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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1714. 13th October, 1970.

No. 1714. 13 Oktober 1970.

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:—

No. 76 of 1970: Limitation and Disclosure of Finance Charges Amendment Act, 1970.

No. 76 van 1970: Wysigingswet op Beperking en Bekendmaking van Finansieringskoste, 1970.

Wet No. 76, 1970

WYSIGINGSWET OP BEPERKING EN BEKENDMAKING
VAN FINANSIERINGSKOSTE, 1970.**WET**

Tot wysiging van die bepalings van die Wet op Beperking en Bekendmaking van Finansieringskoste, 1968, met betrekking tot woordskrywings, finansieringskostekoers, bekendmaking van finansieringskoste, vermindering van paaiemente en verstrekking van afskrifte van skuldaktes.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 September 1970.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van
artikel 1 van
Wet 73 van 1968.

1. Artikel 1 van die Wet op Beperking en Bekendmaking van Finansieringskoste, 1968 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur by die omskrywing van „finansieringskoste” die woorde „maar nie ook grootboekgelde nie” by te voeg;
- (b) deur na die omskrywing van „gelduitlener” die volgende omskrywing in te voeg:
„grootboekgelde’ gelde wat ’n in die Bankwet, 1965 (Wet No. 23 van 1965), omskrewre bankinstelling hef vir die hou van ’n rekening waaruit opvragings deur middel van tjeks gedoen kan word en wat aldus gehef word hetsy die rekening ’n debetsaldo of ’n kreditsaldo toon;”;
- (c) deur paragraaf (a) van die voorbehoudsbepaling by die omskrywing van „reëlmatige betalings” deur die volgende paragraaf te vervang:
„(a) die paaiemente geag word gelyk te wees indien al die paaiemente in die reeks paaiemente gelyk is behalwe een wat—
(i) enige van die ander paaiemente met nie meer as tien persent oorskry nie; of
(ii) kleiner as enige van die ander paaiemente is; en”.

Wysiging van
artikel 2 van
Wet 73 van 1968.

2. Artikel 2 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
„(a) agtien-en-’n-kwart persent nie, waar die totale bedrag geld wat deur hom binne ’n tydperk van drie maande aan ’n geldopnemer geleen is, met inbegrip van uitgawes wat binne bedoelde tydperk deur hom uitbetaal is en as deel van die hoofskuld verhaalbaar is, alles tesame nie tweehonderd rand oorskry nie;”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
„(2) ’n Kredietgewer beding, eis of ontvang nie finansieringskoste in verband met ’n krediettransaksie teen ’n finansieringskostekoers per jaar van meer as agtien-en-’n-kwart persent nie.”.

LIMITATION AND DISCLOSURE OF FINANCE CHARGES Act No. 76, 1970
AMENDMENT ACT, 1970.

ACT

To amend the provisions of the Limitation and Disclosure of Finance Charges Act, 1968, relating to definitions, finance charge rates, disclosure of finance charges, reduction of instalments and furnishing of copies of instruments of debt.

*(English text signed by the State President.)
(Assented to 29th September, 1970.)*

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

1. Section 1 of the Limitation and Disclosure of Finance Charges Act, 1968 (hereinafter referred to as the principal Act), is hereby amended— Amendment of section 1 of Act 73 of 1968.

- (a) by the addition to the definition of "finance charges" of the words "but does not include a ledger fee";
- (b) by the insertion after the definition of "instrument of debt" of the following definition:
" 'ledger fee' means a fee charged by a banking institution as defined in the Banks Act, 1965 (Act No. 23 of 1965), for keeping an account from which withdrawals may be made by cheque and which is so charged whether the account shows a debit balance or a credit balance;";
- (c) by the substitution for paragraph (a) of the proviso to the definition of "regular payments" of the following paragraph:
"(a) the instalments shall be deemed to be equal if all the instalments in the series of instalments are equal except one which—
 (i) does not exceed any of the other instalments by more than ten per cent; or
 (ii) is smaller than any of the other instalments; and".

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

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: Amendment of section 2 of Act 73 of 1968.
" (a) eighteen and one-quarter per cent, where the total amount of money lent by him to a borrower, including disbursements, recoverable as part of the principal debt, made by him, within any period of three months does not in the aggregate exceed two hundred rand;";
- (b) by the substitution for subsection (2) of the following subsection:
"(2) 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 eighteen and one-quarter per cent."

Wet No. 76, 1970

WYSIGINGSWET OP BEPERKING EN BEKENDMAKING
VAN FINANSIERINGSKOSTE, 1970.Wysiging van
artikel 3 van
Wet 73 van 1968.

3. Artikel 3 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (b) van subartikel (3) deur die volgende paragraaf te vervang:
„(b) enige verband op roerende of onroerende goed wat in 'n registrasiekantoor van aktes geregistreer word;”;
- (b) deur subartikel (5) deur die volgende subartikel te vervang:
„(5) Die bepalings van subartikels (1) en (2) word nie so uitgelê nie dat dit 'n gelduitlener of 'n kredietgewer verbied om van 'n geldopnemer of kredietopnemer ten opsigte van 'n geldleningstransaksie of 'n krediettransaksie finansieringskoste teen 'n laer koers te vorder as die finansieringskostekoers per jaar wat in die skuldakte wat op so 'n transaksie betrekking het, vermeld word.”.

Wysiging van
artikel 6 van
Wet 73 van 1968.

4. Artikel 6 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

- „(4) 'n Geldopnemer of 'n kredietopnemer is nie op 'n in subartikel (1) of (2) bedoelde vermindering geregtig nie waar finansieringskoste nie gehêf word nie—
- (a) vir die tydperk waarmee die betaling van 'n paaiement vervroeg word; of
- (b) ten opsigte van 'n paaiement wat nie op die datum waarop 'n reëling ingevolge subartikel (2) of (3) gemaak word, opeisbaar is nie.”.

Wysiging van
artikel 10 van
Wet 73 van 1968.

5. Artikel 10 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
„(1) 'n Gelduitlener wat die uitleen van geld as 'n bedryf uitoeven of 'n kredietgewer wat in die normale loop van sy besigheid krediettransaksies aangaan, oorhandig of stuur deur die pos, binne veertien dae na die datum waarop 'n geldleningstransaksie of 'n krediettransaksie aangegaan is, aan die geldopnemer of kredietopnemer, na gelang van die geval, 'n duplikaat of ware afskrif van die skuldakte wat in verband met die transaksie verly is of, indien geen skuldakte aldus verly is nie, 'n duplikaat of ware afskrif van 'n dokument wat, na gelang van die geval, deur die gelduitlener en geldopnemer of die kredietgewer en kredietopnemer, of deur hulle behoorlik gemagtigde lashebbers, onderteken is en waarin die toepaslike besonderhede in artikel 3 (1) of (2) vermeld, aangegee word.”;
- (b) deur na subartikel (3) die volgende subartikel in te voeg:
„(4) Die bepalings van subartikel (1) is nie van toepassing nie op of ten opsigte van—
- (a) 'n geldleningstransaksie of 'n krediettransaksie waar die verpligting van die geldopnemer of kredietopnemer, na gelang van die geval, geheel en al gesekureer word deur 'n verband op roerende of onroerende goed wat in 'n registrasiekantoor van aktes geregistreer is;
- (b) 'n debetsaldo in 'n rekening by 'n in die Bankwet, 1965 (Wet No. 23 van 1965), omskrewende bankinstelling waaruit opvragings deur middel van tjeks gedoen kan word;
- (c) 'n geldleningstransaksie waar die geldopnemer 'n voormelde bankinstelling is.”.

Kort titel.

6. Hierdie Wet heet die Wysigingswet op Beperking en Bekendmaking van Finansieringskoste, 1970.

LIMITATION AND DISCLOSURE OF FINANCE CHARGES Act No. 76, 1970
AMENDMENT ACT, 1970.

3. Section 3 of the principal Act is hereby amended— Amendment of section 3 of Act 73 of 1968.
- (a) by the substitution for paragraph (b) of subsection (3) of the following paragraph:
“(b) any bond over movable or immovable property which is registered in a deeds registry;”;
- (b) by the substitution for subsection (5) of the following subsection:
“(5) The provisions of subsections (1) and (2) shall not be construed as prohibiting any moneylender or a credit grantor from charging a borrower or credit receiver in respect of a money lending transaction or a credit transaction, finance charges at a lesser rate than the annual finance charge rate disclosed in the instrument of debt relating to such a transaction.”.
4. Section 6 of the principal Act is hereby amended by the insertion of the following subsection after subsection (3): Amendment of section 6 of Act 73 of 1968.
- “(4) A borrower or a credit receiver shall not be entitled to any reduction referred to in subsection (1) or (2) where finance charges are not levied—
- (a) for the period by which the payment of an instalment is advanced; or
- (b) in respect of an instalment which is not due on the date an arrangement is made in terms of subsection (2) or (3).”.
5. Section 10 of the principal Act is hereby amended— Amendment of section 10 of Act 73 of 1968.
- (a) by the substitution for subsection (1) of the following subsection—
- “(1) A moneylender carrying on the business of money lending or a credit grantor who transacts credit transactions in the normal course of his business shall, within fourteen days after the date on which a money lending transaction or a credit transaction was concluded, deliver or send through the post to the borrower or credit receiver, as the case may be, a duplicate or true copy of the instrument of debt executed in connection with the transaction, or if no instrument of debt was so executed, a duplicate or true copy of a document which has been signed, as the case may be, by the moneylender and borrower or the credit grantor and credit receiver or by their duly authorized representatives and wherein the relevant particulars specified in section 3 (1) or (2) are set forth.”;
- (b) by the insertion after subsection (3) of the following subsection:
“(4) The provisions of subsection (1) shall not apply to or in respect of—
- (a) a money lending transaction or a credit transaction where the obligation of the borrower or credit receiver, as the case may be, is secured wholly by a bond over movable or immovable property registered in a deeds registry;
- (b) a debit balance in an account with a banking institution as defined in the Banks Act, 1965 (Act No. 23 of 1965), from which withdrawals may be made by cheque;
- (c) a money lending transaction where the borrower is a banking institution aforesaid.”.
6. This Act shall be called the Limitation and Disclosure of Finance Charges Amendment Act, 1970. Short title.

