

# STATE OF NEW YORK

9078

## IN ASSEMBLY

January 16, 2020

Introduced by M. of A. TAYLOR -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to establishing the New York state loan shark act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York state loan shark act".

3 § 2. The general business law is amended by adding a new section 517-a  
4 to read as follows:

5 § 517-a. Maximum credit card interest rates. 1. For the purposes of  
6 this section "annual percentage rate of interest" or "annual percentage  
7 rate" shall mean the annual percentage rate for a loan of credit calcu-  
8 lated according to the provisions of the Federal Truth in Lending Act  
9 (15 U.S.C. § 1601, et seq.) and the regulations promulgated thereunder  
10 by the federal reserve board, as said act and regulations are amended  
11 from time to time.

12 2. Notwithstanding any other provision of law, but except as provided  
13 in subdivision four of this section, the annual percentage rate applica-  
14 ble to any extension of credit shall not exceed fifteen percent on  
15 unpaid balances, inclusive of all finance charges.

16 3. Any fees that are not considered finance charges under section one  
17 hundred six of the Federal Truth in Lending Act (15 U.S.C. § 1605) may  
18 not be used to evade the limitations of subdivision two of this section,  
19 and the total sum of such fees may not exceed the total amount of  
20 finance charges assessed.

21 4. (a) The superintendent of financial services may establish a maxi-  
22 mum annual percentage rate of interest exceeding the fifteen percent  
23 annual rate under subdivision two of this section for periods which  
24 shall not exceed eighteen months, upon a determination that:

25 (i) money market interest rates have risen over the preceding six  
26 month period; and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (ii) prevailing interest rate levels threaten the safety and soundness  
2 of individual lenders, as evidenced by adverse trends in liquidity,  
3 capital, earnings, and growth.

4 (b) The limitation in subdivision two of this section shall not apply  
5 with respect to any extension of credit by a credit union, as defined by  
6 section two of the banking law.

7 5. (a) Knowingly taking, receiving, reserving, or charging of an annu-  
8 al percentage rate or fee greater than that permitted by subdivision two  
9 of this section shall be deemed a violation of this section, and the  
10 creditor shall be subject to a forfeiture of the entire interest which  
11 the note, bill, or other evidence of such obligation carries with it, or  
12 which has been agreed to be paid thereon.

13 (b) If an annual percentage rate or fee greater than that permitted  
14 under subdivision two of this section has been paid, the person by whom  
15 it has been paid, or the legal representative of such person, may, by  
16 bringing an action not later than two years after the date on which the  
17 usurious collection was last made, recover back from the lender in an  
18 action of debt, the entire amount of interest, finance charges, or fees  
19 paid.

20 6. Any creditor who violates this section shall be subject to the  
21 provisions of section five hundred thirteen of this article.

22 § 3. This act shall take effect on the ninetieth day after it shall  
23 have become a law; provided that the provisions of this act shall apply  
24 to contracts entered into, altered, modified, extended, or renewed on or  
25 after such effective date. Effective immediately, the addition, amend-  
26 ment and/or repeal of any rule or regulation necessary for the implemen-  
27 tation of this act on its effective date are authorized to be made and  
28 completed by the superintendent of financial services on or before such  
29 effective date.