

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

# A Bill

HOUSE BILL 1036

5 By: Representatives D. Johnson, Burris, Cook, Cornwell, Dickinson, Hall, Harrelson, J. Johnson, Key,  
6 Maloch, Medley, S. Prater, Reep, Webb  
7 By: Senators Womack, Whitaker  
8  
9

## For An Act To Be Entitled

11 AN ACT TO CREATE THE OFFENSE OF UNLAWFUL CONSUMER  
12 LOANS; TO ENFORCE THE PROVISIONS OF ARKANSAS  
13 CONSTITUTION, ARTICLE 19, § 13; AND FOR OTHER  
14 PURPOSES.  
15

## Subtitle

16 TO CREATE THE OFFENSE OF UNLAWFUL  
17 CONSUMER LOANS.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 5, Chapter 63, Subchapter 2 is amended  
24 to add an additional section to read as follows:

25 5-63-205. Unlawful consumer loans.

26 (a) As used in this section:

27 (1) "Consumer loan" means a loan extended to an individual in  
28 which the money that is the subject of the transaction is primarily used for  
29 personal, family, or household purposes;

30 (2) "Financial institution" means a federally insured depository  
31 institution including a state bank, a national bank, an out-of-state state-  
32 chartered bank that has received a certificate of authority under § 23-48-  
33 1001, a savings bank, a savings and loan association, a credit union, or a  
34 credit union service organization that is:

35 (A) Organized under the laws of this state, another state,  
36 or the United States; and



1                   (B) Subject to regulation by the State Banking Board, the  
 2 State Credit Union Supervisor, the National Credit Union Administration, the  
 3 Office of the Comptroller of the Currency, the Federal Deposit Insurance  
 4 Corporation, the Board of Governors of the Federal Reserve System, the Office  
 5 of Thrift Supervision, or their successors; and

6                   (3) "Person" means an individual, group of individuals,  
 7 partnership, incorporated or unincorporated association, corporation, or any  
 8 other business unit or legal entity.

9                   (b) It is unlawful for any person to knowingly charge a rate of  
 10 interest greater than seventeen percent (17%) per annum in a transaction  
 11 involving a consumer loan, as prohibited by Arkansas Constitution, Article  
 12 19, § 13.

13                   (c)(1) Any person violating subsection (b) of this section is guilty  
 14 of a violation and upon conviction shall be fined three hundred dollars  
 15 (\$300).

16                   (2) Each transaction involving an unlawful consumer loan is a  
 17 separate offense.

18                   (d) A consumer loan is exempt from subsection (b) of this section if  
 19 the consumer loan is made by a financial institution.

20  
 21                   SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 22 General Assembly of the State of Arkansas that the Arkansas Constitution does  
 23 not contain a criminal penalty for charging a usurious interest rate; that  
 24 citizens of this state who are required to pay usurious interest rates are  
 25 subjected to financial burdens that can result in devastating financial  
 26 hardships; and that this act is immediately necessary because a criminal  
 27 penalty will protect the citizens of this state from persons or businesses  
 28 that charge an interest rate in violation of the Arkansas Constitution.  
 29 Therefore, an emergency is declared to exist and this act being immediately  
 30 necessary for the preservation of the public peace, health, and safety shall  
 31 become effective on:

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

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

36                   (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36