

Hall of the House of Representatives
87th General Assembly - Regular Session, 2009
Amendment Form

Subtitle of House Joint Resolution No. 1004

"PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARKANSAS
CONCERNING THE INTEREST RATE LIMITS."

Amendment No. 3 to House Joint Resolution No. 1004.

Amend House Joint Resolution No. 1004 as engrossed, H3/24/09 (version: 03-24-2009 10:32)

Delete Sections 1 through 14 of the bill and substitute the following:

"SECTION 1. Governmental Bonds and Loans. (a) The maximum lawful rates of interest on bonds issued by governmental units in the State of Arkansas as set forth in various provisions and amendments to the Arkansas Constitution of 1874, including Article 19, § 13, and Amendment Nos. 30, 38, 62, 65, and 78, are removed.

(b) The maximum lawful rate of interest on loans made by or to governmental units in the State of Arkansas as set forth in Article 19, § 13 of the Arkansas Constitution of 1874 is removed.

(c) Except as may be established by the General Assembly pursuant to Section 8 of this amendment, there shall be no maximum lawful rate on bonds issued by and loans made by or to governmental units.

SECTION 2. Loans by Federally Insured Depository Institutions. The maximum lawful rate of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan or financing transaction by or to any federally insured depository institution having its main office in this State shall be the maximum rate of interest that was applicable to federally insured depository institutions under 12 U.S.C. § 1831u effective on March 1, 2009.

SECTION 3. Other Loans. The maximum lawful rate of interest on loans or contracts not described in Sections 1 and 2 shall be the greater of:

(1) Seventeen percent (17%) per annum; or

(2) Five percent (5%) per annum above the Federal Reserve Primary Credit Rate at the time of establishing the applicable maximum lawful rate.

SECTION 4. Energy Efficiency Project Bonds – Issuance – Terms and Conditions.

(a) A governmental unit, under laws adopted by the General Assembly, may issue bonds to finance all or a portion of the costs of energy efficiency projects. The bonds may bear such terms, be issued in such manner, and be



subject to such conditions as may be authorized by the General Assembly. The bonds authorized by Section 4 shall be governmental bonds subject to the provisions of Section 1 of this amendment.

(b) Bonds may be secured by a pledge of the savings from the energy efficiency project and may be repaid from general revenues, special revenues, revenues derived from taxes or any other revenues available to the governmental unit.

(c) The authority conferred by this Section 4 shall be supplemental to other constitutional provisions which authorize the issuance of bonds.

SECTION 5. Definitions. (a) The term "bonds" means all bonds, notes, certificates, financing leases, or other interest-bearing instruments or evidences of indebtedness.

(b) The term "Federal Reserve Primary Credit Rate" means the Primary Credit Rate, or such successor rate, as established by and in effect in the Federal Reserve Bank in the Federal Reserve District in which Arkansas is located.

(c) The term "federally insured depository institution" means a state bank, a national bank, or a savings association, as such terms are defined in 12 U.S.C. § 1813 as such statute existed on January 1, 2009, the deposits of which are insured by the Federal Insurance Deposit Corporation, or its successor.

(d) The term "governmental unit" means the State of Arkansas; any county, municipality, school district, or other political subdivision of the State of Arkansas; any special assessment or taxing district established under the laws of the State of Arkansas; and any agency, board, commission, or instrumentality of any of the foregoing.

(e) The term "loan or financing transaction by or to a federally insured depository institution" means all direct or indirect advances of funds and moneys that are conditioned on the obligation of a person or entity to repay the funds and moneys pursuant to loan agreements, lease agreements, installment sale agreements, security agreements, notes, bill of exchange, or other evidence of debt or other instruments or documents evidencing the indebtedness and are made by or to a federally insured depository institution.

(f) The term "loans made by or to governmental units" means all direct or indirect advances of funds and moneys that are conditioned on the obligation of a person or entity to repay the funds and moneys pursuant to loan agreements, lease agreements, installment sale agreements, security agreements, notes, or other instruments or documents evidencing the indebtedness and are made by or to governmental units.

SECTION 6. Miscellaneous.

(a) The provisions of this amendment are not intended and shall not be deemed to supersede or otherwise invalidate any provisions of federal law applicable to loans or interest rates including loans secured by residential real property.

(b) All contracts under Section 3 having a rate of interest in excess of the maximum lawful rate shall be void as to the unpaid interest.

SECTION 7. The ballot title for this amendment shall be:

An amendment providing that constitutional provisions setting the

maximum lawful rate of interest on bonds issued by and loans made by or to governmental units are repealed; the maximum lawful rate of interest on loans by federally insured depository institutions shall remain at the rate resulting from the federal preemption effective on March 1, 2009; establishing that the maximum lawful rate of interest on any other loan or contract shall be the greater of seventeen percent (17%) per annum or five percent (5%) per annum above the Federal Reserve Primary Credit Rate at the time of establishing the applicable maximum lawful rate; authorizing governmental units to issue bonds to finance energy efficiency projects and allowing such bonds to be repaid from any source including general revenues derived from taxes; providing that any federal laws applicable to loans or interest rates are not superseded by the amendment; and repealing Article 19, § 13, and the interest rate provisions of Amendment Nos. 30, 38, 62, 65, and 78 of the Arkansas Constitution.

SECTION 8. Nothing in this amendment shall limit the power of the General Assembly to fix, from time to time, one or more interest rate limits on various types of bonds issued by and loans made by or to governmental units.

SECTION 9. If this amendment or the application thereof to any person or circumstances is held invalid, the remainder of the amendment and its application to persons or circumstances other than those to which it is held invalid shall not be affected.

SECTION 10. The provisions of this amendment, other than the provisions of Section 4 of this amendment, shall be self-executing.

SECTION 11. The General Assembly may by a three-fourths vote of each house of the General Assembly amend the provisions of this amendment so long as the amendments are germane to this amendment and consistent with its policy and purposes.

SECTION 12. The provisions of this amendment shall apply to all bonds issued and loans made after the effective date of this amendment.

SECTION 13. The effective date of this amendment is January 1, 2011.

SECTION 14. This amendment shall repeal Article 19, § 13, and the interest rate provisions of Amendment Nos. 30, 38, 62, 65, and 78 of the Arkansas Constitution."

The Amendment was read _____
By: Representative Cheatham
MAG/CDS - 04-07-2009 15:58
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Chief Clerk