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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2100.

23 September 1987

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23 September 1987

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

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

—o. 62 of 1987: Usury Amendment Act, 1987.

No. 62 van 1987: Woekerwysingswet, 1987.

Act No. 62, 1987

USURY AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

- [** **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Usury Act, 1968, so as to define the expression "ledger fee" more fully; to make other provision regarding the determination of maximum finance charge rates; to amend the provisions regarding the disclosure of finance charges and annual finance charge rate; and to limit the application of the said Act in respect of a leasing transaction which expires and where the book value of the movable property leased in terms of such transaction, is nil; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 9 September 1987.)*

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

Amendment of section 1 of Act 73 of 1968, as amended by section 1 of Act 76 of 1970, section 1 of Act 62 of 1974, section 1 of Act 90 of 1980 and section 1 of Act 42 of 1986.

Amendment of section 2 of Act 73 of 1968, as substituted by section 2 of Act 90 of 1980 and amended by section 2 of Act 42 of 1986.

1. Section 1 of the Usury Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (b) of the definition of "ledger fee" of the following paragraph:

"(b) a banking institution contemplated in paragraph (a) (or its wholly-owned subsidiary) for the **[initial]** issue and use of a credit card in terms of a credit card scheme operated by such banking institution or wholly-owned 10 subsidiary as manager of such scheme;"

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for subsections (1), (2) and (3) of the following subsections, respectively:

"(1) (a) No moneylender shall in connection with 15 any money lending transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister. 20

(b) Different percentages may be determined under paragraph (a) for money lending transactions where the total amount of money lent by a moneylender to a borrower within any period of three months, including disbursements made by him 25 within the said period and recoverable as part of the principal debt, is different.

(2) (a) No credit grantor shall in connection with any credit transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister. 30

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- (b) Different percentages may be determined under paragraph (a) for credit transactions of different money values of the principal debt.
- (3) (a) No lessor shall in connection with any leasing transaction stipulate for, demand or receive finance charges at an annual finance charge rate greater than the percentage determined by the Registrar by notice in the *Gazette* in accordance with the directions of the Minister.
- (b) Different percentages may be determined under paragraph (a) for leasing transactions of different money values of the principal debt.”; and
- (b) by the addition of the following subsection:
 “(13) A notice referred to in subsections (1), (2) and (3) may be withdrawn or amended at any time.”

Amendment of section 3 of Act 73 of 1968, as amended by section 3 of Act 76 of 1970, section 3 of Act 62 of 1974, section 4 of Act 90 of 1980 and section 4 of Act 42 of 1986.

3. Section 3 of the principal Act is hereby amended—
- (a) by the substitution for paragraphs (d) and (e) of subsection (1) of the following paragraphs, respectively:
 “(d) the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph (e);
 (e) the [finance charges expressed as an] annual finance charge rate; and”;
- (b) by the substitution for paragraphs (e) and (f) of subsection (2) of the following paragraphs, respectively:
 “(e) the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph (f);
 (f) the [finance charges expressed as an] annual finance charge rate; and”;
- (c) by the substitution for paragraphs (g) and (h) of subsection (2A) of the following paragraphs, respectively:
 “(g) the amount in rand and cents of the finance charges calculated at the annual finance charge rate mentioned in paragraph (h);
 (h) the [finance charges expressed as an] annual finance charge rate;”.

Amendment of section 5 of Act 73 of 1968, as substituted by section 8 of Act 90 of 1980 and amended by section 6 of Act 42 of 1986.

4. Section 5 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:
 “(c) finance charges on the principal debt and, if applicable, in terms of section 2A (1) (a) and on the amount referred to in paragraph (b) at an annual finance charge rate not exceeding the relevant rate [prescribed] determined by or in terms of section 2 (1), (2) or (3) or contemplated in section 2A (1) in respect of the money lending transaction or credit transaction or leasing transaction;”.

Amendment of section 6K of Act 73 of 1968, as inserted by section 10 of Act 90 of 1980 and amended by section 7 of Act 42 of 1986.

5. Section 6K of the principal Act is hereby amended by the insertion of the following subsection after subsection (3):
 “(3A) (a) The provisions of subsections (1) and (3) shall not apply in respect of a leasing transaction which expires and in respect of which the book value of the movable property leased in terms of such transaction, is nil.
 (b) If, on expiry of the leasing transaction referred to in paragraph (a), the movable property in question is leased by the former lessor to the former lessee in terms of a new leasing transaction, the provisions of this Act shall not apply to such new transaction.”

Short title and commencement.

6. This Act shall be called the Usury Amendment Act, 1987, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.