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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1442.

29 Junie 1990

No. 1442.

29 June 1990

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 67 van 1990: Woekerwysigingswet, 1990.

No. 67 of 1990: Usury Amendment Act, 1990.

Wet No. 67, 1990

WOEKERWYSIGINGSWET, 1990

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Woekerwet, 1968, ten einde sekere omskrywings in te voeg en sekere omskrywings te wysig; ander voorsiening te maak aangaande die verhaling van bykomende finansieringskoste by versuim of uitstel van betaling; die verhaling van sekere bykomende finansieringskoste voor die inwerkingtreding van hierdie Wet te wettig; sekere vrystellings van huurtransaksies ten opsigte van goed waarvan die boekwaarde nul is, af te skaf; die bekendmaking van sekere inligting verder te reël; 'n delegeringsbevoegdheid te verleen; 'n Bylae by te voeg wat vir die verhaling van sekere gelde en premies ten opsigte van behuisingslenings voorsiening maak; en aan die Registrateur die bevoegdheid te verleen om onder sekere omstandighede boetes op te lê; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 21 Junie 1990.)

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

Wysiging van artikel 1 van Wet 73 van 1968, soos gewysig deur artikel 1 van Wet 76 van 1970, artikel 1 van Wet 62 van 1974, artikel 1 van Wet 90 van 1980, artikel 1 van Wet 42 van 1986, artikel 1 van Wet 62 van 1987 en artikel 1 van Wet 100 van 1988 5

1. Artikel 1 van die Woekerwet, 1968 (hieronder die Hoofwet genoem), word hierby gewysig—

(a) deur die volgende omskrywing voor die omskrywing van “bestuurder” in te voeg:

“‘behuisingslening’ ’n geldleningstransaksie— 10

(a) waar die gelduitlener as ’n bank ingevolge die Bankwet, 1965 (Wet No. 23 van 1965), as ’n onderlinge bouvereniging ingevolge die Wet op Onderlinge Bouverenigings, 1965 (Wet No. 24 van 1965), of as ’n bouvereniging ingevolge die Wet op Bouverenigings, 1986 (Wet No. 82 van 1986), geregistreer is, of enige ander persoon of liggaam is wat deur die Minister by kennisgewing in die *Staatskoerant* goedgekeur is; 15

(b) wat kragtens ’n skriftelike ooreenkoms tussen die geldopnemer en die gelduitlener aangegaan is;

(c) waar die lening in die geheel gesekureer is deur ’n eerste verband, of ’n verband in rang *pari passu* met ’n eerste verband, op onroerende eiendom; en 20

(d) waar dié eiendom hoofsaaklik vir woondoeleindes gebruik word of dit die bedoeling is dat dit aldus gebruik word, of waar sodanige eiendom die eiendom is van ’n godsdienstige, liefdadigheids- of opvoedkundige inrigting van ’n openbare aard wat ingevolge sy konstitusie of enige wet verbied word om enige van sy inkomste onder sy lede te verdeel;” en 25

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GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- _____** Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Usury Act, 1968, so as to insert certain definitions and amend certain definitions; to make other provision as to the recovery of additional finance charges on default or deferment of payment; to legalize the recovery of certain additional finance charges before the commencement of this Act; to abolish certain exemptions of leasing transactions in respect of property the book value of which is nil; to further regulate the disclosure of certain information; to grant a power to delegate; to add a Schedule providing for the recovery of certain fees and premiums in respect of housing loans; and to empower the Registrar to levy penalties in certain circumstances; and to provide for matters connected therewith.

(Afrikaans English text signed by the State President.)
(Assented to 21 June 1990.)

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

Amendment of section 1 of Act 73 of 1968, as amended by section 1 of Act 76 of 1970, section 1 of Act 62 of 1974, section 1 of Act 90 of 1980, section 1 of Act 42 of 1986, section 1 of Act 62 of 1987 and section 1 of Act 100 of 1988

1. Section 1 of the Usury Act, 1968 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the insertion of the following definition before the definition of “instrument of debt”:
- 10 “‘housing loan’ means a money lending transaction—
- (a) where the moneylender is registered as a bank in terms of the Banks Act, 1965 (Act No. 23 of 1965), or as a mutual building society in terms of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), or as a building society in terms of the Building Societies Act, 1986 (Act No. 82 of 1986), or any other person or body approved by the Minister by notice in the *Gazette*;
- 5 (b) concluded in terms of a written agreement between the borrower and the moneylender;
- (c) where the loan is secured wholly by a first mortgage bond, or a mortgage bond ranking *pari passu* with a first mortgage bond, over immovable property; and
- 15 (d) where such property is used or is intended to be used primarily for residential purposes, or where such property is owned by an ecclesiastical, charitable or educational institution of a public nature which is prohibited by its constitution or any law from distributing any of its income to its members;” and
- 20

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(b) deur die woord "of" na subparagraaf (gg) van paragraaf (a) (iii) van die omskrywing van "hoofskuld" te skrap, en die volgende subparagraaf by genoemde paragraaf te voeg:

"(hh) waar die geldlening in subparagraaf (aa) bedoel 'n behuisingslening is, die gelde en premies vermeld in paragraaf 2 van die Bylae, behalwe administrasiegeld, in die mate en op die voorwaardes in die Bylae vermeld; of".

Vervanging van artikel 4 van Wet 73 van 1968, soos vervang deur artikel 6 van Wet 90 van 1980 en artikel 5 van Wet 42 van 1986

2. (1) Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang: 10

"Beperking op bedrag verhaalbaar by versuim of by uitstel van betaling

4. (1) Indien 'n geldopnemer of kredietopnemer of huurder versuim om 'n bedrag wat hy in verband met 'n geldleningstransaksie of krediettransaksie of huurtransaksie aan 'n gelduitlener of kredietgewer of verhuurder verskuldig is, te betaal op die tydstip waarop sodanige bedrag betaalbaar is, of indien 'n geldopnemer of kredietopnemer of huurder met 'n gelduitlener of kredietgewer of huurder ooreenkom om die betaling van 'n bedrag wat hy soos voormeld aan daardie gelduitlener of kredietgewer of verhuurder verskuldig is, uit te stel, is die gelduitlener of kredietgewer of verhuurder daarop geregtig om op die geldopnemer of kredietopnemer of huurder 'n bykomende bedrag aan finansieringskoste te verhaal, wat bereken word met inagneming van—

(a) die totale bedrag wat betaalbaar is, maar onbetaald is; 15
(b) die tydperk wat die versuim voortduur of die tydperk waarvoor uitstel soos voormeld, verleen word, na gelang van die geval; en 25
(c) die finansieringskostekoers per jaar waarteen finansieringskoste op die uitstaande saldo van die hoofskuld, ingevolge die skuldakte, gedurende sodanige tydperk bereken word.

(2) Vir die doeleindes van die berekening in subartikel (1) beoog, sluit die totale bedrag bedoel in subartikel (1) (a) bykomende bedrae aan finansieringskoste in, indien dit ingevolge subartikel (3) geag word onbetaald te wees. 30

(3) Bykomende bedrae aan finansieringskoste, bereken ooreenkomstig die bepalinge van subartikel (1), word geag onbetaald te wees—

(a) in die geval waar 'n geldopnemer of kredietopnemer of huurder nie reëlmatige betalings moet doen nie, indien die geldopnemer of kredietopnemer of huurder versuim om 'n bykomende bedrag aan finansieringskoste wat ingevolge subartikel (1) op hom verhaalbaar is, te betaal op 'n bepaalde of bepaalbare datum in die skuldakte vermeld, of, indien geen skuldakte verly is nie, op die datum waarop die partye ooreengekom het of op 'n datum wat deur handelsgebruik bepaal is, na gelang van die geval: Met dien verstande dat so 'n ooreenkoms (uitgesonderd 'n handelsgebruik) aangaande 'n datum vir die doeleindes van die Wet op Strafbedinge, 1962 (Wet No. 15 van 1962), as 'n strafbeding beskou word; of 40
(b) in die geval waar 'n geldopnemer, kredietopnemer of huurder reëlmatige betalings moet doen, indien die geldopnemer of kredietopnemer of huurder aan die einde van 'n periode versuim om 'n bykomende bedrag aan finansieringskoste wat ingevolge subartikel (1) op hom verhaalbaar is, te betaal." 45 50

(2) 'n Bedrag wat deur 'n gelduitlener of kredietgewer of huurder op 'n geldopnemer of kredietopnemer of huurder, na gelang van die geval, voor die inwerkingtrede van hierdie Wet verhaal is en wat kragtens artikel 4 van die Hoofwet soos deur subartikel (1) vervang, verhaal sou kon word, word geag kragtens artikel 4 soos aldus vervang, verhaal te gewees het. 55

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(b) by the deletion of the word "or" after subparagraph (gg) of paragraph (a) (iii) of the definition of "principal debt" and the addition to the said paragraph of the following subparagraph:

5 "(hh) where the money loan referred to in subparagraph (aa) is a housing loan, the fees and premiums mentioned in paragraph 2 of the Schedule, except an administration fee, to the extent and on the conditions mentioned in the Schedule; or".

Substitution of section 4 of Act 73 of 1968, as substituted by section 6 of Act 90 of 1980 and section 5 of Act 42 of 1986

10 2. (1) The following section is hereby substituted for section 4 of the principal Act:

"Limitation of sum recoverable on default or deferment of payment

15 4. (1) If a borrower or credit receiver or lessee fails to pay any amount which is owing by him to a moneylender or creditor grantor or lessor in connection with a money lending transaction or a credit transaction or a leasing transaction, upon the date when such amount is payable, or if a borrower or credit receiver or lessee enters into an agreement with a moneylender or credit grantor or lessor to defer the payment of an amount which is owing by him as aforesaid to the moneylender or credit grantor or lessor, the moneylender or credit grantor or lessor shall thereupon be entitled to recover from the borrower or credit receiver or lessee an additional amount in respect of finance charges, which shall be calculated by reference to—

20 (a) the total amount which is payable but is unpaid;
 25 (b) the **[period] term** during which the default continues or the **[period] term** for which payment is deferred as aforesaid, as the case may be; and
 (c) the annual finance charge rate at which finance charges on the outstanding balance of the principal debt are, in terms of the instrument of debt, calculated during such **[period] term**.

30 (2) For the purposes of the calculation contemplated in subsection (1), the total amount referred to in subsection (1) (a) shall include additional amounts in respect of finance charges, if they are in terms of subsection (3) deemed to be unpaid.

35 (3) Additional amounts of finance charges calculated in accordance with the provisions of subsection (1) shall be deemed to be unpaid—

40 (a) in the case where a borrower or credit receiver or lessee is not required to effect regular payments, if the borrower or credit receiver or lessee fails to pay an additional amount of finance charges which is recoverable from him in terms of subsection (1), on a determined or determinable date specified in the instrument of debt, or, if no instrument of debt has been executed, on the date agreed upon by the parties or on a date determined by trade usage, as the case may be: Provided that such an agreement (excluding any trade usage) relating to a date shall, for the purposes of the Conventional Penalties Act, 1962 (Act No. 15 of 1962), be regarded as a penalty stipulation; or
 45 (b) in the case where a borrower or credit receiver or lessee is required to effect regular payments, if the borrower or credit receiver or lessee fails to pay at the end of a period an additional amount of
 50 finance charges recoverable from him in terms of subsection (1)."

(2) Any amount recovered by a moneylender or credit grantor or lessor from a borrower or credit receiver or lessee, as the case may be, before the commencement of this Act and which could be recovered under section 4 of the principal Act as substituted by subsection (1), shall be deemed to have been recovered under section
 55 4 so substituted.

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Wysiging van artikel 5 van Wet 73 van 1968, soos vervang deur artikel 8 van Wet 90 van 1980 en gewysig deur artikel 6 van Wet 42 van 1986, artikel 4 van Wet 62 van 1987 en artikel 3 van Wet 91 van 1989

3. Artikel 5 van die Hoofwet word hierby gewysig deur die volgende paragraaf by subartikel (1) te voeg: 5

“(k) in die geval van ’n behuisingslening, administrasiegelde in die mate en op die voorwaardes in die Bylae vermeld.”.

Wysiging van artikel 6K van Wet 73 van 1968, soos ingevoeg deur artikel 10 van Wet 90 van 1980 en gewysig deur artikel 7 van Wet 42 van 1986 en artikel 5 van Wet 62 van 1987 10

4. Artikel 6K van die Hoofwet word hierby gewysig deur subartikel (3A) te skrap.

Wysiging van artikel 10 van Wet 73 van 1968, soos vervang deur artikel 13 van Wet 90 van 1980 en gewysig deur artikel 7 van Wet 100 van 1988 en artikel 5 van Wet 91 van 1989

5. Artikel 10 van die Hoofwet word hierby gewysig deur die volgende paragrafe by subartikel (2) te voeg: 15

“(g) die uitstaande saldo van die hoofskuld; en
(h) die totale bedrag in artikel 4 (1) (a) bedoel:”.

Invoeging van artikel 12 in Wet 73 van 1968

6. Die volgende artikel word hierby in die Hoofwet na artikel 11A ingevoeg: 20

“Delegering en opdra van bevoegdheede en pligte

12. Die Registrateur kan, behoudens die voorwaardes wat hy bepaal, enige van sy bevoegdheede of pligte kragtens hierdie Wet aan hom verleen of opgedra, aan ’n beampete of werknemer in die staatsdiens deleger of opdra, maar so ’n delegering of opdrag belet nie die Registrateur om die betrokke bevoegdheid of plig self uit te oefen nie.”. 25

Invoeging van artikel 16A in Wet 73 van 1968

7. Die volgende artikel word hierby in die Hoofwet na artikel 16 ingevoeg:

“Regulasies met betrekking tot behuisingslening

16A. Die Minister kan, op aanbeveling van die Registrateur, by regulasie enige bedrag vermeld in die Bylae wysig.”. 30

Invoeging van artikel 17A in Wet 73 van 1968

8. Die volgende artikel word hierby in die Hoofwet na artikel 17 ingevoeg:

“Boete vir versuim om inligting aan Registrateur te verstrek

17A. Indien ’n gelduitlener, kredietgewer of verhuurder versuim om die inligting wat ingevolge artikel 14 van hom vereis word, aan die Registrateur te verstrek binne die tydperk voorgeskryf deur of toegelaat ingevolge dié artikel, kan die Registrateur na goeëdunke, afgesien van strafregtelike stappe wat kragtens hierdie Wet teen dié gelduitlener, kredietgewer of verhuurder gedoen is of gedoen mag word, aan hom die boete oplê wat die Registrateur goeëvind, maar hoogstens R50 vir elke dag waartydens die versuim voortduur, en indien dié gelduitlener, kredietgewer of verhuurder versuim om dié boete of ’n gedeelte daarvan 35
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Amendment of section 5 of Act 73 of 1968, as substituted by section 8 of Act 90 of 1980 and amended by section 6 of Act 42 of 1986, section 4 of Act 62 of 1987 and section 3 of Act 91 of 1989

3. Section 5 of the principal Act is hereby amended by the addition of the following paragraph to subsection (1):

“(k) in the case of a housing loan, administration fees to the extent and on the conditions mentioned in the Schedule.”.

Amendment of section 6K of Act 73 of 1968, as inserted by section 10 of Act 90 of 1980 and amended by section 7 of Act 42 of 1986 and section 5 of Act 62 of 1987

4. Section 6K of the principal Act is hereby amended by the deletion of subsection (3A).

Amendment of section 10 of Act 73 of 1968, as substituted by section 13 of Act 90 of 1980 and amended by section 7 of Act 100 of 1988 and section 5 of Act 91 of 1989

5. Section 10 of the principal Act is hereby amended by the addition of the following paragraphs to subsection (2):

“(g) the outstanding balance of the principal debt; and
(h) the total amount referred to in section 4 (1) (a):”.

Insertion of section 12 in Act 73 of 1968

6. The following section is hereby inserted in the principal Act after section 11A:

20 “Delegation and assignment of powers and duties

12. The Registrar may, subject to such conditions as he may determine, delegate or assign any power or duty conferred upon or assigned to him under this Act to any officer or employee in the public service, but such delegation or assignment shall not prevent the Registrar from exercising or performing the relevant power or duty himself.”.

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Insertion of section 16A in Act 73 of 1968

7. The following section is hereby inserted in the principal Act after section 16:

“Regulations in respect of housing loan

16A. The Minister may, on the recommendation of the Registrar, by regulation amend any amount mentioned in the Schedule.”.

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Insertion of section 17A in Act 73 of 1968

8. The following section is hereby inserted in the principal Act after section 17:

“Penalty for failure to furnish information to Registrar

17A. If any moneylender, credit grantor or lessor fails to furnish the Registrar with any information required of him in terms of section 14 within the period prescribed by or allowed in terms of that section, the Registrar may in his discretion, irrespective of any criminal action that may have been taken or may be taken against such moneylender or credit grantor or lessor under this Act, impose upon him such penalty as the Registrar may deem fit, but not exceeding R50 for every day during which the default continues, and if such moneylender or credit grantor or lessor fails to pay such penalty or any portion thereof forthwith the

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onverwyld te betaal, kan die Registrateur dié boete of gedeelte by aksie in 'n bevoegde hof op hom verhaal of, indien hy dit gepas ag om dit te doen, dié boete of 'n gedeelte daarvan kwytsteld."

Byvoeging van Bylae by Wet 73 van 1968

9. Die Hoofwet word hierby gewysig deur die volgende Bylae by te voeg: 5

"Bylae

1. In hierdie Bylae beteken—

- 'aanvangsgeld' 'n enkele bedrag nie groter nie as die bedrag vermeld in paragraaf 3 (b) (ii) deur die geldopnemer aan die gelduitlener betaalbaar— 10
- (a) kragtens 'n skriftelike ooreenkoms tussen die gelduitlener en die geldopnemer;
- (b) as geldswaardige teenprestasie vir diens gelewer in verband met die registrasie van die betrokke verband; en
- (c) by die aangaan van die betrokke geldleningstransaksie;
- 'administrasiegeld' 'n bedrag deur die geldopnemer aan die gelduitlener betaalbaar— 15
- (a) waar die bedrag kragtens 'n skriftelike ooreenkoms tussen die gelduitlener en die geldopnemer op laasgenoemde verhaalbaar is;
- (b) as geldswaardige teenprestasie vir die gelduitlener se administrasie van die geldopnemer se rekening; en 20
- (c) waar die totale bedrag per maand betaalbaar nie die bedrag vermeld in paragraaf 3 (b) (i) oorskry nie;
- 'leningsgaransiepolis' 'n garansiepolis soos omskryf in artikel 1 van die Versekeringwet, 1943 (Wet No. 27 van 1943), waarkragtens 'n gelduitlener verseker is teen 'n finansiële verlies wat deur hom gelyk kan word ten opsigte van 'n behuisingslening gesekureer deur 'n verband op onroerende eiendom waar die verlies voortspruit uit die onvermoë van die gelduitlener om by 'n verkoping van sodanige eiendom— 25
- (a) in eksekusie, hetsy op aandrang van die gelduitlener of enige ander persoon; of 30
- (b) by openbare veiling uit hoofde van die insolvensie van die geldopnemer, enige bedrag wat in verband met die behuisingslening deur die geldopnemer aan hom verskuldig is, te verhaal;
- 'leningsgaransiepremie' 'n premie wat werklik betaal is of betaal moet word deur 'n gelduitlener met betrekking tot 'n leningsgaransiepolis aan 'n versekeraar geregistreer ingevolge die Versekeringwet, 1943, met inbegrip van 'n versekeraar van Lloyds wat ingevolge genoemde Wet gemagtig is om versekeringsbesigheid in die Republiek te bedryf, waar sodanige bedrag— 35
- (a) ingevolge 'n skriftelike ooreenkoms tussen die gelduitlener en die geldopnemer op laasgenoemde verhaalbaar is; 40
- (b) betaalbaar is aan die versekeraar ten opsigte van versekeringsdekking vir 'n tydperk wat vyf jaar per keer nie oorskry nie;
- (c) werklik deur die gelduitlener aan die versekeraar betaal is of betaal moet word op of binne 60 dae na die datum waarop— 45
- (i) in die geval van die aanvanklike premie, die registrasie van die betrokke verbandakte in die Akteskantoor plaasgevind het; of
- (ii) in die geval van 'n latere premie, 'n tydperk bedoel in paragraaf (b) verstryk het; en
- 'sekuriteitswysigingsgeld' 'n bedrag deur die geldopnemer aan die gelduitlener betaalbaar— 50
- (a) kragtens 'n skriftelike ooreenkoms tussen die geldopnemer en die gelduitlener;
- (b) as geldswaardige teenprestasie vir inwilliging deur die gelduitlener tot enige van die geldopnemer se versoeke met betrekking tot— 55
- (i) 'n wysiging van die bepalinge van die betrokke verbandakte;
- (ii) 'n delegering van die geldopnemer se verpligtinge ingevolge die betrokke geldleningstransaksie; of
- (iii) 'n wysiging of vervanging van 'n borgkontrak of ander kollaterale sekuriteit in verband met die betrokke geldleningstransaksie; en 60

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Registrar may by action in any competent court recover from him such penalty or such portion or waive such penalty or any portion thereof if he considers it appropriate to do so."

Addition of Schedule to Act 73 of 1968

5 9. The principal Act is hereby amended by the addition of the following Schedule:

“Schedule**1. In this Schedule—**

- ‘administration fee’ means an amount payable by the borrower to the money-
lender—
- 10 (a) where such amount is in terms of an agreement in writing between the
moneylender and the borrower recoverable from the borrower;
- (b) as valuable consideration for the moneylender’s administering the
borrower’s account; and
- 15 (c) where the total amount payable per month does not exceed the
amount mentioned in paragraph 3 (b) (i);
- ‘initiation fee’ means a single fee not greater than the amount mentioned in
paragraph 3 (b) (ii) payable by the borrower to the moneylender—
- (a) in terms of an agreement in writing between the moneylender and the
borrower;
- 20 (b) as valuable consideration for services rendered in connection with the
registration of the mortgage bond in question; and
- (c) at the conclusion of the money lending transaction in question;
- ‘loan guarantee policy’ means a guarantee policy as defined in section 1 of the
Insurance Act, 1943 (Act No. 27 of 1943), by virtue of which a moneylender
25 is insured against any financial loss which could be suffered by him in
connection with a housing loan secured by a mortgage bond over immov-
able property, where the loss is suffered by the moneylender pursuant to
the moneylender’s being unable at a sale of such property—
- (a) in execution, whether such sale is held at the instance of the money-
lender or any other person; or
- 30 (b) by public auction held by virtue of the insolvency of the borrower,
to recover any amount owed to him by the borrower in connection with the
housing loan;
- ‘loan guarantee premium’ means a premium actually paid or to be paid by a
35 moneylender in respect of a loan guarantee policy to an insurer registered
in terms of the Insurance Act, 1943, including an underwriter at Lloyds
authorized in terms of the said Act to carry on insurance business in the
Republic, where such amount is—
- (a) in terms of an agreement in writing between the moneylender and the
40 borrower recoverable from the borrower;
- (b) payable to the insurer for insurance cover not exceeding five years at
a time;
- (c) actually paid or to be paid by the moneylender to the insurer upon or
45 within 60 days after the date on which—
- (i) in the case of the initial premium, the relevant mortgage bond is
registered in the Deeds Registry; or
- (ii) in the case of any subsequent premium, a term referred to in
paragraph (b) has lapsed; and
- ‘security variation fee’ means a fee payable by the borrower to a moneylender—
- 50 (a) in terms of an agreement in writing between the moneylender and the
borrower;
- (b) as valuable consideration for the moneylender’s consenting to any
request by the borrower in respect of—
- 55 (i) a variation of the terms of the mortgage bond in question;
- (ii) a delegation of the obligations of the borrower in terms of the
moneylending transaction in question; or
- (iii) a variation or substitution of a deed of suretyship or other
collateral security in connection with the money lending transac-
tion in question; and

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- (c) waar die bedrag ten opsigte van elke sodanige versoek nie die bedrag vermeld in paragraaf 3 (b) (iii) oorskry nie.
2. Behoudens die voorwaardes vermeld in paragraaf 3 kan, by wyse van vonnis of andersins, die volgende bedrae op 'n geldopnemer met betrekking tot 'n behuisingslening verhaal word: 5
- (a) 'n Aanvangsgeld;
- (b) administrasiegelde;
- (c) sekuriteitswysigingsgelde; en
- (d) leningsgaransiepremies.
3. Die bepalinge van paragraaf 2 is van toepassing op voorwaarde dat— 10
- (a) die bedrae beoog in paragraaf 2 afsonderlik en duidelik in elke skuldakte uiteengesit word ooreenkomstig die wyse in artikel 3 (1) beoog;
- (b) die bedrag van— 15
- (i) administrasiegelde nie R5,00 per maand oorskry nie;
- (ii) 'n aanvangsgeld nie R175,00 oorskry nie;
- (iii) 'n sekuriteitswysigingsgeld ten opsigte van enige enkele versoek nie R100,00 oorskry nie; en
- (c) 'n gelduitlener in verband met 'n behuisingslening nie beding vir, aandrang op of finansieringskoste ontvang nie teen 'n finansieringskostekoers per jaar groter as drie persentasiepunte laer as die betrokke finansieringskostekoers per jaar wat deur die Registrateur ten opsigte van geldlenings-transaksies in die algemeen kragtens artikel 2 (1) van die Wet bepaal word.”. 20

Kort titel

10. Hierdie Wet heet die Woekerwysigingswet, 1990.

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USURY AMENDMENT ACT, 1990

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(c) where the amount in respect of each such request does not exceed the amount mentioned in paragraph 3 (b) (iii).

2. Subject to the conditions mentioned in paragraph 3, the following amounts may in respect of a housing loan be recovered, by obtaining judgment or otherwise, from a borrower:

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- (a) An initiation fee;
- (b) administration fees;
- (c) security variation fees; and
- (d) loan guarantee premiums.

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3. The provisions of paragraph 2 shall apply on condition that—

(a) the amounts contemplated in paragraph 2 be set out separately and distinctly in every instrument of debt in accordance with the manner contemplated in section 3 (1);

(b) the amount of—

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- (i) administration fees shall not exceed R5,00 per month;
- (ii) an initiation fee shall not exceed R175,00;
- (iii) a security variation fee shall not exceed R100,00 per request; and

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(c) a moneylender in connection with a housing loan shall not stipulate for, demand or receive finance charges at an annual finance charge rate greater than three percentage points below the annual finance charge rate concerned determined by the Registrar in respect of money lending transactions generally under section 2 (1) of this Act.”.

Short title

10. This Act shall be called the Usury Amendment Act, 1990.