

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P3:29

S E N A T E

S. No 265

RECEIVED BY: 

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Lending Institutions have become increasingly important due to its immediate viability to small borrowers who do not have ready access to credit facilities of banks and other lending institutions. These money lending shops, however, have become a bane to the small borrowers due to the former's excessive and unconscionable interest rates on approved loans.

It is in this context that there should be a national policy of setting a ceiling level for charging interest rates beyond which shall be considered as usurious and illegal. The present law on usury is Act No. 2655, as amended, enacted by the Philippine Legislature on February 24, 1916. However, this has been rendered ineffective by Presidential Decrees 116, 358 and 1684, which authorized the Monetary Board of the Bangko Sentral ng Pilipinas to fix and prescribe the maximum rate of interest for loans and forbearances in accordance with certain criteria reflecting the prevailing economic and social needs of the times.

This bill primarily seeks to impose a ceiling on interest rates to address the plight of these small borrowers who, in their financial difficulties, agree to pay exorbitant interest on loans contracted by them, thereby sinking them further into poverty. In addition, the measure also addresses the need to re-impose provisions of the Usury Law in order to provide more protection to the country's small borrowers.

In view of the foregoing, approval of this bill is earnestly requested.


SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
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SENATE

S. No. 265

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AN ACT
FIXING THE RATES OF INTEREST UPON LOANS AND FOREBEARANCES BY
AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. TWENTY SIX
HUNDRED AND FIFTY-FIVE, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Republic of the Philippines in Congress assembled:

1 SECTION 1. Section 1 of Republic Act No. 2655, as amended, is hereby
2 further amended to read as follows:

3 "SECTION 1. The rate of interest for the loan or forbearance of any
4 money goods, or credits OR CHARGES ON CREDIT CARDS AND
5 OTHER CASH ADVANCE ARRANGEMENTS, and the rate allowed in
6 judgments, in the absence of express contract as to such rate of interest,
7 shall be [six per centum] TWELVE (12%) PERCENT per annum or such
8 rate as may be prescribed by the Monetary Board of the [Central Bank of
9 the Philippines] BANGKO SENTRAL NG PILIPINAS for that purpose in
10 accordance with the authority hereby granted: PROVIDED, THAT SAID
11 MAXIMUM RATE SHALL NOT BE MORE THAN THREE PERCENTAGE
12 (3%) POINTS ABOVE THE AVERAGE INTEREST RATE OF NINETY
13 (90) DAYS GOVERNMENT OR TREASURY BILLS WITHIN THE
14 QUARTER PRECEDING THE MONETARY BOARD'S IMPOSITION OF
15 SAID MAXIMUM RATE."

16 SEC. 2. Section 2 of the same Act is hereby amended to read as
17 follows:

1 "SEC. 2. No person or corporation shall directly or indirectly take or
2 receive OR AGREE TO CHARGE in money or other property, real or
3 personal, or choses in action, a higher rate of interest or greater sum or
4 value, including commissions, premiums, fines and penalties, CHARGES
5 AND OTHER SURCHARGES, for the loan or renewal thereof or
6 forbearance of money, goods, or credits, OR CASH ADVANCES OR
7 RENEWAL THEREOF, where such loan or renewal or forbearance is
8 secured in whole or in part by a mortgage upon real estate the title to
9 which is duly registered, or by any document conveying such real estate
10 or an interest therein OR BY CHATTEL MORTGAGE, than [twelve per
11 centum] FIFTEEN PERCENT (15%) per annum or [the maximum rate
12 prescribed by the Monetary Board and in force at the time the loan or
13 renewal thereof or forbearance is granted] AS MAY BE AGREED UPON
14 BY THE PARTIES MAY CHARGE OR AGREE TO CHARGE SHALL NOT
15 BE MORE THAN THREE (3%) PERCENTAGE POINTS ABOVE THE
16 AVERAGE INTEREST RATE OF NINETY (90) DAYS GOVERNMENT
17 OR TREASURY BILLS WITHIN THE PRECEDING QUARTER: Provided,
18 That the rate of interest under this section or the maximum rate of interest
19 that may be [prescribed by the Monetary Board under this section]
20 AGREED UPON BY THE PARTIES may likewise apply to loans secured
21 by other types of security as may be specified by the Monetary Board."

22 SEC. 3. Section 3 of the same Act is hereby amended to read as
23 follows:

24 "SEC. 3. No person or corporation shall directly or indirectly demand,
25 take, receive or agree to charge in money or other property, real or
26 personal, a higher rate or greater sum or value for the loan or
27 forbearance of money, goods, or CHARGES ON credits, CREDIT
28 CARDS AND OTHER CASH ADVANCE ARRANGEMENTS, where such
29 loan or forbearance is not secured as provided in Section two hereof,

1 than [fourteen per centum] SIXTEEN percent (16%) per annum [or the
2 maximum rate or rates prescribed by the Monetary Board and in force at]
3 OR AS MAY BE AGREED UPON BY THE PARTIES: PROVIDED THAT
4 THE MAXIMUM RATE THAT THE PARTIES MAY CHARGE OR AGREE
5 TO CHARGE SHALL NOT BE MORE THAN FIVE PERCENTAGE (5%
6 POINTS ABOVE THE AVERAGE RATE OF INTEREST OF NINETY (90)
7 DAYS GOVERNMENT OR TREASURY BILLS WITHIN THE
8 PRECEDING QUARTER FROM the time the loan or forbearance OR
9 RENEWAL THEREOF is granted.”

10 SEC. 4. Section 4 of the same Act is hereby amended to read as
11 follows:

12 "Sec. 4. No pawnbroker or pawnbroker's agent shall directly or
13 indirectly stipulate, charge, demand, take or receive any higher rate or
14 greater sum or value for any loan or forbearance than [two and one-half
15 per centum] THREE PERCENT per month when the sum lent is less
16 than [one] EIGHT hundred pesos (P800.00) [; two per centum per
17 month when the sum lent is one hundred pesos or more, but not
18 exceeding five hundred pesos] OR MORE BUT NOT EXCEEDING TWO
19 THOUSAND FIVE HUNDRED PESOS (P2,500.000); and [fourteen per
20 centum per annum] FIFTEEN PERCENT (15%) PER ANNUM when it is
21 more than the amount last mentioned; or [the maximum rate or rates
22 prescribed by the Monetary Board and in force at the time the loan or
23 forbearance is granted] AS MAY BE AGREED UPON BY THE PARTIES;
24 PROVIDED, THAT THE MAXIMUM RATE THAT THE PARTIES MAY
25 CHARGE OR AGREE TO CHARGE SHALL NOT BE MORE THAN
26 THREE PERCENTAGE (3%) POINTS ABOVE THE AVERAGE RATE
27 OF INTEREST OF NINETY (90) DAYS GOVERNMENT OR TREASURY
28 BILLS WITHIN THE PRECEDING QUARTER. A pawnbroker or

1 pawnbroker's agent shall be considered such, for the benefits of this Act,
2 only if he be duly licensed and has an establishment open to the public.

3 "It shall ALSO be unlawful for a pawnbroker or pawnbroker's agent
4 to divide the pawn offered by a person into two or more fractions in order
5 to collect greater interest than that permitted by this section."

6 "It shall also be unlawful for a pawnbroker or pawnbroker's agent
7 to require the pawner to pay an additional charge as insurance premium
8 for the safekeeping and conservation of the article pawned."

9 SEC.5. Section 5 of the same Act is hereby amended to read as
10 follows:

11 "SEC. 5. In computing the interest on any obligation, promissory note
12 or other instrument or contract, compound interest shall not be reckoned,
13 except by agreement: Provided, That whenever compound interest is
14 agreed upon, the effective rate of interest charged by the creditor shall
15 not exceed the equivalent of the maximum rate prescribed by the
16 Monetary Board, or, in default thereof, whenever the debt is judicially
17 claimed, in which last case it shall draw [six per centum] TWELVE
18 (12%) PERCENT per annum interest or such rate as may be prescribed
19 by the Monetary Board WHICH RATE SHALL NOT BE MORE THAN
20 THREE (3%) PERCENT POINTS ABOVE THE AVERAGE RATE OF
21 INTEREST OF NINETY (90) DAYS GOVERNMENT OR TREASURY
22 BILLS WITHIN THE PRECEDING QUARTER. No person or corporation
23 shall require interest to be paid in advance for a period of more than [one
24 year] THREE (3) MONTHS: Provided, however, That whenever interest is
25 paid in advance, the effective rate of interest charged by the creditor shall
26 not exceed the equivalent of the maximum rate [prescribed by the
27 Monetary Board] ALLOWED BY THIS ACT."

28 SEC. 6. Section 7 of the same Act is hereby amended to read as
29 follows:

1 "SEC. 7. All covenants and stipulations contained in conveyances,
2 mortgages, bonds, bills, notes and other contracts or evidences of debts,
3 and all deposits of goods or other things, whereupon or whereby there
4 shall be stipulated, charged, demanded, reserved, secured, taken, or
5 received, directly or indirectly, a higher rate interest or greater sum or
6 value for the loan or renewal THEREOF or forbearance of money, goods,
7 or credits than is hereinabove allowed, shall be void: Provided, however,
8 That no merely clerical error in the computation of interest, made without
9 intent to evade any of the provisions of this Act, shall render [a contract]
10 THE STIPULATION OR COVENANT PERTAINING TO THE RATE OF
11 INTEREST void: Provided, further, That [parties to a loan agreement, the
12 proceeds of which may be availed of partially or fully at some future time,
13 may stipulate that] the rate of interest agreed upon at the time the loan
14 agreement is entered into, which rate shall not exceed the maximum
15 allowed [by law] HEREIN, shall prevail notwithstanding subsequent
16 changes in the maximum rates that may be made by [the Monetary
17 Board] LAW, UNLESS THE PARTIES O THE LOAN AGREEMENT, THE
18 PROCEEDS OF WHICH MAY BE AVAILED OF PARTIALLY OR FULLY
19 AT SOME FUTURE TIME, STIPULATE OTHERWISE: And Provided,
20 finally, That nothing herein contained shall be construed to prevent the
21 purchase by an innocent purchaser of a negotiable mercantile paper,
22 usurious or otherwise, for valuable consideration before maturity, when
23 there has been no intention on the part of said purchaser to evade the
24 provisions of this Act and said purchase was not a part of the original
25 usurious transaction.

26 In any case, however, the maker of said note shall have the right
27 to recover from said original holder the whole interest paid by him thereon
28 and, in case of litigation, also the costs and such attorney's fees as may
29 be allowed by the court."

1 SEC. 7. Section 9-A of the same Act is hereby amended to read as
2 follows:

3 "Sec. 9-A. The Monetary Board shall MAKE KNOWN TO THE PUBLIC
4 THROUGH PUBLICATION IN TWO (2) NEWSPAPERS OF GENERAL
5 CIRCULATION, THE AVERAGE RATE OF INTEREST OF NINETY (90)
6 DAYS GOVERNMENT OR TREASURY BILLS EVERY QUARTER FOR
7 THE PUBLIC'S INFORMATION AND EASY REFERENCE AND
8 promulgate such rules and regulations as may be necessary to
9 implement effectively the provisions of this Act."

10 SEC. 8. Section 10 of the same Act is hereby amended to read as
11 follows:

12 "Sec. 10. Without prejudice to the proper civil action, violation of this
13 Act and the implementing rules and regulations promulgated by the
14 Monetary Board shall be subject to criminal prosecution and the guilty
15 person shall, upon conviction, be sentenced to a fine of not less than
16 [fifty] ONE HUNDRED pesos (P100.00) nor more than [five hundred]
17 TWO THOUSAND pesos, or to imprisonment for not less than thirty days
18 nor more than one year, or both, in the discretion of the court, and to
19 return the entire sum received as interest from the party aggrieved, and in
20 case of non-payment, to suffer subsidiary imprisonment at the rate of one
21 day for every [two] EIGHT pesos: Provided, That in case of
22 corporations, associations, societies, or companies the manager,
23 administrator or 'gerente' or the person who has charge of the
24 management or administration of the business AND WHO ARE
25 DIRECTLY RESPONSIBLE FOR CAUSING INTEREST RATES ABOVE
26 THE LEVEL HEREIN PROVIDED TO BE CHARGED shall be criminally
27 responsible for any violation of this Republic Act."

28

1 SEC. 9. Repealing Clause. - All laws, decrees, executive orders, rules
2 and regulations, or parts hereof inconsistent with the provision of this Act are
3 hereby repealed, amended or modified accordingly.

4 SEC. 10. Effectivity. -- This Act shall take effect fifteen (15) days after its
5 publication in the Official Gazette or in at least two (2) newspapers of general
6 circulation whichever comes earlier.

7 Approved,