

COUNCIL OF THE DISTRICT OF COLUMBIA

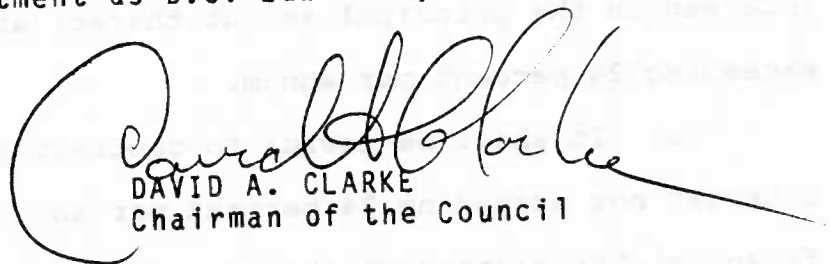
NOTICE

D.C. LAW 5-62

"Interest Rate Ceiling Amendment Act of 1983".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-193 on first and second readings, November 15, 1983 and December 6, 1983, respectively. Following the signature of the Mayor on December 23, 1983, this legislation was assigned Act No. 5-93, published in the January 13, 1984 edition of the D.C. Register, (Vol. 31 page 114) and transmitted to Congress January 4, 1984 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-62, effective March 14, 1984.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	23,24,25,26,27,30,31
February	1,2,3,6,7,8,9,21,22,23,24,27,28,29
March	1,2,5,6,7,8,9,12,13

EFFECTIVE DATE

MAR 14 1984

D.C. ACT 5 - 93

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 23 1983

To amend the interest rate ceiling in the District of Columbia on certain loans, and provide consumer protections; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Interest Rate Ceiling Amendment Act of 1983".

Sec. 2. D.C. Code, section 28-3301 is amended to read as follows:

D.C. Code,
sec. 28-3301

"(a) Except as otherwise provided in this section, section 28-3308, and chapter 36 of this subtitle, the parties to an instrument in writing for the payment of money at a future time may contract therein for the payment of interest on the principal amount thereof at a rate not exceeding 24 percent per annum.

Note, D.C. Code
secs. 29-901,
28-3311, -3312,
-3313, -3314,
-3301 & -3310
(1981 ed.)

"(b) It shall be lawful to contract for a rate of interest not exceeding 24 percent per annum on a loan or financial transaction which is secured by: (1) a first purchase mortgage or first purchase deed of trust on residential real property; (2) a first purchase security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a first security of the borrower's interest in the proprietary

lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate Ceiling Amendment Act of 1983.

"(c) It shall be lawful to contract for a rate of interest not exceeding 24 percent per annum on a loan or financial transaction which is secured directly or indirectly by: (1) a mortgage or deed of trust, other than a first purchase mortgage or first purchase deed of trust, on residential real property; (2) a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization; or (3) the assignment by way of a security, other than a first security interest, of the borrower's interest in the proprietary lease or first right of tenancy in property covered by such organization. The first sentence of this subsection shall apply only to a loan or financial transaction which is both contracted for and consummated after the effective date of the Interest Rate Ceiling Amendment Act of 1983 and for which no written commitment to make the loan or financial transaction at a lower rate of interest was issued by the lender to the borrower prior to the effective date of the Interest Rate

"(d) Notwithstanding any other provision of this chapter:

"(1) any loan, except a loan which is secured directly or indirectly by a mortgage or deed of trust on residential real property or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing organization and the residential real property or cooperative is the place of residence of the borrower, where the borrower receives the use of an amount in excess of \$1,000 shall not be subject to the provisions of this chapter and it shall be lawful to contract for, or receive, any rate of interest thereon if any of the following conditions are satisfied:

"(A) the borrower is a not for profit corporation, whether organized under the laws of the United States, the District of Columbia or any other jurisdiction; or

"(B) the borrower is an individual, group of individuals, corporation, unincorporated association, partnership, or other entity, and the loan is made for the purpose of acquiring or carrying on a business, professional, or commercial activity; or

"(C) the borrower is an individual, a group of individuals, corporation, unincorporated association,

partnership, or any other entity, and the loan is made for the purpose of acquiring any real or personal property as an investment or for carrying on an investment activity; or

"(D) the borrower is a religious society, as referred to in sections 29-901 through 29-916, and the loan is made for the purpose of acquiring or making an improvement on any real or personal property for purposes other than commercial or investment activities.

"(2) any loan where the borrower receives the use of an amount in excess of \$1,000 which is secured directly or indirectly by a mortgage or deed of trust on residential real property or by a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization or by the assignment by the way of a security of the borrower's interest in the proprietary lease or right of tenancy in property covered by a cooperative housing organization and the residential real property or cooperative is the place of residence of the borrower, shall only be subject to the provisions of D.C. Code, sections 28-3301(f), 28-3310, 28-3311, 28-3312, 28-3313, and 28-3314, and it shall be lawful to contract for any rate of interest thereon if any of the conditions set forth in D.C. Code, section 28-3301(d)(1)(A), (B), (C), or (D) are satisfied.

"(3) a lender shall not require a borrower to make any sworn statement or characterization that the loan meets the requirements of subsections (d)(1)(A), (B), (C), or (D) of this section if such statement or characterization

is not true. Nothing contained in this subsection shall be construed to limit a lender's right to request information from the borrower which enables a lender to make a determination that the loan meets the requirements of subsections (d)(1)(A), (B), (C), or (D).

"(e)(1) 'Point' means a fee, premium, bonus, loan origination fee, service charge, or any other charge equal to 1 percent or less of the principal amount of a loan which is charged by the lender at or before the time the loan is made as additional compensation for the loan. The term 'point' shall not include any increase in the purchase price of the residential real property or the first purchase security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization or the borrower's interest in a proprietary lease or first right of tenancy in the property covered by such organization which is charged by the seller (i) to recover the cost of compensation to a lender for agreeing to make a loan to the borrower which results in a reduction in the effective rate of interest charged to the borrower or (ii) in the case of a first purchase mortgage or first purchase deed of trust, to recover the cost to the seller of his agreement to reduce the effective rate of interest on the first purchase mortgage or first purchase deed of trust or (iii) any monies deposited by a borrower in a savings account to be applied to subsidize scheduled periodic payments on the loan or financial transaction.

"(2) A lender may not charge a borrower more than 1 point unless the borrower agrees to pay additional points to a lender for the sole purpose of qualifying for and obtaining a loan or financial transaction at a lower rate of interest than would otherwise have been offered. The first sentence of this paragraph shall not apply to loans insured or guaranteed in full or part by the Federal Housing Administration, Veteran's Administration or any other federal agency or to loans or financial transactions described in subsection (d).

"(f) A loan or financial transaction which is secured by a mortgage or deed of trust on residential real property or a security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization or the assignment by the way of security of the borrower's interest in the proprietary lease or right of tenancy in property covered by such organization shall meet all of the following requirements:

"(1) the loan or financial transaction may be prepaid by the borrower at no penalty at any time following the expiration of 3 years from the execution of the loan or financial transaction. Within 3 years from the execution of the loan or financial transaction, no prepayment charge or penalty shall be contracted for or received which exceeds an amount equal to 2 months advance interest on the aggregate amount of all prepayments in excess of 1/3 of the amount of the original loan or financial transaction made in any 12

month period.

"(2) any borrower who, on the date of execution of the loan or financial transaction, has made a downpayment equaling 20 percent or more of the total purchase price of the property or who has an equity interest in the property equal to or greater than 20 percent of the fair market value of the property shall not be required by the term of the loan to make advance payments of the real estate taxes or casualty insurance premiums to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums and such borrower shall be furnished with a separate statement, in writing, which clearly and conspicuously sets forth his right to pay such taxes and insurance premiums directly. Nothing contained in this paragraph shall be construed to prohibit the lender from obtaining, during any period during which the loan is in default and in consideration for the lender not exercising some or all of the remedies to which it is entitled, a written agreement from the borrower to make such advance payments to enable the lender to have funds on hand for disbursement for payment of such taxes or insurance premiums.

"(3) prior to the execution of the loan or financial transaction, the lender shall furnish the borrower a separate statement, in writing, which complies with the disclosure provisions of the Truth-In-Lending Act, as heretofore and hereafter amended, effective May 29, 1968 (82 Stat. 146; 150 U.S.C. 1601 et seq.), and the regulations and

interpretations thereunder and, where applicable, a separate statement, in writing, which complies with the disclosure provisions of the Alternative Mortgage Transaction Parity Act of 1982, approved October 15, 1982 (96 Stat. 1545; 12 U.S.C. 3801 et seq.), and the regulations and interpretations thereunder.

"(g) The provisions of this chapter shall not apply to any international banking facility time deposit or international banking facility loan, but shall be governed solely by regulations promulgated by the Board of Governors of the Federal Reserve System. For purposes of this subsection the terms 'international banking facility time deposit' and 'international banking facility loan' shall have the same meaning as defined in part 204.8(a)(2) and (3), respectively, of Federal Reserve System Regulation D (12 CFR 204.8(a)(2) and (3))(1983)."

Sec. 3. D.C. Code, section 28-3308(a) is amended to read as follows:

D.C. Code, se
28-3308
(1983 supp.)

"(a) On a loan (other than a loan directly secured on real estate or a direct motor vehicle installment loan covered by chapter 36 of this subtitle) to be repaid in equal or substantially equal monthly or other periodic installments, including a loan obtained by using a check, credit card, or other device to access a line of credit, any federally insured bank or savings and loan association doing business in the District of Columbia may contract for and receive interest at the rate permitted under this chapter or, in lieu of such interest, a finance charge, which if

expressed as an annual percentage rate, does not exceed a rate of 24 percent per annum on the unpaid balances of the principal. This section does not limit or restrict the manner of contracting for the finance charge, whether by way of discount, add-on, or simple interest, so long as the annual percentage rate of the finance charge does not exceed that permitted by this section."

Sec. 4. Chapter 33 of title 28 of the D.C. Code is amended by adding the following new sections to read as follows at the end thereof:

New, D.C. Co
sec. 28-3310
(1984 supp.)

"28-3310. Consumer Protections.

"(a)(1) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, upon request, but not more than 2 times a year, a statement, in writing stating the amount of:

"(A) payments credited to reducing the principal;

"(B) payments credited to interest;

"(C) the remaining unpaid principal balance;

"(2) A lender who receives scheduled periodic payments on more than 5 loans or financial transactions in a calendar year shall furnish to the borrower, at least 6 months and not more than 12 months prior to maturity of the loan or financial transaction, or, if the loan or financial transaction is for a period of less than 1 year, 1/2 way through the loan period, a statement, in writing, stating the following:

"(A) in the case of a loan or financial transaction which contains a schedule of payments under which each payment is not equal to, or substantially equal to, the other payments or if the intervals between payments are not substantially equal, the date or event upon which maturity occurs, and the projected principal loan balance that will be due at maturity of the loan or financial transaction; and

"(B) in the case of a loan or financial transaction where the interest rate is not fixed for the term of the loan, the projected principal loan balance that will be due at maturity, assuming no change in the interest rate, and the conditions under which the interest rate may change and what limits or restrictions, if any, apply to changes in the interest rate.

"(b) No delinquent or late charge shall be contracted for or received which does not meet all of the following requirements:

"(1) the delinquency shall have continued for at least 10 calendar days;

"(2) a delinquent or late charge shall not have already been charged for the same delinquent or late periodic installment; and

"(3) the delinquent or late charge shall not exceed 5 percent of the total amount of the delinquent or late periodic installment of principal and interest.

"28-3311. Definition of interest.

"(a) For the purposes of this chapter, the word

New, D.C. Code,
sec. 28-3311
(1984 supp.)

'interest' means any compensation directly or indirectly imposed by a lender for the extension of credit for the use or forbearance of money, including any loan fee, origination fee, service and carrying charge, investigator's fee, and any amount payable as a discount under section 28-3301(e)(1) or point or otherwise payable for services. The following charges shall not be considered interest:

Note, D.C. Code
sec. 28-330
(1981 ed.)

"(1) fees and charges collected at the direction of and actually paid to a government or governmental agency;

"(2) a service charge for investigation and continued servicing of collateral for a commercial loan secured by inventory or accounts receivable and any compensating balance accounts required by a lender for a commercial loan;

"(3) reasonable charges by the lender's attorney or other agent for service rendered in connection with collateral appraisals and the preparation, closing, or disbursement of the loan, but only if the charges are an actual expense of the lender;

"(4) premiums for credit life, accident, health, or loss-of-income insurance, but only if the insurance coverage is in fact not required by the lender and this fact is clearly and conspicuously disclosed; that the borrower signs or initials an affirmative written request for the insurance after receiving the disclosures specified in this paragraph; and that the terms of and premiums for the insurance coverage are disclosed;

"(5) premiums for insurance against loss of or

damage to the property, or against liability arising out of the ownership or use of the property, but only if the lender does not in fact require that the insurance be purchased through a particular broker, agent or insurance company; that the insurance coverage may be obtained from a broker, agent or insurance company of borrower's choice, subject to approval by the lender, and this fact is clearly and conspicuously disclosed; and that if the insurance coverage is obtained from or through the lender, the term of and premiums for the insurance coverage are clearly and conspicuously disclosed;

"(6) a service charge made by a broker or dealer dealing in investment securities if money is advanced on the security of pledged investment securities and if services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;

"(7) reasonable charges for investigation and reporting in regard to the credit rating or credit history of the borrower, but only if such charges are an actual expense of the lender; and

"(8) advance payments of real estate taxes or casualty insurance premiums made in accordance with section 28-3301(f)(2).

"(b) The rate of interest on any loan or financial transaction shall be calculated in compliance with the provisions of the Truth-in-Lending Act, as heretofore and

hereafter amended, effective May 29, 1968 (82 Stat. 146; 150 U.S.C. 1601 et seq.), and the regulations and interpretations thereunder.

"28-3312. Unlawful Practices.

New, D.C. Co.
sec. 28-3312
(1984 supp.)

"(a) It shall be a violation of this chapter for any lender to:

"(1) misrepresent as to a material fact;

"(2) fail to state a material fact;

"(3) disparage the services or business of another by false or misleading representations of material facts;

"(4) advertise or offer services without the intent to provide them or without the intent to provide them as advertised or offered;

"(5) include in the loan or financial transaction agreement an acceleration clause under which any part or all of the unpaid balance of the loan or financial transaction not yet matured may be declared due and payable for any reason other than due to default by the borrower in the payment or in accordance with another term of the agreement;

"(6) include in the loan or financial transaction agreement any provision by which the borrower waives any right accruing to him under the provisions of this chapter.

"28-3313. Penalties.

New, D.C.
sec. 28-3313
(1984 supp.)

"Any lender who willfully violates any provision of this chapter shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

"28-3314. Right of Action.

New, D.C. Co.
sec. 28-3314
(1984 supp.)

"(a) Any borrower who suffers a violation of any provision of this chapter by any lender may bring an action in the Superior Court of the District of Columbia to recover or obtain or enforce any of the following:

- "(1) reasonable attorney's fees;
- "(2) actual and punitive damages; or
- "(3) any other relief which the court deems

proper."

Sec. 5. D.C. Code, section 28-3702(c)(1) is amended to read as follows:

D.C. Code,
28-3702
(1983 supp.)

"(c)(1) If the billing cycle is monthly, a credit service charge may be imposed in the maximum amount of 2 percent. If the billing cycle is not monthly, the maximum charge is that percentage which bears the relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30. For the purposes of this section, a variation of not more than 4 days from month to month is 'the same day of the billing cycle'."

Sec. 6. (a) The repeal or amendment by this act of any provision of law shall not affect any act done or any right accrued, or any proceeding commenced in any civil cause before the repeal or amendment and all rights and liabilities under the repealed or amended act may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

Note, D.C. Code
secs. 28-330
-3308, -3310
-3311, -3312
-3313, -3314
-3702
(1981 ed.)

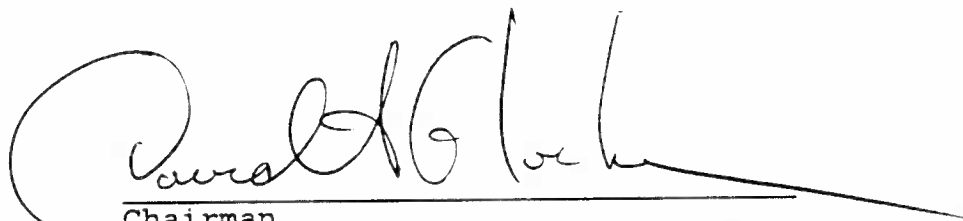
(b) All offenses committed and penalties incurred under any provision of law hereby repealed or amended may be prosecuted and punished in the same manner and with the same

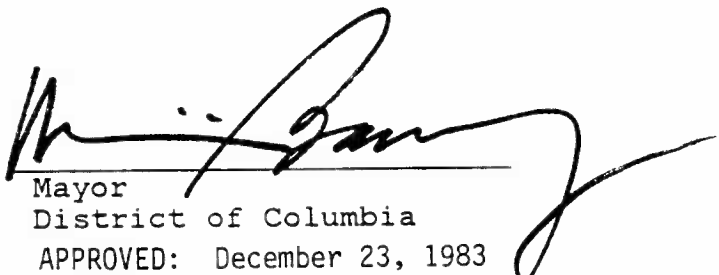
effect as if such repeal or amendment had not been made.

Sec. 7. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, unconstitutional or beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Note, D.C. Co.
secs. 28-3301
-3308, -3310,
-3311, -3312,
-3313, -3314
-3702
(1981 ed.)

Sec. 8. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: December 23, 1983



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Five - First Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 5-193

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 11-15-83

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE - RESULT (10 / 2 / 1 / 0)

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. for three groups of members.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Rosemary Smith, Secretary to the Council

Date: Dec. 12, 1983

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-6-83

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE - RESULT (10 / 2 / 1 / 0)

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. for three groups of members.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Rosemary Smith, Secretary to the Council

Date: Dec. 12, 1983

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE - RESULT

Table with 16 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. for three groups of members.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date