

S.F. No. 1635 (as amended by the A-2 Amendment) – Interest rates regulation for consumer short-term and small loans

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Overview

S.F. 1635 caps the annual percentage rate a consumer small loan lender may charge in connection with a consumer small loan at 36 percent and provides that no other charges may be imposed on such loans. Prohibits persons from engaging in acts to evade the requirements of 47.60 (relating to consumer small loans) and 47.601 (relating to consumer short-term loans). Requires licensed industrial loan and thrift companies and lenders licensed under the Minnesota Regulated Loan Act to comply with the requirements of sections 47.60 and 47.601.

Summary

Section 1. [Minn. Stat. § 47.59, subd. 2] Application. Removes cross-reference to section 47.60 from “Application” subdivision of section 47.59 (statute concerning “financial institution credit extension maximum rates”). The cross-reference is removed from a sentence providing that extensions of credit or purchases of extensions of credit by financial institutions under the referenced sections may, but need not, be made according to those sections in lieu of section 47.59 to the extent the referenced sections authorize the financial institution to make such credit transactions under the referenced sections.

Section 2. [Minn. Stat. § 47.60, subd. 1] Definitions. Amends the definitions section for purposes of section 47.60 to add a definition of “annual percentage rate.”

Section 3. [Minn. Stat. § 47.60, subd. 2] Authorization, terms, conditions, and prohibitions. Modifies the maximum charges a consumer small loan lender may impose in connection with a consumer small loan to be an annual percentage rate of up to 36 percent and provides that no other charges or payments are permitted or may be received by the lender in connection with a consumer small loan.

Section 4. [Minn. Stat. § 47.60, subd. 8] No evasion. Prohibits persons from engaging in acts to evade the requirements of 47.60, including but not limited to making loans disguised as a personal property sale and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services, or making, offering, assisting, or arranging for a debtor to obtain a loan with a higher payment structure than is permitted by the section. Clarifies who constitutes a consumer small loan lender subject to the requirements of the section.

Section 5. [Minn. Stat. § 47.601, subd. 1] Definitions. Amends the definitions section for purposes of section 47.601 to modify the definitions of “consumer short-term loan” and “consumer short-term lender.”

Section 6. [Minn. Stat. § 47.601, subd. 2] Consumer short-term loan contract. Removes a cross-reference to section 47.59, subdivision 6, and removes a de minimis exception from a prohibition on contracts, between consumer short-term loan lenders and borrowers residing in Minnesota, from limiting class actions against a consumer short-term lender for making consumer short-term loans in which interest rates, fees, charges, or loan amounts exceed those allowable under section 47.60.

Section 7. [Minn. Stat. § 47.601, subd. 5a] No evasion. Prohibits persons from engaging in acts to evade the requirements of 47.601, including but not limited to making loans disguised as a personal property sale and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services, or making, offering, assisting, or arranging for a debtor to obtain a loan with a higher payment structure than is permitted by the section. Clarifies who constitutes a consumer short-term loan lender subject to the requirements of the section.

Section 8. [Minn. Stat. § 47.601, subd. 6] Penalties for violation; private right of action. Specifies that a violation of section 47.601, subdivision 5a, subjects the violator to liability to the borrower, and removes a cross-reference to section 47.59, subd. 6.

Section 9. [Minn. Stat. § 53.04, subd. 3a] Loans. Requires a licensed industrial loan and thrift company making a consumer small loan to comply with section 47.60. Requires a licensed industrial loan and thrift company making a consumer short-term loan to comply with section 47.601.

Section 10. [Minn. Stat. § 56.131, subd. 1] Interest rates and charges. Requires lenders licensed under the Minnesota Regulated Loan Act making a consumer small loan to comply with section 47.60. Requires lenders licensed under the Minnesota Regulated Loan Act making a consumer short-term loan to comply with section 47.601.

Section 11. Effective Date; Application. Provides that sections 1 to 10 are effective August 1, 2023, and that those sections apply to consumer small loans and consumer short-term loans originated on or after that date.