

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 568

5 By: Senators M. Lamoureux, Crumbly, J. Hutchinson, Whitaker, S. Harrelson, Rapert  
6 By: Representatives Woods, Allen, Word, Hyde  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND AMENDMENT 89 OF THE ARKANSAS  
10 CONSTITUTION CONCERNING THE INTEREST RATE LIMIT ON  
11 LOAN CONTRACTS PURSUANT TO SECTION 11 OF AMENDMENT 89  
12 TO THE ARKANSAS CONSTITUTION; TO DECLARE AN  
13 EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

16 TO AMEND AMENDMENT 89 OF THE ARKANSAS  
17 CONSTITUTION CONCERNING THE INTEREST RATE  
18 LIMIT ON LOAN CONTRACTS PURSUANT TO  
19 SECTION 11 OF AMENDMENT 89 TO THE  
20 ARKANSAS CONSTITUTION; AND TO DECLARE AN  
21 EMERGENCY.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. DO NOT CODIFY. Legislative findings.

28 The General Assembly finds that there is a substantial population in  
29 the State of Arkansas that does not have access to traditional sources of  
30 consumer credit. Many loan contracts in Arkansas are not subject to the  
31 interest rate limitations contained in the Arkansas Constitution due to  
32 federal preemption of state interest rate regulation. Further, the majority  
33 of financial institutions rely on the scoring system of the Fair Isaac  
34 Corporation (FICO Score) to determine the creditworthiness of consumers. The  
35 General Assembly finds that federally regulated banks are limited in the  
36 amount of risk that can be undertaken in servicing customers with FICO scores



1 below six hundred (600). As a result, many Arkansas consumers who are  
2 considered "unbanked" or "under banked" and cannot obtain credit through  
3 these federally regulated sources are denied access to credit and financial  
4 products that are generally available to others in the State of Arkansas.

5 The General Assembly also finds that many unbanked and under banked  
6 Arkansas consumers needing credit in small amounts have only obtained such  
7 credit from out-of-state sources, thus denying the State of Arkansas the  
8 benefits of the resulting commerce and tax revenue. The General Assembly  
9 understands and recognizes that consumers with low FICO scores represent a  
10 higher cost to service due to the associated risk. It is determined that the  
11 General Assembly must take corrective action to address the situation  
12 unbanked and under banked small-loan consumers are finding themselves in.  
13 The changing nature of modern financial regulation makes it desirable that  
14 the General Assembly have the ability to legislate regulation of small-amount  
15 loans to meet the needs of all Arkansas consumers.

16 Under Section 11 of Amendment 89 to the Arkansas Constitution, the  
17 General Assembly may, by a three-fourths (3/4) vote of each house of the  
18 General Assembly, amend the provisions of Amendment 89 to the Arkansas  
19 Constitution if the amendments are germane to Amendment 89 to the Arkansas  
20 Constitution and consistent with its policy and purposes. Amendment 89 to  
21 the Arkansas Constitution was adopted at the general election on November 2,  
22 2010, by a vote of 448,711 for and 250,167 against. The General Assembly  
23 declares that an amendment allowing the General Assembly to set the maximum  
24 rate of interest on loans and contracts below five thousand dollars (\$5,000)  
25 is both germane and consistent with the policy and purposes of the amendment.  
26 Therefore, it is determined that without immediate relief from the limits on  
27 the interest rates on small loan amounts, many Arkansas consumers will be  
28 unable to obtain credit on the most favorable terms.

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30 SECTION 2. Section 3 of Amendment 89 to the Constitution of Arkansas  
31 is amended to read as follows:

32 § 3. Other Loans.

33 (a) The Except as provided in subsection (b) of this section, the  
34 maximum lawful rate of interest on loans or contracts not described in  
35 Sections 1 and 2 shall not exceed seventeen percent (17%) per annum.

36 (b)(1) The maximum lawful rate of interest on loans or contracts of

1 five thousand dollars (\$5,000) or less shall be established by the General  
2 Assembly.

3 (2) If the General Assembly does not establish a maximum lawful  
4 rate of interest on loans or contracts of five thousand dollars (\$5,000) or  
5 less, subsection (a) of this section shall apply.

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7 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that as a result of federal  
9 preemption of state interest rate regulation, a substantial population in the  
10 State of Arkansas does not have access to traditional sources of consumer  
11 credit; that without immediate relief from the interest rate limits in the  
12 Arkansas Constitution, the citizens of this state will suffer irreparable  
13 harm to their health and well-being; and that this act is immediately  
14 necessary because it will immediately provide the General Assembly the  
15 ability to establish appropriate regulation of credit products necessary to  
16 ensure the public safety, health, and welfare of its citizens. Therefore, an  
17 emergency is declared to exist and this act being immediately necessary for  
18 the preservation of the public peace, health, and safety shall become  
19 effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,  
22 the expiration of the period of time during which the Governor may veto the  
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is  
25 overridden, the date the last house overrides the veto.