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GENERAL USURY CEILING

House Bill 4706 as passed by the House
Second Analysis (7-27-88)

Sponsor: Rep. Thomas Power
Committee: Corporations and Finance

THE APPARENT PROBLEM:

The usury act, Public Act 326 of 1966, imposes an annual interest rate limit of seven percent on written loans. Numerous exceptions have been made to this limit, with the result that the ceiling generally applies only to loans (other than real estate and business loans) made by individuals who are not in the business of extending credit. Regardless of its limited applications, the general usury ceiling is widely considered to be unrealistically and unfairly low, given today's market interest rates. It has been suggested that the general usury limit be increased to a more reasonable figure.

THE CONTENT OF THE BILL:

The bill would maintain the general usury interest rate limit of 7 percent per year on written loans, but would specify that this rate would include all finance charges as defined in the federal Truth in Lending Act. (The 5 percent limit on unwritten loans would be retained.) The bill specifies, however, that "parties not engaged in the business of lending money" could stipulate in writing for the payment of any rate of interest not exceeding 11 percent per annum, including all finance charges.

MCL 438.31

FISCAL IMPLICATIONS:

According to the Financial Institutions Bureau of the Department of Commerce, the bill would not affect state expenditures. (8-4-88)

ARGUMENTS:

For:

The bill would increase the interest rate limit on written loans by non-regulated lenders from 7 percent per year to a more reasonable 11 percent. This rate is closer to market rates and would be a more appropriate ceiling.

For:

The bill specifies that the computation of interest rates would include all amounts defined as the finance charge in the federal Truth In Lending Act. This provision would ensure that any legislated limit could not be evaded by charging unreasonably high fees in addition to an agreed upon interest rate.

Against:

Finance charges generally are added to the interest rate cost of a loan to cover the lender's expenses for services rendered beyond that of loaning funds (e.g., for paperwork). Other statutes regulating loans do not include finance charges in the computation of interest rates, and the usury act should conform to those laws.

Against:

While 11 percent may seem a reasonable figure now, it should be noted that market interest rates have been considerably higher in recent years than they are at present. The bill may be preferable to current law, but raising the ceiling to a modest 11 percent would be only a minor improvement.

POSITIONS:

The Financial Institutions Bureau supports the bill. (8-4-88)

The Michigan Association of Realtors supports the bill. (8-4-88)

The Michigan League of Savings Institutions supports the bill. (8-5-88)

The Michigan Consumers Council is not opposed to the bill. (8-16-88)

The Michigan Bankers Association has no position on the bill. (8-8-88)