

State of Arkansas
77th General Assembly
Regular Session, 1989
By: Representative Wilson

H.J.R. 1012

HOUSE JOINT RESOLUTION

FOR AN AMENDMENT TO SECTION 13 OF ARTICLE XIX OF THE
CONSTITUTION OF THE STATE OF ARKANSAS TO CONTROL INTEREST
RATES AND SET THE PENALTY FOR VIOLATIONS THEREOF.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE SEVENTY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

That the following is hereby proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the State for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at such election adopt such amendment, the same shall become a part of the Constitution of the State of Arkansas, to wit:

"SECTION 1. Section 13, Article XIX, of the Arkansas Constitution of 1874, as amended by Amendment 60, is hereby amended to read as follows:

'Section 13. (a) Business Credit:

(i) The maximum lawful rate of interest which may be charged taken or reserved for the extension of Business Credit entered into after the effective date hereof in an amount of less than Five Hundred Thousand Dollars (\$500,000.00) shall be the Business Credit Maximum Rate in effect at the time of extension of credit, or as such rate may change from time to time.

(ii) There is no maximum lawful rate of interest which may be charged, taken or reserved for the extension of Business Credit in an amount equal to or exceeding Five Hundred Thousand Dollars (\$500,000.00).

(iii) For purposes of determining the amount of an extension of Business Credit, in addition to amounts actually advanced, the extension of credit shall be deemed to include all amounts contemplated to be advanced, pursuant

to a written agreement of the party extending credit regardless of whether less than such contemplated amount may be initially or at any time outstanding, or the fact that the written agreement to extend credit may be subject to the performance of any other agreements, obligations or conditions by the party to whom credit is extended or others.

(iv) All extensions of Business Credit having a rate of interest in excess of the maximum lawful rate shall be void as to the unpaid interest. Any entity which has paid interest in excess of the maximum lawful rate may recover, within the time provided by law, twice the amount of interest paid. It is unlawful for any person or entity to knowingly charge a rate of interest in excess of the maximum lawful rate in effect at the time of the contract, and any person or entity who does so shall be subject to such punishment as may be provided by law.

(b) Consumer Credit:

(i) The maximum lawful rate of interest which may be charged, taken or reserved for the extension of Consumer Credit after the effective date hereof shall be seventeen percent (17%) per annum.

(ii) All such extensions of Consumer Credit having a rate of interest in excess of the maximum lawful rate shall be void as to principal and interest. A person who has paid interest in excess of the maximum lawful rate may recover, within the time provided by law, twice the amount of interest paid. It is unlawful for any person or entity to knowingly charge, take or reserve a rate of interest in excess of the maximum lawful rate, and any person or entity which does so shall be subject to such punishment as may be provided by law.

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

(i) 'Consumer Credit' means credit extended to a natural person primarily for personal, family, or household purposes.

(ii) 'Business Credit' means any credit which is not Consumer Credit, and shall include, but not be limited to, (a) any credit extended primarily for any business, commercial or agricultural purposes, and (b) any credit for any purpose extended to a partnership, corporation, joint venture, trust, association or other legal entity however organized, other than a natural person.

(iii) 'Business Credit Maximum Rate' means a floating rate of interest five (5) percentage points above the average prime loan rate (or the average

short-term business loan rate, however denominated for the most recent week for which such an average rate has been published by the board of governors of the Federal Reserve System of the United States. Provided, however, that in the event that the board of governors ceases to publish the average prime loan rate, the average prime loan rate shall remain fixed at the last published rate until the Governor or his designee shall determine such rate in the same manner as the board of governors had previously determined such rate and published such rate. If the board of governors fails to publish the average prime loan rate for four consecutive weeks, it shall be deemed to have ceased to publish such average prime loan rate. The General Assembly shall provide by law for the publication of the Business Credit Maximum Rate as determined from time to time.

(d) Miscellaneous:

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

(ii) The provisions hereof 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.

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

BE IT FURTHER RESOLVED that the ballot title for this amendment shall be:

"AN AMENDMENT TO SECTION 13 OF ARTICLE XIX OF THE CONSTITUTION OF THE STATE OF ARKANSAS TO CONTROL INTEREST RATES AND SET THE PENALTY FOR VIOLATIONS THEREOF."

BE IT FURTHER RESOLVED that the popular name for this amendment shall be:

"The 1990 Interest Rate Control Amendment."