

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas *As Engrossed: H3/18/09 H3/24/09 H4/7/09*

2 87th General Assembly

3 Regular Session, 2009

HJR 1004

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5 By: Representative Cheatham

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HOUSE JOINT RESOLUTION

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PROPOSING AN AMENDMENT TO THE CONSTITUTION OF

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ARKANSAS CONCERNING THE INTEREST RATE LIMITS.

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12

Subtitle

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PROPOSING AN AMENDMENT TO THE

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CONSTITUTION OF ARKANSAS CONCERNING THE

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INTEREST RATE LIMITS.

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BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SEVENTH GENERAL

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ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL

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MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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That the following is proposed as an amendment to the Constitution of

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the State of Arkansas, and upon being submitted to the electors of the state

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for approval or rejection at the next general election for Representatives

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and Senators, if a majority of the electors voting thereon at the election

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adopt the amendment, the amendment shall become a part of the Constitution of

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the State of Arkansas, to wit:

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SECTION 1. Governmental Bonds and Loans. (a) The maximum lawful rates

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of interest on bonds issued by governmental units in the State of Arkansas as

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set forth in various provisions and amendments to the Arkansas Constitution

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of 1874, including Article 19, § 13, and Amendment Nos. 30, 38, 62, 65, and

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78, are removed.

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(b) The maximum lawful rate of interest on loans made by or to

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governmental units in the State of Arkansas as set forth in Article 19, § 13

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of the Arkansas Constitution of 1874 is removed.



1 (c) Except as may be established by the General Assembly pursuant to
2 Section 8 of this amendment, there shall be no maximum lawful rate on bonds
3 issued by and loans made by or to governmental units.

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5 SECTION 2. Loans by Federally Insured Depository Institutions. The
6 maximum lawful rate of interest, discount points, finance charges, or other
7 similar charges that may be charged, taken, received, or reserved from time
8 to time in any loan or financing transaction by or to any federally insured
9 depository institution having its main office in this State shall be the
10 maximum rate of interest that was applicable to federally insured depository
11 institutions under 12 U.S.C. § 1831u effective on March 1, 2009.

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13 SECTION 3. Other Loans. The maximum lawful rate of interest on loans
14 or contracts not described in Sections 1 and 2 shall be the greater of:

15 (1) Seventeen percent (17%) per annum; or

16 (2) Five percent (5%) per annum above the Federal Reserve Primary
17 Credit Rate at the time of establishing the applicable maximum lawful rate.

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19 SECTION 4. Energy Efficiency Project Bonds – Issuance – Terms and
20 Conditions.

21 (a) A governmental unit, under laws adopted by the General Assembly,
22 may issue bonds to finance all or a portion of the costs of energy efficiency
23 projects. The bonds may bear such terms, be issued in such manner, and be
24 subject to such conditions as may be authorized by the General Assembly. The
25 bonds authorized by Section 4 shall be governmental bonds subject to the
26 provisions of Section 1 of this amendment.

27 (b) Bonds may be secured by a pledge of the savings from the energy
28 efficiency project and may be repaid from general revenues, special revenues,
29 revenues derived from taxes or any other revenues available to the
30 governmental unit.

31 (c) The authority conferred by this Section 4 shall be supplemental to
32 other constitutional provisions which authorize the issuance of bonds.

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34 SECTION 5. Definitions. (a) The term "bonds" means all bonds, notes,
35 certificates, financing leases, or other interest-bearing instruments or
36 evidences of indebtedness.

1 (b) The term "Federal Reserve Primary Credit Rate" means the Primary
2 Credit Rate, or such successor rate, as established by and in effect in the
3 Federal Reserve Bank in the Federal Reserve District in which Arkansas is
4 located.

5 (c) The term "federally insured depository institution" means a state
6 bank, a national bank, or a savings association, as such terms are defined in
7 12 U.S.C. § 1813 as such statute existed on January 1, 2009, the deposits of
8 which are insured by the Federal Insurance Deposit Corporation, or its
9 successor.

10 (d) The term "governmental unit" means the State of Arkansas; any
11 county, municipality, school district, or other political subdivision of the
12 State of Arkansas; any special assessment or taxing district established
13 under the laws of the State of Arkansas; and any agency, board, commission,
14 or instrumentality of any of the foregoing.

15 (e) The term "loan or financing transaction by or to a federally
16 insured depository institution" means all direct or indirect advances of
17 funds and moneys that are conditioned on the obligation of a person or entity
18 to repay the funds and moneys pursuant to loan agreements, lease agreements,
19 installment sale agreements, security agreements, notes, bill of exchange, or
20 other evidence of debt or other instruments or documents evidencing the
21 indebtedness and are made by or to a federally insured depository
22 institution.

23 (f) The term "loans made by or to governmental units" means all direct
24 or indirect advances of funds and moneys that are conditioned on the
25 obligation of a person or entity to repay the funds and moneys pursuant to
26 loan agreements, lease agreements, installment sale agreements, security
27 agreements, notes, or other instruments or documents evidencing the
28 indebtedness and are made by or to governmental units.

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30 SECTION 6. Miscellaneous.

31 (a) The provisions of this amendment are not intended and shall not be
32 deemed to supersede or otherwise invalidate any provisions of federal law
33 applicable to loans or interest rates including loans secured by residential
34 real property.

35 (b) All contracts under Section 3 having a rate of interest in excess
36 of the maximum lawful rate shall be void as to the unpaid interest.

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2 SECTION 7. The ballot title for this amendment shall be:

3 An amendment providing that constitutional provisions setting the
4 maximum lawful rate of interest on bonds issued by and loans made by or to
5 governmental units are repealed; the maximum lawful rate of interest on loans
6 by federally insured depository institutions shall remain at the rate
7 resulting from the federal preemption effective on March 1, 2009;
8 establishing that the maximum lawful rate of interest on any other loan or
9 contract shall be the greater of seventeen percent (17%) per annum or five
10 percent (5%) per annum above the Federal Reserve Primary Credit Rate at the
11 time of establishing the applicable maximum lawful rate; authorizing
12 governmental units to issue bonds to finance energy efficiency projects and
13 allowing such bonds to be repaid from any source including general revenues
14 derived from taxes; providing that any federal laws applicable to loans or
15 interest rates are not superseded by the amendment; and repealing Article 19,
16 § 13, and the interest rate provisions of Amendment Nos. 30, 38, 62, 65, and
17 78 of the Arkansas Constitution.

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19 SECTION 8. Nothing in this amendment shall limit the power of the
20 General Assembly to fix, from time to time, one or more interest rate limits
21 on various types of bonds issued by and loans made by or to governmental
22 units.

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24 SECTION 9. If this amendment or the application thereof to any person
25 or circumstances is held invalid, the remainder of the amendment and its
26 application to persons or circumstances other than those to which it is held
27 invalid shall not be affected.

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29 SECTION 10. The provisions of this amendment, other than the
30 provisions of Section 4 of this amendment, shall be self-executing.

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32 SECTION 11. The General Assembly may by a three-fourths vote of each
33 house of the General Assembly amend the provisions of this amendment so long
34 as the amendments are germane to this amendment and consistent with its
35 policy and purposes.

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