

File No. 572

(Reprint of File No. 330)

House Bill No. 5542  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
April 17, 1998

AN ACT CONCERNING THE INTEREST RATE ON LOANS TO  
CERTAIN BUSINESS ORGANIZATIONS.

Be it enacted by the Senate and House of  
Representatives in General Assembly convened:

1 Section 1. Section 37-9 of the general  
2 statutes is repealed and the following is  
3 substituted in lieu thereof:

4 The provisions of sections 37-4, 37-5 and 37-6  
5 shall not affect: (1) Any loan made prior to  
6 September 12, 1911; (2) any loan made by (A) any  
7 national bank, or any bank or trust company or  
8 state or federal savings bank incorporated under  
9 the laws of this state, (B) any wholly-owned  
10 subsidiary of such national bank, bank or trust  
11 company or state or federal savings bank, except a  
12 loan for consumer purposes, (C) any federal or  
13 state chartered savings and loan association or  
14 (D) any credit union or federal credit union; (3)  
15 any bona fide mortgage of real property for a sum  
16 in excess of five thousand dollars; (4) any loan  
17 made to a foreign or domestic corporation,  
18 [general or limited] STATUTORY TRUST, LIMITED  
19 LIABILITY COMPANY, GENERAL, LIMITED OR LIMITED  
20 LIABILITY partnership or association organized for  
21 a profit or any individual, provided such

22 corporation, TRUST, COMPANY, partnership,  
23 association or individual is engaged primarily in  
24 commercial, manufacturing, industrial or  
25 nonconsumer pursuits and provided further that the  
26 funds received by such corporation, TRUST,  
27 COMPANY, partnership, association or individual  
28 are utilized in such entity's business or  
29 investment activities and are not utilized for  
30 consumer purposes and provided further that the  
31 original indebtedness to be repaid is in excess of  
32 ten thousand dollars, or, in the case of one or  
33 more advances of money of less than ten thousand  
34 dollars made pursuant to a revolving loan  
35 agreement or similar agreement or a loan agreement  
36 providing for the making of advances to the  
37 borrower from time to time up to an aggregate  
38 maximum amount, the total principal amount of all  
39 loans owing by the borrower to the lender at the  
40 time of any such advance is in excess of ten  
41 thousand dollars; (5) any obligations, including  
42 bonds, notes or other obligations, issued by (A)  
43 the state, (B) any municipality, including any  
44 city, town, borough, district, whether  
45 consolidated or not, or other public body  
46 corporate, or (C) any authority, instrumentality,  
47 public agency or other political subdivision of  
48 the state or of a municipality; (6) any loan made  
49 by (A) the state, (B) any municipality, including  
50 any city, town, borough, district, whether  
51 consolidated or not, or other public body  
52 corporate, or (C) any authority, instrumentality,  
53 public agency or other political subdivision of  
54 the state or of a municipality; (7) any loan made  
55 for the purpose of financing the purchase of a  
56 motor vehicle, a recreational vehicle or a boat,  
57 carrying an interest rate of not more than (A)  
58 eighteen per cent per annum on loans made on or  
59 after July 1, 1981, and prior to October 1, 1985,  
60 and (B) on loans made on or after October 1, 1985,  
61 and prior to October 1, 1993, (i) sixteen per cent  
62 per annum for new motor vehicles, recreational  
63 vehicles or boats, and (ii) eighteen per cent per  
64 annum for used motor vehicles, recreational  
65 vehicles or boats, payable in four or more  
66 monthly, quarterly or yearly instalments which is  
67 unsecured or in which a security interest is taken  
68 in such property; (8) any loan by an institution  
69 of higher education made to an individual for the

70 purpose of enabling attendance at such institution  
71 and carrying an interest rate of not more than the  
72 greater of (A) the maximum rate then permitted by  
73 section 37-4, or (B) a rate which is not more than  
74 five per cent in excess of the discount rate,  
75 including any surcharge, on ninety-day commercial  
76 paper in effect from time to time at the federal  
77 reserve bank in the federal reserve district where  
78 such institution is located; (9) any loan made to  
79 a plan participant or beneficiary from an employee  
80 pension benefit plan as defined in the Employee  
81 Retirement Income Security Act of 1974, Public Law  
82 93-406, as from time to time amended. The  
83 provisions of part III of chapter 668 shall not  
84 apply to loans made pursuant to subdivision (7) of  
85 this section. No provision of this section shall  
86 prevent any such bank, trust company or federal or  
87 state chartered savings and loan association,  
88 credit union or federal credit union or other  
89 lender from recovering by an action at law the  
90 amount of the principal and the interest  
91 stipulated or interest at the legal rate, if  
92 interest is not stipulated, in any negotiable  
93 instrument which it has acquired for value and in  
94 good faith without notice of illegality in the  
95 consideration. For the purpose of this section:  
96 "Interest" shall not be construed to include  
97 attorney's fees, including preparation of mortgage  
98 deed and note, security agreements, title search,  
99 waivers and closing fees, survey charges or  
100 recording fees paid by the mortgagor or borrower;  
101 "consumer purposes" shall mean the utilization of  
102 funds for personal, family or household purchases,  
103 acquisitions or uses.

104 Sec. 2. This act shall take effect from its  
105 passage and shall be applicable to loans made  
106 before, on or after said date.

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

\* \* \* \* \*

**FISCAL IMPACT STATEMENT - BILL NUMBER HB 5542**

STATE IMPACT                   None, see explanation below

MUNICIPAL IMPACT           None

STATE AGENCY(S)           Department of Banking

**EXPLANATION OF ESTIMATES:**

The bill exempts statutory trusts, limited liability companies, limited liability partnerships and other commercial entities from interest rate prohibitions.

There is no workload increase for the Department of Banking. They do not regulate interest rates.

House "A" is technical in nature and has no fiscal impact.

\* \* \* \* \*

**OLR AMENDED BILL ANALYSIS**

HB 5542 (as amended by House "A")\*

**AN ACT CONCERNING THE INTEREST RATE ON LOANS TO CERTAIN BUSINESS ORGANIZATIONS**

**SUMMARY:** This bill exempts statutory trusts, limited liability companies, and limited liability partnerships from the laws establishing a 12% interest cap on loans made to them if:

1. they are engaged primarily in commercial, manufacturing, industrial, or nonconsumer pursuits;

2. the funds are used in their business activities and not for consumer purposes; and
3. the loan is for more than \$10,000, or in the case of a revolving loan agreement, the total amount of all loans owing at the time of any advance exceeds \$10,000.

This same exemption currently applies to corporations, general or limited partnerships, other for-profit associations, and individuals.

The bill specifies that it applies to loans made before, on, or after its effective date.

\*House Amendment "A" specifies that the bill applies to loans made before, on, or after its effective date. The original bill exempted loans made before the bill's effective date but apparently did not require these old loans to comply with the three criteria outlined above in order to be exempt. Also, the amendment removes the original bill's reference to other similar commercial entities.

EFFECTIVE DATE: Upon passage

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report  
Yea 39      Nay 0