

1999 DRAFTING REQUEST

Bill

Received: 02/19/99

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Judy Robson (608) 266-2253**

By/Representing: **cory**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact: **DFI and Center for Public Repres**

Alt. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Limit interest charged by licensed lenders to 26%.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rmarchan 02/25/99	jgeller 02/25/99	ismith 02/25/99	_____	lrb_docadmin 02/25/99		State
/2	rmarchan 03/5/99	jgeller 03/5/99	lpaasch 03/5/99	_____	lrb_docadmin 03/5/99	lrb_docadminState 03/9/99	
/3	rmarchan 03/15/99	jgeller 03/15/99	haugeca 03/15/99	_____	lrb_docadmin 03/16/99	lrb_docadminState 03/16/99	

FE Sent For:

03-23-99

<END>

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/2	rmarchan 03/5/99	jgeller 03/5/99	lpaasch 03/5/99	_____	lrb_docadmin 03/5/99	lrb_docadminState 03/9/99	

FE Sent For:

13 3/15 jg

ch 3-15

ch JP

<END>

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FE Sent For:

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1/2 jlg 3/5

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

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Wanted: **As time permits**

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For: **Judy Robson (608) 266-2253**

By/Representing: **cory**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact: **DFI and Center for Public Repres**

Alt. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Limit interest charged by licensed lenders ^{at} ~~to~~ 26%.

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	rmarchan	1/2/25 Jg	25 2/25/99	25/KM 2/25/99			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

2294/1

LRB-2294?

RJM: A:...

SOON

Jig Redraft make run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOTE

gen. cost.

1 AN ACT relating to: maximum interest rates.

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association or credit union generally must obtain a license from the division of banking in the department of financial institutions in order to charge interest greater than 18%. Current law provides no maximum interest rate for a loan entered into by a licensed lender.

This bill changes current law by generally prohibiting a licensed lender from charging greater than 26% interest on any loan entered into on or after the effective date of this bill. However, this bill would not restrict the amount of interest a licensed lender could charge pursuant to a home equity line of credit or other open-end credit plan.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

WFO -
Fix component

2

SECTION 138.09 (title) of the statutes is amended to read:

3

138.09 (title) ~~Prohibited loan Licensed lender law~~ Licensed lenders.

4

SECTION 2. 138.09 (7) (bp) of the statutes is amended to read:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

2294/1dn
LRB-2294/dn
RJM:.....
JG

1. It is my understanding that you intend to cap interest rates at 26% for loans by lenders other than banks, savings banks, credit unions and savings and loans. The attached draft accomplishes this intent. However, you may want to provide an exception for open-end credit plans entered into by licensed lenders. The most typical open-end credit plan offered by licensed lenders is a home equity line of credit. If you desire this exception, please contact me.

2. The attached draft requires interest to be computed pursuant to the actuarial method for purposes of calculating the maximum interest rate. This method was used prior to the repeal of the most recent interest rate cap. If this method is not what you intended, please call me.

3. Existing penalties in s. 138.09 (10) [✓] would apply to a violation of this draft. Are these penalties sufficient?

4. Please note that this draft only applies prospectively. I have provided this language in order to avoid impairment of contracts issues. If you have any questions or would like to discuss the possibility of retroactive application, please call me.

5. I have also made two housecleaning changes in this draft. I have corrected the title of s. 138.09 [✓] to accurately reflect the content of the statute. I have also added an introductory phrase to s. ~~422.201~~ (3) [✓], in order to more clearly indicate the interaction between the consumer act and the provisions of s. 138.09. Please let me know [✓] if you would prefer that I eliminate these changes from the draft.

(422.201)

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2294/1dn
RJM:jlg:ijs

February 25, 1999

1. It is my understanding that you intend to cap interest rates at 26% for loans by lenders other than banks, savings banks, credit unions and savings and loans. The attached draft accomplishes this intent. However, you may want to provide an exception for open-end credit plans entered into by licensed lenders. The most typical open-end credit plan offered by licensed lenders is a home equity line of credit. If you desire this exception, please contact me.

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Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin
1999 2000 LEGISLATURE

2294/2

LRB-2294/1

RJM/als/js

TODAY now

Stays

Redraft
Make Run

1999 BILL

NO P This bill provides for a maximum fine of \$10,000 imprisonment for up to six months or both for a violation of this bill. In addition, this bill provides a private cause of action for a person injured by a loan made in violation of this bill.

re-gen. cat.

1
2
3

AN ACT to amend 138.09 (7) (bp) and 422.201 (3); to repeal and recreate 138.09 (title); and to create 138.09 (7) (bu) of the statutes; relating to: maximum interest rates and providing a penalty ✓

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association or credit union generally must obtain a license from the division of banking in the department of financial institutions in order to charge interest greater than 18%. Current law provides no maximum interest rate for a loan entered into by a licensed lender.

This bill changes current law by generally prohibiting a licensed lender from charging greater than 26% interest on any loan entered into on or after the effective date of this bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

4
5

SECTION 1. 138.09 (title) of the statutes is repealed and recreated to read:
138.09 (title) Licensed lenders.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2294/2ins
RJM:.....

INSERT 2-9

SECTION 1. 138.09 (10) of the statutes is renumbered 138.09 (10) (a) and amended to read:

138.09 (10) (a) ~~Any person, partnership or corporation and the several officers and employes thereof who shall violate any of the provisions of~~ Except as provided in par. (b), ~~whoever violates this section shall be guilty of a misdemeanor, and upon conviction thereof shall~~ may be fined not more than \$500 or imprisoned for not more than 6 months or both.

SECTION 2. 138.09 (10) (b) of the statutes is created to read:

138.09 (10) (b) Whoever violates sub. (7) (bu) may be fined \$2000 or twice the amount of interest received on the loan or forbearance made in violation of sub. (7) (bu), whichever is greater, and imprisoned for not more than 6 months or both. No fine imposed under this paragraph may exceed \$10,000.

SECTION 3. 138.09 (10) (c) of the statutes is created to read:

138.09 (10) (c) A person injured by violation of sub. (7) (bu) may sue for damages in a court of competent jurisdiction and shall recover actual damages, together with costs, including reasonable attorney's fee, and the fine provided in par. (b). Actual damages shall include damages caused by emotional distress or mental anguish with or without accompanying physical injury proximately caused by a violation of sub. (7) (bu).

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/5/99

To: Senator Robson

Relating to LRB drafting number: LRB-2294

Topic

Limit interest charged by licensed lenders to 26%.

Subject(s)

Fin. Inst. - int. rates/loans

1. **JACKET** the draft for introduction 2294.2
in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert J. Marchant, Legislative Attorney
Telephone: (608) 261-4454



State of Wisconsin
1999 - 2000 LEGISLATURE

TODAY

3
LRB-2294/2
RJM
Stays

1999 BILL

RMC
P.A. hold until
jacket returned

sen. cast.

1 AN ACT to amend 138.09 (7) (bp) and 422-201 (3); to repeal and recreate 138.09
2 (title); and to create 138.09 (7) (bu) of the statutes; relating to: maximum
3 interest rates and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association or credit union generally must obtain a license from the division of banking in the department of financial institutions in order to charge interest greater than 18%. Current law provides no maximum interest rate for a loan entered into by a licensed lender.

This bill changes current law by generally prohibiting a licensed lender from charging greater than 26% interest on any loan entered into on or after the effective date of this bill. ~~This bill provides for a maximum fine of \$10,000 or imprisonment for and forfeiture of license for a maximum term of 1 year. In addition, this bill provides a private cause of action for a person injured by a lender in violation of this bill.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

4 SECTION 1. 138.09 (title) of the statutes is repealed and recreated to read:

BILL**138.09 (title) Licensed lenders.**

SECTION 2. 138.09 (7) (bp) of the statutes is amended to read:

138.09 (7) (bp) A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, and before the effective date of this paragraph ✓
... [revisor inserts date], is not subject to any maximum interest rate limit.

SECTION 3. 138.09 (7) (bu) of the statutes is created to read:

138.09 (7) (bu) A licensee may charge, contract for or receive a rate of interest, calculated according to the actuarial method, which may not exceed 26% per year for a loan or forbearance entered into on or after the effective date of this paragraph ... [revisor inserts date].

SECTION 4. 138.09 (10) of the statutes is renumbered 138.09 (10) (a) and amended to read:

~~138.09 (10) (a) Any person, partnership or corporation and the several officers and employes thereof who shall violate any of the provisions of Except as provided in par. (b), whoever violates this section shall be guilty of a misdemeanor, and upon conviction thereof shall may be fined not more than \$500 or imprisoned for not more than 6 months or both.~~

SECTION 5. 138.09 (10) (b) of the statutes is created to read:

~~138.09 (10) (b) Whoever violates sub. (7) (bu) may be fined \$2,000 or twice the amount of interest received on the loan or forbearance made in violation of sub. (7) (bu), whichever is greater, and imprisoned for not more than 6 months or both. No fine imposed under this paragraph may exceed \$10,000.~~

SECTION 6. 138.09 (10) (c) of the statutes is created to read:

~~138.09 (10) (c) A person injured by a violation of sub. (7) (bu) may sue for damages in a court of competent jurisdiction and shall recover actual damages,~~

BILL

1 together with costs, including reasonable attorney fees, and the fine provided in par.
2 (b). Actual damages shall include damages caused by emotional distress or mental
3 anguish with or without accompanying physical injury proximately caused by a
4 violation of sub. (7) (bu).

5 **SECTION 7.** 422.201 (3) of the statutes is amended to read:

6 422.201 (3) ~~For~~ Notwithstanding sub. (2), for licensees under s. 138.09 and
7 under s. 218.01, the finance charge, calculated according to those sections, may not
8 exceed the maximums permitted in ss. 138.09 and 218.01, respectively.

9 (END)



STEPHEN D. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-0661
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

April 15, 1999

The following "original" Fiscal Estimate for SB 96 (LRB 97-2294/3) from the Dept. of Financial Institutions (DFI) dated 03/30/99 was never released or sent out for printing by request of Senator Robson's office.

**Please do not discard !!!
(please keep in file)**

The new "original" Fiscal Estimate from DFI dated 04/15/99 will take its place.

LRB or Bill No./Adm. Rule No.
SB 96; LRB-2294/3

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/98)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Establishing a maximum interest rate

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Decrease Costs

Local: No local government costs

- | | | |
|---|---|--|
| <p>1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> | <p>5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts</p> |
|---|---|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This bill, which establishes a maximum interest rate of 26% for any loan entered into by a licensed lender, will reduce license revenue by approximately \$107,500 annually.

The businesses primarily affected by this bill would be payday lenders and pawn lenders. It is likely they will not seek license renewal under the terms of this bill. The types of loans these lenders enter into are for a small dollar amount and of short duration. Many payday lenders charge \$20 per \$100 for a 14-day loan. This equates to an APR of approximately 521%. At 26%, interest earned on a 14 day loan would be about \$1.00 per \$100. With that level of revenue, it is likely that these lenders would not stay in business. The Wisconsin Consumer Act permits a slightly higher return, in that a lender can contract for a minimum finance rate of \$7.50, but that is still likely not sufficient for them to maintain business.

Assuming the 191 licensed payday lenders and pawn brokers do not renew their licenses and that 15 new entities do not become licensed, annual revenue would decrease by approximately \$107,500

191 renewals x \$500 fee	=	\$ 95,500
15 new licenses x \$800 fee	=	12,000
Total		= \$107,500

Costs associated with these licenses would not measurably be reduced. While there are 191 licensees, they represent only 33 separate companies with various locations. These entities do not require substantial staff time as there have been few complaints against this type of company and while processing new applications is time-consuming, renewals are straightforward and do not take long to process.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Department of Financial Institutions
Jean Plale 266-0447

Authorized Signature/Telephone No.

Susan Dietzel
Susan Dietzel 267-0399

Date
March 30, 1999

FISCAL ESTIMATE WORKSHEET

1999 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/98)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
SB 96 LRB 2294/3

Amendment No.

Subject
Establishing a maximum interest rate

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		- 11,500
FED		-
PRO/PRS		- 96,000
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -107,500

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$-107,500 _____	\$ _____

Agency/Prepared by: (Name & Phone No.) Department of Financial Institutions Jean Plale 266-0447	Authorized Signature/Telephone No. Susan Dietzel 267-0399	Date March 30, 1999
---	--	------------------------



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

LRB
/

April 15, 1999

To: Senator Robson

From: Mike Barman
LRB Legal Section – Front Office

Subject: Copy Of (New) Fiscal Estimate

Bill Number: 1999 SB 96
LRB Number: 99-2294/3

Agency/Prepared By: DFI

On April 8, 1999 one of your staff members (Cory) requested that the “original” fiscal estimate prepared by the Dept. of Financial Institutions (DFI) (Dated: 03/30/99) for 1999 SB 96 not be released. DFI agreed to rewrite the “original” fiscal estimate.

The new “original” fiscal estimate (Dated: 04/15/99) by DFI was received by the LRB on April 15, 1999 which met the requirement of “Joint Rule 48”. Only the new “original” fiscal estimate was released to the Chief Clerk’s office and sent out for printing.

In addition to the new “original”, one copy of the old fiscal estimate by DFI has been included in LRB’s SB 96 drafting file.

If you have any questions you can contact me at 266-3561.