

STATE OF NEW YORK

1726

2025-2026 Regular Sessions

IN SENATE

January 13, 2025

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law and the banking law, in relation to limitations of rates of interest for financing arrangements and the extension of consumer credit; to amend the penal law, in relation to criminal usury; and to amend the personal property law, in relation to certain functions of the attorney general

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

1 Section 1. Subdivisions 1, 2, 4, 4-a, 6 and 7 of section 5-501 of the
2 general obligations law, subdivisions 1, 2 and 4 as amended by chapter
3 883 of the laws of 1980, subdivision 2 as further amended by section 104
4 of part A of chapter 62 of the laws of 2011, subdivision 4-a as added by
5 chapter 721 of the laws of 1976, subdivision 6 as amended by chapter 369
6 of the laws of 1980 and subdivision 7 as added by chapter 296 of the
7 laws of 1983, are amended and two new subdivisions 1-a and 8 are added
8 to read as follows:

9 1. The rate of interest, as computed pursuant to this title, [~~upon the~~
10 ~~loan or forbearance of any money, goods, or things in action~~] in
11 connection with any financing arrangement, except as provided in subdivi-
12 sions five and six of this section [~~or as otherwise provided by law~~],
13 shall be six per centum per annum unless a different rate is prescribed
14 in section fourteen-a of the banking law.

15 1-a. Financing arrangement is defined to include loans, forbearance of
16 any money, goods or things in action, and all other transactions that
17 involve the lending or advancing of money, goods or things in action for
18 an amount charged, taken or received, and all transactions that operate
19 as substitutes for such products, including but not limited to retail
20 installment contracts, merchant cash advances, invoice financing, reven-
21 ue-based financing, earned wage access or similar wage advance trans-
22 actions, lease- or rent-to-own arrangements, rental-purchase agreements

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

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1 as defined in subdivision six of section five hundred of the personal
2 property law, buy-now pay-later transactions, financing for litigation
3 or legal settlements, income-sharing agreements and financing for educa-
4 tion.

5 2. [~~No~~] Notwithstanding any other New York statute, regulation or
6 rule, no person or corporation shall, directly or indirectly, charge,
7 take or receive any money, goods or things in action as interest [on the
8 ~~loan or forbearance of any money, goods or things in action]~~ in
9 connection with a financing arrangement at a rate exceeding the rate
10 above prescribed. The amount charged, taken or received as interest
11 shall include any and all amounts paid or payable, directly or indirect-
12 ly, voluntary or otherwise, by any person, to or for the account of the
13 lender, including any discount applied to any amounts advanced, in
14 [~~consideration for making the loan or forbearance]~~ connection with the
15 financing arrangement as defined by the superintendent of financial
16 services pursuant to subdivision three of section fourteen-a of the
17 banking law, including fees, charges, tips, renewal charges, credit
18 insurance premiums, debt suspension or similar products, any ancillary
19 product sold with any extension of consumer credit, and any other amount
20 paid or payable, except such fee as may be fixed by the commissioner of
21 taxation and finance as the cost of servicing loans made by the property
22 and liability insurance security fund.

23 4. Except as otherwise provided by law, interest shall not be charged,
24 taken or received on any [~~loan or forbearance]~~ financing arrangement at
25 a rate exceeding such rate of interest as may be authorized by law at
26 the time the [~~loan or forbearance]~~ financing arrangement is made, wheth-
27 er or not the [~~loan or forbearance]~~ financing arrangement is made pursu-
28 ant to a prior contract or commitment providing for a greater rate of
29 interest, provided, however, that no change in the rate of interest
30 prescribed in section fourteen-a of the banking law shall affect (a) the
31 validity of a [~~loan or forbearance]~~ financing arrangement made before
32 the date such rate becomes effective, or (b) the enforceability of such
33 [~~loan or forbearance]~~ financing arrangement in accordance with its
34 terms, except that if any [~~loan or forbearance]~~ financing arrangement
35 provides for an increase in the rate of interest during the term of such
36 [~~loan or forbearance]~~ financing arrangement, the increased rate shall
37 not exceed such rate of interest as may have been authorized by law at
38 the time such [~~loan or forbearance]~~ financing arrangement was made.

39 4-a. Notwithstanding the provisions of subdivision four of this
40 section, a [~~loan or forbearance]~~ financing arrangement repayable on
41 demand may provide for changes, reflecting variations in lending rates,
42 from time to time in the rate of interest payable on such [~~loan or~~
43 ~~forbearance]~~ financing arrangement up to the rate of interest authorized
44 by law at the time of such change and in such case the rate of interest
45 may be so changed in accordance with the terms of the contract or loan
46 commitment relating thereto; provided, however, that the rate of inter-
47 est charged, taken or received on such a [~~loan or forbearance]~~ financing
48 arrangement shall not exceed the rate of interest authorized by law as
49 it may subsequently be reduced from time to time; and further provided,
50 however, that in no event shall such a [~~loan or forbearance by]~~ financ-
51 ing arrangement be subject to an authorized rate of interest less than
52 that applicable at the time such [~~loan or forbearance]~~ financing
53 arrangement was made. The provisions of this subdivision shall apply
54 only to a [~~loan or forbearance]~~ financing arrangement repayable on
55 demand which has an initial principal of more than five thousand dollars
56 and which the borrower has the right to repay at any time in whole or in

1 part, together with accrued interest on the principal so repaid, without
2 any penalty. With respect to a [~~loan or forbearance~~] financing arrange-
3 ment covered by this subdivision, the lender shall disclose to the
4 borrower in writing not less often than annually the amount of interest
5 accrued or payable as of the date of such disclosure and the manner by
6 which such amount was computed.

7 6. a. No law regulating the maximum rate of interest which may be
8 charged, taken or received, except section 190.40 and section 190.42 of
9 the penal law, shall apply to any [~~loan or forbearance~~] financing
10 arrangement in the amount of two hundred fifty thousand dollars or more,
11 other than a [~~loan or a forbearance~~] financing arrangement secured
12 primarily by an interest in real property improved by a one or two fami-
13 ly residence. A [~~loan~~] financing arrangement of two hundred fifty thou-
14 sand dollars or more which is to be advanced in installments pursuant to
15 a written agreement by a lender shall be deemed to be a single [~~loan~~]
16 financing arrangement for the total amount which the lender has agreed
17 to advance pursuant to such agreement on the terms and conditions
18 provided therein.

19 b. No law regulating the maximum rate of interest which may be
20 charged, taken or received, including section 190.40 and section 190.42
21 of the penal law, shall apply to any [~~loan or forbearance~~] financing
22 arrangement in the amount of two million five hundred thousand dollars
23 or more. [~~Loans or forbearances~~] Financing arrangements aggregating two
24 million five hundred thousand dollars or more which are to be made or
25 advanced to any one borrower in one or more installments pursuant to a
26 written agreement by one or more lenders shall be deemed to be a single
27 [~~loan or forbearance~~] financing arrangement for the total amount which
28 the lender or lenders have agreed to advance or make pursuant to such
29 agreement on the terms and conditions provided therein.

30 7. Except as otherwise expressly provided by law, in the event of
31 prepayment in full of a [~~loan~~] financing arrangement, any refund of
32 unearned interest to which the borrower may be entitled may not be
33 computed by a sum of the balances or similar method but must be deter-
34 mined according to a generally accepted actuarial method.

35 8. The attorney general is hereby empowered to adopt, promulgate,
36 amend, and repeal rules, as such term is defined in paragraph (a) of
37 subdivision two of section one hundred two of the state administrative
38 procedure act, and issue guidance as may be necessary to interpret
39 financing arrangements as such term is defined in subdivision one-a of
40 this section and to effectuate and enforce that provision.

41 § 2. Subdivision 1 of section 5-511 of the general obligations law,
42 as amended by chapter 1072 of the laws of 1968, is amended to read as
43 follows:

44 1. All bonds, bills, notes, assurances, conveyances, all other
45 contracts or securities whatsoever, except bottomry and respondentia
46 bonds and contracts, and all deposits of goods or other things whatsoev-
47 er, whereupon or whereby there shall be reserved or taken, or secured or
48 agreed to be reserved or taken, any greater sum, or greater value, for
49 the [~~loan or forbearance of any money, goods or other things in action~~]
50 financing arrangement, than is prescribed in section 5-501 of this
51 title, shall be void, except that the knowingly taking, receiving,
52 reserving or charging such a greater sum or greater value by a savings
53 bank, a savings and loan association or a federal savings and loan asso-
54 ciation shall only be held and adjudged a forfeiture of the entire
55 interest which the [~~loan or obligation~~] financing arrangement carries
56 with it or which has been agreed to be paid thereon. If a greater sum or

1 greater value has been paid, the person paying the same or [~~his~~] their
2 legal representative may recover from the savings bank, the savings and
3 loan association or the federal savings and loan association twice the
4 entire amount of the interest thus paid.

5 § 3. Section 5-513 of the general obligations law, as amended by chap-
6 ter 1072 of the laws of 1968, is amended to read as follows:

7 § 5-513. Recovery of excess. Every person who, for any such [~~loan or~~
8 ~~forbearance~~] financing arrangement, shall pay or deliver any greater sum
9 or value than is allowed to be received pursuant to section 5-501 of
10 this title, and [~~his~~] their personal representatives, may recover in an
11 action against the person who shall have taken or received the same, and
12 [~~his~~] their personal representatives, the amount of the money so paid or
13 value delivered, above the rate aforesaid.

14 § 4. Section 5-517 of the general obligations law is amended to read
15 as follows:

16 § 5-517. Transfer of cause of action for usury. A cause of action to
17 cancel, or otherwise affect, an instrument executed, or an act done, as
18 security for a usurious [~~loan or forbearance~~] financing arrangement, can
19 be transferred, where the instrument or act creates a specific charge
20 upon property, which is also transferred in disaffirmance thereof, and
21 not otherwise; but, in that case, the transferee does not succeed to the
22 right, conferred by statute upon the borrower, to procure relief, with-
23 out paying, or offering to pay, any part of the sum or thing loaned.

24 § 5. Section 5-524 of the general obligations law, as amended by chap-
25 ter 349 of the laws of 1968 and as further amended by section 104 of
26 part A of chapter 62 of the laws of 2011, is amended to read as follows:

27 § 5-524. Taking security upon certain property for usurious [~~loans~~]
28 financing arrangements. A person who takes security, upon any household
29 furniture, sewing machines, plate or silverware in actual use, tools or
30 implements of trade, wearing apparel or jewelry, for a [~~loan or forbear-~~
31 ~~ance of money~~] financing arrangement, or for the use or sale of [~~his~~]
32 their personal credit, conditioned upon the payment of a greater rate
33 than the rate prescribed by the superintendent of financial services
34 pursuant to section fourteen-a of the banking law, or, if no rate has
35 been so prescribed, six per centum per annum, or who as security for
36 such [~~loan~~] financing arrangement, use or sale of personal credit as
37 aforesaid, makes a pretended purchase of such property from any person,
38 upon the like condition, and permits the pledgor to retain the
39 possession thereof is guilty of a misdemeanor.

40 § 6. Subdivision 2 of section 14-a of the banking law, as amended by
41 chapter 155 of the laws of 2012, is amended and a new subdivision 2-a is
42 added to read as follows:

43 2. The rate of interest as so prescribed under this section shall
44 include as interest any and all amounts paid or payable, directly or
45 indirectly, voluntary or otherwise, by any person, to or for the account
46 of the lender, including any discount applied to any amounts advanced,
47 in [~~consideration for the making of a loan or forbearance~~] connection
48 with a financing arrangement as defined by the superintendent pursuant
49 to subdivision three of this section, including fees, service charges,
50 credit service charges, tips, renewal charges, credit insurance premi-
51 ums, debt suspension or similar products, any ancillary product sold
52 with any extension of consumer credit, and any other amount paid or
53 payable.

54 2-a. The rate of interest for any financing arrangement shall be
55 calculated as described in section 600.3 of title twenty-three of the
56 New York codes, rules and regulations; provided, however, that the rate

1 of interest will include as finance charges all amounts described in
2 subdivision two of this section.

3 § 7. Section 340 of the banking law, as amended by chapter 22 of the
4 laws of 1990, is amended to read as follows:

5 § 340. Doing business without license prohibited. 1. No person or
6 other entity shall engage in the business of [~~making loans~~] entering
7 into financing arrangements as defined in subdivision one-a of section
8 5-501 of the general obligations law in the principal amount of twenty-
9 five thousand dollars or less for any [~~loan~~] financing arrangement to an
10 individual for personal, family, household, or investment purposes and
11 in a principal amount of fifty thousand dollars or less for business and
12 commercial [~~loans~~] financing arrangements, and charge, contract for, or
13 receive a greater rate of interest than the [~~lender~~] person or other
14 entity would be permitted by law to charge if [~~he~~] it were not a licen-
15 see hereunder except as authorized by this article and without first
16 obtaining a license from the superintendent.

17 2. For the purposes of this section, a person or entity shall be
18 considered as engaging in the business of [~~making loans~~] entering into
19 financing arrangements in New York, and subject to the licensing and
20 other requirements of this article, if it solicits [~~loans~~] financing
21 arrangements in the amounts prescribed by this section within this state
22 and, in connection with such solicitation, [~~makes loans to~~] enters into
23 financing arrangements with individuals then resident in this state,
24 except that no person or entity shall be considered as engaging in the
25 business of [~~making loans~~] entering into financing arrangements in this
26 state on the basis of isolated, incidental or occasional transactions
27 which otherwise meet the requirements of this section.

28 3. Nothing in this article shall apply to licensed collateral loan
29 brokers.

30 § 8. Subdivision 1 of section 351 of the banking law, as amended by
31 chapter 22 of the laws of 1990, is amended to read as follows:

32 1. Every licensee hereunder may [~~loan~~] enter into financing arrange-
33 ments as defined in subdivision one-a of section 5-501 of the general
34 obligations law for any sum of money not exceeding the maximum principal
35 amounts prescribed in section three hundred forty of this article, and
36 may charge, contract for, and receive thereon interest at the rate or
37 rates agreed to by the licensee and the borrower, subject to sections
38 190.40 and 190.42 of the penal law. Such interest may either be (a) [~~be~~]
39 calculated on the actual unpaid principal balances of the [~~loan~~] financ-
40 ing arrangement or in the case of a [~~loan~~] financing arrangement commit-
41 ment from the date of each advance thereunder for the actual time
42 outstanding, according to a generally accepted actuarial method at a
43 fixed or variable rate and in accordance with the provisions of the
44 evidence of the indebtedness or (b) precomputed under subdivision five
45 of this section.

46 § 9. Section 190.40 of the penal law, as amended by chapter 424 of the
47 laws of 1976, is amended to read as follows:

48 § 190.40 Criminal usury in the second degree.

49 A person is guilty of criminal usury in the second degree when, not
50 being authorized or permitted by law to do so, [~~he~~] such person know-
51 ingly charges, takes or receives any money or other property as interest
52 [~~on the loan or forbearance of any money or other property~~], whether
53 paid voluntarily or otherwise, in connection with a financing arrange-
54 ment as defined in subdivision one-a of section 5-501 of the general
55 obligations law, at a rate exceeding twenty-five per centum per annum or
56 the equivalent rate for a longer or shorter period. The rate of inter-

1 est shall be calculated as provided in section fourteen-a of the banking
2 law, as amended.

3 Criminal usury in the second degree is a class E felony.

4 § 10. Section 190.42 of the penal law, as added by chapter 424 of the
5 laws of 1976, is amended to read as follows:

6 § 190.42 Criminal usury in the first degree.

7 A person is guilty of criminal usury in the first degree when, not
8 being authorized or permitted by law to do so, [~~he~~] such person know-
9 ly charges, takes or receives any money or other property as interest
10 [~~on the loan or forbearance of any money or other property~~], whether
11 paid voluntarily or otherwise, in connection with a financing arrange-
12 ment as defined in subdivision one-a of section 5-501 of the general
13 obligations law, at a rate exceeding twenty-five per centum per annum or
14 the equivalent rate for a longer or shorter period and either the actor
15 had previously been convicted of the crime of criminal usury or of the
16 attempt to commit such crime, or the actor's conduct was part of a
17 scheme or business of making or collecting usurious [~~loans~~] financing
18 arrangements. The rate of interest shall be calculated as provided in
19 section fourteen-a of the banking law, as amended.

20 Criminal usury in the first degree is a class C felony.

21 § 11. Section 508 of the personal property law, as added by chapter
22 309 of the laws of 2010, is amended to read as follows:

23 § 508. Administration by the attorney general. The attorney general
24 may make rules and regulations necessary for the administration of this
25 article[~~, provided, however, that such rules and regulations shall not~~
26 ~~attempt to regulate or characterize rental purchase agreements as a~~
27 ~~security interest, credit sale, retail installment sale, conditional~~
28 ~~sale or any other form of consumer credit that imputes to a rental pur-~~
29 ~~chase agreement the creation of a debt or extension of credit, nor shall~~
30 ~~such rules and regulations require the disclosure of a percentage rate~~
31 ~~calculation, including a time-price differential, an annual percentage~~
32 ~~rate, or an effective annual percentage rate].~~

33 § 12. Severability. If any clause, sentence, paragraph, subdivi-
34 sion, section or part of this act shall be adjudged by any court of
35 competent jurisdiction to be invalid, such judgment shall not affect,
36 impair, or invalidate the remainder thereof, but shall be confined in
37 its operation to the clause, sentence, paragraph, subdivision, section
38 or part thereof directly involved in the controversy in which
39 such judgment shall have been rendered. It is hereby declared to be the
40 intent of the legislature that this act would have been enacted even if
41 such invalid provisions had not been included herein.

42 § 13. This act shall take effect immediately.