

**Stricken language would be deleted from and underlined language would be added to the Arkansas  
Constitution.**

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

HJR 1018

4  
5 By: Representative R. Smith  
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**HOUSE JOINT RESOLUTION**

9 PROPOSING AN AMENDMENT TO SECTION 13 OF ARTICLE  
10 19 OF THE ARKANSAS CONSTITUTION TO CONTROL  
11 INTEREST RATES AND TO SET THE PENALTY FOR  
12 VIOLATIONS OF THE INTEREST RATES; AND FOR OTHER  
13 PURPOSES.  
14

**Subtitle**

15 PROPOSING AN AMENDMENT TO THE ARKANSAS  
16 CONSTITUTION TO CONTROL INTEREST RATES  
17 AND TO SET THE PENALTY FOR VIOLATIONS OF  
18 THE INTEREST RATES.  
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22 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-FOURTH GENERAL  
23 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL  
24 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:  
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26 That the following is proposed as an amendment to the Constitution of  
27 the State of Arkansas, and upon being submitted to the electors of the state  
28 for approval or rejection at the next general election for Representatives  
29 and Senators, if a majority of the electors voting thereon at the election,  
30 adopt the amendment, the amendment shall become a part of the Constitution of  
31 the State of Arkansas, to wit:  
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33 SECTION 1. Section 13 of Article 19 of the Arkansas Constitution is  
34 amended to read as follows:

35 § 13. Maximum lawful rates of interest.

36 ~~(a) General Loans:~~



1           ~~(i) The maximum lawful rate of interest on any contract entered~~  
 2 ~~into after the effective date hereof shall not exceed five percent (5%) per~~  
 3 ~~annum above the Federal Reserve Discount Rate at the time of the contract.~~

4           ~~(ii) All such contracts having a rate of interest in excess of~~  
 5 ~~the maximum lawful rate shall be void as to the unpaid interest. A person who~~  
 6 ~~has paid interest in excess of the maximum lawful rate may recover, within~~  
 7 ~~the time provided by law, twice the amount of interest paid. It is unlawful~~  
 8 ~~for any person to knowingly charge a rate of interest in excess of the~~  
 9 ~~maximum lawful rate in effect at the time of the contract, and any person who~~  
 10 ~~does so shall be subject to such punishment as may be provided by law.~~

11           ~~(b) Consumer Loans and Credit Sales: All contracts for consumer loans~~  
 12 ~~and credit sales having a greater rate of interest than seventeen percent~~  
 13 ~~(17%) per annum shall be void as to principal and interest and the General~~  
 14 ~~Assembly shall prohibit the same by law.~~

15           ~~(c) Definitions: As used herein, the term:~~

16           ~~(i) "Consumer Loans and Credit Sales" means credit extended to a~~  
 17 ~~natural person in which the money, property, or service which is the subject~~  
 18 ~~of the transaction is primarily for personal, family or household purposes.~~

19           ~~(ii) "Federal Reserve Discount Rate" means the Federal Reserve~~  
 20 ~~Discount Rate on ninety day commercial paper in effect in the Federal Reserve~~  
 21 ~~Bank in the Federal Reserve District in which Arkansas is located.~~

22           ~~(d) Miscellaneous:~~

23           ~~(i) The rate of interest for contracts in which no rate of~~  
 24 ~~interest is agreed upon shall be six percent (6%) per annum.~~

25           ~~(ii) The provisions hereof are not intended and shall not be~~  
 26 ~~deemed to supersede or otherwise invalidate any provisions of federal law~~  
 27 ~~applicable to loans or interest rates including loans secured by residential~~  
 28 ~~real property.~~

29           ~~(iii) The provisions hereof revoke all provisions of State law~~  
 30 ~~which establish the maximum rate of interest chargeable in the State or which~~  
 31 ~~are otherwise inconsistent herewith.~~

32           (a) Definitions. As used in this section:

33           (1) "Consumer credit" means any loan, credit sale, or other  
 34 extension of credit to a natural person in which the money, property, or  
 35 service that is the subject of the transaction is primarily for personal,  
 36 family, or household purposes;

1           (2) "Credit contract" means any legally enforceable agreement or  
2 arrangement whereby a creditor extends credit or a creditor agrees in writing  
3 to extend credit at a specified rate of interest or a rate of interest to be  
4 determined in the future by reference to an index or other formula, whether  
5 or not the agreement is subject to the future occurrence or satisfaction of  
6 conditions, including conditions within the control of either of the parties  
7 to the transaction;

8           (3) "Formula rate" means the rate which is five percent (5%) per  
9 annum above the average bond equivalent yield of the fifty-two week U. S.  
10 Treasury Bill auction rates for the Treasury Bills offered by the U. S.  
11 Treasury during the immediately preceding calendar quarter, as calculated to  
12 the nearest one-fourth of one percent (1/4 of 1%) and announced by the State  
13 Bank Commissioner, or the successor official who may be performing  
14 substantially the same duties from information available from the Federal  
15 Reserve System of the United States; and

16           (2) "General credit" means any loan, credit sale, or other  
17 extension of credit that is not consumer credit, including, by way of  
18 example, credit in which the money, property, or service that is the subject  
19 of the transaction is primarily for business, investment, or agricultural  
20 purposes.

21           (b) Consumer Credit.

22           (1) Maximum Rate. The maximum lawful rate of interest on any  
23 credit contract for consumer credit shall be seventeen percent (17%) per  
24 annum, regardless of whether any higher or lower rate is applicable to  
25 general credit under subsection (c) of this section.

26           (2) Penalties. All credit contracts for consumer credit having  
27 a greater rate of interest than seventeen percent (17%) per annum shall be  
28 void as to principal and interest.

29           (c) General Credit.

30           (1) Maximum Lawful Fixed Rates. Parties to credit contracts for  
31 general credit may agree for interest to accrue on the general credit at a  
32 constant rate throughout the term thereof, including a constant interest rate  
33 which is to be determined by reference to an index or other formula. The  
34 maximum lawful rate of interest for the credit contract for fixed rate  
35 general credit is the formula rate in effect on the date when the credit  
36 contract is made, regardless of when the interest is to begin to accrue.

1           (2) Maximum Lawful Variable Rates. Parties to credit contracts  
2 for general credit may also agree for interest to accrue on the general  
3 credit at a rate that may vary at such times and under such circumstances as  
4 the parties may agree, whether or not the interest rate in fact varies. The  
5 maximum lawful rate of interest for the credit contracts for variable rate  
6 general credit is the formula rate in effect when the interest accrues.

7           (3) Renewals, Extensions, or Modifications. Parties to a credit  
8 contract for general credit may subsequently agree to renew, extend, modify,  
9 or otherwise amend the credit contract. Any renewal, extension,  
10 modification, or other amendment in writing that alters the rate of interest  
11 or the method of calculating the rate of interest shall be deemed to be a new  
12 credit contract for the purpose of determining the maximum rate of interest  
13 applicable thereto. If the rate of interest or the method of calculating the  
14 rate of interest is not changed by any renewal, extension, modification, or  
15 other amendment the maximum rate of interest applicable thereto shall not be  
16 changed by reason thereof.

17           (4) Penalties. Any general credit having a rate of interest in excess  
18 of the formula rate applicable thereto in accordance with either subdivision  
19 (c)(1) or subdivision (c)(2) of this section shall be void as to unpaid  
20 interest. A person who has paid interest in excess of the applicable formula  
21 rate may recover, within the time provided by law, twice the amount of  
22 interest paid. It is unlawful for any person to knowingly charge a rate of  
23 interest in excess of the applicable formula rate, and any person who does so  
24 is subject to such punishment as may be provided by law.

25           (d) Miscellaneous.

26           (1) The calculation of the formula rate shall be made on or  
27 before the tenth day after each calendar quarter ends. When calculating the  
28 formula rate, the bond equivalent yield shall be the rate which results from  
29 subtracting the discounted price of the Treasury Bills from the amount to be  
30 paid thereon at maturity and dividing the difference by the discounted price.  
31 The formula rate so calculated for any calendar quarter shall be effective on  
32 the eleventh day following the end of the immediately preceding calendar  
33 quarter and shall continue in effect until the formula rate for the  
34 succeeding calendar quarter shall have been calculated and becomes effective.  
35 If, for any reason, the United States ceases to issue fifty-two week Treasury  
36 Bills, the calculation shall be made using a debt instrument of the United

1 States having substantially the same general character and maturity.

2 (2) The rate of interest for contracts in which no rate of  
3 interest is agreed upon shall be six percent (6%) per annum.

4 (3) In determining whether a credit contract is to be for  
5 consumer credit or general credit, a creditor may rely conclusively on the  
6 written representations of a debtor as to the primary purpose of the credit.

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8 SECTION 2. This amendment become effective on January 1, 2005.

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