

2010 -- S 2477

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
INTEREST AND USURY

Introduced By: Senators Raptakis, Ruggerio, Blais, and Pinga

Date Introduced: February 11, 2010

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 6-26-2 of the General Laws in Chapter 6-26 entitled "Interest and
2 Usury" is hereby amended to read as follows:

3 **6-26-2. Maximum rate of interest.** -- (a) Subject to the provisions of title 19, no person,
4 partnership, association, or corporation loaning money to or negotiating the loan of money for
5 another, except duly licensed pawnbrokers, shall, directly or indirectly, reserve, charge, or take
6 interest on a loan, whether before or after maturity, at a rate which shall exceed the greater of
7 twenty-one percent (21%) per annum or the alternate rate specified in subsection (b) of this
8 section of the unpaid principal balance of the net proceeds of the loan not compounded, nor taken
9 in advance, nor added on to the amount of the loan.

10 (b) The alternate rate means the rate per annum which is equal to nine percentage points
11 (9%) plus an index which is the domestic prime rate as published in the Money Rates section of
12 The Wall Street Journal on the last business day of each month preceding the later of the date of
13 the debtor's agreement or the date on which the interest rate is redetermined in accordance with
14 the terms of the debtor's agreement. If the Wall Street Journal ceases publication of the prime
15 rate, the director of business regulation shall designate a substantially equivalent index. In the
16 event an index is published as a range of rates, then the lowest rate shall be the index.

17 (c) (1) For purposes of this section, interest shall not be construed to include:

18 (i) Charges pursuant to chapters 30 and 31 of title 27;

1 (ii) Premiums for insurance in an amount not exceeding the reasonable value of property
2 offered as security for a loan against any substantial risk of loss, liability, damage, or destruction
3 in conformity with the insurance laws of this state;

4 (iii) Premiums for insurance providing loss of income or involuntary unemployment
5 coverage if the coverage is not a factor in the approval by the lender of the extension of credit and
6 the debtor gives specific written indication that the cost of this coverage has been conspicuously
7 disclosed to the debtor, that the debtor realizes that the coverage is not a condition for the
8 extension of credit, and that the debtor voluntarily desires the coverage;

9 (iv) Commercial loan commitment or availability fees to assure the availability of a
10 specified amount of credit for a specified period of time or, at the borrower's option,
11 compensating balances in lieu of the fees;

12 (v) Reasonable attorney's fees customarily charged for the preparation of loan, security,
13 or mortgage documents and for the collection of defaulted loans;

14 (vi) Fees for title examination or title insurance;

15 (vii) Other customary and reasonable costs incident to the closing, supervision, and
16 collection of loans in this state; and

17 (viii) Consideration received for the redemption, sale, transfer, or other disposition of
18 equity securities by a small business investment company licensed under the provisions of the
19 "Small Business Investment Act of 1958", 15 U.S.C. section 631 et seq., as amended, or an entity
20 which would qualify for regulation as a business development company under the provisions of
21 the "Investment Company Act of 1940", 15 U.S.C. section 80a-1 et seq., as amended, whether or
22 not the equity securities were acquired by a small business investment company or business
23 development company in connection with or as an incident to the extension of credit.

24 (2) Any of the preceding charges, if paid or advanced by the lender, may be considered
25 part of the net proceeds of the loan, and if paid by the debtor, shall not be deducted from the net
26 proceeds of the loan.

27 (d) Notwithstanding anything to the contrary in this chapter or in any other provision of
28 Rhode Island law, the provisions of this chapter shall not be applicable with respect to credit card
29 transactions as defined in chapter 26.1 of this title. Chapter 26.1 shall apply exclusively to all
30 such transactions.

31 ~~(e) Notwithstanding the provisions of subsection (a) of this section and/or any other~~
32 ~~provision in this chapter to the contrary, there is no limitation on the rate of interest which may be~~
33 ~~legally charged for the loan to, or use of money by, a commercial entity, where the amount of~~
34 ~~money loaned exceeds the sum of one million dollars (\$1,000,000) and where repayment of the~~

1 ~~loan is not secured by a mortgage against the principal residence of any borrower; provided, that~~
2 ~~the commercial entity has first obtained a pro forma methods analysis performed by a certified~~
3 ~~public accountant licensed in the state of Rhode Island indicating that the loan is capable of being~~
4 ~~repaid.~~ Within ninety (90) days of the effective date of this section, any person, partnership,
5 association or corporation, except duly licensed pawn brokers, having loaned money at an interest
6 rate in excess of the maximum rate of interest as defined by subsections (a) and (b) hereof shall
7 comply with the provisions thereof by reducing the interest rate of said loan to a rate permitted
8 herein effective prospectively.

9 SECTION 2. This act shall take effect upon passage, and any person, partnership,
10 association or corporation, except duly licensed pawn brokers, having loaned money at an interest
11 rate in excess of the maximum rate of interest as defined by subsections (a) and (b) hereof shall,
12 within ninety (90) days thereafter, comply with the provisions thereof by reducing the interest
13 rate of said loan to a rate permitted herein effective prospectively.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
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1 This act would repeal the exemption in the general laws relating to usury for commercial
2 loans over \$1,000,000.

3 This act would take effect upon passage, and any person, partnership, association or
4 corporation, except duly licensed pawn brokers, having loaned money at an interest rate in excess
5 of the maximum rate of interest as defined by subsections (a) and (b) hereof would, within ninety
6 (90) days thereafter, comply with the provisions thereof by reducing the interest rate of said loan
7 to a rate permitted herein effective prospectively.

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