

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 427 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

As Engrossed: H2/3/05

A Bill

HOUSE BILL 1290

4  
5 By: Representatives Verkamp, Mahony  
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8 **For An Act To Be Entitled**

9 AN ACT TO REPEAL THE EXCLUSION OF CERTAIN  
10 ENDORSED OR GUARANTEED OBLIGATIONS ON CONSUMER  
11 LOANS FROM THE CALCULATION OF MAXIMUM ALLOWABLE  
12 LOAN LIMITS; AND FOR OTHER PURPOSES.  
13

14 **Subtitle**

15 TO REPEAL THE PROVISION WHICH PERMITS  
16 CERTAIN ENDORSED OR GUARANTEED  
17 OBLIGATIONS ON CONSUMER LOANS TO BE  
18 EXCLUDED FROM THE CALCULATION OF MAXIMUM  
19 ALLOWABLE LOAN LIMITS.  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 23-47-501 is amended to read as follows:  
25 23-47-501. Loan limits - Maximum generally.

26 (a) The total indebtedness to any state bank of any person shall at no  
27 time exceed twenty percent (20%) of the capital base of the bank.

28 (b) (1) Obligations of a person as endorser or guarantor,  
29 accommodation or otherwise, of notes or other obligations shall be included  
30 in that person's loan limit.

31 (2)(A) However, in the case of ~~endorsed or guaranteed~~  
32 ~~obligations on consumer loans which are endorsed without recourse, if the~~  
33 ~~financial responsibility of the primary debtor is reasonably adequate, and if~~  
34 ~~an officer of the state bank designated by the board of directors for that~~  
35 ~~purpose certifies in writing that the liability of the primary debtor has~~



1 ~~been evaluated and that the bank is relying primarily on such primary debtor~~  
2 ~~for payment,~~ the twenty percent (20%) limitation shall be applied to each  
3 primary debtor but not to the liability, in such capacity, of the endorser ~~or~~  
4 ~~guarantor.~~

5 (B) "Consumer loans" for the purpose of this section shall  
6 be considered to be credit extended to a natural person in which the money is  
7 to be used primarily for personal, family, or household purposes.

8 (c)(1) A loan or group of loans that are within the legal loan limit  
9 of a state bank at the time the loan or loans are made shall be valid for  
10 legal loan limit purposes until maturity, as stated in the original contract,  
11 regardless of fluctuations in the bank's legal loan limit. Provided, however,  
12 that if a bank's legal loan limit is reduced due to fluctuations in its  
13 capital base, a loan or group of loans to a borrower or borrowers that was  
14 within the legal loan limit prior to the reduction may become in violation of  
15 the bank's reduced legal loan limit upon the extension, renewal, or  
16 advancement of additional funds on the loan or group of loans occurring after  
17 the reduction in the bank's legal loan limits.

18 (2) State banks are required to calculate their legal loan  
19 limits on a quarterly basis to coincide with the requirement to calculate  
20 their capital base.

21 (d)(1) If in any instance it shall appear, as determined by the Bank  
22 Commissioner, that the interests of a group composed of individuals,  
23 partnerships, unincorporated associations, or corporations are so  
24 interrelated that, from a credit standpoint, applying standard and customary  
25 banking practice, they should be considered as a single unit for the purposes  
26 of extensions of credit, the total indebtedness of these interrelated  
27 customers shall be combined and treated as the indebtedness of a single  
28 customer in applying the loan limit.

29 (2) A state bank shall not be deemed to have violated this  
30 section solely by reason of the fact that the indebtedness of a group held by  
31 the bank exceeds the limitation of this section at the time the commissioner  
32 determines that the indebtedness of the group must be combined. However, the  
33 state bank shall, if required by the commissioner, dispose of indebtedness of  
34 the group in the amount of excess of the limitation of this section within  
35 such reasonable time as shall be fixed by the commissioner.

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*/s/ Verkamp, et a*

*APPROVED: 03/02/20051*