

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1290

4
5 By: Representatives Verkamp, Mahony
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For An Act To Be Entitled

9 AN ACT TO REPEAL THE EXCLUSION OF CERTAIN
10 ENDORSED OR GUARANTEED OBLIGATIONS ON CONSUMER
11 LOANS FROM THE CALCULATION OF MAXIMUM ALLOWABLE
12 LOAN LIMITS; AND FOR OTHER PURPOSES.
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Subtitle

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15 TO REPEAL THE PROVISION WHICH PERMITS
16 CERTAIN ENDORSED OR GUARANTEED
17 OBLIGATIONS ON CONSUMER LOANS TO BE
18 EXCLUDED FROM THE CALCULATION OF MAXIMUM
19 ALLOWABLE LOAN LIMITS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 23-47-501 is amended to read as follows:
25 23-47-501. Loan limits - Maximum generally.

26 (a) The total indebtedness to any state bank of any person shall at no
27 time exceed twenty percent (20%) of the capital base of the bank.

28 (b)~~(1)~~ Obligations of a person as endorser or guarantor, accommodation
29 or otherwise, of notes or other obligations shall be included in that
30 person's loan limit.

31 ~~(2)(A) However, in the case of endorsed or guaranteed~~
32 ~~obligations on consumer loans, if the financial responsibility of the primary~~
33 ~~debtor is reasonably adequate, and if an officer of the state bank designated~~
34 ~~by the board of directors for that purpose certifies in writing that the~~
35 ~~liability of the primary debtor has been evaluated and that the bank is~~
36 ~~relying primarily on such primary debtor for payment, the twenty percent~~



1 ~~(20%) limitation shall be applied to each primary debtor but not to the~~
2 ~~liability, in such capacity, of the endorser or guarantor.~~

3 ~~(B) "Consumer loans" for the purpose of this section shall~~
4 ~~be considered to be credit extended to a natural person in which the money is~~
5 ~~to be used primarily for personal, family, or household purposes.~~

6 (c)(1) A loan or group of loans that are within the legal loan limit
7 of a state bank at the time the loan or loans are made shall be valid for
8 legal loan limit purposes until maturity, as stated in the original contract,
9 regardless of fluctuations in the bank's legal loan limit. Provided, however,
10 that if a bank's legal loan limit is reduced due to fluctuations in its
11 capital base, a loan or group of loans to a borrower or borrowers that was
12 within the legal loan limit prior to the reduction may become in violation of
13 the bank's reduced legal loan limit upon the extension, renewal, or
14 advancement of additional funds on the loan or group of loans occurring after
15 the reduction in the bank's legal loan limits.

16 (2) State banks are required to calculate their legal loan
17 limits on a quarterly basis to coincide with the requirement to calculate
18 their capital base.

19 (d)(1) If in any instance it shall appear, as determined by the Bank
20 Commissioner, that the interests of a group composed of individuals,
21 partnerships, unincorporated associations, or corporations are so
22 interrelated that, from a credit standpoint, applying standard and customary
23 banking practice, they should be considered as a single unit for the purposes
24 of extensions of credit, the total indebtedness of these interrelated
25 customers shall be combined and treated as the indebtedness of a single
26 customer in applying the loan limit.

27 (2) A state bank shall not be deemed to have violated this
28 section solely by reason of the fact that the indebtedness of a group held by
29 the bank exceeds the limitation of this section at the time the commissioner
30 determines that the indebtedness of the group must be combined. However, the
31 state bank shall, if required by the commissioner, dispose of indebtedness of
32 the group in the amount of excess of the limitation of this section within
33 such reasonable time as shall be fixed by the commissioner.