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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

For the purpose of the Act of 1968, the State President has assented to the following Act which is hereby published for general information:—

STAATSKOERANT

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[No. 4457

KAAPSTAD, 23 OKTOBER 1974

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1934.

23 October 1974.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 62 of 1974: Limitation and Disclosure of Finance Charges Amendment Act, 1974.

No. 1934.

23 Oktober 1974.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 62 van 1974: Wysigingswet op Beperking en Bekendmaking van Finansieringskoste, 1974.

Wet No. 62, 1974

WYSIGINGSWET OP BEPERKING EN BEKENDMAKING
VAN FINANSIERINGSKOSTE, 1974.

WET

Tot wysiging van die Wet op Beperking en Bekendmaking van Finansieringskoste, 1968, ten einde sekere uitdrukkings te omskryf; voorsiening daarvoor te maak dat maksimum finansieringskostekoerse by regulasie voorgeskryf kan word; en sekere instellings en transaksies van sekere bepalinge van genoemde Wet vry te stel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 16 Oktober 1974.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 1 van
Wet 73 van 1968,
soos gewysig deur
artikel 1 van
Wet 76 van 1970.

1. Artikel 1 van die Wet op Beperking en Bekendmaking van Finansieringskoste, 1968 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur na die omskrywing van „finansieringskostekoers per periode” die volgende omskrywing in te voeg:
„„gebied” die gebied Suidwes-Afrika;” en
- (b) deur na die omskrywing van „regulasie” die volgende omskrywing in te voeg:
„„Republiek” ook die gebied;”.

Wysiging van
artikel 2 van
Wet 73 van 1968,
soos gewysig deur
artikel 2 van
Wet 76 van 1970.

2. (1) Artikel 2 van die Hoofwet word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:
„(1) ’n Gelduitlener beding, eis of ontvang nie finansieringskoste in verband met ’n geldleningstransaksie teen ’n finansieringskostekoers per jaar van meer as—

- (a) agtien-en-’n-kwart persent nie of, indien ’n ander persentasie, hetsy groter of kleiner, vir die doeleindes van hierdie paragraaf by regulasie voorgeskryf word, as die persentasie nie wat aldus van tyd tot tyd voorgeskryf is, waar die totale bedrag geld wat deur hom binne ’n tydperk van drie maande aan ’n geldopnemer geleen is, met inbegrip van uitgawes wat binne bedoelde tydperk deur hom uitbetaal is en as deel van die hoofskuld verhaalbaar is, alles tesame nie tweehonderd rand oorskry nie;
- (b) vyftien persent nie of, indien ’n ander persentasie, hetsy groter of kleiner, vir die doeleindes van hierdie paragraaf by regulasie voorgeskryf word, as die persentasie nie wat aldus van tyd tot tyd voorgeskryf is, waar die totale bedrag geld wat deur hom binne ’n tydperk van drie maande aan ’n geldopnemer geleen is, met inbegrip van uitgawes wat binne bedoelde tydperk deur hom uitbetaal is en as deel van die hoofskuld verhaalbaar is, alles tesame tweehonderd rand oorskry maar alles tesame nie vierhonderd rand oorskry nie;

LIMITATION AND DISCLOSURE OF FINANCE CHARGES
AMENDMENT ACT, 1974.

Act No. 62, 1974

ACT

To amend the Limitation and Disclosure of Finance Charges Act, 1968, so as to define certain expressions; to make provision for prescribing maximum finance charge rates by regulation; and to exempt certain institutions and transactions from certain provisions of the said Act; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 16 October 1974.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Limitation and Disclosure of Finance Charges Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "regular payments" of the following definitions:

Amendment of section 1 of Act 73 of 1968, as amended by section 1 of Act 76 of 1970.

"Republic" includes the territory;
"territory" means the territory of South West Africa;".

2. (1) Section 2 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

Amendment of section 2 of Act 73 of 1968, as amended by section 2 of Act 76 of 1970.

"(1) No moneylender shall in connection with any money lending transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than—

(a) eighteen and one-quarter per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this paragraph, than the percentage so prescribed from time to time, where the total amount of money lent by him to a borrower, including disbursements, recoverable as part of the principal debt, made by him, within any period of three months does not in the aggregate exceed two hundred rand;

(b) fifteen per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this paragraph, than the percentage so prescribed from time to time, where the total amount of money lent by him to a borrower, including disbursements, recoverable as part of the principal debt, made by him, within any period of three months exceeds in the aggregate two hundred rand but does not in the aggregate exceed four hundred rand;

Wet No. 62, 1974

WYSIGINGSWET OP BEPERKING EN BEKENDMAKING
VAN FINANSIERINGSKOSTE, 1974.

(c) twaalf persent nie of, indien 'n ander persentasie, hetsy groter of kleiner, vir die doeleindes van hierdie paragraaf by regulasie voorgeskryf word, as die persentasie nie wat aldus van tyd tot tyd voorgeskryf is, waar die totale bedrag geld wat deur hom binne 'n tydperk van drie maande aan 'n geldopnemer geleen is, met inbegrip van uitgawes wat binne bedoelde tydperk deur hom uitbetaal is en as deel van die hoofskuld verhaalbaar is, alles tesame vierhonderd rand oorskry.

(2) 'n Kredietgewer beding, eis of ontvang nie finansieringskoste in verband met 'n krediettransaksie teen 'n finansieringskostekoers per jaar van meer as agtien-en-'n-kwart persent nie of, indien 'n ander persentasie, hetsy groter of kleiner, vir die doeleindes van hierdie subartikel by regulasie voorgeskryf word, as die persentasie nie wat aldus van tyd tot tyd voorgeskryf is."

(2) 'n Regulasie uitgevaardig uit hoofde van die wysigings aangebring deur subartikel (1) binne een maand na die inwerkingtreding van hierdie Wet, kan uitgevaardig word met terugwerkende krag tot enige datum na 13 Augustus 1974.

Wysiging van
artikel 3 van
Wet 73 van 1968,
soos gewysig deur
artikel 3 van
Wet 76 van 1970.

3. Artikel 3 van die Hoofwet word hierby gewysig deur paragraaf (d) van subartikel (3) deur die volgende paragraaf te vervang:

„(d) 'n geldlening deur 'n lewensversekeraar gegee aan die eienaar van 'n polis waarkragtens daardie versekeraar aan die een of ander verpligting onderworpe is, waar die lening gesekureer is deur verpanding van daardie polis."

Vervanging van
artikel 15 van
Wet 73 van 1968.

4. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

15. Die bepalings van hierdie Wet is nie van toepassing nie op—

- (a) 'n geldleningstransaksie of 'n krediettransaksie wat aangegaan is voor, of op 'n skuldakte wat bestaan by, die inwerkingtreding van hierdie Wet: Met dien verstande dat bedoelde bepalings van toepassing is op of ten aansien van die hernuwing van iedere sodanige transaksie of akte wat op of na die datum van inwerkingtreding van hierdie Wet bewerkstellig is of word;
- (b) 'n geldleningstransaksie of krediettransaksie van 'n pandhuishouer wat binne die bestek van 'n wet val wat van tyd tot tyd met betrekking tot pandhuishouers van krag is;
- (c) die Land- en Landboubank van Suid-Afrika;
- (d) die Suid-Afrikaanse Reserwebank;
- (e) 'n geldleningstransaksie waarkragtens 'n gelduitlener buite die Republiek 'n lening van 'n som geld wat buite die Republiek is, aan 'n geldopnemer in die Republiek toestaan, ongeag of—
- (i) die skuldakte ten opsigte van daardie geldleningstransaksie in die Republiek verly word al dan nie;
- (ii) daardie som geld na die Republiek oorgedra word al dan nie; en
- (iii) die geldopnemer as tussenganger ten behoeve van 'n ander persoon in die Republiek die geldleningstransaksie sluit al dan nie."

Kort titel.

5. Hierdie Wet heet die Wysigingswet op Beperking en Bekendmaking van Finansieringskoste, 1974.

LIMITATION AND DISCLOSURE OF FINANCE CHARGES Act No. 62, 1974
AMENDMENT ACT, 1974.

- (c) twelve per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this paragraph, than the percentage so prescribed from time to time, where the total amount of money lent by him to a borrower, including disbursements, recoverable as part of the principal debt, made by him, within any period of three months, exceeds in the aggregate four hundred rand.

(2) No credit grantor shall in connection with any credit transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than eighteen and one-quarter per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this subsection, than the percentage so prescribed from time to time."

(2) Any regulation made by virtue of the amendments effected by subsection (1) within one month after the commencement of this Act, may be made with retrospective effect to any date after 13 August 1974.

3. Section 3 of the principal Act is hereby amended by the substitution for paragraph (d) of subsection (3) of the following paragraph:

"(d) a money loan given by a life insurer to the owner of a policy in terms of which such insurer is subject to any obligation, where such loan is secured by the pledge of that policy."

Amendment of section 3 of Act 73 of 1968, as amended by section 3 of Act 76 of 1970.

4. The following section is hereby substituted for section 15 of the principal Act:

Substitution of section 15 of Act 73 of 1968.

"Exemptions from the provisions of this Act.

15. The provisions of this Act shall not apply to—

- (a) any money lending transaction or any credit transaction entered into before, or any instrument of debt existing at, the commencement of this Act: Provided that the said provisions shall apply to or in respect of the renewal of every such transaction or instrument effected on or after the date of commencement of this Act;
- (b) any money lending transaction or credit transaction of a pawnbroker falling within the ambit of any law for the time being in force in relation to pawnbrokers;
- (c) the Land and Agricultural Bank of South Africa;
- (d) the South African Reserve Bank;
- (e) a money lending transaction in terms of which a moneylender outside the Republic grants a loan of a sum of money which is outside the Republic to a borrower in the Republic, irrespective of—
 - (i) whether or not the instrument of debt in respect of such money lending transaction is executed in the Republic;
 - (ii) whether or not such sum of money is transferred to the Republic; and
 - (iii) whether or not the borrower concludes the money lending transaction as an intermediary on behalf of any other person in the Republic."

5. This Act shall be called the Limitation and Disclosure of Finance Charges Amendment Act, 1974.

Short title.

AMENDMENT ACT, 1974 LIMITATION AND DISCLOSURE OF FINANCE CHARGES Act No. 63, 1974

(c) twelve per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this paragraph, than the percentage so prescribed from time to time, where the total amount of money lent by him to a borrower, including disbursements, recoverable as part of the principal debt, made by him, within any period of three months, exceeds in the aggregate four hundred rand.

(2) No credit grantor shall in connection with any credit transaction stipulate for demand or reserve finance charges at an annual finance charge rate greater than eighteen and one-quarter per cent or, if any other percentage, whether greater or smaller, is prescribed by regulation for the purposes of this subsection, than the percentage so prescribed from time to time.

(3) Any regulation made by virtue of the amendments effected by subsection (1) within one month after the commencement of this Act may be made with retrospective effect to any date after 13 August 1974.

3. Section 3 of the principal Act is hereby amended by the substitution for paragraph (e) of subsection (3) of the following paragraph:
“(d) a money loan given by a life insurer to the owner of a policy in terms of which such insurer is subject to any obligation, where such loan is secured by the pledge of that policy.”

4. The following section is hereby substituted for section 12 of the principal Act:
“Section 12. The provisions of this Act shall not apply to—

(a) any money lending transaction or any credit transaction entered into before or any instrument of debt existing at the commencement of this Act; provided that the said provisions shall apply to or in respect of the renewal of every such transaction or instrument effected on or after the date of commencement of this Act;

(b) any money lending transaction or credit transaction of a pawnbroker falling within the ambit of any law for the time being in force in relation to pawnbrokers;

(c) the Land and Agricultural Bank of South Africa;

(d) the South African Reserve Bank;

(e) a money lending transaction in terms of which a moneylender outside the Republic grants a loan of a sum of money which is outside the Republic to a borrower in the Republic, irrespective of—

(i) whether or not the instrument of debt in respect of such money lending transaction is executed in the Republic;

(ii) whether or not such sum of money is transferred to the Republic; and

(iii) whether or not the borrower concludes the money lending transaction as an intermediary on behalf of any other person in the Republic.”

5. This Act shall be called the Limitation and Disclosure of Short title
Finance Charges Amendment Act, 1974.