

LEGISLATIVE BILL 626

Approved by the Governor February 18, 1974

Introduced by Barnett, 26

AN ACT to amend sections 8-440 and 8-822, Revised Statutes Supplement, 1973, relating to banks and banking; to clarify how delinquency charges shall be computed; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 8-440, Revised Statutes Supplement, 1973, be amended to read as follows:

8-440. All charges based upon due performance of the loan contract and computed as provided in section 8-435 may be included in the amount of any installments scheduled to be repaid by the borrower. If charges have been precomputed and included in the scheduled installments, and if the contract is prepaid in full by cash, a new loan, or otherwise after the first installment due date but before the final installment due date, the refund shall be at least as great a proportion of the total charges as the sum of the remaining monthly balances of the principal and interest combined scheduled to follow the date of prepayment bears to the sum of all the monthly balances of principal and interest combined originally scheduled by the contract. For the purpose of computing the refund, any prepayment in full made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately preceding the date of prepayment in full and any prepayment in full made after such fifteenth day shall be deemed to have been made on the installment date immediately following the date of prepayment in full. No refund shall be required for any partial prepayment. No refund of less than one dollar need be made. The charges retained may be increased to the extent that delinquency charges on any scheduled installment or portion thereof, if contracted for, may be taken not in excess of five per cent of each installment or five dollars, whichever is less, or in lieu thereof interest after maturity on each such installment not exceeding the highest permissible contract rate as provided in section 8-435. ~~Payment of any installments fifteen days or less prior to the date of maturity shall not be deemed prepayment; and payment of any installments fifteen days or less after maturity shall not subject the borrower to additional interest.~~ If judgment is obtained before the final installment due

date, the contract balance shall be reduced by the refund amount which would be required for prepayment in full as of the date judgment is obtained.

Sec. 2. That section 8-822, Revised Statutes Supplement, 1973, be amended to read as follows:

8-822. Charges under section 8-820 shall be computed by application of the rate charged to the outstanding principal balance for the number of days actually elapsed without adding any additional charges, except that at the time the loan is made, charges may be computed as a percentage per month of unpaid principal balances for the number of days elapsed on the assumption that the unpaid principal balance will be reduced, as provided in the loan contract, and such charges may be included in the scheduled installments; Provided, that if the loan is repaid in whole or in part prior to the due date unearned charges shall be refunded or credited to the borrower in full, but such refund need not be made until final payment of the loan contract. Such refund shall be at least as great a proportion of the total charges as the sum of the remaining monthly balances of the principal and interest combined scheduled to follow the date of prepayment bears to the sum of all the monthly balances of principal and interest combined originally scheduled by the contract. For the purpose of computing the refund, any prepayment in full made on or before the fifteenth day following an installment date shall be deemed to have been made on the installment date immediately preceding the date of prepayment in full, and any prepayment in full made after such fifteenth day shall be deemed to have been made on the installment date immediately following the date of prepayment in full. No refund shall be required for any partial prepayment. No refund of less than one dollar need be made. The charges retained by the bank may be increased to the extent that delinquency charges are computed on earned charges in accordance with the next succeeding sentence. Delinquency charges on any scheduled installment or portion thereof, if contracted for, may be taken not in excess of five per cent on each installment or five dollars, whichever is less, or in lieu thereof interest after maturity on each such installment not exceeding the highest permissible interest rate. ~~For--the--purpose--of sections 8-845 to 8-829, payment--fifteen--days--or--less prior to date of maturity shall not be deemed prepayment; and payment fifteen days or less after maturity shall not subject the borrower to additional interest.~~

Sec. 3. That original sections 8-440 and 8-822, Revised Statutes Supplement, 1973, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.