

CHRONOLOGICAL HISTORY AND SUMMARY
of the
USURY LAWS OF IOWA

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INTRODUCTION

Viewed historically, legislation enacted in Iowa during the period from 1974 to 1980 is remarkable for the volume of new law relating to interest rates. The Iowa consumer credit code was adopted in 1974, addressing lawful rates of interest for certain transactions, and a host of related issues, including the permissible method of computation, the length of accounting periods, prepayment penalties and delinquency charges. Commencing in 1978, a series of annual enactments addressed an even broader range of issues relating to rates of interest. It is unlikely that any comparable period in the history of the state has had an equivalent impact on the financial affairs of Iowa residents.

Over the past one hundred thirty-odd years, numerous and varied provisions have been added to an existing body of law, and upon adoption of the 1979 amendments, the Iowa interest-rate laws perhaps reached a peak in terms of the number of special provisions, exemptions, exceptions, and exceptions to exceptions. Legislation enacted during the 1980 Session contained significant simplifications of the interest-rate laws. Future legislation will determine if this philosophy is to be continued.

Recent laws on the subject of interest rates have stimulated a variety of inquiries about legislative purposes and effects. The present Iowa statutes relating to interest rates constitute a complex body of law. If one traces the history of interest-rate legislation, it is apparent that each enactment attempted to solve a rather well-defined problem. A result of this problem-by-problem approach is that the various statutes do not fit into an easily discernible pattern. In addition, it has become difficult to relate the various laws to one another, and in some instances ostensible conflicts or ambiguities have arisen.

The function of this summary is to attempt to organize the usury-related laws of Iowa into a logical framework. The method used is to analyze legislation in chronological order of enactment. It is believed that this approach develops a useful perspective, and may offer answers to questions that often are asked about the Iowa laws.

The scope of the statutes discussed and referred to in this summary is perhaps broader than one might expect in a discussion of usury. Although section 535.2 of the Iowa Code is commonly known as "the Iowa usury law", the Iowa Code is replete with statutes that in one manner or another regulate interest, "the compensation allowed by law, or fixed by the parties, for the use, detention, or forbearance of money or its equivalent" (45 Am.Jur.2d, Interest and Usury, section 1). The goal of this summary is to trace the history of the Iowa usury laws, and the following discussion includes those statutes which, at least from the author's point of view, generally serve to regulate interest in transactions between private persons.

This goal generally excludes those statutes which regulate interest in transactions involving a governmental body as a party.

Although the original usury law apparently applied to most of these types of transactions, a separate body of statutory law has been developed to regulate them, and this summary does not cover that subject. Some references to such are included, however, for purposes of clarifying the scope of the usury law itself.

The material which follows categorizes interest-rate statutes into three types. The first and primary category is referred to as the "general usury law", and includes those provisions which establish the legal rate of interest, the rate of interest payable on judgments and decrees, and the maximum lawful rate of interest payable on indebtedness. The general usury law category also includes those provisions which exempt certain types of transactions from usury control. Until very recently, all of the general usury law was contained in chapter 535 of the Code. The second category is referred to as "special usury laws" and includes all of those types of statutes which create exceptions to the general usury law. As enacted, these special laws had the effect of authorizing higher rates of interest for specified types of transactions than otherwise was permitted under the general usury law. Thus, each of these special laws has a more limited applicability than the general usury law. An example of this second type is the Iowa consumer credit code. The third category is referred to as "special statutory interest-rate provisions", and includes those statutes which establish an interest rate or an interest-rate limitation for a particular kind of indebtedness. An example of this third type of statute is section 75.12, Code 1979, establishing the maximum rate of interest payable on bonds issued by a city.

The text of this summary is divided into three parts. The "Discussion" traces the evolution of the usury law and related statutes. This is followed by a "Schematic Summary" of the current Iowa laws. The third part is a brief synopsis of the actual interest rates authorized by current Iowa "usury laws". For the convenience of the reader, copies of various statutes and Code provisions are reproduced as Prints 1 to 20 at the end of this summary.

A final introductory comment is that this summary is not a critique of the legislative process or of the appropriateness of any enactment. The discussions of the more recent legislation occasionally refer to problems or general philosophies which were the apparent bases for certain provisions or Acts, but where included these comments are used only as indications of the purposes for which the respective provisions were adopted.

DISCUSSION

TERRITORIAL LAWS

A usury law existed in Iowa even prior to statehood. The earliest statutes on the subject were remarkably similar to recent general usury sections of the Code (For purposes of comparison, see Print 13, sections 535.2-535.7, Code 1977). As will be seen, the

bulk of subsequent interest-rate legislation developed a complicated series of exemptions from and exceptions to the general usury statute.

1839 Act

Print 1 is a reproduction of the usury law enacted at the first session of the Iowa Territorial legislature, effective March 1, 1839. The statute contained essentially the following substantive parts:

1. A legal rate of interest of 6 percent per year, recoverable on the various forms of debt listed, even in the absence of an agreement relating to the payment of interest.

2. Authority for the parties to agree to a higher rate of interest not exceeding 20 percent per year, but requiring a written agreement signed by the party to be charged if the rate was to exceed 6 percent.

3. A forfeiture to the county of the usurious part of any contract, plus an additional penalty in the amount of 25 percent of the principal.

4. A rate of interest of 6 percent payable on judgments at law and equity decrees.

5. A series of exemptions, i.e., transactions to which the usury law did not apply.

This statute blended the legal rate and the usury ceiling of 20 percent such that a contract could be usurious in one of two ways: In the absence of a written agreement, the collection of interest in excess of 6 percent; or the collection of interest in excess of 20 percent on a signed, written agreement.

Compared to modern law, the exemptions in the statute are remarkable in that neither the legal rate nor the usury ceiling applied. Subsequent revisions of the law not only changed the types of transactions which were to be exempt, but also restructured the statute so that the legal rate applied to all types of debt in the absence of a written agreement. It also should be observed that the legal rate provision not only established a rate of interest, but also prescribed that interest be earned on the various types of debt described in the statute, even where an agreement to pay interest did not exist.

A final observation is that the rate of interest payable on judgments was the same as the legal rate. The statute did not authorize a different rate, even where the parties had agreed to a higher rate on a written contract. Subsequent legislation has treated the issue separately, and this separation of issues has led to some curious results, as will be discussed later.

1843 Act

The 1839 Territorial usury law was revised in 1843. Print 2 is a reproduction of the 1843 Act. A comparison of the 1839 and 1843 Acts shows the following modifications:

1. The legal rate of 6 percent was unchanged, but some adjustment was made in the descriptions of the types of transactions to which the legal rate applied.

2. The maximum lawful rate for written agreements was reduced from 20 percent to 10 percent. The 1843 version also dropped the phrase requiring a written agreement to be "signed by the party to be charged". The 1843 version also specified that an agreement in writing did not require a seal of the party paying the interest as a condition of enforceability.

3. The rate of interest on judgments was continued at 6 percent, but the provision was isolated from the legal rate provision.

4. The legislature abolished the concept of forfeiture of "usurious interest" in favor of granting to the aggrieved party the right to recover the excessive interest charge.

5. All exemptions from the usury law were repealed.

In addition to the reduction of the usury ceiling for written agreements, two changes are significant. The right to the recovery of usurious interest was to be short-lived; and under current Iowa law there is no right of recovery of usurious interest once it has been paid, State ex rel. Turner v. Younker Brothers, Inc., 210 N.W. 2d 550 (Ia. 1973). (There are exceptions to this rule, but they do not arise under the general usury law.)

Secondly, the general usury law that existed in Iowa after the 1843 amendment did not contain any general exemptions until an exemption for corporations was adopted in 1963. This point deserves some qualification. While the usury law generally is thought of in the context of transactions between private parties, there is nothing in the statute to render it inapplicable to transactions involving governmental bodies. However, it should be observed that separate statutes have been adopted to govern many types of financial transactions involving governmental bodies or agencies. This practice existed in the early days as well. For example, chapter 62 of the Laws of 1848 provided for 10 percent interest on amounts due the state for the school fund; chapter 63 provided for the payment of 8 percent interest on unpaid state warrants, and chapter 65 provided for 6 percent interest on unpaid county warrants. The schematic summary at the end of this document discloses that numerous statutory exceptions of this type continue to exist, some applying to transactions not involving governmental bodies or agencies.

STATE STATUTES CODE of 1851

The first usury law adopted by an Iowa state legislature was approved as chapter 57 of the Iowa Code of 1851. It contained a

rather abbreviated usury statute. Print 3 is a reproduction of this law. Compared to earlier versions, it had fewer substantive provisions:

1. The legal rate was continued at 6 percent.

2. The statute did not contain a maximum interest rate for written agreements. Thus, the state was without a "usury law" in the commonly-used sense of the term (until a new law was passed in 1853).

3. The interest rate for judgments was more complicated. In the absence of a written agreement, judgments and decrees earned 6 percent. If the parties had agreed to a rate of interest, then the judgment would bear the agreed rate, except that the maximum rate for any judgment was 10 percent.

4. The statute did not contain a forfeiture provision or a right of recovery.

5. The statute did not contain any exemptions.

Another, and more subtle change was incorporated in the 1851 statute, relating to the legal rate applicable to accounts receivable. The earlier laws had provided for interest only from the date the balance on an account was ascertained. The 1851 law, however, distinguished matured accounts from open accounts. In the latter case, the new provision allowed interest at the legal rate commencing 6 months after the date of the last item posted to the account. This distinction exists in the current Iowa law.

1853 Statute

In 1853, the legislature again revised the usury statute. Print 4 is a reproduction of the 1853 Act.

This statute reimposed a maximum rate (10 percent) for written agreements. Also, the legislature reenacted a forfeiture provision, which made the usurer liable to the school fund for an amount equal to 10 percent of the amount of the contract.

The 1853 Act also introduced some new thoughts, one codifying case law to state that the party paying usurious interest is a competent witness to prove usury, and another providing that a bona fide assignee of a contract could recover from the assignor the consideration paid on a usurious contract.

A third addition was section 4 of the Act, prohibiting the receipt of any sum or value greater than that permitted by the usury chapter. Although no penalty attached, the prohibition did serve to define the scope of the usury law, and thus to differentiate the Iowa law from those of other states, see State ex rel. Turner v. Younker Brothers, Inc., 210 N.W. 2d 550, at 555-559 (Ia. 1973).

The general form and content of the 1853 Act is presently found in the Iowa usury law, although it has been modified from time to time in various particulars.

1890 Amendment

The 1853 usury law remained substantially without change until amendment by the general assembly in 1890. Acts of the Twenty-third General Assembly, 1890 Session, chapter 40, reduced the maximum rate to which parties could agree in writing from 10 percent to 8 percent. Although the Act did not expressly indicate such, the effect of the amendment also was to reduce from 10 percent to 8 percent the maximum rate payable on judgments. Contemporaneous legislation cannot be found which directly modified the maximum rate payable on judgments. The proposed Code revision subsequently presented to the Legislature in 1896 by the State Code Commission reflects a reduction in that rate without comment as to how the change in the statute occurred. The change was consistent with historical law in that the maximum rate on judgments had always equaled the maximum permissible interest rate, except during the period from 1851 to 1853 when there was no usury ceiling.

1896 Code Revision

The next alteration of the usury statute occurred as a result of the proposed Code revisions presented to the general assembly in 1896. The notes accompanying the recommended changes indicate that the primary purpose of the changes was to make the sections more readable. The only apparent substantive change was in the forfeiture section. The Commission proposed that the forfeiture be reduced from 10 percent to 8 percent in line with the 1890 legislative reduction of the usury rate from 10 percent to 8 percent. The recommendations were approved by the general assembly and were codified in the 1897 Code. The 1896 proposed Code revisions are reproduced as Print 5 to show the changes in the text.

Collateral Development

Activities outside of the general assembly also had an impact upon the legal effects of the usury law. The Iowa Supreme Court, in Gilmore and Smith v. Ferguson and Cassell, 28 Iowa 220 (Ia. 1869), appeared to have given recognition to the so-called "time-price" doctrine. Under this theory, a seller of goods on credit is permitted to charge a higher price than would be charged if the goods were paid for at the time of sale. According to the doctrine, the difference in price is not interest, and thus the transaction is not governed by the usury law. This interpretation apparently was accepted as the law in Iowa until 1973 when the Iowa Supreme Court rendered its opinion in the case of State of Iowa ex rel. Turner v. Younker Brothers, Inc., 210 N.W. 2d 550 (Ia. 1973), in which the Court held that the wording of the Iowa statute was intended to encompass credit sales of property, and thus that the time-price doctrine did not exist as law in Iowa.

1915 Amendment

In 1915 the legislature reacted to what apparently had become a common practice: the use of an agent to negotiate loans. Acts of the Thirty-sixth General Assembly, 1915 Session, chapter 341,

established a criminal penalty for receiving or contracting to receive a rate greater than 2 percent per month on a loan, whether as a commission, brokerage charge, or otherwise. That Act is reproduced as Print 6. As shown in the reprint, the Act also authorized a lender to collect certain fees over and above the maximum interest rate, including the out-of-pocket cost for the recording of loan documents.

Logically, charges imposed on a borrower for direct costs actually incurred are not interest, and subsequent special usury statutes typically have authorized reimbursement for these costs. Certain types of charges have proved to be troublesome to legislators, however. As a recent example, when the consumer credit code was adopted in 1974, language was included to permit the collection of discount points in purchase-money home loan transactions (see section 537.1301(20)(a)(1), Code 1977). Then in 1978, the general assembly removed that language and prohibited the collection of discount points (see sections 12(2) and 22, HF 2467, 1978 Session, reproduced in Print 14). The following year, discount points again were made lawful (see section 22(2)(a), SF 158, 1979 Session, Print 15). Much of the controversy over points resulted from the fact that while some lenders use revenues from points to offset costs incurred in the sale of loans in the secondary market, other lenders retain these revenues as additional income. Legislation of the late 1800's suggests the existence of a similar type of political problem. Acts of the Fourteenth General Assembly, 1873 Session, chapter 30, authorizing the creation of building and loan associations, provided in section 3 that the association could charge a member a premium in order to secure a loan, and that the premium was not to be considered interest for purposes of the usury law. By the year 1900, however, the philosophy had changed, and Acts of the Twenty-eighth General Assembly, 1900 Session, chapter 69, section 4, provided that the premium was to be considered interest for purposes of the usury law. Print 7 contains reproductions of the pertinent sections of those two Acts.

Chattel Loan Law

In 1921, the Iowa general assembly enacted the chattel loan law, Acts of the Thirty-ninth General Assembly, 1921 Session, chapter 35, which presently exists as chapter 536 of the Code. The effect of the Act was to authorize the lending of money in amounts of \$300 or less at rates in excess of the usury rate of 8 percent if the lender obtained a license from the state.

As originally enacted, the law authorized interest at the rate of 3 1/2 percent per month, but expressly prohibited the compounding of interest, the discounting of interest, and the collection of any other charges except filing or recording fees actually and necessarily incurred by the lender. In addition to the interest-rate provisions, the Act contained a number of regulatory provisions which in modern popular parlance would be termed "consumer protections". Included among these were full disclosure requirements and restrictions on the use of wage assignments. Print 8 reproduces the sections of the Act which related to interest rates.

The chattel loan law was the first relevant statutory exception to the usury statute. Its authority was restricted in scope to lenders commonly known as small loan companies, and section 19 of the Act specifically stated that the Act did not apply to banks, building and loan associations and other types of lenders. Subsequent years have resulted in the adoption of numerous other statutes prescribing higher usury rates for specific types of creditors or for certain types of transactions. These "special usury statutes" account for much of the complexity of Iowa law.

Section 20 of the chattel loan Act amended the criminal usury provision of 1915 to reflect the higher-rate loans permitted by the chattel loan Act, and to delete the language authorizing the collection of fees in addition to interest. As will be discussed below, subsequent legislation superseding the general usury law has not referred to the criminal provision, leaving some ambiguity regarding the extent of applicability of the criminal section.

Credit Unions--1925

Another special usury statute was contained in Acts of the Forty-first General Assembly, 1925 Session, chapter 176, authorizing the creation of credit unions. Section 14 of the Act, now section 533.14 of the Code, provided that credit unions could charge up to 1 percent per month on unpaid balances. This authority remained unchanged until passage of the Iowa consumer credit code, when credit unions obtained authority to charge higher rates in consumer credit transactions.

Usury Rate Decreased--1935

In 1935 the legislature changed the general usury rates again. Acts of the Forty-sixth General Assembly, 1935 Session, chapter 103, section 1, reduced the legal rate from 6 percent to 5 percent, and also reduced the maximum permissible rate for written agreements from 8 percent to 7 percent. Section 2 of that Act amended the section on judgments to provide the same reductions in the rates specified in that section.

Bank Installment Loans--1945

The third special usury law was contained in Acts of the Fifty-first General Assembly, 1945 Session, chapter 213, authorizing banks to make installment loans at rates in excess of the general usury rate. A bank was given the option of charging either a 6 percent annual add-on rate or a rate of 1 percent per month on unpaid balances. The Act also authorized a charge of 1 percent per month for delinquency, and required certain disclosures. The new authority was applicable to all loans other than real estate loans secured by first mortgages. The Act is presently found in the Code as section 524.906, and the original rates still exist. The function of the section apparently has been supplanted by more recent legislation of a more general nature, including the consumer credit code.

Motor Vehicle Installment Sales--1954

Acts of the Fifty-seventh General Assembly, 1957 Session, chapter 163 established another special usury law. This Act amended the motor vehicle installment sales law in various particulars, and among these amendments were new provisions that gave dealers authority to charge higher interest rates than the usury law allowed. The Act authorized rates of from 1 1/4 percent per month to 2 1/4 percent per month on installment contracts, depending upon the age of the motor vehicle. The Act also regulated sales of single-interest insurance, provided for a minimum charge, and restricted the amount of interest that could be charged in the event of an extension of the contract. The current version of these interest-rate provisions is contained in sections 322.18 to 322.20 of the Code.

Savings and Loan Home-Improvement Loans--1959/1961

Another exception to the usury law originated in Acts of the Fifty-eighth General Assembly, 1959 Session, chapter 338. The Act revised the regulatory law for savings and loan associations, and a part of the Act authorized associations to make home improvement loans. As enacted, the general usury rate applied to these loans, but in the following session, Acts of the Fifty-ninth General Assembly, 1961 Session, chapter 265, granted associations the right to collect interest on home improvement loans at a rate of up to 5 percent discount. Code section 534.19, subsection 6, contains the present version of this language.

Corporate Exception

The legislature enacted the first usury exemption in 1963. Section 535.2 of the Code was amended by Acts of the Sixtieth General Assembly, 1963 Session, chapter 317, to provide that corporations could agree to pay any rate of interest in excess of the then maximum rate of 7 percent. The Act also amended Code section 535.3, relating to the interest payable on judgments, so that judgments against a corporation arising out of a written agreement would bear the rate of interest provided for in the agreement, notwithstanding the general usury limitation. Print 9 contains the 1963 Act, and the codified version of the two sections.

The 1963 amendments resulted in two ambiguities in the usury statute. The first question involves the interrelationship between the corporate exemption and the criminal usury provision. The criminal provision, now section 535.6 of the Code, prohibits the collection of more than 2 percent per month on any loan. As originally enacted, the criminal provision appears to have applied to loans to corporations as well as to individuals: As of 1915 the usury law did not distinguish between individuals and other legal entities; and the language of the criminal provision (Print 10, section 5893, Code 1919) did not suggest any exceptions. The 1963 amendment did not amend or refer to the criminal provision, but rather to the usury rate contained in 535.2. Although the 1963 Act may have been intended to exempt corporate transactions from all usury controls, a reasonable argument can be made that the criminal provision still applies to corporate debt.

The second question involves the interrelationships between the various special usury laws and the section prescribing the maximum interest rate payable on judgments. Historically, the maximum interest payable on a judgment had been the same as the maximum rate to which parties could agree in writing, and as the various special laws were enacted to authorize rates higher than the general usury rate no amendment of the judgment section was included. Thus, the maximum interest rate payable on a judgment was limited to 8 percent or 7 percent or whatever the general usury rate was at the time. This same policy existed between 1851 and 1853. Although the 1851 Code removed the ceiling for agreements in writing, the judgments section retained a 10 percent ceiling for judgments. When the usury ceiling was reenacted in 1853, the usury ceiling and the judgment provision were equal, and the relationship was maintained thereafter.

The 1963 corporation amendment, however, amended the judgments section to remove the ceiling on judgments against corporations. Thus, e.g., while a bank installment loan to a corporation at 12 percent per year would have resulted in a judgment against the corporation bearing 12 percent, the same loan to a partnership would have resulted in interest on a judgment of only 7 percent. Subsequent amendments of the usury law and related provisions have not removed this apparent disparity.

Industrial Loan Law--1965

In 1965 the legislature created another special usury law, this time in the form of the "Iowa industrial loan law". Acts of the Sixty-first General Assembly, 1965 Session, chapter 412, now chapter 536A of the Code, provided for the regulation of certain licensed corporations to engage in lending at rates in excess of the usury rate. The Act (section 23) authorized interest at a rate of 7 percent (the general usury rate as of that time), but computed according to either the add-on or the discount method, and other charges in addition to interest. Print 11 is a reproduction of section 23 of the Act.

The above discussion of the disparity of interest rates on judgments also applies in the case of loans by industrial loan licensees, as the 1965 Act did not authorize a higher rate on judgments to reflect the higher permissible contract rates.

Usury Rate Increased--1969

Acts of the Sixty-third General Assembly, 1969 Session, chapter 277 amended section 535.2 of the Code to increase the general usury rate from 7 percent to 9 percent. When the corporate exemption was adopted in 1963, the Act tied the contract rate on judgments to the general usury rate in section 535.2 of the Code, and as a result, the 1969 Act had the effect of increasing the maximum rate on judgments as well.

Interestingly, the 1969 Act included additional language to provide that under some circumstances excessive charges or premiums for credit life or accident and health insurance sold in conjunction with the making of a loan were to be considered a part

of the interest charge for purpose of the usury statute. The language subsequently was repealed by Acts of the Sixty-fifth General Assembly, 1973 Session, chapter 273, section 3. That Act provided for a different method of regulating rates on credit insurance.

The 1969 amendment did not modify the legal rate, i.e., the rate payable in the absence of a written agreement. Historically, the legal rate and the usury rate had been amended at the same time, resulting in a traditional difference of two percentage points between the two rates. The legal rate, reduced in 1935 to 5 percent, remains at that level under current law. The 1969 amendment is reproduced in Print 12.

Real Estate Investment Trust Exemption--1972

Acts of the Sixty-fourth General Assembly, 1972 Session, chapter 1117, enacted a second usury exemption. That Act provided that a real estate investment trust, as defined in section 856 of the United States internal revenue code, could agree in writing to pay any rate of interest, the same as a domestic or foreign corporation. As with corporations, the rate of interest payable on a judgment against such a trust equals the rate agreed to in writing.

Interest on Judgments--1973

Acts of the Sixty-fifth General Assembly, 1973 Session, chapter 275, amended Code section 535.3 to increase the statutory rate on judgments from 5 percent to 7 percent. This rate is the one which applies in the absence of a written agreement, and governs, e.g., judgments in tort actions. Although traditionally this rate had always been the same as the legal rate of interest, this 1973 amendment did not change the legal rate of interest.

Consumer Credit Code--1975

An extensive modification of the effects of the usury laws was incorporated in Acts of the Sixty-fifth General Assembly, 1974 Session, chapter 1250 (SF 1405), containing the Iowa consumer credit code. Where earlier enactments such as the chattel loan law and the bank installment loan law had affected the usury law only as it applied to certain types of creditors, the consumer credit code established a new regulatory scheme based upon the nature of the debt, rather than the identity of the creditor. The consumer credit code thus harmonized the interest-rate statutes and related laws which applied in "consumer credit transactions". Generally speaking, the rules were the same for all creditors. Notable exceptions were that persons licensed as chattel loan companies retained authority to charge higher rates than other lenders, and the higher rates for installment sales of motor vehicles by dealers were retained.

Although the ICC did establish standard rules for consumer credit transactions, it also had the effect of making the Iowa usury laws substantially more complicated. As originally proposed, the bill containing the ICC would have repealed all usury laws

except those applicable to consumer credit transactions. (See SF 1264, 1974 Session, section 9.715.) As enacted, however, the ICC interest-rate provisions were added to the existing body of statutes which governed interest rates, producing a rather unique system. For example, the ICC authorized a maximum finance charge of 15 percent on an installment sale of a room air conditioner (assuming a closed-end transaction). Had the buyer been a corporation, the seller could have charged any rate the corporation agreed to in writing. But, if the buyer had been a partnership, sole proprietor or unincorporated association, then the maximum interest rate would have been 9 percent.

In passing, it is observed that House File 2492, enacted during the 1980 legislative session, temporarily has eliminated many of these complicating features. A discussion of the effects of that Act is presented later.

Securities Sold on Credit--1976

Acts of the Sixty-sixth General Assembly, 1976 Session, chapter 1220, added a third exemption to the usury statute. The Act exempted from usury controls credit sales of securities by a registered broker or dealer. This type of transaction became equivalent to corporate or real estate investment trust debt for purposes of the usury laws.

Code 1977

Legislation commencing in 1978 involved some very significant departures from traditional Iowa usury law. For purposes of convenience, Print 13 contains a reproduction of chapter 535, Code 1977, the general usury law as it existed prior to these amendments.

TRANSITION YEARS, 1978-1980

The years 1978 to 1980 brought forth wholesale changes in the Iowa usury statutes. Economic forces which had caused some concern in the middle third of the decade became immediate legislative problems in 1978. Historically, interest-rate legislation had dealt with problems in rather isolated areas of the economy. Even the Iowa consumer credit code found its original impetus in a decision of the Iowa Supreme Court dealing with the relatively narrow issue of the time-price doctrine. (State of Iowa ex rel. Turner v. Younker Brothers, Inc., 210 N.W. 2d 550 (Ia. 1973).) The problems arising in 1978, however, stemmed from a nationwide upturn in interest rates, and resulted in a continuous flow of legislation for a period of three years.

Initial Phase--1978

Acts of the Sixty-seventh General Assembly, 1978 Session, chapter 1190 (House File 2467) was enacted in the summer of 1978 after the general assembly had recessed to allow a special committee to consider interest-rate legislation. The Act is reproduced as Print 14.

The following is a brief summary of the provisions of HF 2467:

1. Prohibited mortgage-loan redlining by financial institutions.

2. Adopted the concept of a floating usury rate, indexed to the ten-year interest rate on United States government bonds and notes. The usury rate would be calculated every three months by the superintendent of banking.

3. Exempted larger business and agricultural purpose loans from usury controls.

4. Regulated charges that lenders could impose for out-of-pocket expenses incurred in making a home-mortgage loan.

5. Prohibited the collection of points in connection with home-mortgage loans.

6. Prohibited compensating-balance accounts and other lending devices which increase effective yield on home-mortgage loans.

7. Prohibited prepayment penalties on purchase-money loans involving dwellings or agricultural land.

8. Created a special usury law for mobile home loans.

Most of the interest-rate provisions were enacted as temporary law. Viewed from the perspective of traditional law, concepts such as a floating usury rate and removal of the usury ceiling for certain business and agricultural loans were thought by many to be drastic steps which could only be justified, if at all, in temporary legislation. But improvements in the economy, which many of the supporters of House File 2467 hoped for, did not occur, and in 1979 the temporary provisions of the Act were made permanent.

The greatest impetus for House File 2467 came from the various industries involved in housing. Even prior to 1978, home mortgage rates had temporarily reached the 9 percent usury ceiling, and by the early part of 1978 the indications were that the price of mortgage money would continue to climb. Table 1 and Chart 1 trace the changes in various money-market and governmentally-established interest rates for the two-year period commencing in July of 1978, and the events verify the predictions. Because of the mortgage market problems and forces, House File 2467 emerged primarily as mortgage-lending legislation, although various collateral issues also were dealt with.

Second Phase--1979

The year 1979 brought forth a new round of interest-rate legislation. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 130 (Senate File 158) was enacted in light of continuing economic pressures. Print 15 is a reproduction of that Act.

As suggested above, one of the functions of Senate File 158 was to make permanent the interest-rate provisions of House File 2467. In addition, the bill made several adjustments in existing provisions and added some new law. The following is a general description of the substantive provisions of the Act:

1. Amendment of the credit union law to clarify the applicable usury rate with respect to home mortgage loans.

2. Amendment of the previously-created business credit exemption by reducing the threshold from \$200,000 to \$100,000.

3. Modification of the floating usury provision to require the superintendent of banking to compute the usury rate on a monthly basis, rather than quarterly.

4. Repeal of the prohibition against the collection of points, and authorization of a loan processing fee equal to not more than 1 percent of that portion of loan principal in excess of \$12,500.

5. Prohibiting the use of "due-on-sale" clauses in mortgage loan agreements. This general prohibition subsequently was modified during the 1979 Session by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 132, section 16, to permit the enforcement of "due-on-sale" clauses under certain circumstances.

6. Prohibiting a lender from collecting fees and charges from a seller in avoidance of the limitations and restrictions upon fees and charges collectable from the borrower.

7. Prohibiting a lender from collecting a fee from realtors for the purpose of reserving blocks of funds for home loans.

8. Prohibiting the use of appraisals performed by a person having financial ties with the seller of the property.

9. Extension of the section prohibiting prepayment penalties to cover partial prepayment situations in addition to prepayments in full.

10. Repeal of the special interest rate provisions for mobile home loans.

11. Standardization of the prepayment penalty laws for all regulated lenders.

In addition to Senate File 158, the 1979 Session produced two other bills affecting interest rates. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 131, increased the maximum amount to be loaned under the authority of a chattel loan license from \$1,000 to \$2,000.

The second bill, Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 132, enacted a new Code chapter to authorize graduated-payment mortgages, variable-rate mortgages, and reverse-

annuity mortgages for regulated lenders. This Act was in direct response to action by the Federal Home Loan Bank Board authorizing these types of mortgage loans for federal associations. The federal action stemmed in part from concern about the detrimental financial impact on lenders of fixed-interest rate loans in an inflationary economy. As noted above, the Act also contained an amendment to the recently passed Senate File 158 with respect to the enforceability of a "due-on-sale" clause in a home mortgage.

Print 16 is a reproduction of chapter 535, Code 1979 Supplement, containing the codified version of the usury chapter as amended through the 1978 and 1979 legislative sessions.

Third Phase--1980

Unprecedented high interest rates in the economy drove the general assembly back to the drawing board in 1980. The floating usury rate formula adopted 18 months earlier had proved to be inadequate, as average home-mortgage rates had risen above the Iowa usury ceiling as early as August, 1979 (see Table 1 and Chart 1). The upward climb of the prime rate also was taking its toll in businesses not affiliated with the housing industry. By the end of 1979, usury problems in the various states had become so significant that Congress suspended state usury laws as they applied to most regulated lenders for the purpose of buying time until the respective state legislatures could meet to modify their laws. This legislation is discussed later.

In response to these pressures, the general assembly enacted legislation even broader in scope than that of the two previous sessions. Four bills eventually were enacted, all dealing directly with interest-rate problems. Prints 17, 18, 19 and 20 are reproductions of Senate File 2200, House File 2492, House File 2486 and Senate File 2375 respectively. The following discussion is reproduced from a special legislative summary distributed by the Iowa Legislative Service Bureau to describe the highlights of the usury bill, House File 2492. The discussion also contains references to the other three bills where pertinent.

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INTRODUCTION

House File 2492, referred to during the session as the "usury bill", is an omnibus Act relating to interest rates and other terms and conditions of loan and credit transactions. Its various provisions amend or affect existing law contained in chapters 321, 322, 476, 524, 533, 534, 535, 536A and 537 of the Code, and in one manner or another likely affect nearly every person who makes loans or extends credit and nearly every person who borrows money or obtains credit.

Iowa's usury laws and related Code provisions are a rather intricate set of statutes, the ultimate effects of which typically depend upon who the lender or creditor is, who the debtor is, and

when the transaction took place. A further complication is that certain federal laws and regulations overlap state law, and in some instances supersede state law. The most comprehensive of these are two federal statutes recently passed by Congress which temporarily suspended certain state limitations on interest rates and other types of charges. The effects of these two statutes are described later in this summary.

Given the complexity of interest-rate laws, some caution should be exercised in referring to this summary. Every effort has been made to be accurate and complete, but as with any summary of legal provisions it is impossible to include a description of all ramifications, or to anticipate all factual situations. Nevertheless, it is hoped that this summary is a helpful guide to understanding Iowa "usury laws" as they presently exist.

A final introductory comment is that the Act has various effective dates, expiration dates, and transition provisions. Generally speaking, provisions relating to interest rates take effect upon publication of the Act and expire July 1, 1983, other provisions, except sections 17 through 30, take effect upon publication of the Act and are permanent, and sections 17 through 30 take effect July 1, 1980, and are permanent. The discussion which follows describes these dates as they apply to each section.

AMENDMENTS

A few of the provisions of House File 2492 were amended during the 1980 legislative session by bills passed subsequent to the passage of House File 2492. These amendments, contained in Senate File 2375 and House File 2486, were adopted to modify or clarify the intents and purposes of House File 2492. A discussion of these additional provisions is included in relation to the respective sections which they amend.

BIRD'S-EYE VIEW

Section 1 - Public utilities--permanent.

Restricts "pancaking" and removes 12 percent interest ceiling on rate refunds.

Section 2 - Temporary usury and point provisions--expires July 1, 1983.

Removes usury limits on a written agreement executed after publication date if (a) a loan for financing acquisition of real property, (b) a loan or extension of credit exceeding \$35,000 for constructing improvements on real property, (c) a contract for sale of real property, (d) a loan or extension of credit to a corporation or real estate trust, or a credit sale of securities, (e) a loan or extension of credit for a business purpose, (f) a loan or extension of credit for an agricultural purpose, or (g) a loan or extension of credit exceeding \$35,000 for a personal, family or household purpose.

Authorizes points on a purchase-money loan secured by a lien on a single-family or two-family owner-occupied dwelling equal to not more than 2 percent of principal, except a maximum of 1 percent if a refinancing or an assumption.

Sections 3, 4 and 5 - Banking law amendments--permanent.

Amend Code sections 524.901, 524.906 and 524.908 to authorize investment in participation certificates issued by production credit associations, to remove limitation on investment in installment loans and consumer loans, and to expand personal-property leasing authority.

Section 6 - Industrial loan law amendment--expires July 1, 1983.

Increases maximum interest rates on chapter 536A loans from 9 percent add-on or discount to 10 percent add-on or discount.

Section 7 - Interest on accounts receivable--expires July 1, 1983.

Permits finance charge in absence of written agreements on retail sales of goods or services on credit equal to 21 percent per year in closed-end transactions, or 1 1/2 percent per month on first \$500 of balance and 1 1/4 percent per month on excess in open-end transactions, but proper disclosures must be made.

Section 8 - Due-on-sale mortgage foreclosures--expires July 1, 1983.

Extends period of redemption by debtor under chapter 628 to 36 months if foreclosure of a mortgage on a one- or two-family owner-occupied dwelling occurring after effective date results from enforcement of due-on-sale clause, unless lender proves impairment of the security interest or the likelihood of repayment.

Section 9 - Interest on auto installment sales--expires July 1, 1983.

Increases maximum finance charge to 1 3/4 percent per month on new cars and 2 percent per month on cars not more than 2 years old.

Section 10 - Interest on mobile home and modular homes sales--expires July 1, 1983.

Establishes authority to charge 1 3/4 percent per month on installment sales of mobile homes and modular homes, irrespective of age.

Section 11 - Interest on semitrailer and travel trailer sales--expires July 1, 1983.

Increases maximum rate of finance charge on installment sales of semitrailers to 1 3/4 percent per month on new vehicles and 2 percent per month on vehicles not more than 2 years old. Also expands scope of section to cover travel trailers.

Sections 12 and 14 - Home loans under ICC--expire July 1, 1983.

Removes real property purchase money loans secured by first lien from coverage by the consumer credit code.

Sections 13 and 14 - Interest on closed-end consumer credit--expire July 1, 1983.

Increase maximum finance charge on closed-end consumer loans and consumer credit sales from 15 percent to 21 percent per year.

Sections 15 and 16 - Pre-existing adjustable-rate loans--expire July 1, 1983.

Sections 15 and 16 repealed by Senate File 2375. Additional provisions in Senate File 2375 limit interest on adjustable-rate loans made prior to August 3, 1978, and those made after August 3, 1978 and before July 1, 1979, with exception in each case for certain balloon loans.

Sections 17 through 30 - Ag purpose transactions removed from ICC--permanent.

Remove ag purpose loans and credit from coverage by the consumer credit code. Not effective until July 1, 1980. Old law continues to apply to existing agreements until fully performed, but no new credit or advances.

Section 31 - Renegotiable rate mortgage loans for S & Ls--permanent.

Authorizes state savings and loan associations to make renegotiable-rate mortgage loans on one-family to four-family dwellings, if and to the extent federal institutions are permitted to do so.

Section 32 - Override of federal suspension--permanent.

Overrides provisions of Public Law No. 96-221, which suspended state usury laws and related provisions, with the effect that state laws are applicable after effective date.

House File 2486 - Ag credit corporation loans--permanent.

House File 2486 enacted residual authority for agricultural credit corporations to make agricultural production purpose loans at interest rates not greater than 4 percentage points above the lending rate of the federal intermediate credit bank of Omaha. The authority takes effect upon publication of that Act and is permanent, but the interest-rate limitation is temporarily preempted by section 2 of House File 2492.

DISCUSSION

Section 1 - Public utility rates.

Section 1 of the Act amends section 476.6, unnumbered paragraph 6 of the Code, which relates to the collection of public utility service charges subject to refund. Prior law, with some exceptions, required that the Iowa commerce commission approve rates and charges for utility service before they could be placed into effect by the public utility. As an exception, however, a rate-regulated utility that applied for authority to increase its charges could, while the application was pending before the commission, place the proposed new rates into effect subject to the condition that if the commission ultimately disapproved a portion of the new rates the utility had to refund the excess revenues, plus interest at a rate not exceeding 12 percent per year.

Section 1 of the Act amends the prior law in two respects. First, the 12 percent limitation on interest is removed, thus allowing the commission to require payment of whatever rate of interest on refunds it finds appropriate (but not less than 5 percent). Secondly, the section restricts the procedure referred to as "pancaking" whereby a utility applies for a rate increase while an earlier application for an increase is still pending, and collects part or all of both proposed increases prior to approval of the rates by the commission. The amendment prohibits a utility from placing any part of a proposed rate increase into effect subject to refund if a prior application is pending before the commission (whether or not refundable rates are in effect under the prior application), unless one year has passed since the prior application was filed, or unless the commerce commission gives specific authority to place the subsequent increase into effect prior to the end of that year.

Section 1 is a permanent change in the law, and takes effect upon publication of the Act. The removal of the interest rate ceiling applies to any refund ordered by the commerce commission on or after the date of publication of the Act.

Section 2 - Temporary usury exemptions.

An Act passed during the 1978 legislative session established what has been referred to as a "floating index" or floating usury rate. Although subject to numerous exceptions or exemptions, that law limited the rates of interest on home loans, business loans, agricultural loans, and many types of credit. Major exceptions to that usury law were consumer credit transactions, loans and credit to corporations and real estate trusts, and automobile installment contracts.

Section 2 of House File 2492 establishes several new categories of transactions which are totally exempt from usury ceilings. House File 2492 did not repeal the section of the Code containing the floating usury rate, and if the interest rate provisions of House File 2492 are permitted to expire on July 1, 1983, the floating usury rate again will be the law of this state. The floating usury rate still applies to a limited number of transactions, even while House File 2492 is in effect.

Subsection 1 of section 2 of the Act establishes 5 categories of transactions which are exempt from usury limitations, although there is some overlap between categories. The categories are as follows:

1. Any person borrowing money to finance the acquisition of real property. This exemption applies irrespective of the nature of business of the lender, and irrespective of the purpose for which the property is to be used. The exemption applies to original loans and to loans given to refinance real estate purchase contracts, and if the lender releases the original borrower the exemption applies to assumptions. Examples of this type of exemption are home loans, ag land purchase loans, and loans to purchase land for future business development, whether the lender is a bank, savings and loan association, credit union, insurance company, corporation, or other person or entity.

2. Any person borrowing money or obtaining credit in an amount exceeding \$35,000, exclusive of interest, for the purpose of constructing improvements on real property. This exemption applies whoever the lender or creditor might be, and irrespective of the purpose of the improvement. Examples of the types of transactions covered by this exemption are major home renovation loans, loans to finance the construction of dwellings or other structures on unimproved property, and loans to lessees to construct improvements on leased real property for business uses.

3. A person who is purchasing real property on contract. This exemption applies irrespective of who the seller of the property is, and irrespective of who the buyer is, and irrespective of the use of the real property. This exemption would cover contract sales of homes between individuals, sales of agricultural land on contract, and other land sales on contract.

4. A person borrowing money or obtaining credit for business or agricultural purposes, or a person borrowing money or obtaining credit in an amount exceeding \$35,000 for personal, family or household purposes. These exemptions apply irrespective of the nature of the business of the lender or creditor, if any. Examples of transactions covered by these exemptions are a loan by, e.g., a bank, insurance company, individual or other entity, of whatever amount to a sole proprietor, partnership or association for a business or agricultural purpose; a farm operating loan or credit sale of whatever amount; an installment sale of a motor vehicle or machinery, or of a mobile home, travel trailer, semitrailer, or other personal property for either a business or an agricultural purpose; and a loan or credit sale to an individual where the amount exceeds \$35,000 for any personal, family or household purpose.

The Act does not define what constitutes a business purpose. Section 2 does define "agricultural purpose" by incorporating by reference the definition contained in section 537.1301 of the Code (the consumer credit code). However, section 17 of the Act strikes the definition contained in the consumer credit code, in conjunction with the other amendments to that code which have the purpose of removing agricultural purpose transactions from the

consumer credit code (see discussion relating to sections 17 through 30 of the Act). A retroactive amendment to House File 2492 was enacted in House File 2486 that inserts into section 2 a definition of "agricultural purpose" which is almost identical to the definition previously contained in the consumer credit code. The only difference is that the consumer credit code definition limited itself to activities undertaken by a "natural person", the limitation being consistent with the other purposes of the consumer credit code. The definition contained in House File 2492, as amended by House File 2486, does not contain the "natural person" qualification.

5. Any corporation or real estate investment trust borrowing money or obtaining credit, and any person purchasing securities on credit from a broker or dealer who is registered as such under state or federal law. These exemptions are a continuation of prior law, as contained in section 535.2, subsection 2 of the Code.

The above categories of exemptions apply only in those instances where the "creditor" and "debtor" have entered into a written agreement which specifies the rate of interest to be paid (including agreements that provide for an adjustment of the rate of interest). In the absence of such a written agreement, the rate of interest is controlled by section 535.2, subsection 1 of the Code, except as otherwise permitted by section 7 of House File 2492 (see discussion below).

The exemptions created in section 2 of the Act apply only to transactions entered into on or after the date of publication of the Act and prior to July 1, 1983 (see subsection 2 of section 2). Prior law continues to apply to most agreements executed before the publication date of the Act (but see discussion relating to section 7 of the Act).

Section 2 continued - Loan processing fees (points).

Subsection 3 of section 2 authorizes a lender to collect a loan processing fee (points) equal to not more than 2 percent of the amount loaned in connection with a loan given to finance the purchase of a single-family or two-family dwelling to be occupied by the borrower, except that if the loan is a refinancing of a prior loan, or if the transaction is an assumption of a prior loan, then the fee may not exceed 1 percent of the amount refinanced or assumed. These provisions temporarily replace other authority contained in section 535.8, subsection 2, paragraph a, 1979 Code Supplement. The earlier provision is not repealed by House File 2492, and if section 2 of House File 2492 is permitted to expire July 1, 1983, the earlier provision would control on and after July 1, 1983.

All of the provisions of section 2 take effect upon publication of the Act and expire July 1, 1983.

Sections 3, 4 and 5 - Banking law amendments.

Sections 3, 4 and 5 of the Act contain amendments to the state banking laws. Section 3 amends Code section 524.901 by adding a

new subsection that authorizes a state bank to invest up to 20 percent of its capital and surplus in participation certificates issued by federally-chartered production credit associations. Section 4 repeals subsection 6 of Code section 524.906. That subsection limited the aggregate amount a state bank could invest in installment loans and consumer loans. Section 5 amends Code section 524.908 to expand the authority of a state bank to purchase personal property for the purpose of leasing it to another person. The amendments to the banking laws contained in sections 3, 4 and 5 take effect on the publication date of the Act and are permanent Code amendments.

An additional amendment to chapter 524 was included in House File 2486. This amendment added a definition of "agricultural credit corporation" to chapter 524. Its function was to clarify the term as it is used in section 524.901 of the Code. (See also, the discussion of House File 2486 later in this summary.)

Section 6 - Industrial loan companies.

Section 6 of the Act amends section 536A.23, subsection 1 of the Code, which establishes a maximum interest rate that an industrial loan licensee may charge on its loans. Prior law permitted a rate of 9 percent, although it can be computed by using the add-on or the discount method. The amendment changes the maximum numerical rate from 9 percent to 10 percent. This amendment takes effect on the publication date of the Act and expires July 1, 1983. The limitation is preempted, however, by the temporary exemptions contained in section 2 of the Act, and thus a loan made by an industrial loan licensee for, e.g., a business or an agricultural purpose is not subject to any statutory interest-rate limitation.

Section 7 - Finance charge on accounts receivable.

Section 7 of the Act authorizes the collection of a finance charge exceeding 5 percent per year in the absence of a written agreement to pay interest in certain credit transactions. The attorney general has interpreted Iowa law to require a written agreement to pay interest if the rate is to exceed 5 percent per year. In the absence of such a written agreement, the legal rate of 5 percent, as established by section 535.2, subsection 1 of the Code, would control.

Section 7 provides that in a retail sale of goods or services on credit, the creditor can charge in excess of 5 percent if the creditor gives timely written notice of the amount of the actual finance charge and certain other information. In transactions which are subject to the federal truth-in-lending Act the creditor is required to give the disclosures required by that Act and at the times required by that Act. In transactions not subject to the federal truth-in-lending Act, the creditor is required to give notice at the time of sale. If proper disclosure is made then the creditor may charge up to 21 percent per year on closed-end credit transactions, and on open-end accounts the creditor may charge up to 1 1/2 percent per month on the first \$500 of account balance and 1 1/4 percent per month on the excess balance.

Section 7 contains numerous references to provisions of the consumer credit code (chapter 537), but is not expressly limited to "consumer credit transactions" as defined in that chapter. Section 7 states that it applies to a "retail sale of goods or services". The term "retail sale" is not defined.

It should be observed that the disclosure provisions of the federal truth-in-lending Act and state truth-in-lending provisions continue to apply. If proper disclosures are not made, damages, civil penalties and attorney fees may be recoverable by the debtor. Criminal penalties also apply to certain violations.

Section 7 takes effect on the publication date of the Act, and expires July 1, 1983. Section 7 applies only with respect to credit initially extended after the effective date of the Act. Existing open-end accounts which are subject to the consumer credit code are subject to the limitations contained in chapter 537 relating to disclosure of the terms of open-end accounts and changes in the terms of open-end accounts.

Section 8 - Due-on-sale mortgage foreclosures.

Section 8 of the Act amends section 535.8, subsection 2, 1979 Code Supplement, relating to the enforcement of due-on-sale clauses in mortgages on single-family or two-family owner-occupied dwellings. Prior law prohibits the enforcement by lenders of due-on-sale clauses unless certain criteria are met. Section 8 adds new language providing that if a mortgage foreclosure results from enforcement of a due-on-sale clause, the statutory period of redemption by the debtor contained in chapter 628 of the Code is extended to 36 months. The term "due-on-sale clause" is defined in section 8 to mean any type of mortgage provision which requires prepayment in the event of a transfer of an ownership interest in the dwelling. Such clauses also are known as "acceleration clauses". The new provision contained in section 8 does not apply in the event of a foreclosure for any reason other than enforcement of a due-on-sale clause, and also does not apply if the lender establishes that the transfer of interest impairs the security interest of the lender or the likelihood of repayment of the loan. The extension to 36 months cannot be waived or reduced by agreement.

Section 8 was amended retroactively by House File 2486 to clarify the scope of the section. The new paragraph of language was added to section 535.8, Code 1979 Supplement, which section applies only to purchase-money loans secured by one-family or two-family owner-occupied dwellings. Out of some concern that section 8 might be construed to apply to other types of mortgage loans, House File 2486 amended section 8 to expressly restrict its applicability to loans as defined in section 535.8.

The section takes effect on the date of publication of the Act and applies to any mortgage foreclosure occurring on or after the effective date of the Act, irrespective of when the mortgage was executed. Section 8 expires July 1, 1983.

Section 9 - Interest rates on automobile sales contracts.

Section 9 amends Code section 322.19 to increase the maximum finance charge on installment sales of new and used automobiles. The section increases the maximum charge on new automobiles to 21 percent per year, and increases the maximum charge on automobiles not more than 2 years old to 24 percent per year. This section supersedes Senate File 2200, also enacted during the 1980 Session, which increased the maximum rate on new automobiles to 18 percent per year. Section 9 takes effect on the date of publication of the Act, and expires July 1, 1983. If the Act does expire in 1983, the provisions of Senate File 2200 would then apply to sales of new automobiles, and pre-1980 law would then apply to sales of used automobiles.

Section 9 is subject to the temporary exceptions contained in section 2 of the Act. Thus, the limitations established by Code section 322.19 do not apply if the installment sale involves a buyer that is a corporation, or that is buying for a business or an agricultural purpose.

Section 10 - Interest rates on mobile home and modular home sales contracts.

Section 10 adds a new section to chapter 321 of the Code to permit a finance charge of 21 percent per year on installment sales of mobile homes and modular homes. This maximum rate applies irrespective of the age of the mobile home or modular home. Section 10 takes effect on the publication date of the Act and expires July 1, 1983.

Section 10 also is subject to the temporary exemptions contained in section 2 of the Act, and thus does not limit the rate of finance charge where the buyer, e.g., is obtaining the mobile home or modular home for a business or agricultural purpose.

Section 11 - Interest rates on semitrailer and travel trailer sales.

Section 11 amends the new Code section added by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 128, section 1, which establishes the maximum finance charges on installment sales of semitrailers. Section 11 increases the maximum rates permitted by the earlier law, and expands the section to cover travel trailers as well as semitrailers. The maximum rates are increased from 15 percent to 21 percent per year on new vehicles, and from 21 percent to 24 percent per year on used vehicles not more than 2 years old. Semitrailers and travel trailers more than 2 years old would be subject to the 27 percent per year limitation established in the 1979 Act. Section 11 takes effect on publication of the Act and expires July 1, 1983.

Section 11 is superseded by the temporary exemptions contained in section 2 of the bill, and thus does not limit the finance charge in transactions referred to in that section.

Section 12 - Applicability of consumer credit code to home loans.

Section 12 of the Act, in conjunction with a portion of section 14 of the Act, amend the consumer credit code to exclude from the provisions of that chapter any loan which is secured by a first lien on land and which is used as purchase money to acquire that land. "Second mortgage" loans would continue to be subject to that chapter. Historically, mortgage loans, although theoretically subject to that code, were not covered because of an exclusion for loans secured by a first mortgage in which the interest rate was below the amount specified in chapter 535 of the Code. Market interest rates for home mortgage loans were below the threshold specified in the consumer credit code until recently. The amendments contained in sections 12 and 14 of the Act essentially continue what has been the actual effect of prior law.

Sections 12 and 14 take effect on publication of the Act and expire July 1, 1983.

Sections 13 and 14 - Interest rates on closed-end consumer debt.

Sections 13 and 14 of the bill amend the consumer credit code to increase the maximum finance charge which may be collected in closed-end credit sales and closed-end loans under the consumer credit code. The maximum rate is increased in both cases from 15 percent per year to 21 percent per year. These changes would apply to such transactions as installment sales of home appliances, and personal loans made by banks and other regulated lending institutions, including loans for the purchase of automobiles. These limits do not apply to loans made by small loan companies, whose rates are controlled by chapter 536 of the Code.

Sections 13 and 14 take effect on the date of publication of the Act and expire July 1, 1983.

Sections 15 and 16 - Maximum rates on pre-1979 agreements.

During the 1978 Session, the general assembly enacted House File 2467 (chapter 1190, Acts of the 1978 Session) which repealed the then existing 9 percent usury ceiling and enacted the "floating" usury index. As a part of that legislation, however, the legislature inserted a provision which retained the 9 percent ceiling for those agreements which were executed prior to the effective date of House File 2467 (effective August 3, 1978) and which contained an interest-rate adjustment clause. The effect was that the interest rate on those agreements could not be adjusted above 9 percent, even though the new usury ceiling was expected to and did exceed 9 percent.

Sections 15 and 16 of the Act repealed that 9 percent limitation, with the effect that after the publication date of the Act the interest rate on those agreements could have been adjusted according to the terms of the agreement without regard to the 9 percent ceiling.

However, shortly after passage of House File 2492 the legislature again considered the issue of adjustable-rate agreements, and the effects of sections 15 and 16 were nullified by Senate File 2375. This Act retroactively repeals sections 15 and 16 of House File 2492, and deals with the issue in a different manner.

Senate File 2375 contains a publication clause, and upon the effective date of that Act, sections 15 and 16 of House File 2492 are repealed, retroactive to the effective date of those two sections, with the intent that those two sections be void as if never enacted (see Senate File 2375, section 3). Senate File 2375 contains additional provisions which relate to adjustable-rate agreements entered into prior to July 1, 1979. Those provisions are as follows:

1. With respect to agreements entered into prior to August 3, 1978, the maximum interest rate which may be charged is 9 percent, the limitation established in the 1978 Act; provided, however, that as an exception to this limitation, if a loan agreement provided for the repayment of over 50 percent of the initial principal as a single payment at the end of the term of the loan (a balloon payment loan), the interest rate may be adjusted according to the terms of the agreement to any rate of interest permitted by the laws of this state as of the date the interest rate is adjusted. It is not clear, though, which state law is to be used in determining what rate is "permitted by the laws of this state" as of the date of adjustment. The exception was intended to permit renegotiation of the interest rate in those cases in which the lender, as a term of the balloon payment loan, agreed to refinance the loan at the end of the term. The attorney general had ruled that those agreements are, in effect, continuing loans, notwithstanding the balloon payment provision, and thus were subject to the 9 percent limitation. Following this line of reasoning, the usury exemptions contained in section 2 of House File 2492 do not apply as they expressly affect only those agreements which are entered into after the publication date of the Act, and thus, the residual usury limitation, section 535.2, subsection 3 of the Code (the floating usury rate), would establish the maximum interest rate which may be charge in these balloon-loan refinancings.

2. Another provision added by Senate File 2375 deals with adjustable-rate agreements executed on or after August 3, 1978 and prior to July 1, 1979. Section 2 of that Act limits the interest rate under those agreements to a maximum of 2 1/2 percentage points above the rate initially payable under the agreement and in addition, restricts adjustments to 1/2 of 1 percent per year. This new provision also contains the exception for balloon payment agreements requiring a single payment of more than 50 percent, and authorizes adjustment after the publication date of Senate File 2375 to any rate permitted by the laws of this state as of the date of adjustment. Again, the controlling law is not clear, and following the attorney general's reasoning the floating index rate as of the date of adjustment is the maximum rate which may be charged.

It should be observed that these limitations and exceptions do not create adjustable interest rate loans, but serve as limitations on contract language. Adjustment of the rate of interest under such an agreement is controlled by the contract language, subject to statutory limitations. Thus, for example, if the contract language provides for adjustment of interest each January 15, the rate could not be adjusted until the next January 15 following the effective date of Senate File 2375.

In passing, it is noted that the general assembly enacted a law during the 1979 Session which authorized what are referred to as variable rate mortgages. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 132, section 7 specifies the terms and conditions required of "variable rate" loan agreements, one of which limits the maximum interest-rate adjustment to 2 1/2 percentage points during the term of the loan. This provision took effect July 1, 1979, and it is not known to what extent, if any, the authority is being used. It also is unclear whether that Act or any other state law prohibits the use of other types of adjustable-rate agreements. (See also, discussion of House File 2492, section 31.)

Sections 17 through 30 - Removal of Ag credit from the ICCC.

Sections 17 through 30 of House File 2492 amend the Iowa consumer credit code (chapter 537 of the Code) by striking all references to agricultural purpose loans and credit. As originally enacted in 1975, the consumer credit code applied to loans and credit for agricultural purposes where the amount involved did not exceed \$35,000, although there were several provisions which expressly did not apply to agricultural purpose transactions.

Sections 17 through 29 remove all references to agricultural credit from chapter 537, with the effect that the consumer credit code ceases to apply to any agricultural purpose transaction.

Section 30 contains transition provisions relating to the effects of sections 17 through 29. The amendments do not take effect until July 1, 1980. In addition, the amendments do not apply to any transaction which was entered into prior to July 1, 1980. Thus, an agricultural purpose transaction which was undertaken prior to July 1, 1980, continues to be subject to the provisions of the old law until that transaction has been fully performed by both parties. Section 30, however, states that additional loans, advances or extensions of credit shall not be made on or after July 1, 1980, pursuant to agreements executed prior to July 1, 1980. Sections 17 through 29 are permanent Code revisions.

It should be observed that the removal of agricultural purpose transactions from the Iowa consumer credit code does not have any effect upon the federal truth-in-lending requirements. The federal law continues to apply to agricultural purpose transactions where the amount involved does not exceed \$25,000 (the thresholds in the federal law and the Iowa law were not the same).

Section 31 - Renegotiable mortgage loans for savings and loan assn.

Section 31 of the Act adds a new provision to chapter 534 of the Code which authorizes state-chartered savings and loan associations to make loans on one-family to four-family dwellings using agreements which require renegotiation of the interest rate at intervals of 3, 4 or 5 years. These are referred to as "renegotiable rate mortgage loans". This authority is, however, only available to state institutions if and to the same extent that federally-chartered institutions have such authority under federal law and regulations. This authority is different from and independent of the authority to make variable rate mortgage loans, as defined and authorized by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 132. Section 31 takes effect upon publication of the Act and is a permanent Code change.

Section 32 - Override of federal usury laws.

The United States Congress recently enacted two laws which substantially affected state usury laws and related provisions. Public Law No. 96-161 and parts of Public Law No. 96-221 suspended state limitations on certain types of loan provisions for the purpose of freeing-up lending until the various state legislatures could meet and consider revisions to state laws or constitutions.

The federal Acts suspended state laws and constitutional provisions which limited interest rates, discount points and other types of charges. Public Law No. 96-221 was similar in effect to Public Law No. 96-161, although it was more extensive. The former expired by its own terms during 1980, and in addition it was superseded by the passage of the latter. Generally speaking, the federal suspension applied only with respect to loans made for housing and business and agricultural purposes when made by regulated financial institutions, although there were some exceptions to this statement.

The provisions of the federal Acts also authorized states to override the federal suspensions by passing a law declaring that the state did not want the federal provisions to apply. In response to this grant of authority, the Iowa general assembly adopted section 32, which declares that the provisions of the federal Acts are not to apply in this state. As far as can be determined, the effect of section 32 is that Iowa usury and related laws apply to transactions entered into on or after the publication date of House File 2492. However, the federal provisions apply to transactions entered into after December 28, 1979, the effective date of Public Law No. 96-221, and prior to the publication date of House File 2492.

Section 32 takes effect upon the publication date of House File 2492, and is permanent.

Section 33 - Expiration of temporary provisions.

Section 33 is the section which controls the expiration or permanence of the various sections of House File 2492. It provides

that all sections except those specifically enumerated expire July 1, 1983. The sections enumerated, and thus not expiring in 1983, are section 1 relating to utility rates, sections 3, 4 and 5 amending the banking laws, section 17 through 30 removing agricultural transactions from the consumer credit code, section 31 authorizing renegotiable rate mortgage loans for savings and loan associations, and section 32 overriding the federal suspension.

Section 34 - Publication clause and transition.

Section 34 contains the publication clause for the Act. The section also provides that the removal of the 12 percent limitation on utility rate refunds applies to all refunds ordered on or after the publication date of the Act. Section 34 also specifies that the new interest-rate ceilings for installment sales of automobiles, mobile homes, modular homes, semitrailers and travel trailers, and the new interest-rate ceilings on closed-end consumer loans and consumer credit, apply only to loans or credit made or extended on or after the publication date of the Act.

House File 2486 - Ag credit corporation loans--permanent.

House File 2486 enacted authority for agricultural credit corporations to make agricultural production purpose loans at interest rates not greater than 4 percentage points above the lending rate of the federal intermediate credit bank of Omaha. The authority takes effect upon publication of that Act and is permanent, but the interest-rate limitation is temporarily preempted by section 2 of House File 2492.

These provisions of House File 2486 apply only to corporations that are qualified under federal law to discount or sell agricultural purpose loans to the federal intermediate credit bank of Omaha, Nebraska, and the residual authority only applies to loans for "agricultural production purposes". A loan does not have to be sold to that bank, though.

As noted above in the discussion of section 2, House File 2486 added a definition of "agricultural purpose" to the general usury law. However, House File 2486 contains a different definition, that of "agricultural production purpose" (emphasis added) for use in determining the residual authority of agricultural credit corporations. The end result is that until July 1, 1983, agricultural credit corporations may charge any rate of interest on agricultural purpose loans, as broadly defined in House File 2492, section 2, as amended. Effective July 1, 1983, an agricultural credit corporation may charge up to 4 percentage points above the F.I.C.B. lending rate on any "agricultural production purpose" loan, and may charge whatever the floating usury rate permits on other loans.

* * * * *

In addition to the four Acts which dealt with usury and usury-related problems, the general assembly also modified during the 1980 Session the rate of interest payable on judgments. Acts of the Sixty-eighth General Assembly, 1980 Session, House File 673 increased the rate payable on judgments in the absence of a written agreement from 7 percent to 10 percent. The change takes effect January 1, 1981.

SCHEMATIC SUMMARY
OF
CURRENT LAW

The foregoing discussion traces the origin of the various Iowa laws relating to usury and the evolution of the relatively simple original law into the complex system which presently exists. The following schematic summary is an attempt to place all of the existing laws into perspective and to identify the interrelationships between the various provisions. This summary is accurate only for the state of the law as it exists effective July 1, 1980, except as otherwise specifically noted. It does not attempt to forecast subsequent changes in the law, and the reader should observe that several of the provisions of the 1980 Act will be repealed automatically effective July 1, 1983.

LEGAL RATE

1. Generally, sec. 535.2(1), Code 1979, Code 1979 Supplement.

Creates a statutory right to collect interest on indebtedness, and fixes the rate of such interest at five percent per annum. Also authorizes parties to agree in writing to a higher rate. The right to interest thus established appears to apply to all conceivable kinds of debt, except where a particular statute otherwise applies.

2. Retail accounts receivable, sec. 7, HF 2492, 1980 Session.

Creates a statutory right to collect interest at a rate not greater than the applicable open-end or closed-end rate specified in the consumer credit code (Code section 537.2202 or 537.2201, respectively) for debt arising out of retail sales of goods or services on credit. A written agreement is not required, but the creditor must give the written notice required under the truth-in-lending Act, if applicable, or in other cases must give a prescribed statutory notice not later than the time of delivery. The rate thus established also prevails in the event of a judgment. Authority is more extensive than consumer credit transactions, but is limited to retail transactions.

JUDGMENTS

Section 535.3, Code 1979, Code 1979 Supplement, provides for three possible rates of interest on judgments and decrees.

1. In the absence of a valid written agreement establishing a different rate, the rate is seven percent per annum (increased to ten percent per annum, effective January 1, 1981, HF 673, 1980 Session).

2. In transactions that are not specified in Code section 535.2(2) as exempt from usury control, a judgment bears the rate as agreed to by the parties in writing, but not exceeding the applicable rate under the floating usury ceiling (presumably the rate in effect as of the date of the judgment or decree).

3. In transactions specified in Code section 535.2(2) as exempt transactions, the rate is equal to the rate agreed to in writing by the parties. Section 2(2), HF 2492, 1980 Session, may produce the same result for transactions declared in that section to be exempt from usury controls (see final sentence of that subsection).

WRITTEN AGREEMENTS

1. General usury law, section 535.2(3), Code 1979 Supplement.

Parties may agree in writing to any rate of interest not exceeding the maximum rate in effect as of the time a contract is made. Maximum rate is determined and published monthly by the superintendent of banking. This rate is a residual rate, however, and does not limit the rate of interest in exempt transactions as specified in sec. 2, HF 2492, 1980 Session, and likewise does not limit the rate in transactions which are subject to regulation under special usury statutes (see discussion below).

Code law and case law are not determinative of what constitutes a valid agreement in writing. Principles of contract law may produce different results in different settings. Code section 535.2(1)(g) clearly provides that the agreed-to rate must be expressed in writing (i.e., either the rate is specified or the manner in which the rate is to be determined) or else the legal rate applies.

Section 535.2601(1), Code 1979, provides that interest shall be calculated on the basis of a 365-day year, except for interest on debt of governmental agencies.

2. Criminal usury provision, sec. 535.6, Code 1979, Code 1979 Supplement.

Prohibits a creditor from agreeing to receive more than two percent per month for the use or forbearance of money if the amount involved exceeds five hundred dollars. Violation is a serious misdemeanor.

The only express exception is a loan lawfully made under the chattel loan Act (Code chapter 536). Pre-1980 legislative histories are inconclusive on the issue of whether the special usury statutes and usury exemptions, e.g., the industrial loan law and corporate exemption, also were intended to supersede criminal provision. However, the exceptions established in sec. 2, HF 2492, 1980 Session, expressly supersede the limitations on interest rates contained in chapter 535 (see subsection 2).

3. Exempt transactions, sec. 2, HF 2492, 1980 Session.

This section authorizes parties to agree in writing to pay any rate of interest with respect to the following types of indebtedness (some categories overlap):

a. Agricultural purpose loans and credit (see definition of "agricultural purpose", secs. 2 and 3, HF 2486, 1980 Session).

But C.F. sec. 535.9, Code 1979 Supplement, prohibiting prepayment penalties in ag-land purchase-money loans.

Also, agricultural purpose transactions are no longer subject to regulation under the consumer credit code, secs. 17-30, HF 2492, 1980 Session. (Also, agricultural purpose transactions are no longer subject to the federal truth-in-lending Act by virtue of action of the federal reserve board taken in May, 1980.)

b. Business purpose loans and credit.

Business purpose is not defined. Query whether a nonprofit corporation is engaged in business.

c. Credit sales of securities by a registered broker or dealer.

Exemption is the same as that contained in sec. 535.2(2), Code 1979.

d. Corporate debt.

Exemption is the same as that contained in sec. 535.2(2), Code 1979.

e. Personal loans and credit (for personal, family or household purposes) where amount exceeds \$35,000 (those below threshold are regulated by the consumer credit code).

f. Real estate investment trust debt.

Exemption is the same as that contained in sec. 535.2(2), Code 1979.

g. Real-property contract sales.

Applies to any sale of real property on contract, irrespective of nature of parties or the use of the real property.

h. Real-property improvement loans exceeding \$35,000.

If loan is for a personal, family or household purpose, loans below threshold are regulated by the consumer credit code. If a loan is for a business or agricultural purpose, the threshold does not apply by virtue of the exemptions referred to in paragraphs a and b above.

i. Real-property purchase-money loans.

In addition to the exemption from usury controls, real-property purchase money loans are no longer within the purview of the consumer credit code (sec. 12, HF 2492, 1980 Session).

However, there are several special statutory provisions relating to these types of loans:

(1) If the property is agricultural land, prepayment penalties are prohibited, sec. 535.9, Code 1979 Supplement.

(2) If the property is an owner-occupied single-family or two-family dwelling, the following provisions should be observed:

(a) Closing costs and charges are regulated, sec. 535.8(2), Code 1979 Supplement.

(b) Compensating-balance deposits or other devices to increase the yield to the lender are prohibited, sec. 535.8(3), Code 1979 Supplement.

(c) Due-on-sale clauses have limited enforceability, sec. 535.8(2)(c), Code 1979 Supplement; and enforcement may result in extension of the mortgage foreclosure redemption period, sec. 8, HF 2492, 1980 Session, as amended, sec. 4, HF 2486, 1980 Session.

(d) Federally-insured loans (those defined in section 682.45, Code 1979) are generally exempt from usury limitations (see sec. 682.46, Code 1979, and sec. 535.2(5), Code 1979 Supplement), and from limitations on points and other fees and charges (see sec. 535.8(5), Code 1979 Supplement). However, the prohibition against prepayment penalties, sec. 535.9, Code 1979 Supplement, does not contain an exclusion for federally insured loans. Query whether the prohibition is a "limitation on interest rates" within the meaning of sec. 682.46, Code 1979.

(e) Loan-processing fees (points) are limited to two percent of principal on original loans, and a reasonable estimate of costs not exceeding one percent of principal on an assumption or a refinancing, sec. 2(3), HF 2492, 1980 Session.

(f) Mortgage instruments are regulated. The contents of a variable rate mortgage, reverse annuity mortgage or graduated payment mortgage must meet statutory and administrative rule requirements, chapter 132, Acts of the 1979 Session. Renegotiable-rate mortgages are authorized for savings and loan associations, sec. 31, HF 2492, 1980 Session.

g. Prepayment penalties
are prohibited, sec.
535.9, Code 1979
Supplement.

4. Adjustable-rate agreements-special rules.

Section 535.2(4), Code 1979 Supplement, as amended by sec. 1, SF 2375, 1980 Session, and sec. 2, SF 2375, 1980 Session, contain special rules that govern the maximum rate of interest which may be imposed under contracts containing interest-rate adjustment clauses and executed prior to July 1, 1979. Section 7, chapter 132, 1979 Session, limits adjustment of interest on a variable rate mortgage. Administrative rules adopted pursuant to sec. 31, HF 2492, 1980 Session, limit adjustment of interest by a savings and loan association on a renegotiable-rate mortgage.

SPECIAL USURY STATUTES

The following are special usury provisions of more limited scope than the general usury law (Code chapter 535, as modified by sec. 2, HF 2492, 1980 Session).

1. Agricultural production purpose loans by agricultural credit corporations, sec. 1, HF 2486, 1980 Session.

Agricultural credit corporations, as defined, are authorized to make agricultural production purpose loans, as defined, at rates indexed to the lending rates of the federal intermediate credit bank of Omaha. This limitation is currently superseded, however, by the agricultural purpose usury exemption contained in sec. 2, HF 2492, 1980 Session.

2. Consumer credit sales, chapter 537, Code 1979, as amended, generally.

If a transaction satisfies the criteria for a consumer credit sale (sec. 537.1301(13), Code 1979) the consumer credit code applies.

a. Interest rates for closed-end credit transactions are regulated by sec. 537.2201, Code 1979, as amended, sec. 13, HF 2492, 1980 Session.

b. Interest rates for "open-end" credit sales (see sec. 537.1301(29), Code 1979) are regulated by sec. 537.2202, Code 1979.

c. A delinquency charge in lieu of interest is regulated by sec. 537.2601(2), Code 1979.

d. A delinquency charge in addition to interest is regulated by sec. 537.2502, Code 1979.

e. Deferral charges are regulated by sec. 537.2503, Code 1979.

f. Fees, taxes and other charges are regulated by sec. 537.2501, Code 1979.

g. Prepayment penalties are prohibited by sec. 537.2510, Code 1979.

3. Retail credit sales of mobile homes and modular homes.

The consumer credit code generally applies if the sale is for personal, family or household purposes, but a different interest-rate ceiling applies, sec. 10, HF 2492, 1980 Session.

Business and agricultural purpose sales are governed by the general usury exemptions, sec. 2, HF 2492, 1980 Session.

4. Retail credit sales of motor vehicles.

The consumer credit code generally applies if the sale is for personal, family or household purposes, but a different interest-rate ceiling applies, sec. 322.19, Code 1979, as amended, sec. 1, SF 2200, 1980 Session, and as further amended, sec. 9, HF 2492, 1980 Session.

Business and agricultural purpose sales are governed by the general usury exemptions, sec. 2, HF 2492, 1980 Session.

5. Retail credit sales of semi-trailers and travel trailers.

The consumer credit code generally applies if the sale is for a personal, family or household purpose, but a different interest-rate ceiling applies, sec. 11, HF 2492, 1980 Session.

Business and agricultural purpose sales are governed by the usury exemptions, sec. 2, HF 2492, 1980 Session.

6. Consumer loans.

If a transaction satisfies the criteria for a consumer loan (sec. 537.1305(1), Code 1979, as amended, sec. 12, HF 2492, 1980 Session), the consumer credit code applies. However, a lender may not charge in excess of the general usury rate (sec. 535.2, Code 1979 Supplement) unless the lender is a supervised financial organization, secs. 537.1301(42), 537.2301, 537.2401(1), 535.2402(1), Code 1979.

a. Interest rates for closed-end loans are regulated by sec. 53.2402, Code 1979, as amended, sec. 14, HF 2492, 1980 Session.

b. Interest rates for "open-end" loans (537.1301(29), Code 1979) are regulated by sec. 537.2402, Code 1979.

c. A delinquency charge in lieu of interest is regulated by sec. 537.2601(2), Code 1979.

d. A delinquency charge in addition to interest is regulated by sec. 537.2502, Code 1979.

e. Deferral charges are regulated by sec. 537.2503, Code 1979.

f. Fees, taxes and other charges are regulated by section 537.2501, Code 1979.

g. Prepayment penalties are prohibited by sec. 537.2510, Code 1979.

3. Bank installment loans.

Residual authority, sec. 524.906, Code 1979. Generally superseded by the consumer credit code (chapter 537 of the Code) and the usury exemptions, sec. 2, HF 2492, 1980 Session.

4. Credit union loans.

Residual authority, sec. 533.14, Code 1979, as amended, sec. 7, chapter 130, 1979 Session. Generally superseded by the consumer credit code and the usury exemptions.

5. Savings and loan association property-improvement loans.

Residual authority, sec. 534.19(6), Code 1979. Interest rates are the same as those in the consumer credit code and are generally superseded by the usury exemptions.

6. Industrial loan licensee loans.

Residual authority, section 536A.23(1), Code 1979, as amended, sec. 6, HF 2492, 1980 Session.

Preempted by the consumer credit code and generally superseded by the usury exemptions. Possible applicability of the criminal usury provision (sec. 535.6, Code 1979) as a limitation on the rate authorized in sec. 536A.23(1), as amended.

7. Chattel loan licensee loans.

Special interest rates, sec. 536.13, Code 1979, as modified by administrative rule, apply even in the case of consumer loans. Superseded by general usury exemptions.

8. National bank loans.

Federal law, 12 U.S.C. s. 85, establishes interest-rate authority for national banks. Supersedes state restrictions.

9. Production credit association loans.

Production credit associations organized under 12 U.S.C. s. 2091, et seq., may charge rates as established by federal administrative rules under authority of 12 U.S.C. s. 2096(b). Supersedes state restrictions.

TEMPORARY FEDERAL USURY PREEMPTION--TRANSITION

Public Law 96-161 and Public Law 96-221 preempted state usury laws as they applied with respect to certain housing, business, or agricultural purpose loans made after December 28, 1979, and prior to May 10, 1980 (the effective date of HF 2492) by federally insured depository financial institutions. As permitted by these statutes, the Iowa general assembly exercised its option to override these preemptions, sec. 32, HF 2492, 1980 Session. Loans that were originated during the preemption period are subject to the federal provisions, notwithstanding contrary state law. The types of state laws that were preempted were those "expressly limiting the rate or amount of interest, discount points, or other charges" taken in connection with a loan (P.L. 96-161, sec. 105; P.L. 96-221, sec. 501).

SPECIAL STATUTORY INTEREST-RATE PROVISIONS

In addition to the general and special usury provisions referred to above, the Code of Iowa contains numerous special provisions which govern interest on particular types of indebtedness. Among these are the following:

1. Interest on governmental obligations (bonds, warrants, etc.). Senate File 2282, enacted during the 1980 Session, amended the various provisions located throughout the Code, and placed all regulatory provisions in a new chapter 74A of the Code (sections 9-15, SF 2282).
2. Interest on installment payments and delinquencies of taxes and special assessments under the various tax laws.
3. Interest payable on deposits of public funds, sec. 453.6, Code 1979; prohibition against interest on public funds held as demand deposits, sec. 453.7, Code 1979.
4. Interest on utility rate refunds, sec. 476.6, Code 1979, as amended, sec. 1, HF 2492.
5. Interest on indebtedness resulting from mandatory repurchases of stock of dissenting corporate shareholders, secs. 491.25, 491.112, 496A.78, 496A.142(11), and 496C.14(3), Code 1979.
6. Maximum interest payable on shares in guaranty fund of mutual insurance company, sec. 515.20, Code 1979.
7. Interest on overdue assessments payable to insurance guaranty association, sec. 515B.5(1), Code 1979.

8. Interest on delayed payment of share of surviving spouse who elects against the will, sec. 633.256, Code 1979.

CURRENT INTEREST RATE FIGURES

The following is a summary of the current interest rates and ceilings under the general and special usury provisions contained in the Code.

1. Legal rate: 5%; Accounts receivable: 21% closed-end; 18%-\$500, 15% on excess, open-end.
2. Judgments (not founded on written contract): 7% (10% effective January 1, 1981).
3. Written agreements, generally: If exempt from usury controls, rate unlimited; if not exempt, usury rate (sec. 535.2(3)) of 12.25% (for month of July, 1980) unless special usury statute applies.
4. Special usury statutes:
 - a. Retail motor vehicle installment sales: 21%, 24% or 27%, depending upon the age of the vehicle.
 - b. Retail mobile home and modular home installment sales: 21%.
 - c. Retail semi-trailer or travel trailer installment sales; 21%, 24% or 27%, depending upon the age of the vehicle.
 - d. Other consumer credit sales: 21% closed-end; 18%-\$500, 15% on excess, open-end.
 - e. Consumer loans by a bank, savings and loan association, credit union or industrial loan company: 21% closed-end; 18%-\$500, 15% on excess, open-end.
 - f. Loans (including consumer loans) by a chattel loan licensee (maximum loan amount under chapter 536, \$2,000): segment of balance from 0-\$500, 36%; \$500.01-\$1,200, 24%; \$1,200.01-\$2,000, 18%.