

CHAPTER 334

MONEY, RATES OF INTEREST

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334.01 RATE OF INTEREST.

Subdivision 1. General. The interest for any legal indebtedness shall be at the rate of \$6 upon \$100 for a year, unless a different rate is contracted for in writing. No person shall directly or indirectly take or receive in money, goods, or things in action, or in any other way, any greater sum, or any greater value, for the loan or forbearance of money, goods, or things in action, than \$8 on \$100 for one year. In the computation of interest upon any bond, note, or other instrument or agreement, interest shall not be compounded, but any contract to pay interest, not usurious, upon interest overdue, shall not be construed to be usury. Contracts shall bear the same rate of interest after they become due as before, and any provision in any contract, note, or instrument providing for an increase of the rate of interest after maturity, or any increase therein after making and delivery, shall work a forfeiture of the entire interest; but this provision shall not apply to notes or contracts which bear no interest before maturity nor shall it apply to any agreement which extends the maturity date of any contract, note, or instrument, and provides for an increased rate of interest after the original maturity date on the indebtedness then due. Any agreement which extends maturity date of any contract, note or instrument shall not provide for an increased rate of interest in excess of \$8 on \$100 for one year.

Subd. 2. Contracts of \$100,000 or more. A contract for the loan or forbearance of money, goods, or things in action, in the amount of \$100,000 or more, and any extensions, including extensions of installments and related changes in the terms thereof, shall be exempt from the provisions of this chapter and the interest for the indebtedness shall be at the rate of \$6 upon \$100 for a year, unless a different rate is contracted for in writing.

Subd. 3. Contracts under Employee Retirement Income Security Act of 1974. A contract entered into on or after December 31, 1974, for the loan or forbearance of money, goods, or things in action and any extensions, including extensions of installments and related changes in its terms between a participant, former participant, or beneficiary, and a plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, United States Code, title 29, chapter 18, as amended through December 31, 1982, is exempt from the provisions of this chapter.

History: (7036) *RL s 2733; 1923 c 70 s 1; 1957 c 347 s 1; 1974 c 238 s 1; 1975 c 358 s 1; 1977 c 350 s 4; 1979 c 276 s 1; 1981 c 347 s 1; 1983 c 34 s 1*

334.011 RATES OF INTEREST; BUSINESS AND AGRICULTURAL LOANS.

Subdivision 1. Notwithstanding the provisions of any law to the contrary a person may, in the case of a contract for the loan or forbearance of money, goods, or other things in action in an amount of less than \$100,000 for business or agricultural purposes, charge interest at a rate of not more than 4-1/2 percent in excess of the discount

rate on 90 day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district encompassing Minnesota.

For the purposes of this subdivision, the term "business" means a commercial or industrial enterprise which is carried on for the purpose of active or passive investment or profit.

For the purposes of this subdivision, the term "agricultural" means the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products, including horticultural, viticultural, and dairy products, livestock, wild-life, poultry, bees, forest products, fish and shellfish, and any parts thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

No loan shall be made pursuant to this subdivision if the proceeds of the loan are used to finance the purchase or maintenance of real estate used principally for the borrower's residence.

Subd. 2. If a greater rate of interest than that permitted by subdivision 1 is charged then the entire interest due on that note, bill or other evidence of debt is forfeited. If the greater rate of interest has been paid, the person who paid it may recover in a civil action an amount equal to twice the amount of interest paid.

Subd. 3. If the rate of interest charged is permitted by this section at the time the loan was made, that rate of interest does not later become usurious because of a fluctuation in the federal discount rate.

Subd. 4. This section is effective the day following final enactment.

History: 1976 c 93 s 1,2; 1977 c 303 s 1,2; 1979 c 23 s 1; 1981 c 347 s 2

334.012 RATES OF INTEREST; LOANS SECURED BY SAVINGS ACCOUNTS.

Notwithstanding the provisions of section 334.01, a financial institution may, in the case of a loan or forbearance of money, goods, or things in action, secured by a savings or time deposit account owned by the borrower, charge interest at a rate of not more than the greater of two percent in excess of the rate of interest payable on the savings or time deposit account or the contracted rate authorized in section 334.01, subdivision 1. For purposes of this section, "financial institution" means a bank, savings bank, trust company, mutual savings bank, or savings and loan association organized under the laws of this state or the United States and having its main office in this state.

History: 1978 c 643 s 1

334.02 USURIOUS INTEREST; RECOVERY.

Every person who for any such loan or forbearance shall have paid or delivered any greater sum or value than in section 334.01 allowed to be received may, personally or through personal representatives, recover in an action against the person who shall have received the same, or the receiver's personal representatives, the full amount of interest or premium so paid, with costs, if action is brought within two years after such payment or delivery. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 48.196 or chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

History: (7037) RL s 2734; 1978 c 529 s 6; 1980 c 606 s 3; 1981 c 258 s 21; 1982 c 547 s 9; 1986 c 444

334.021 CORPORATION PROHIBITED FROM INTERPOSING DEFENSE OF USURY.

No corporation shall hereafter interpose the defense of usury in any action. The term "corporation," as used in this section, includes any cooperative corporation, cooperative association, or limited partnership, and further includes any association or joint stock company having any of the powers and privileges of corporations not possessed by an individual or a partnership.

History: 1947 c 282 s 1; 1969 c 922 s 1; 1984 c 493 s 1; 1Sp1985 c 13 s 316

334.03 USURIOUS CONTRACTS INVALID; EXCEPTIONS.

All bonds, bills, notes, mortgages, and all other contracts and securities, and all deposits of goods, or any other thing, whereupon or whereby there shall be reserved, secured, or taken any greater sum or value for the loan or forbearance of any money, goods, or things in action than prescribed, except such instruments which are taken or received in accordance with and in reliance upon the provisions of any statute, shall be void except as to a holder in due course. No merely clerical error in the computation of interest, made without intent to avoid the provisions of this chapter, shall constitute usury. Interest at the rate of 1/12 of eight percent for every 30 days shall not be construed to exceed eight percent per annum; nor shall the payment of interest in advance of one year, or any less time, at a rate not exceeding eight percent per annum constitute usury; and nothing herein shall prevent the purchase of negotiable mercantile paper, usurious or otherwise, for a valuable consideration, by a purchaser without notice, at any price before the maturity of the same, when there has been no intent to evade the provisions of this chapter, or where such purchase has not been a part of the original usurious transactions; but where the original holder of a usurious note sells the same to an innocent purchaser, the maker thereof, or the maker's representatives, may recover back from the original holder the amount of principal and interest paid on the note. This section does not apply when the loan or forbearance is made by a lender and the lender is liable for the penalty provided in section 48.196 or chapter 56 in connection with the loan or forbearance. For purposes of this section, the term "lender" means a bank or savings bank organized under the laws of this state, a federally chartered savings and loan association, a savings association organized under chapter 51A, a federally chartered credit union, a credit union organized under chapter 52, an industrial loan and thrift company organized under chapter 53, a licensed lender under chapter 56, or a mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs.

History: (7038) RL s 2735; 1923 c 283 s 1; 1965 c 391 s 1; 1978 c 529 s 7; 1980 c 606 s 4; 1981 c 258 s 22; 1982 c 547 s 10; 1986 c 444

334.04 OFFENDERS TO ANSWER ON OATH.

Every person offending against the provisions of this chapter shall be compelled to answer, on oath, the complaint in any action brought against that person in the district court of the proper county for the discovery of any sum of money, goods, or things in action so taken, accepted, or received in violation of any of the foregoing provisions.

History: (7039) RL s 2736; 1986 c 444

334.05 USURIOUS CONTRACTS; CANCELLATION.

When it satisfactorily appears to a court that any bond, bill, note, assurance, pledge, conveyance, contract, security, or evidence of debt is void under the provisions of this chapter it shall declare the same to be void, enjoin any proceeding thereon, and order it to be canceled and given up.

History: (7040) RL s 2737; 1965 c 391 s 2

334.06 AGREEMENTS TO SHARE PROFITS; BANKS FOR FARM COOPERATIVES.

Nothing in this chapter shall be construed as in any way affecting any contract whereby one party advances money to be used in business or other ventures mutually determined upon, and whereby the party receiving such money agrees to refund the same, with lawfully stipulated interest, and, in addition thereto, agrees to share, equally or otherwise, with the party so advancing the money, the profits of such business or ventures; nor shall its provisions apply to any banks for cooperatives created or operating under the Federal Farm Credit Act of 1933, as amended, which by law or contract with its borrowers operates as a cooperative.

History: (7041) *RL s 2738; 1967 c 341 s 1; 1977 c 350 s 3*

334.061 AGRICULTURAL CREDIT CORPORATIONS; INTEREST RATE LIMITATIONS.

A state chartered agricultural credit corporation operating under United States Code, title 12, sections 1401, 1402, 1403, and 1404 may make a charge on its loans at a rate of not more than 4-1/2 percent in excess of the discount rate on 90 day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district encompassing Minnesota.

History: 1976 *c 158 s 1; 1981 c 347 s 3*

334.07 [Repealed, 1955 *c 8 s 2*]

334.08 [Repealed, 1965 *c 811 art 10 s 336.10-102*]

334.09 [Repealed, 1965 *c 811 art 10 s 336.10-102*]

334.10 DAMAGES ON INTERNATIONAL BILLS.

When any bill of exchange, drawn or endorsed in the state and payable without the United States, is duly protested for nonacceptance or nonpayment, the party liable for the contents thereof, on due notice and demand, shall pay the same at the current rate of exchange at the time of the demand, and damages at the rate of ten percent upon the contents, together with the interest on such contents, computed from the date of protest. The amount of such contents, damages, and interest shall be paid in full of all damages, charges, and expenses.

History: (7245) *RL s 2743*

334.11 RATE OF DAMAGE ON INTERSTATE BILLS.

When any bill of exchange, drawn upon any person out of the state but within the United States, is duly presented for acceptance or payment, and is protested for nonacceptance or nonpayment, the drawer or endorser thereof, after due notice of such dishonor, shall pay the bill according to its tenor, with interest and five percent damages, together with charges of protest.

History: (7246) *RL s 2744*

334.12 [Repealed, 1965 *c 811 art 10 s 336.10-102*]

334.13 [Renumbered 335.042]

334.14 [Renumbered 335.043]

334.15 [Renumbered 335.044]

334.16 FINANCE CHARGES FOR OPEN END CREDIT SALES.

Subdivision 1. **Limitation of rates.** The imposition, charge or collection of a finance charge upon an account balance by a seller of goods, services or both shall be lawful, provided that:

(a) The sale is a consumer credit sale pursuant to an open end credit plan, agreement or arrangement between the buyer and seller under which (1) the seller may per-

mit the buyer to make purchases from time to time from the seller or other sellers, (2) the buyer has the privilege of paying the balance in full or in installments, and (3) a finance charge may be computed by the seller from time to time on an outstanding unpaid balance; and

(b) The terms of the plan, agreement or arrangement provide for a periodic rate of finance charge which does not exceed 1-1/2 percent per month computed on an amount no greater than the average daily balance of the account during each monthly billing cycle; provided a minimum finance charge not in excess of 50 cents per month may be imposed, charged or collected.

(c) No finance charge in excess of 1-1/3 percent per month shall be imposed on an open end and consumer credit account by any issuer whose credit card is issued primarily for the purpose of purchasing motor fuels and related products and whose gross annual national sales exceed \$10 billion. Retailers must give adequate notice to open end consumer credit customers before any higher interest rate is applied. Accompanying credit statements must not suggest that the Minnesota legislature required retailers to raise interest rates. The accompanying material must make clear that the increase affects only the maximum allowable interest rate.

Subd. 2. Definitions and computations. The definitions and the provisions on computation of percentage rates in the Truth-in-Lending Act, Title I of the Consumer Credit Protection Act, Public Law Number 90-321, and in Regulation Z of the Board of Governors of the Federal Reserve System adopted pursuant thereto, Code of Federal Regulations, title 12, section 226, as in effect on June 5, 1971, shall apply to the terms used in sections 334.16 to 334.18, and computations thereunder.

Subd. 3. Computation of average daily balance. The calculation of the average daily balance for the purpose of the limitation on rates imposed by subdivision 1, clause (b) shall be made by excluding from the daily balances the amount of each sale from the date of sale until the last day of the regular billing cycle during which the sale was made. The portion of any balance arising from the sale of goods which are returned shall be excluded from the unpaid balance as of the date the goods are returned.

History: 1971 c 877 s 1; 1980 c 346 s 1,2; 1981 c 347 s 4; 1985 c 57 s 1

334.17 PRIOR OPEN END CREDIT SALES AND AGREEMENTS CONFIRMED.

Open end consumer credit sales plans, agreements and arrangements and sales pursuant thereto made prior to August 1, 1971, shall be enforceable by the buyer and the seller, the defense of usury shall not be interposed in any action thereon and no action shall be maintained in any court to recover moneys paid thereunder; provided the finance charge to be imposed, charged and collected on or after August 1, 1971, with respect to any open end consumer credit sales, plans, agreements and arrangements, and sales pursuant thereto whether made before or after August 1, 1971, shall not exceed the finance charge provided in section 334.16, subdivision 1, clause (b). Nothing contained in sections 334.16 to 334.18 shall be construed to affect any constitutionally protected vested right or any action by an individual acting personally, and not as a representative of a class, for recovery of interest or finance charges paid and no class action shall be maintained therefor.

History: 1971 c 877 s 2; 1986 c 444

334.18 PENALTIES FOR VIOLATIONS.

Any seller who violates any provision of sections 334.16 to 334.18, except as a result of an unintentional act or bona fide error, shall forfeit to the buyer three times any finance charge imposed, charged or collected under or in connection with the related open end credit plan, agreement or arrangement for so long as the violation continues.

History: 1971 c 877 s 3

334.19 INTEREST RATES ON MARGIN ACCOUNTS.

Subject to the provisions of chapter 80A, no law in this state prescribing or limiting interest rates upon loans applies to interest charged by a broker or dealer registered under the Securities Exchange Act of 1934, as amended, for carrying a debit balance including a debit balance arising out of a nonpurpose loan, in an account for a customer if such debit balance is payable on demand and secured by securities or bonds.

History: 1974 c 26 s 1; 1975 c 27 s 1

334.20 USURIOUS INTEREST; DETERMINATION AT TIME OF CONTRACT.

The law existing at the time of a contract for the loan or forbearance of money, goods, or services, or things in action shall determine whether the interest charged on the loan or forbearance exceeded the maximum statutory interest rate, and the penalty for exceeding the maximum statutory interest rate in effect at the time of the transaction shall be applied notwithstanding a subsequent repeal or modification of the maximum statutory interest rate. This section applies to all actions to enforce a contract for the loan or forbearance of money, goods, or things in action that have not been reduced to final judgment on May 29, 1985, and applies to all contracts governed by this chapter and chapters 47, 48, 50, 51A, 52, 53, and 56, except sections 334.16 to 334.18.

History: 1985 c 244 s 1