Assembly

MINUTES

COMMERCE COMMITTEE - NEVADA STATE LEGISLATURE - 58TH SESSION

MAY 14, 1975

The meeting was called to order by Chairman Robinson at 4:05 P.M.

MEMBERS PRESENT: Mr. Benkovich
Mr. Demers
Mr. Getto
Mr. Harmon
Mr. Hickey
Mr. Schofield
Mr. Wittenberg
Mr. Chairman

MEMBERS ABSENT: Mr. Moody

SPEAKING GUESTS: David Boyer, United Mortgage Company
I. R. Ashleman, Savings and Loan League and Sid Stern
Mike Melnor, State Department of Commerce
Nick Harkins, State Department of Commerce
Collins E. Butler, Nevada Savings and Loan
Don Brodeen, Nevada Mortgage Bankers and Southern Nevada Mortgage Bankers
Bob Beach, Northern Nevada Finance Corporation
Dom Azevedo, Northern Nevada Finance Corporation

The purpose of this meeting was to hear testimony on the following bills:

SB 544
SB 372
SB 78

The first bill to be discussed was SB 544 which:

Permits creation of economic development assistance act companies.

David Boyer spoke on this bill saying he was not a proponent of the bill but when he realized what they were trying to accomplish, he became a supporter of this bill. He said this is a bill creating thrift and loan institutions. California has this type of institution. They are in a category slightly above small loans and yet slightly below savings and loans. They would make the type of loans savings and loans cannot make and the type banks do not wish to make so they do fulfill a need. It is an opportunity for a small saver to get a little higher rate on their money than they can presently from financial institutions. One bad part of this, however, is the insurance for the depositor. He said a fund accumulation is provided for in the bill but this is the weak part of this measure. Protection for depositors in California is handled through a Thrift Guarantee Association. He added that even in California, however, this fund has not accumulated very fast. He commented on a new concept in this bill in that they would operate a mobile office throughout

the State in communities with a population of less than 25,000.

As far as the affect this would have on the mortgage business, Mr. Boyer said it would be more competition but he believed they would cover areas a mortgage company couldn't cover. He added that he would not be against this bill because it would involve more competition. He added that they will also be competitive with banks and savings and loans for deposits and with mortgage companies on loans.

Mr. Wittenberg had many questions regarding this bill. He wondered if they would allowed to pay such a high rate of interest if they would be in direct competition with the Federal Government on such things as Government Treasury Notes and TCD's. He was also concerned that there was not Federal Deposit Insurance to protect the consumer and he did not feel the amount of $7,500 into the fund each year to be adequate.

Mr. Boyer commented that in talking with representative from the State Department of Commerce, he understands that that Department will have a lot to say in the rate of interest as related to liquidity in these institutions.

Mr. Wittenberg also felt there could be some very misleading advertising done by these institutions which could cause a drain on other institutions in the State. Mr. Boyer did not feel there would be a great drain because a properly operated company could not go out and invest this money right away. It takes time. He felt the savers in these institutions would be the small savers with, for example, $100.00.

Mr. Ashleman then spoke in favor of this bill. He commented on how rigid the regulation of these institutions would be and that they would be established primarily in the small populated areas where it is difficult for people to obtain loans. He did not think there would be many of these institutions opening in the State as the one million dollar performance bond is a very high bond and extremely difficult to obtain. He added that the licensing of these institutions in the State would be done very carefully. He informed the committee that no unsecured loans will be available from these institutions. It is a method of giving loans to people who otherwise would not get them. They can offer a high rate of return because it is a higher risk.

Mr. Demers asked if this would stop some of the loan sharking in the State. Mr. Ashleman said this was not the intent of the bill or was it designed to do this but it would allow a man to get this money legally. He added that there are 27 states that have laws comparable to this and there are 17 states that have some of the features provided for in this bill. He said the laws in Hawaii, Colorado, Utah and California were used to come up with this bill and this was much more strict than any other states. He did feel a market exists for this type of institution. He said he knows of no real opposition to this bill.

He added that most of the other states have no guarantee fund. He admitted that it would take awhile for this fund to reach $325,000 but added that they won't be writing $2,000 loans right away--they are a little more complicated that financing a car, for example. He commented that the failure rate in states without guarantee funds is not high.

Mr. Wittenberg was afraid this would be in direct competition with the smaller loan companies. Mr. Ashleman commented that they just can't open offices all over, they must show that the market will bear this.

Mr. Wittenberg said he could see nothing in the bill that would protect those people acquiring loans over $5,000. Mr. Ashleman felt competition would handle this. He said where these institutions exist, facts show that they do not run their interest rates up unreasonably.

Mr. Wittenberg felt if this bill passes and so does SB 372 taking the ceiling off usury rates, that this would create a great market for these institutions for loans between $5,000 and $50,000.

Mr. Ashleman informed the committee that about 80% of the business these institutions do comes from referrals from other institutions. He added that banks and other financial institutions are forbidden from entering into this field by subsidiary, etc. He said the only significant failure of one of these institutions was when a bank did create such a subsidiary. He commented that all of the thrift certificates can be liquidated in thrity days.

Mike Melnor then spoke saying that originally his Department had some very real problems with this bill but they have since been worked out. He felt the bill probably had adequate protections although he said if this does fall under his Department he will initially issue limited licenses if this can be done. He felt these institutions fell someplace between a corporation in which you become an investor and a savings and loan where you become a depositor. He said he did not foresee them getting very big as far as size. He said the reason the bond required is so high is because they are not insured. The bond for a mortgage company is only $50,000 and this is very hard to obtain. He said he really didn't know if anyone could even get a $1,000,000 bond.

With regard to the mobile unit, Mr. Melnor did not think there would be any problem policing it because it would be tied to a specific branch so the records will be current with the branch and with the mobile unit. He added that these institutions have been very successful in other jurisdictions and have worked well. He said his Department would examine them annually but probably much more frequently at the onset.

Mr. Wittenberg asked why the amount $325,000 had been settled on. Mr. Ashleman said this was the most typical figure of companies in other states.

Chairman Robinson asked Mr. Melnor what the criteria would be for granting licenses. Mr. Melnor said experience coupled with financial integrity.

This concluded testimony on this bill and SB 372 was taken up which:

> Exempts banks and certain loan associations from usury law.

Collins Butler spoke in favor of this bill. He was speaking on behalf of Nevada Savings and Loan and the Savings and Loan League of Southern Nevada. He said they are in agreement with this bill and recommend that SB 372 as amended be passed.

He said they have experienced four times in the last nine years disintegration that has taken place in the economy. Last summer and fall they saw many funds go out of state wo states without usury laws simply because they were able to pay more for their money.

Mr. Butler said Section 2 is of the utmost importance to the savings and loans in Nevada. This has nothing to do with and is completely divorced from usury. It states that for the first year's interest a savings and loan cannot have a loan in which the interest rate added to any loan fees exceeds 12%. You could not, for example, have an interest rate of 8 1/2% and a loan rate of 4% because this would exceed 12%. He said it was thought that this Section originated back in the days before there were insured savings and loans. The net effect of this is one which removes savings and loans at the present time and has for almost all of the last two years from making any FHA or VA loans. At the present time the discount required by the supply and demand of the money market is somewhere in the area of 5% for an FHA or VA loan. The interest rate that is dictated by HUD is 8 1/2%. Therefore, we are preempted and precluded from making FHA or VA loans. This is not in the best interest of the savings and loans or to the homebuyer. It is a penalty on everyone. He said mortgage bankers or national banks are not included under these restrictions but savings and loans are and he believed it was put in the law as an asset control factor before there was insurance for accounts in savings and loans in Nevada. He said they need relief from this. He added that they have no problem with the $50,000 limit provided in the bill. He feels it will protect the individual small borrower and at the same time it would make money available to a large developer or the commercial borrower, etc.

Chairman Robinson was concerned as to whether this would help the small borrower. He wondered if there would be money available for the small borrower. He asked Mr. Butler if he would have any objection if a quota being placed on this to be sure there would be funds for the small borrower. Mr. Butler said he did not think that would be to anyone's best interest. He felt if we let supply and demand run and free enterprise run, we would be better serviced.

Mr. Butler said savings and loan associations are in a different position than the commercial banks. They are basically real estate lenders by tax definition law and by federal home loan bank definition. Their lending regulations are directed almost entirely to real estate and primarily to residential real estate. The vast majority of that is single family homes. He said if they are asking if there is going to be money for the homeowners, he said that is the business of the savings and loans.

Mr. Butler said the point is that when you add fees along with rates, the law now reads that they cannot exceed 12%. He said their problem is that they do not create market rates, they simply live with them. The problem is that so much of the financing is subsidized financing such as FHA and VA. These are artifical rates set by a federal agency not by the marketplace. The marketplace determines the discount up and down related to that return the same as a bond discount. Savings and loans are precluded because of this section to engage in that marketplace.

Dr. Robinson asked Mr. Butler how many of his loans would be in excess of $50,000. Mr. Butler said an educated guess for his institution would be that approximately 75% of their loans are below $50,000. He concluded his remarks by saying that the intent of this proposed deletion is to allow savings and loans to compete in the mortgage market. This is the sole intent of this deletion.

Dr. Robinson asked Mr. Butler what abuses he could foresee if this was passed. He said he could see none.

Mr. Butler continued by saying what has happened to them in the past several years and particularly last year when money was so terribly dear and investment certificates and alternative investments gave a rate of return as high as they did, the construction money in the State of Nevada literally dried up--there wasn't any. New starts still have not recovered from it. The money went to other states. He said if they can have some relief on this at least that developer has the option of calculating his business proceedings knowing that even though the money is high prices, there is money.

Don Brodeen then spoke. He submitted written testimony which is attached hereto. He said he should be opposed to Section 2 of this bill but he felt it was a consumer item and would create more competition in Nevada and he said they need the competition to keep the price down. He said 95% of mortgage companies business is under $50,000 because they do primarily FHA and VA loans.

Bob Beach then spoke in opposition to this bill. He said he wanted to bring some points to the attention of the committee that he felt should be considered before any action is taken on the bill.

1. In speaking of the availability of money, in the last credit crunch, Nevada was not the only one that had problems.

2. If we get into this program, he felt the committee should research and understand who is going to be paying these fees. The large borrowers are going to be getting a prime rate so the

people who will be subject to paying these rates will be the small businessmen in the State. He felt that they are the ones that can least afford to pay it.

He felt before taking action on this bill, they should study the position of the banks in Nevada in the last credit crunch. This State has never had to go out and obtain funds. They have been for the most part sellers of Federal funds--the excess money they have is placed in the Federal Reserve system and this money is sold to banks that do have problems. He said he thought there was one bank in the State of Nevada that was really hurting and hand to buy from that fund. The rest had money to sell. He felt this bill would be inflationary.

Dom Azevido then spoke also of Northern Nevada Finance Corporation which is the only independent lending institution in the State. He said they borrow a lot of money from a banking institution so they can loan out on consumer loans. He said he just couldn't imagin going into his local bank and saying he would like to borrow $40,000 or $45,000 for under 12% and his banker saying if you want to borrow from me it better be over $50,000 so we can make a little more money on it.

Mr. Azevido commented that he had been a rancher for many years and there is no way any rancher in the State of Nevada could pay over 12%. He said he could not see any bank loaning out $20,000 or $30,000 when they can put out $50,000 for a higher interest rate.

Mr. Azevido said he borrows the money for his business from a local bank and if there is no usury law and interest goes over 12%, he would be the first one hit. He said it will put him out of business.

This concluded testimony on <u>SB 372</u> which will be continued at the scheduled meeting on Friday. Discussion then turned to <u>SB 78</u> which:

> Deletes exemption of certain firms and corporations from licensing and control provisions applicable to mortgage companies.

Nick Harkins of the Department of Commerce spoke on this bill. He said it is a Department bill and does four things:

1. It clarifies the definition of mortgage company. The language was not clear and this has been taken care of and spelled out in Subsection 1 of the bill.

2. It will permit small mortgage companies in the State to obtain bonds by the reduction from $50,000 to $10,000.

3. It attempts to exempt real estate brokers when they are engaging as a mortgage company or doing mortgage company things when they are dealing as such as a real estate borker. Real estate brokers get involved in obtaining financing and he feels that they should be exempt from licensure when they are action as a real estate broker.

4. Clarifies an exemption relating to the Federal National Mortgage Association sellers and servicers. This has been clarified at the behest of some of the mortgage companies.

Mr. Boyer spoke on this bill saying he was one of the licensees and he feels these are needed changes and he had no argument on the bonding.

Mr. Getto then moved a "do pass" on SB 78. This was seconded by Mr. Wittenberg and carried the committee.

Mr. Wittenberg moved that all minutes not previously adopted be adopted up through May 12. This was seconded by Mr. Harmon and carried the committee.

The meeting was then adjourned at 6:20 P.M.

Respectfully submitted,

Joan Anderson, Secretary

ASSEMBLY

HEARING

COMMITTEE ON COMMERCE

Date MAY 14, 1975 Time Upon P.M. Adjournment Room 316

Bill or Resolution to be considered	Subject
S.B. 372	Exempts banks and certain loan associations from usury law.
S.B. 544	Permits creation of economic development assistance act companies
S.B. 78	Deletes exemption of certain firms and corporations from licensing and control provisions applicable to mortgage companies.

58TH NEVADA LEGISLATURE

COMMERCE COMMITTEE

LEGISLATION ACTION

DATE May 14, 1975

SUBJECT SB 78 - Deletes exemption of certain firms and corporations from licensing and control provisions applicable to mortgage companies.

MOTION:

Do Pass X Amend ____ Indefinitely Postpone ____ Reconsider ____

Moved By Mr. Getto Seconded By Mr. Wittenberg

AMENDMENT:

Moved By ____ Seconded By ____

AMENDMENT:

Moved BY ____ Seconded By ____

VOTE:	MOTION Yes	MOTION No	AMEND Yes	AMEND No	AMEND Yes	AMEND No
Robinson	x					
Harmon	Not present at time of vote					
Demers	Not present at time of vote					
Hickey	x					
Moody	Not present at time of vote					
Schofield	x					
Wittenberg	x					
Benkovich	x					
Getto	x					

ORIGINAL MOTION: Passed X Defeated ____ Withdrawn ____

AMENDED & PASSED ____ AMENDED & DEFEATED ____

AMENDED & PASSED ____ AMENDED & DEFEATED ____

Attached to Minutes May 14, 1975

GUEST REGISTER

1343

COMMERCE COMMITTEE

DATE: 5/14

NAME	REPRESENTING	PLEASE CHECK IF YOU WISH TO SPEAK
Pat Maloney	S.N.M.B.	if Asked
Don Brodean	Nevada Mtg Bankers / So Nev Mtg Bankers	yes 372 / if asked 78
David Boyer	United Mortgage Co	if asked 78
Nick Harkins	Commerce Dept	SB 78
Dom Azevedo	No. Nev. Finance Corp	~~SB. 372~~ SB 372 yes
R Beach	No Nev Finance Corp	SB 372 yes
F R Ashleman	St Steven	544 yes
"	Savings & loan league	372 - if asked
Walter Warren	FNB - NBA	No
Gino Del Carlo	FNB - NBA	No
Collins E. Butler	Nevada Savings & Loan	yes

Don Brodeen

S.B. 372 Usury Limit Revision

As I have previously said to most of you personally and now testify for the record, Nevada is probably the most unique state of all 50 due to their need for foregin capital to finance construction. S.B. 372 as passed by the Senate retains the 12% ceiling on loans below $50,000 which will offer the same protection the small borrower has now. In addition, I might add that my opinion is that the face rate on long term real estate loans, be they $10,000 or $100,000, won't exceed or approach 12% for many years to come.

Much argument has been heard about protecting the small consumer from damage by this bill. I feel that this has no credibility at all. The small consumer is already paying much greater interest than 12% under the Small Loans Act; in fact, legislation in this session may increase those limits from 36% to 40%, and here we are quibbling over removal of the 12% limit which could very easily spell the difference between construction and employment staying active in Nevada or having the unemployment roles increased far beyond their present unbearable rate in the construction industry.

Many argue that paying over 12% makes it impossible for the builder to operate. This only will serve to make the builder more conservative in starting construction that there is no market for or getting too far "out front" with starts until he has the product sold. If he can build and sell his product in 120 days, which is a reasonable projection, his interest costs will not be excessive.

Let me conclude my testimony by stating that I urge the committee to recommend "Do Pass" on S.B. 372, First Reprint, without amendment. We must have relief from the rate this session and while many of us would like to have had a lower minimum on loans which could be relieved of the rate I surely urge no amendment.

DON BRODEEN
Chairman, Legislative Comm.
So. Nevada Mortgage Bankers Association

"Usury laws intensify the harm whenever the housing market is already hurting ... and they hamper attempts to rescue the market"

There were some events of 1974 that had a special flavor even for a year of ultra-tight money:

- In Florida, Arizona and Texas, builders completing their units and ready to close sales found themselves hit with unexpected discounts on their conventional mortgages, ranging up to seven points. In many cases, this converted what had been profitable projects into net losses.
- In California, the turn in financing came so suddenly that many sales couldn't be closed after the buyer had moved in. Conventional financing dried up almost completely for a time and the only FHA-VA financing was by lenders willing to take a loss of up to 3½ points on each loan. For months, virtually the only source of construction money was an eastern commercial bank.
- In Missouri, such few sales as took place, conventional or FHA-VA, carried up to 18 points of discount to the seller.
- In New York, conventional loans were available only to "customers with meaningful historic deposit relationships" with a minimum of one-third down.
- In Maryland there were virtually no conventional mortgages made for more than twelve months.
- In Illinois, through much of the year, most conventional lending was at 50% minimum down-payments.
- Builders in at least 14 states were barred from any benefit of the $3 billion GNMA-FNMA conventional mortgage-purchase program by provisions in their state laws.

Correctives gone wrong. These horror stories are not illustrations of the effects of tight money *per se*. That alone would have been devastating enough. They are rather a summary of what happens when the extra constraints of state usury laws are piled upon a tightening money supply.

Even legislative attempts to soften the impact of usury laws turned into horror stories.

- Pennsylvania changed from a fixed to flexible usury law ceiling, set each month at 2½ percentage points above a federal bond rate index. This was a ceiling for loan commitments. But by the time of the loan closing, the commitment rate was far under the market.
- Illinois raised its usury-law ceiling three times in seven years: From 6% to 7% after the 1966 credit crunch. From 7% to 8% after 1969-70. And from 8%-9½% in July 1974. By the time the 9½% rate came, it was already far below the market. And the previous two changes came after that credit crunch had run its course.
- Virginia appears to have a model usury law. No ceiling, no restriction on fees. But it expressly forbids variable-rate loans, which are coming to be regarded as the salvation of the mortgage market.
- Each time a usury law is changed, an agonizing legislative battle seems to be required.

Extra turn of the screw. The usury laws intensify the harm whenever the housing market is already suffering from tight money, and they hamper attempts to rescue the market.

In easy-money times, the laws are virtually unseen. Thus in Florida, Arizona and Texas, interest rates never rose high enough to challenge the 10% ceilings—until 1974. Builders may not even have been aware there was a state usury law. Hence the unexpectedness of the mortgage discounts, which put some builders in serious jeopardy.

California at first adjusted to its 10% ceiling—affecting only lenders other than banks or savings and loan associations, with discount points. But when some bankers with mortgage-company customers expressed concern that points, even to the seller, might be construed as part of the borrower's interest payment, there was panic. Conventional lending halted and only a few hardy mortgage bankers continued to make FHA-VA loans—putting out money at 3 points of discount when it was costing them 6½ points from FNMA.

California banks and savings and loans, which in normal times provide the bulk of the state's mortgage money, are exempt from the usury law.

But in summer of 1974, the exempt lenders were virtually out of the mortgage market. Nearly all the state's mortgage money was from out-of-state sources, mostly FNMA, funnelled by mortgage bankers—until the legal questions about points were raised. There is still no definitive ruling from the attorney general's office.

OVER

CRAZY QUILT OF STATE USURY LAWS

Interest Ceilings

8%-8½%	9%-9½%	10%	10% (cont.)	12%	Floating	16% to None	16% to None (cont.)
Alabama	Delaware	Arizona	Missouri	Colorado	Alaska	Connecticut	North Carolina
Minnesota	Georgia	Arkansas	Mississippi	Nevada	Pennsylvania	Indiana	New Hampshire
New York	Illinois	California	Montana	Washington		Kentucky	Rhode Island
Ohio	Iowa	District of Columbia	New Mexico	Wisconsin		Maine	Utah
Vermont	New Jersey*	Florida	Oklahoma			Massachusetts	Wyoming
	North Dakota	Idaho	Oregon			Michigan	
	South Carolina	Kansas	Puerto Rico				
		Louisiana	South Dakota				
		Maryland	Tennessee				
			Texas				

Ceiling also covers FHA-VA	Ceiling covers corporations	Some lenders are exempted	Restricts fees and-or discounts	Restricts fees and-or discounts (cont.)
California	Arkansas	California	Colorado	New Jersey
Missouri	California	Colorado	District of Columbia	New Mexico
Nebraska**	Montana	Ohio	Indiana	New York
Ohio	Nevada	Oklahoma	Maryland	Pennsylvania
	Tennessee		Michigan	Vermont
			Mississippi	West Virginia
				Wisconsin

*Ceiling floats to 9½% maximum.
**Covers VA; FHA is exempt.
Note: Usury laws contain numerous provisions, and interpretations change frequently. Complete accuracy of this table cannot be guaranteed at date of publication.

ROBERT J. MYLOD, EXECUTIVE VICE PRESIDENT, ADVANCED MORTGAGE CORP., DETROIT, MICH.

In Maryland and the District of Columbia, the 10% ceilings—raised, after much agony, from earlier 8% ceilings—allow no fees or discounts of any kind. Hence, lenders have felt unable to afford mortgages since the fall of 1973.

Thwarted rescues. The money-market salvage efforts of federal agencies are repeatedly hamstrung by state usury laws. Kenneth Plant, research vice president for the Federal Home Loan Mortgage Corp. (Freddie Mac), has reported that 80% of his agency's commitments in 1973 and 1974 were concentrated in five of the nation's 12 Home Loan Bank districts, in large part because the usury laws in the other districts were more restrictive. A similar pattern would be found in the Federal National Mortgage Association's operations. Laws barring discounts and fees are blocking application of the GNMA-FNMA plan—even in states that have no usury law ceilings. Variable-rate mortgages would be hobbled by interest ceilings or restrictions on fees in at least two thirds of the states.

Disparity compounded. There is no consistency between state usury laws. That is one reason they do so much harm.

Usury-law ceilings this year range from 8% to 21%. In some half-dozen states, they apply to FHA-VA as well as conventional home mortgages; in the others, only to conventionals.

Some states do not consider discounts to the seller part of the interest rate. Other states specifically outlaw discounts and fees of various kinds. Some even outlaw origination fees and late payment fees. In most states, however, there is no specific language or official ruling on the treatment of points and fees, leaving a gray area subject to panic and confusion.

A half-dozen states exempt certain classes of lenders from their usury laws. Typically, these are locally-based banks or savings institutions. (In California, it is any bank or S&L, local or otherwise.)

Several states, the largest California, have the same usury-law ceiling for corporations as for individuals, thus making construction loans and income-property mortgages subject to the same constraints as home mortgages.

Timetable of damages. Usury laws appear to do most of their damage to local housing markets in the early months of a tight-money period, before the credit crunch is all-pervasive, and again in the early months of recovery, when mortgage flows are resuming.

It's sometimes difficult to isolate the usury-law impact. This was particularly true in 1974, when there were so many other factors—environmental restraints, overbuilding and variations in local economies. But an instructive comparison may be made between Chicago and Detroit, Midwest markets with a minimum of environmental restraints, a minimum of over-building in one-family homes and about equally overbuilt in condominiums. Chicago in 1974 had one of the strongest economies in the Midwest; Detroit was hobbled by auto layoffs that had begun late in 1973. But Illinois had a usury law ceiling of 8% until July of 1974; Michigan has had no ceiling since 1970.

Over the entire first half, Chicago one-to-four family permits fell 47% from their five-year average; Detroit's fell only 25%.

In the second quarter of 1974, when a new round of disintermediation began, Chicago home permits fell 26% from their first-quarter annual rate; Detroit's increased by 7%.

And in the third quarter, when disintermediation grew more severe but Chicago's ceiling was raised to 9½%, the annual rate of Chicago home permits increased 23% over the first half rate and Detroit's declined by 9%.

Nationwide effect. In an earlier tight-money period, the entire national decline in the first half of 1969, when home permits fell to the third lowest level since World War II, was concentrated in nine states where usury ceilings were 7½% or less. States with 7% ceilings had three times the composite decline of states with 7½% ceilings.

In the 13 states that had 8% ceilings, home permits increased 14% in the first quarter and, then, as interest rates kept rising, declined 2% in the second quarter. These contrasts were muted later in the year as disintermediation became universal. (Interest rates and usury ceilings were lower five years ago.)

History. It's hard to find even a historical rationale for the usury laws affecting home mortgages. They do not appear to have arisen in response to any specific local abuse but rather as a carryover from the old English common law.

The concept of usury grew in the medieval church and applied originally to any form of interest. Usury-law provisions in more or less their present form were part of Queen Anne's Statutes, enacted in the 17th century. A lender's market area, in that day, might have been only a few square miles. This English law applied also in the American colonies and, when the first state constitutions were drawn, after the Revolution, they incorporated usury laws.

It is interesting that most of these original state usury laws had interest ceilings of 6%—ceilings that survived intact in most states as late as 1966.

A question of fairness. The laws are also lacking in internal rationale. What protection is afforded to borrowers, for example, when some lenders are permitted to charge whatever interest and fees they find necessary for home mortgages and other lenders are sharply restricted?

The truth is, usury laws are window dressing, retained for a token function. They are intended to be visible, without interfering with the workings of the mortgage market. When the ceilings do collide with market rates, they are—usually—modified, but only after long delays. By then, the damage has already been done.

I have been unable to discern any interest group that benefits by retaining usury ceilings. But there is inertia to be overcome in making any change, and there is political mileage in "restricting the moneylenders."

Some remedies. A few states have succeeded recently in removing all usury ceilings—though, as noted, not all other restrictions. These include Virginia, Michigan, and since April 1974, North Carolina. One strategy has been to remove ceilings temporarily, for a one or two-year period, to test what may happen in the mortgage market without their "protection." No adverse effects have been uncovered yet and Virginia's open rate was made permanent after two years. Michigan's was extended to 1977.

This is a strategy which deserves a concerted push by all segments of the housing industry in every state where usury laws prevail.

Perhaps a more effective strategy would be to work for a Federal law overriding state usury laws as part of some future National Housing Act. We recognize that credit is the key to the functioning of the housing industry and the fulfillment of the nation's housing needs. Clearly, one of the prerequisites to a smooth flow of housing credit is the removal of such artificial obstructions as the state usury laws.

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• Pennsylvania changed from a fixed to flexible usury law ceiling, set each month at 2½ percentage points above a federal bond rate index. This was a ceiling for loan commitments. But by the time of the loan closing, the commitment rate was far under the market.

• Illinois raised its usury-law ceiling three times in seven years: From 6% to 7% after the 1966 credit crunch. From 7% to 8% after 1969-70. And from 8%-9½% in July 1974. By the time the 9½% rate came, it was already far below the market. And the previous two changes came after that credit crunch had run its course.

• Virginia appears to have a model usury law. No ceiling, no restriction on fees. But it expressly forbids variable-rate loans, which are coming to be regarded as the salvation of the mortgage market.

• Each time a usury law is changed, an agonizing legislative battle seems to be required.

Extra turn of the screw. The usury laws intensify the harm whenever the housing market is already suffering from tight money, and they hamper attempts to rescue the market.

In easy-money times, the laws are virtually unseen. Thus in Florida, Arizona and Texas, interest rates never rose high enough to challenge the 10% ceilings—until 1974. Builders may not even have been aware there was a state usury law. Hence the unexpectedness of the mortgage discounts, which put some builders in serious jeopardy.

California at first adjusted to its 10% ceiling—affecting only lenders other than banks or savings and loan associations, with discount points. But when some bankers with mortgage-company customers expressed concern that points, even to the seller, might be construed as part of the borrower's interest payment, there was panic. Conventional lending halted and only a few hardy mortgage bankers continued to make FHA-VA loans—putting out money at 3 points of discount when it was costing them 6½ points from FNMA.

California banks and savings and loans, which in normal times provide the bulk of the state's mortgage money, are exempt from the usury law.

But in summer of 1974, the exempt lenders were virtually out of the mortgage market. Nearly all the state's mortgage money was from out-of-state sources, mostly FNMA, funnelled by mortgage bankers—until the legal questions about points were raised. There is still no definitive ruling from the attorney general's office.

OVER

CRAZY QUILT OF STATE USURY LAWS

Interest Ceilings

8%-8½%	9%-9½%	10%		12%	Floating	16% to None	
Alabama Minnesota New York Ohio Vermont	Delaware Georgia Illinois Iowa New Jersey* North Dakota South Carolina	Arizona Arkansas California District of Columbia Florida Idaho Kansas Louisiana Maryland	Missouri Mississippi Montana New Mexico Oklahoma Oregon Puerto Rico South Dakota Tennessee Texas	Colorado Nevada Washington Wisconsin	Alaska Pennsylvania	Connecticut Indiana Kentucky Maine Massachusetts Michigan	North Carolina New Hampshire Rhode Island Utah Wyoming

Ceiling also covers FHA-VA	Ceiling covers corporations	Some lenders are exempted	Restricts fees and-or discounts	
California Missouri Nebraska** Ohio	Arkansas California Montana Nevada Tennessee	California Colorado Ohio Oklahoma	Colorado District of Columbia Indiana Maryland Michigan Mississippi	New Jersey New Mexico New York Pennsylvania Vermont West Virginia Wisconsin

*Ceiling floats to 9½% maximum.
**Covers VA; FHA is exempt.
Note: Usury laws contain numerous provisions, and interpretations change frequently. Complete accuracy of this table cannot be guaranteed at date of publication.

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