
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
4 twenty-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]~~ that is not subject
20 to a finance charge and where the charge cardholder
21 cannot automatically access credit that is repayable
22 in installments.



1 (b) With respect to any credit card agreement, in no case
2 shall it 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, the credit card
6 issuer shall disclose the fee or charge to the credit card
7 holder in the credit card agreement or in an amendment to the
8 credit card agreement.

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

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



1 (8) A minimum finance charge."

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

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 Statutory material to be repealed is bracketed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

7 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Interest and Usury; Credit Cards

Description:

Clarifies permissible credit card interest rates. Defines "interest" to include credit card fees and charges. (SD1)

