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# A BILL FOR AN ACT

RELATING TO INTEREST AND USURY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 478-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§478-4 Rate by written contract.** (a) It shall in no  
4 case be deemed unlawful, with respect to any consumer credit  
5 transaction (except a credit card agreement) and any home  
6 business loan to stipulate by written contract, for any rate of  
7 simple interest not exceeding one per cent per month or twelve  
8 per cent a year or, in the event the creditor is a financial  
9 institution regulated under chapter 412 (other than a trust  
10 company or a credit union), for any rate of simple interest not  
11 exceeding two per cent per month or twenty-four per cent a  
12 year[; ~~and it shall in no case be unlawful, with respect to any~~  
13 ~~credit card agreement, to stipulate by written contract for any~~  
14 ~~rate of simple interest not exceeding one and one-half per cent~~  
15 ~~per month or eighteen per cent a year].~~

16 (b) As an alternative to the rate of interest specified in  
17 subsection (a), it shall be lawful with respect to any consumer  
18 credit transaction (except a credit card agreement) and any home



1 business loan to stipulate by written contract for the payment  
2 and receipt of a finance charge in any form or forms at an  
3 annual percentage rate not to exceed twelve per cent, or twenty-  
4 four per cent in the event the creditor is a financial  
5 institution regulated under chapter 412 (other than a trust  
6 company or a credit union), together in either case with any  
7 other charges that are excluded or excludable from the  
8 determination of finance charge under the Truth in Lending Act [~~7~~  
9 ~~and, with respect to any credit card agreement, to stipulate by~~  
10 ~~written contract for the payment and receipt of a finance charge~~  
11 ~~at an annual percentage rate not to exceed eighteen per cent,~~  
12 ~~together with any other charges that are excluded or excludable~~  
13 ~~from the determination of finance charge under the Truth in~~  
14 ~~Lending Act]~~. The rates in this paragraph shall be available as  
15 alternative permissible rates for any of the credit transactions  
16 referred to, whether in fact or in law the Truth in Lending Act  
17 applies to the transaction, notwithstanding the advance, fixed,  
18 or variable manner in which interest or finance charge may be  
19 computed under the contract, and whether the contract uses the  
20 terms interest, annual percentage rate, finance charge or any  
21 combination of such terms. For rate computation purposes, with  
22 respect to any contract to which this paragraph may apply, the



1 creditor conclusively shall be presumed to have given all  
2 disclosures in the manner, form, and at the time contemplated by  
3 the Truth in Lending Act, including those necessary to exclude  
4 any charges from the finance charge.

5 (c) With respect to any transaction other than a consumer  
6 credit transaction, a home business loan or a credit card  
7 agreement, it shall be lawful to stipulate by written contract  
8 for any rate of interest not otherwise prohibited by law.

9 (d) The rate limitations contained in subsections (a) and  
10 (b) of this section and section 478-11.5 shall not apply to any  
11 credit transaction authorized by, and entered into in accordance  
12 with the provisions of, articles 9 and 10 of chapter 412 or 476.

13 (e) With respect to a credit card agreement, it shall be  
14 lawful to stipulate by written contract any amount of interest  
15 authorized by section 478-11.5."

16 SECTION 2. Section 478-11.5, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§478-11.5 Credit cards. (a) With regard to every credit  
19 card issuer wherever located and a customer who is a resident of  
20 this State and who is given the opportunity to enter into a  
21 credit card plan, every solicitation and application for the  
22 credit card plan shall set forth all of the following:



- 1           (1) ~~[Annual percentage rate,]~~ The initial simple interest  
2                   numerical periodic rate and any fee or charge payable  
3                   by the cardholder, directly or indirectly, as an  
4                   incident to or a condition of the extension of credit,  
5                   or if the rate or fee may vary, a statement that it  
6                   may do so and the circumstances under which it may  
7                   increase and the effects of the increase;
- 8           (2) The date or occasion upon which the ~~[finance charge]~~  
9                   interest begins to accrue;
- 10          (3) Whether any annual fee is charged and the amount of  
11                   the fee;
- 12          (4) Any minimum, fixed, transaction, activity or similar  
13                   charge that could be imposed; and
- 14          (5) That charges incurred by the use of a charge card are  
15                   due and payable upon receipt of a periodic statement  
16                   of charges if applicable. For purposes of this  
17                   paragraph, the term "charge card" means any card,  
18                   plate or other device pursuant to which the charge  
19                   card issuer extends credit which is not subject to a  
20                   finance charge and where the charge cardholder cannot  
21                   automatically access credit that is repayable in  
22                   installments.



1        (b) With respect to any credit card agreement, it shall in  
2 no case be deemed unlawful to stipulate by written contract for  
3 any amount of interest, except that the simple interest  
4 numerical periodic rate shall not exceed eighteen per cent per  
5 year. Prior to charging any fee or charge that constitutes  
6 interest under this subsection, the credit card issuer shall  
7 disclose the fee or charge to the credit card holder.

8        As used in this subsection, "interest" means the simple  
9 interest numerical periodic rate and any other fee, charge, or  
10 payment, directly or indirectly charged or received as an  
11 incident to or a condition of an extension of credit under a  
12 credit card agreement, including, but not limited to:

- 13        (1) A currency exchange conversion fee;  
14        (2) A late fee;  
15        (3) A creditor-imposed "not sufficient funds" fee charged  
16        when a borrower tends payment on a debt with a check  
17        drawn on insufficient funds;  
18        (4) An over-the-credit limit fee;  
19        (5) An annual fee or other periodic membership fee;  
20        (6) A balance transfer fee;  
21        (7) A cash advance fee; and  
22        (8) A minimum finance charge."



1 SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun, before its effective date.

4 SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Ramirez*  
*By Request*

**SB. NO. 3066**

**Report Title:**

Interest and Usury; Credit Cards

**Description:**

Clarifies permissible credit card interest rates. Defines "interest" to include credit card fees and charges.

