


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

7 JUL -2 1977

SENATE

RECEIVED BY: 

Senate Bill No. 383

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

In the country today, the present law on usury is Act No. 2655, as amended, enacted by the Philippine Legislature on February 24, 1916. This law, however, has been rendered ineffective by three successive Presidential Decrees, specifically Presidential Decree No. 116 issued on January 29, 1973; Presidential Decree No. 858 issued on December 31, 1975; and Presidential Decree No. 1684 issued on March 17, 1980 which authorized the Monetary Board of the Central Bank of the Philippines 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.

Pursuant to this grant of authority, the Central Bank issued Circular No. 905, Series of 1982, Section 1 of which reads:

GENERAL PROVISIONS

SEC. 1. The rate of interest, including commissions, premiums, fees and other charges, on a loan or forbearance of any money, goods, or credits, regardless of maturity and whether secured or unsecured, that may be charged or collected by any person, whether natural or juridical, shall not be subject to any ceiling prescribed under or pursuant to the Usury Law, as amended.

Thus, with the ceiling on interest rates effectively removed, most private individuals, banks and other financial lending institutions have been able to charge unconscionably high interest rates for loans to the great detriment of the borrower, in particular, and the public, in general.

It is clear, however, that this practice of charging or taking excessive interest rates must be stopped. The provisions of the Usury Law must be re-imposed in order to afford protection to those who, in their financial difficulties, may desperately agree to pay exorbitant interest on loans contracted by them, thereby miring them deeper into poverty. It is also time to discourage and punish those unscrupulous individuals who take advantage of the misfortune of others.

To this end, the approval and passage of this bill is urgently pressed. For while this bill seeks to re-impose a ceiling on interest rates, it also recognizes, at the same time, the need to have more flexible interest rate ceiling that would be truly responsive to the requirements of the ever-changing economic conditions and allow for a realistic and sufficient return of loans.


JINGGOY EJERCITO ESTRADA
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC)
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7 JUL -2 1911

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
FIXING THE RATES OF INTEREST UPON LOANS AND FORBEARANCES BY
AMENDING CERTAIN SECTIONS OF ACT NUMBER TWENTY SIX HUNDRED
AND FIFTY FIVE (ACT NO. 2655), AS AMENDED

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

SECTION 1. Section 1 of Act Numbered Twenty-Six Hundred and Fifty Five (Act No. 2655), as amended, is hereby amended to read as follows:

"SEC. 1. The rate of interest for the loan or forbearance of any money, goods or credits or charges on credit cards and other cash advance arrangements, and the rate allowed in judgments, in the absence of express contract to such rate of interest shall be twelve percent (12%) per annum or such rate as may be prescribed by the Monetary Board of the Central Bank of the Philippines for that purpose in accordance with the authority hereby granted: *Provided*, That said maximum rate shall not be more than three percentage (3%) points above the average interest rate of ninety (90) days government or treasury bills within the quarter preceding the Monetary Board's imposition of said maximum rate."

SEC 2. Section 1-a of Act No. 2655, as amended, is hereby repealed.

SEC 3. Section 2 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 2. No persons or corporation shall directly or indirectly take or receive or agree to charge in money or other property, real or personal, or chooses in action, a higher rate of interest or greater sum or value, including commissions, premiums, fines, penalties, charges and other surcharges, for the loan or forbearance of money goods, credits, or cash or advances, where such loan or forbearances is secured in whole or in part by a mortgage upon real estate the title to which duly is registered, or by any document conveying such real estate or an interest therein, or by chattel mortgage, than fifteen percent (15%) per annum or such rate as may be agreed upon by the parties: *Provided*, That the

maximum rate that the parties may charge or agree to charge shall not be more than three percentage (3%) points above the average interest rate of ninety (90) days government or treasury bills within the preceding quarter: *Provided further*, That the rate of interest under this Section or the maximum rate of interest that may be agreed upon by the parties may likewise apply to loans secured by other types of security as may be specified by the Monetary Board."

SEC 4. Section 3 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 3. No person or corporation shall directly or indirectly demand, take, receive or agree to charge in money or other property, real or personal, a higher rate or greater sum or value for the loan forbearance of money, goods or charge on credits, credit cards and other cash advance arrangements, where such loan or forbearance is not secured as provided in Section 2 hereof, than sixteen percent (16%) per annum or as may be agreed upon by the parties: *Provided*, That the maximum rate that the parties may charge or agree to charge shall not be more than five percentage (5%) points above the average rate of interest of ninety (90) days government or treasury bills within the preceding quarter from the loan or renewal thereof is granted."

SEC 5. Section 4 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 4. No pawnbroker or pawnbroker's agent shall directly or indirectly stipulate charge, and take or receive any higher rate or greater sum or value for any loan or forbearance than three percent (3%) per month if the amount lent is less than Eight Hundred Pesos (P800.00), five percent (5%) per month when the sum is Eight Hundred Pesos (P800.00) or more but not exceeding Two Thousand Five Hundred Pesos (P2,500.00); and fifteen percent (15%) per annum when it is more than the amount last mentioned, or as may be agreed upon by the parties: *Provided*, That the maximum rate that the parties may charge or agree to charge shall not be more than three percentage (3%) points above the average rate of the interest of ninety (90) days government or treasury pawnbroker bills within the preceding quarter. A pawnbroker's agent shall be considered such, for the benefit of this Republic Act, only if he will be duly licensed and has establishment open to the public.

It shall be unlawful for a pawnbroker or pawnbroker's agent to divide the pawn offered by person into two (2) or more fractions in order to collect a greater interest than that permitted by this Section.

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

SEC 6. Section 4-a of Act No. 2655, as amended, is hereby repealed.

SEC 7. Section 4-b of Act No. 2655, as amended, is hereby renumbered as Section 4-a.

SEC 8. Section 5 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 5. In computing the interest on any obligation, promissory note or other instrument contract, compound interest shall not be reckoned, except by agreement: *Provided*, That whenever compound interest is agreed upon, the effective rate of interest charged by the creditor shall not exceed the equivalent of the maximum rate prescribed by the Monetary Board and allowed herein, or in default thereof, whenever the debt judicially claimed, in which is last case, it shall draw twelve percent (12%) per annum interest or such rate as may be prescribed by the Monetary Board, which rate shall not be more than three percentage (3%) points above the average rate of interest of ninety (90) days government or treasury bills within the preceding quarter. No person or corporation shall require interest to be paid in advance for a period of more than three (3) months: *Provided, however*, That whenever interest is paid in advance, the effective rate of interest charged by the creditor shall not exceed the equivalent of the maximum allowed by this Republic Act."

SEC 9. Section 7 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 7. All covenants and stipulation contained in mortgages, bonds, bills, notes, and conveyances, other contracts or evidences of debts, and all deposits of goods or other things, whereupon or whereby there shall be stipulated, charged, demanded, reserved, secured, taken or received, directly or indirectly, a higher rate of interest or greater sum or value for the loan or the renewal thereof or forbearance of money, goods, or credits than is hereinbefore allowed, shall be void: *Provided, however*, That no mere clerical error in the computation of interest, made without intent to evade any of the provisions of this Act, shall render the stipulation or covenant pertaining to the rate of interest void: *Provided, further*, That the rate of interest agreed upon at the time the loan arrangement is entered into which rate shall not exceed the maximum allowed herein shall prevail notwithstanding subsequent changes in the maximum rates that may be made by law, unless the parties to the loan agreement, the proceeds of which may be availed of partially or fully at some future time, stipulate otherwise: *Provided, finally*, That nothing herein contained shall be construed to prevent the purchase by an innocent purchaser of a negotiable mercantile paper, usurious or otherwise, for valuable consideration before maturity, where there has been no intention on the part of the said purchaser to evade the provision of this Act and said purchase was not a part of original usurious transaction. In any case, however, the maker of said note shall have the right to recover from said original holder the whole interest

paid by him thereon and in case of litigation, also the cost and such attorney's fees as may be allowed by the court."

SEC 10. Section 9-a of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 9-a. The Monetary Board shall make known to the public, through publication in two (2) newspapers of general circulation, the average rate of interest of ninety (90) days of government or treasury bills every quarter for the public's information and easy reference, and promulgate such rules and regulations as may be necessary to effectively implement the provisions of this Act."

SEC 11. Section 10 of Act No. 2655, as amended, is hereby amended to read as follows:

"SEC. 10. Without prejudice to the proper civil action violation of this Act and the implementing rules and regulations promulgated by the Monetary Board shall be subject to criminal prosecution and the guilty person shall, upon conviction, be sentenced to a fine of not less than One Hundred Pesos (P100.00) nor more than Two Thousand Pesos (P2,000.00), or imprisonment of not less than thirty (30) days nor more than one (1) year, or both, in the discretion of the court, and to return the entire sum received as interest from the party aggrieved, and in the case of non-payment, suffer subsidiary imprisonment at the rate of one day for every Eight Pesos (P8.00): *Provided*, That in case of corporations, associations, societies, or companies, the manager, administrator or 'gerente' or the persons who has the charge of management or administration of the business shall be criminally responsible for any violation of this Republic Act."

SEC 12. *Repealing Clause.* – All laws, acts, decrees or parts thereof inconsistent with the provisions of this Republic Act are hereby repealed.

SEC 13. *Effectivity.* – This Republic Act shall take effect after the lapse of fifteen (15) days following complete publication in the Official Gazette or in two (2) newspapers of general circulation, whichever is earlier.

Approved,