

CHAPTER 376

1282

1969 Assembly Bill 763

Date published:  
January 30, 1970

CHAPTER 376, LAWS OF 1969

AN ACT to amend 138.07 (3) (a) and 138.09 (7) (a) to (d) and (9) (b) of the statutes, relating to interest and discount rates on collateral and discount loans.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 138.07 (3) (a) of the statutes is amended to read:

138.07 (3) (a) When the payment of money loaned shall be secured, or purport to be secured by mortgage, bill of sale, pledge, receipt or other evidence of debt upon goods or property, or by assignment of wages, or by power of attorney to execute any such instrument on behalf of the borrower, whether any such instrument or the power given to execute the same, shall be valid or not, or whether any such instrument or power shall be fully executed or executed partly in blank, any person, ~~association, partnership, or corporation~~ licensed under sub. (4) may take, accept and charge, in addition to the interest ~~aforsaid~~ *at the rate of \$14 upon \$100 for one year computed upon the declining principal balance of the loan,* a service fee in an amount equal to 4% per annum of the loan for the time of such loan, disregarding part payments and the dates thereof, but not to be computed for a period exceeding one year in any event, in lieu of all charges for examinations, views, fees, appraisals, commissions and charges of any kind or description whatsoever in the procuring, making and transacting of the business connected with such loan. In addition to the service fee, a licensee under sub. (4) may charge an amount sufficient to cover the fee for filing the termination statement required by s. 409.404. *The rate increase under this section shall cease on July 1, 1971. On and after such date, the rate shall revert to that rate specified in s. 138.05, except as to contracts executed prior to such date.*

SECTION 2. 138.09 (7) (a) to (d) and (9) (b) of the statutes are amended to read:

138.09 (7) (a) It ~~shall be~~ *is* lawful for any person, ~~association, partnership or corporation~~ licensed under this section to deduct the discount and service fee authorized by pars. (b) and (c) from a loan which is repayable in substantially equal instalments at approximately equal intervals of time over a period not exceeding ~~30 1/2~~ *36-1/2* months; provided that the total indebtedness under this section of any person, as borrower, indorser, guarantor or comaker, to the same licensee shall not exceed ~~\$2,000~~ *\$3,000* after excluding such charges. When a loan contract provides for instalments payable at monthly intervals, a first interval of not more than 45 days and not less than 15 days may be treated as a monthly interval.

(b) The discount may be any sum not exceeding ~~8%~~ *9%* a year for the first \$300 and ~~7%~~ *8%* a year for any additional amount, computed on the original face amount of the contract for the full period of the contract; ~~provided that if~~. If the contract is prepaid in full by cash, renewal or refinancing, the portion of the discount shall be refunded which is applicable to the full instalment periods (or the full months if the instalment periods exceed one month) originally scheduled to follow the date of prepayment. The amount of such refund shall be as great a proportion of the original discount as the sum of the balances scheduled to be outstanding during the full instalment periods following the date of prepayment bears to the sum of the balances scheduled to be outstanding for all instalment periods in the loan contracts; ~~provided that~~ *but when*

the instalment periods exceed one month, the proportion shall be determined according to the balances scheduled to be outstanding during consecutive monthtly periods. *The rate increase shall cease on July 1, 1971. On and after such date, the discount shall not exceed 8% a year for the first \$300 and 7% a year for any additional amount, except as to contracts executed prior to such date.*

(c) The service fee shall not exceed 2% of the original face amount of the contract or \$20, whichever sum is smaller, and shall be in lieu of all fees, charges and expenses in connection with procuring, making or servicing the loan except as provided by pars. (d) and (f). The full amount of the service fee shall be fully earned at the time the contract is made, without regard to the services performed and shall not be deemed interest, but if the same licensee makes a subsequent contract with the same borrower within 4 months of a prior contract for which the licensee has charged a service fee, the licensee shall not charge a service fee on any portion of the subsequent contract which is used to pay any portion of the prior contract. No licensee shall split up or divide a loan into 2 or more contracts or make any additional loan to the same borrower within a period of 30 days, for the purpose of obtaining a greater amount of service fee than would otherwise be permitted. No licensee or an affiliate, employe or agent of such licensee shall make a loan, under s. 138.07 (3), to renew or refinance a loan made by such licensee under this section, unless the resulting loan under s. 138.07 (3) exceeds ~~\$2,000~~ \$3,000.

(d) In case of default lasting more than 10 days, the licensee may charge one per cent of the amount in default, and if the default lasts more than 20 days the licensee may charge an additional one per cent for each succeeding period of 20 days or fraction thereof, *but not to exceed 5%.* No default charge may be made after acceleration of maturity, unless the licensee gives the same refund of discount which would be required if the contract had been prepaid in full on the date of such acceleration of maturity.

(9) (b) No loan made under this section, or s. 138.07 (3) in an amount of ~~\$2,000~~ \$3,000 or less excluding charges for which a greater rate or amount of interest, discount, service fee or other charge, than is allowed by the section under which the loan is made, has been contracted for or received, wherever made, shall be enforced in this state, and every person, ~~association, copartnership or corporation~~ in any wise participating therein in this state shall be subject to this section; ~~provided, that if.~~ *If a licensee makes an excessive charge as the result of an unintentional mistake, but upon demand makes correction of such mistake, the loan shall be enforceable and treated as if no violation occurred.*

Approved January 26, 1970.

---