

Public Law 96-161
96th Congress

An Act

To authorize automatic transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980.

Dec. 28, 1979
[H.R. 4998]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Automatic transfer accounts at commercial banks, authorization.

TITLE I—CONSUMER SERVICES AND USURY

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board."

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors."

SEC. 102. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board."

Remote service units.

SEC. 103. (a) Section 101 of the Federal Credit Union Act is amended—

12 USC 1752.

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"Share draft
account."

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit."

12 USC 1757.

(b) Section 107(6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept share drafts as orders of withdrawal against shares, subject to such terms, rates, and conditions as may be prescribed by the Board".

Effective date.
12 USC 371a
note.

SEC. 104. The amendments made by sections 101 through 103 of this title shall take effect on December 31, 1979, and shall remain in effect until the close of March 31, 1980.

12 USC 1735f-7
note

SEC. 105. (a)(1) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock;

12 USC 1735f-5.

(B) made after the date of enactment of this Act; and

(C) described in section 527(b) of the National Housing Act, except that the limitation described in section 527(b)(1) that the property must be designed principally for the occupancy of from one to four families shall not apply, the requirement contained in section 527(b)(1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 527(b)(2)(A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. As used in this paragraph, the term "depository institution" means—

"Depository
institution."

18 USC 709, 709
note.

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in this section;

12 USC 1730a.

(E) any insured institution as defined in section 408 of the National Housing Act; and

12 USC 1752.

(F) any insured credit union as defined in section 101(7) of the Federal Credit Union Act.

(b) The provisions of subsection (a)(1) shall apply to loans, mortgages, and advances made in any State unless and until the State

adopts a provision of law (prior to the close of March 31, 1980) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance.

(c) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

Rules and regulations.

(d) The provisions of subsection (a)(1) expire at the close of March 31, 1980, except that such provisions shall continue to apply to any loan, mortgage, or advance described in subsection (a)(1) for the duration of such loan, mortgage, or advance if it is made prior to such expiration or if it is made during the two-year period beginning on the date of enactment of this Act pursuant to a commitment issued prior to such expiration.

Expiration date.

(e) For the purpose of this Act and any amendment made by this Act, the term "State" includes the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

"State."

SEC. 106. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting "New Jersey," after "New York,".

TITLE II—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 201. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of \$25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located,".

SEC. 202. The Federal Deposit Insurance Act (12 U.S.C. 1811-1831) is amended by inserting after section 23 the following new section:

12 USC 1831a.

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of \$25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action

commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest."

SEC. 203. Title IV of the National Housing Act (12 U.S.C. 1724-1730f) is amended by inserting after section 411 the following new section:

12 USC 1730e.

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of \$25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest."

15 USC 687.

SEC. 204. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is \$25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"Federal Reserve rate."

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on ninety-day commercial paper in effect at the

Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

“(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

“(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

“(A) in the case of a State statute, July 1, 1980;

“(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

“(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

“(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

“(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than two years after the most recent payment of interest.”

SEC. 205. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of \$25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

12 USC 86a.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced

in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

Savings
provision.
12 USC 1831a
note.

SEC. 206. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

Effective dates.
12 USC 1831a
note.

SEC. 207. The amendments made by sections 201 through 205 of this title and the provisions of sections 201 through 205 of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earliest of—

- (1) in the case of a State statute, July 1, 1980;
- (2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 201 through 205 of this title and the provisions of this title to apply with respect to loans made in such State; or
- (3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by sections 201 through 205 of this title and the provisions of this title.

12 USC 371b-1.

SEC. 208. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

“(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.”.

SEC. 209. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

“(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.”.

SEC. 210. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person."

SEC. 211. The amendments made by sections 208, 209, and 210 of this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earliest of—

Effective dates.
12 USC 371b-1
note.

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by sections 208, 209, and 210 of this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

SEC. 212. Effective at the close of the day preceding the date of enactment of this title, the Act entitled "An Act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes" (Public Law 96-104), and the amendments made by such Act, are repealed, except that—

Repeal.
12 USC 85 note.

(1) the amendments made by title I of such Act and the provisions of such title shall apply to any loan made in any State on or after November 5, 1979, but prior to such repeal; and

Ante, p. 789.

Ante, p. 792.

Effective date.
12 USC 86a note.
15 USC 687.

(2) the amendments made by title II of such Act shall apply to any deposit made or obligation issued in any State on or after November 5, 1979, but prior to such repeal.

SEC. 213. Notwithstanding any other provision of this title, subject to sections 207 (2) and (3) and 211 (2) and (3) of this Act and section 308(h)(3) (B) and (C) of the Small Business Investment Act of 1958, the provisions of this title shall continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

Approved December 28, 1979.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-421 (Comm. on Banking, Finance, and Urban Affairs).

SENATE REPORT No. 96-423 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 125 (1979):

Sept. 17, considered and passed House.

Dec. 10, considered and passed Senate, amended.

Dec. 17, House concurred in Senate amendments with amendments.

Dec. 18, Senate concurred in House amendments with an amendment.

Dec. 19, House concurred in Senate amendment with an amendment; Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 15, No. 52:

Dec. 28, Presidential statement.