest in real property if the real  
33 property being sold either is used or to be used as residential  
34 property, or is used or to be used for an agricultural purpose.

35 Sec. 14. Section five hundred thirty-seven point one

1 thousand three hundred one (537.1301), subsection fourteen  
2 (14), Code 1979, is amended to read as follows:

3 14. CONSUMER LEASE. A "consumer lease" is a lease of  
4 goods in which all of the following are applicable:

5 a. The lessor is regularly engaged in the business of  
6 leasing.

7 b. The lessee is a person other than an organization.

8 c. The lessee takes under the lease primarily for a  
9 personal, family, household or agricultural purpose.

10 d. The With respect to a lease of goods for personal,  
11 family or household purposes, the amount payable under the  
12 lease does not exceed thirty-five thousand dollars; or, with  
13 respect to a lease of goods for agricultural purposes, the  
14 amount payable under the lease does not exceed one hundred  
15 thousand dollars.

16 e. The lease is for a term exceeding four months.

17 Sec. 15. Section five hundred thirty-seven point one  
18 thousand three hundred one (537.1301), subsection fifteen  
19 (15), Code 1979, is amended to read as follows:

20 15. CONSUMER LOAN.

21 a. Except as provided in paragraph "b", a "consumer loan"  
22 is a loan in which all of the following are applicable:

23 (1) The person is regularly engaged in the business of  
24 making loans.

25 (2) The debtor is a person other than an organization.

26 (3) The debt is incurred primarily for a personal, family,  
27 household or agricultural purpose.

28 (4) Either the debt is payable in installments or a finance  
29 charge is made.

30 (5) ~~Either~~ With respect to a debt for personal, family  
31 or household purposes, either the amount financed does not  
32 exceed thirty-five thousand dollars, or the debt is not  
33 ~~incurred primarily for an agricultural purpose and is~~ secured  
34 by an interest in land; or, with respect to a debt for  
35 agricultural purposes, the amount financed does not exceed

1 one hundred thousand dollars.

2 b. A "consumer loan" does not include:

3 (1) A sale or lease in which the seller or lessor allows  
4 the buyer or lessee to purchase or lease pursuant to a seller  
5 credit card.

6 (2) A loan which is for a personal, family or household  
7 purpose and secured by an interest in land if the security  
8 interest is bona fide and not for the purpose of circumvention  
9 or evasion of this chapter and the finance charge, calculated  
10 according to the actuarial method on the assumption that the  
11 debt will be paid according to the agreed terms and will not  
12 be paid before the end of the agreed term, does not exceed  
13 the-rate-of-interest-permitted-under-chapter-535 the maximum  
14 rate in effect under section five hundred thirty-five point  
15 two (535.2), subsection three (3) of the Code.

16 (3) A loan which is for an agricultural purpose and which  
17 is secured by a first lien on real property.

18 (4) A loan to finance the construction or acquisition  
19 of real property which is used or to be used as residential  
20 property. For purposes of this paragraph "loan" includes  
21 the refinancing of a contract for deed, the refinancing of  
22 a prior loan, whether or not the borrower also was the borrower  
23 under the prior loan, and the assumption of a prior loan.

24 Sec. 16. Section five hundred thirty-seven point one  
25 thousand three hundred one (537.1301), subsection forty-three  
26 (43), Code 1979, is amended to read as follows:

27 43. "Supervised loan" means a consumer loan, including  
28 a loan made pursuant to open end credit, in which the rate  
29 of the finance charge, calculated according to the actuarial  
30 method, exceeds the-rate-of-finance-charge-permitted-in-chapter  
31 535 the maximum rate in effect under section five hundred  
32 thirty-five point two (535.2), subsection three (3) of the  
33 Code.

34 With respect to a consumer loan made pursuant to open end  
35 credit, the finance charge shall be deemed not to exceed the

1 ~~rate-permitted-in-chapter-535~~ the maximum rate in effect under  
2 section five hundred thirty-five point two (535.2), subsection  
3 three (3) of the Code if the finance charge contracted for  
4 and received does not exceed a charge for each monthly billing  
5 cycle which is one-twelfth of that rate multiplied by the  
6 average daily balance of the open end account in the billing  
7 cycle for which the charge is made. The average daily balance  
8 of the open end account is the sum of the amount unpaid each  
9 day during that cycle divided by the number of days in the  
10 cycle. The amount unpaid on a day is determined by adding  
11 to the balance, if any, unpaid as of the beginning of that  
12 day all purchases and other debits and deducting all payments  
13 and other credits made or received as of that day. If the  
14 billing cycle is not monthly, the finance charge shall be  
15 deemed not to exceed that rate per year if the finance charge  
16 contracted for and received does not exceed a percentage which  
17 bears the same relation to that rate as the number of days  
18 in the billing cycle bears to three hundred sixty-five. A  
19 billing cycle is monthly if the closing date of the cycle  
20 is the same date each month or does not vary by more than  
21 four days from the regular date.

22 Sec. 17. Acts of the Sixty-eighth General Assembly, 1979  
23 Session, chapter one hundred twenty-eight (128), section one  
24 (1), amending chapter three hundred twenty-one (321) of the  
25 Code, is amended to read as follows:

26 NEW SECTION. SEMITRAILER RETAIL INSTALLMENT CONTRACT--  
27 FINANCE CHARGES. ~~Notwithstanding the provisions of any other~~  
28 ~~law,~~ a retail installment contract or agreement for the  
29 sale of a semitrailer may include a finance charge not in  
30 excess of the following rates:

31 Class 1. Any new semitrailer designated by the manufacturer  
32 by a year model not earlier than the year in which the sale  
33 is made, an amount equivalent to one and one-fourth percent  
34 per month simple interest on the declining balance of the  
35 amount financed.

1 Class 2. Any new semitrailer not in Class 1 and any used  
2 semitrailer designated by the manufacturer by a year model  
3 of the same or not more than two years prior to the year in  
4 which the sale is made, an amount equivalent to one and three-  
5 fourths percent per month simple interest on the declining  
6 balance of the amount financed.

7 Class 3. Any used semitrailer not in Class 2 and designated  
8 by the manufacturer by a year model more than two years prior  
9 to the year in which the sale is made, an amount equivalent  
10 to two and one-fourth percent per month simple interest on  
11 the declining balance of the amount financed.

12 Amount financed shall be as defined in section five hundred  
13 thirty-seven point one thousand three hundred one (537.1301)  
14 of the Code.

15 The limitations contained in this section do not apply  
16 if the buyer is a person referred to in section five hundred  
17 thirty-five point two (535.2), subsection two (2), paragraph  
18 a, of the Code. With respect to a consumer credit sale, as  
19 defined in section five hundred thirty-seven point one thousand  
20 three hundred one (537.1301) of the Code, which is for an  
21 agricultural purpose, the limitations contained in this section  
22 supersede conflicting provisions of chapter five hundred  
23 thirty-seven (537), article two (2), part two (2) of the Code.

24 Sec. 18.

25 1. This Act, being deemed of immediate importance, takes  
26 effect from and after its publication in the Quad City Times,  
27 a newspaper published in Davenport, Iowa, and in The Council  
28 Bluffs Nonpareil, a newspaper published in Council Bluffs,  
29 Iowa.

30 2. Section one (1) of this Act applies to any refund order  
31 issued by the Iowa state commerce commission on or after the  
32 effective date of this Act.

33 EXPLANATION

34 This bill amends the Iowa usury law and related provisions  
35 of the Code. The bill essentially makes the following substan-

1 tive changes in the laws:

2 1. Removes the 12% limitation on interest payable on  
3 utility rate refunds under chapter 476 of the Code and gives  
4 the commerce commission full discretion to determine the in-  
5 terest rate.

6 2. Removes all interest-rate controls on loans and credit  
7 for business purposes.

8 3. Removes all interest-rate controls on loans for the  
9 construction or acquisition of residential property. Contracts  
10 for deed to such property also would be exempt from interest-  
11 rate controls.

12 4. Amends the consumer credit code such that its  
13 provisions, including the interest rate ceilings contained  
14 in article 2, apply to agricultural purpose transactions  
15 involving amounts up to \$100,000, except as noted in item

16 7. Presently the consumer credit code does not apply to  
17 transactions involving more than \$35,000.

18 5. Amends the consumer credit code and the general usury  
19 law to remove all interest rate controls on agricultural  
20 purpose loans and credit where (a) the amount involved exceeds  
21 \$100,000, or (b) the debt is secured by a first lien on  
22 agricultural land, or (c) the debt involves the purchase of  
23 agricultural land.

24 The following is a discussion of the various sections of  
25 this bill.

26 Section 1 amends Code section 476.6 by removing the 12%  
27 limitation on the interest rate payable on utility rate  
28 refunds. The effect is that the commerce commission would  
29 have the authority to set any reasonable rate above 5%.

30 Section 2 amends section 535.2, subsection 1 of the Code  
31 to clarify cross references to other subsections. The changes  
32 are correlating amendments which are intended to make the  
33 internal cross references more understandable. Subsection  
34 1 specifies the "legal" interest rate which applies whenever  
35 a different rate is not agreed to in writing.

1 Section 3 amends section 535.2, subsection 2 of the Code.  
2 That subsection is substantially revised, as to both substance  
3 and form. The existing language in subsection 2 contains  
4 all of the exemptions from the usury law.

5 Paragraph a of subsection 2, as amended, contains the re-  
6 ferences to transactions which would be exempt from all  
7 statutory interest-rate limitations.

8 Subparagraphs 1, 2 and 3 exempt loans or credit to corpora-  
9 tions and real estate investment trusts, and credit or persons  
10 buying securities from registered brokers or dealers. These  
11 exemptions are unchanged from current law (but see discussion  
12 of section 6 below).

13 Subparagraph 4 contains the exemption for business purpose  
14 debt. Under existing law business debt is exempt from usury  
15 if the amount involved exceeds \$100,000. Under this bill,  
16 all business debt would be exempt from interest ceilings.

17 Subparagraph 5 relates to the exemption for agricultural  
18 purpose debt. This language, in conjunction with sections  
19 13, 14 and 15 of the bill, would determine the interest rate  
20 ceilings, if any, which would apply to agricultural purpose  
21 transactions. Under existing law there is, for practical  
22 purposes, a three-tiered interest rate structure: On debt  
23 up to \$35,000 the interest rate is controlled by the consumer  
24 credit code (e.g., 15 percent maximum on closed-end loans  
25 and credit); on debt between \$35,000 and \$500,000 the interest  
26 rate is controlled by the floating rate under Code section  
27 535.2(3); and on debt over \$500,000 there is no limit. Under  
28 this bill, agricultural land purchase transactions,  
29 agricultural purpose debt secured by a first lien on real  
30 property, and other agricultural purpose debt exceeding  
31 \$100,000 would be exempt from interest rate limitations.  
32 Purchases of goods and services, leases, and loans not secured  
33 by a first lien on real property would be subject to the  
34 maximum interest rate provisions contained in the consumer  
35 credit code so long as the amount involved does not exceed

1 \$100,000.

2 Subparagraph 6 relates to purchases of residential property.  
3 Under existing law, loans to finance the construction or  
4 acquisition of residential property and real estate sales  
5 contracts are, unless the borrower or buyer is a corporation  
6 or real estate investment trust, subject to the floating usury  
7 rate. Under this bill, all loans and contracts for deed  
8 involving residential real estate would be exempt from interest  
9 rate limitations.

10 Paragraph b is new language which is added for the purpose  
11 of clarifying the interrelationship between the general  
12 floating usury ceiling (section 535.2, subsection 3) and other  
13 Code sections which permit higher rates of interest (e.g.,  
14 section 322.19, relating to retail installment contracts on  
15 automobiles, and 536A.9, relating to loans by industrial loan  
16 companies).

17 Section 4 of the bill makes a correlating amendment to  
18 section 535.2, subsection 3 of the Code.

19 Section 5 is a correlating amendment to section 534.2,  
20 subsection 4 of the Code. That Code section contains the  
21 language which establishes the law for variable rate contracts  
22 executed prior to the recent modifications in the usury law.  
23 Two changes are contained in the amendments. The first inserts  
24 the date of July 28, 1978, in the first paragraph. This  
25 paragraph governs contracts executed prior to the date when  
26 the usury rate was first changed from nine percent. A legal  
27 question has arisen with respect to the date itself. House  
28 File 2467, which repealed the nine percent ceiling, was to  
29 take effect upon publication. That Act was published on July  
30 28, 1978, but an error was made in the publication of the  
31 bill and it was republished on August 2, 1978. This bill  
32 inserts the earlier of the two dates as the effective date  
33 in order to protect persons who may have relied on the first  
34 publication date.

35 The second change is to add new language to govern variable

1 rate contracts executed on or after July 28, 1978, and before  
2 the effective date of this bill. Under the additional  
3 paragraph, variable rate contracts executed during that period  
4 of time would be limited to the highest of the various maximum  
5 rates in effect under the floating usury ceiling during the  
6 same time period.

7 Section 6 amends Code section 535.6 which establishes a  
8 criminal penalty for receiving interest in excess of two  
9 percent per month. This section was adopted early in this  
10 century, and thus pre-dates all of the exceptions to the usury  
11 law otherwise contained in Code section 535.2. At the time  
12 the corporation exception was added to section 535.2, and  
13 subsequently when the other exceptions were added, no  
14 modification was made to section 535.6. The legal effect  
15 arguably is that all of the exempt transactions referred to  
16 in section 535.2 are still subject to the 24 percent per year  
17 limitation contained in section 535.6. The amendment is  
18 intended to make it clear that corporate transactions and  
19 the others referred to in section 535.2(2)(a) are not subject  
20 to the two percent per month limitation, and otherwise to  
21 correlate the section with existing law.

22 Sections 7, 8, 9, 10, 11 and 12 add correlating language  
23 to the interest rate sections contained in regulatory chapters  
24 322 (retail auto sales), 524 (banking), 533 (credit unions),  
25 534 (savings and loan associations), 536 (small loan  
26 licensees), and 536A (industrial loan companies) to clarify  
27 the intent that the usury exceptions contained in section  
28 535.2, subsection 2, paragraph a, as amended by this bill,  
29 also are exceptions to the interest rate limitations contained  
30 in those chapters.

31 Sections 13, 14, 15 and 16 of the bill amend the consumer  
32 credit code to adjust its provisions in accordance with the  
33 substantive changes made to chapter 535. All of these  
34 amendments are to definitions which determine whether or not  
35 the consumer credit code applies to a given transaction.

1 Section 13 strikes a reference to "twelve percent per year"  
2 in favor of a reference to the rate in effect under the  
3 floating usury rate provision. This is consistent with the  
4 amendment in 1978 to the definition of "consumer loan". The  
5 purpose and effect of the percentage figure in both cases  
6 is to exclude from regulation by the consumer credit code  
7 those credit sales and loans in which the contract finance  
8 charge is below the stated percentage, and to make subject  
9 to the provisions of the consumer credit code those credit  
10 sales and loans where the finance charge is greater than the  
11 stated percentage. Section 13 also adds language to exclude  
12 from the definition of consumer credit sale those residential  
13 real-property transactions which are exempted from usury under  
14 section 535.2, subsection 2, paragraph d, as amended by section  
15 2 of this bill. Section 13 also exempts agricultural land  
16 purchase transactions from the consumer credit code, and  
17 changes the definition of consumer credit sale of goods or  
18 services to include agricultural purpose sales of up to  
19 \$100,000.

20 Section 14 amends the definition of "consumer lease" to  
21 include agricultural purpose leases of goods where the amount  
22 payable is \$100,000 or less.

23 Section 15 amends the definition of consumer loan to include  
24 agricultural purpose loans of up to \$100,000, but excluding  
25 any agricultural purpose loan which is secured by a first  
26 lien on real property. The section also adds language to  
27 exclude purchase-money residential real-property loans that  
28 are referred to in section 535.2, subsection 2, as amended  
29 by section 2 of this bill.

30 Section 16 amends the definition of supervised loan to  
31 clarify a cross reference to the general usury rate under  
32 section 535.2 of the Code.

33 Section 17 amends a new interest-rate provision enacted  
34 during the 1979 Session, relating to installment sales of  
35 semitrailers, to coordinate that section with the other

1 statutory interest provisions. No substantive change is made  
2 in the provision.

3 The bill would take effect upon publication.

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S-5284

1 Amend Senate File 2261 as follows:

2 1. Page 1, by inserting before line 1 the  
3 following:

4 "Section 1. Section three hundred eighty-four  
5 point eighty-three (384.83), Code 1979, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. A city may enter into loan  
8 agreements or other credit arrangements with any  
9 person to obtain funds to pay all or part of the cost  
10 of a project, the total cost of which is fifty million  
11 dollars or more. The borrowings shall be repayable  
12 solely and only out of the net revenues of the city  
13 utility, combined utility system, city enterprise  
14 or combined city enterprise of which the project is  
15 or will be a part or the proceeds of revenue bonds  
16 payable from those net revenues. The loan agreements  
17 or other credit arrangements may provide for the  
18 payment of interest at the stated or variable rate  
19 or rates as the governing body deems advisable,  
20 notwithstanding any interest rate limitations contained  
21 in any other law. The loan agreements or other credit  
22 arrangements may be authorized by resolution of the  
23 governing body adopted at a regular or special  
24 meeting."

25 2. Title page, line 5, by inserting after the  
26 figure "(130)" the words "and authorizing cities to  
27 enter into credit arrangements, which are not subject  
28 to statutory interest rate limitations, to finance  
29 projects costing fifty million dollars or more".

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