



Iowa General Assembly

2009 Legal Update.

Legislative Services Agency – Legal Services Division

http://www.judicial.state.ia.us/Supreme_Court/Recent_Opinions/20090724/07-1096.pdf

Purpose. *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

CAR TITLE LOANS - RETROACTIVE APPLICATION OF INTEREST RATE CAP

LEGAL UPDATE—CAR TITLE LOANS—RETROACTIVE APPLICATION OF INTEREST RATE CAP

Filed by the Iowa Supreme Court
July 24, 2009

Anderson Financial Services, LLC vs. Miller
No. 04-1096

http://www.judicial.state.ia.us/Supreme_Court/Recent_Opinions/20090724/07-1096.pdf

Summary. Legislation taking effect July 1, 2007, imposed a maximum annual interest rate of 21 percent on loans secured by title to a personal or family motor vehicle—so-called "car title loans." Prior to the legislation's effective date, Anderson Financial Services, doing business in Iowa as Loan Max and Loan Smart, requested an opinion from the Attorney General regarding whether the interest rate cap applied to new cash advances on loans predating July 1, 2007. The Attorney General responded that the interest rate cap would not apply to cash advances made prior to the legislation's effective date on preexisting loans, but would be applicable to cash advances on preexisting loans made on or after July 1, 2007.

Procedure. Anderson Financial Services sought a declaratory judgment in district court to establish that new Iowa Code Section 537.2403(1), which enacted the interest rate cap, did not prohibit Loan Max from charging a previously contracted interest rate on new cash advances made on preexisting loans. The district court entered a declaratory ruling in favor of the Attorney General's interpretation. On appeal, the Iowa Supreme Court (Court) reversed the district court's judgment and remanded the case for further proceedings.

Issue. The issue in this case is whether legislation enacting Iowa Code Section 537.2403(1), which did not expressly include a retroactivity date provision, caps interest rates applicable to advances made on or after the legislation's effective date on preexisting loans.

Analysis. The Court evaluated whether the new statute affects substantive rights or, as argued by the Attorney General, relates merely to a remedy. The Court cited case law establishing that, absent a retroactive applicability provision, a substantive statute applies prospectively only unless by necessary and unavoidable implication a legislative intent of retroactive applicability appears; whereas a remedial statute operates retrospectively if consistent with legislative intent. The Court concluded that the new statute did not provide a remedy or means of redress to an injured person, but instead substantively changed the level of allowable finance charges, thereby defining and regulating lenders' rights to impose such charges.

Having determined the statute to be substantive in nature, the Court then considered whether the "necessary and unavoidable implication" of retroactive applicability was satisfied. The Court noted that the phrase contained in the statute that "a lender shall not contract for or receive a finance charge exceeding twenty-one percent" does not imply the unavoidable intent to apply to previous transactions. The Attorney General argued that a prospective application would permit Loan Max to continue lending indefinitely on open accounts counter to the intent of the legislation to curtail egregious car title loan interest rates. The Court determined, however, that the "magnitude and urgency of the problem" addressed by the legislation does not, in itself, constitute a basis for retroactively applying a statute by necessary implication.

LSA Contact: Richard Nelson, Legal Services, (515) 242-5822.