

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

A Bill

HOUSE BILL 1572

4 By: Representatives Woods, Allen, Word, Hyde

5 By: Senators M. Lamoureux, Crumbly, J. Hutchinson, Whitaker, S. Harrelson, Rapert

6 Filed with: Interim House Committee on Insurance and Commerce
7 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

13 TO AMEND AMENDMENT 89 OF THE ARKANSAS
14 CONSTITUTION CONCERNING THE INTEREST RATE
15 LIMIT ON LOAN CONTRACTS PURSUANT TO
16 SECTION 11 OF AMENDMENT 89 TO THE
17 ARKANSAS CONSTITUTION; AND TO DECLARE AN
18 EMERGENCY.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. DO NOT CODIFY. Legislative findings.

21 The General Assembly finds that there is a substantial population in
22 the State of Arkansas that does not have access to traditional sources of
23 consumer credit. Many loan contracts in Arkansas are not subject to the
24 interest rate limitations contained in the Arkansas Constitution due to
25 federal preemption of state interest rate regulation. Further, the majority
26 of financial institutions rely on the scoring system of the Fair Isaac
27 Corporation (FICO Score) to determine the creditworthiness of consumers. The

1 General Assembly finds that federally regulated banks are limited in the
2 amount of risk that can be undertaken in servicing customers with FICO scores
3 below six hundred (600). As a result, many Arkansas consumers who are
4 considered "unbanked" or "under banked" and cannot obtain credit through
5 these federally regulated sources are denied access to credit and financial
6 products that are generally available to others in the State of Arkansas.

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

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

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

34 § 3. Other Loans.

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

4 (b)(1) The maximum lawful rate of interest on loans or contracts of
5 five thousand dollars (\$5,000) or less shall be established by the General
6 Assembly.

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

10
11 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that as a result of federal
13 preemption of state interest rate regulation, a substantial population in the
14 State of Arkansas does not have access to traditional sources of consumer
15 credit; that without immediate relief from the interest rate limits in the
16 Arkansas Constitution, the citizens of this state will suffer irreparable
17 harm to their health and well-being; and that this act is immediately
18 necessary because it will immediately provide the General Assembly the
19 ability to establish appropriate regulation of credit products necessary to
20 ensure the public safety, health, and welfare of its citizens. Therefore, an
21 emergency is declared to exist and this act being immediately necessary for
22 the preservation of the public peace, health, and safety shall become
23 effective on:

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

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

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

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31 Referred by the Arkansas House of Representatives

32 Prepared by: MAG/VJF

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