

Date Issued: July 31, 1981 (AGO 81-79)

Requested by: L. M. Stenehjem, Jr., Commissioner,  
Department of Banking and Financial Institutions

- QUESTION PRESENTED -

Whether loans made under the provisions of the Consumer Finance Act are subject to a usury rate limitation of one and one-half percent per month on the unpaid principal balance.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that loans made under the provisions of the Consumer Finance Act are not subject to a usury rate limitation of one and one-half percent per month but instead are governed by section 47-14-09 of the North Dakota Century Code.

- ANALYSIS -

Section 47-14-09, N.D.C.C., as amended by the 1981 Legislative Assembly, was basically designed to abolish the existing usury ceiling rates in North Dakota which were outmoded and inefficient. Subsection 1 of section 13-03.1-15, N.D.C.C., which pertained to the usury ceiling rate for loans made by licensees under the Consumer Finance Act, was repealed by the same Senate bill that amended section 47-14-09, N.D.C.C.

Nevertheless, this same subsection 1 of section 13-03.1-15, N.D.C.C., was reenacted by the 1981 Legislative Assembly in a House bill. Therefore some doubt exists as to whether the usury rate found in section 13-03.1-15(1), N.D.C.C., is still applicable.

The legislative history of the House bill reveals that it was designed solely to raise the maximum loan ceiling from \$7,500 to \$15,000 on consumer finance loans made in accordance with chapter 13-03.1, N.D.C.C. The legislative history further reveals there was apparently no intent on the part of the 1981 Legislature to reenact subsection 1 of section 13-03.1-15, N.D.C.C. The sole reason this repealed statutory provision was referred to in the House bill was to amend the maximum loan ceiling alluded to in the subsection. Therefore, any mention of repealed section 13-03.1-15(1), N.D.C.C., must be deemed to be an oversight on the part of the bill drafters, and the Senate bill which repealed subsection 1 of section 13-03.1-15, N.D.C.C., would control. While it is recognized that this interpretation may be in conflict with the general statutory rules of interpretation, (see section 1-02-09, N.D.C.C.), the conclusion is reasonable, justified, and supportive of the intent of the Legislature.

In summary, loans made under the provisions of the Consumer Finance Act are not subject to a usury limitation of eighteen percent. Instead, such loans are governed by section 47-14-09, N.D.C.C. This section abolished existing usury ceiling rates in North

Dakota on loans made by lending institutions regulated or funded by the state or federal government.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD  
Attorney General

Prepared by: Daniel Hovland  
Assistant Attorney General