

Stricken language would be deleted from and underlined language would be added to the Arkansas Constitution.

1 State of Arkansas As Engrossed: H3/18/09 H3/24/09 H4/7/09 H4/8/09

2 87th General Assembly

3 Regular Session, 2009

HJR 1004

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5 By: Representative Cheatham

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HOUSE JOINT RESOLUTION

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PROPOSING AN AMENDMENT TO THE CONSTITUTION OF
ARKANSAS CONCERNING THE INTEREST RATE LIMITS.

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Subtitle

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PROPOSING AN AMENDMENT TO THE
CONSTITUTION OF ARKANSAS CONCERNING THE
INTEREST RATE LIMITS.

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BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SEVENTH GENERAL
ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:

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That the following is proposed as an amendment to the Constitution of
the State of Arkansas, and upon being submitted to the electors of the state
for approval or rejection at the next general election for Representatives
and Senators, if a majority of the electors voting thereon at the election
adopt the amendment, the amendment shall become a part of the Constitution of
the State of Arkansas, to wit:

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SECTION 1. Governmental Bonds and Loans. (a) The maximum lawful rates
of interest on bonds issued by governmental units in the State of Arkansas as
set forth in various provisions and amendments to the Arkansas Constitution
of 1874, including Article 19, § 13, and Amendment Nos. 30, 38, 62, 65, and
78, are removed.

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(b) The maximum lawful rate of interest on loans made by or to
governmental units in the State of Arkansas as set forth in Article 19, § 13
of the Arkansas Constitution of 1874 is removed.

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1 (c) Except as may be established by the General Assembly pursuant to
2 Section 8 of this amendment, there shall be no maximum lawful rate on bonds
3 issued by and loans made by or to governmental units.

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5 SECTION 2. Loans by Federally Insured Depository Institutions. The
6 maximum lawful rate of interest, discount points, finance charges, or other
7 similar charges that may be charged, taken, received, or reserved from time
8 to time in any loan or financing transaction by or to any federally insured
9 depository institution having its main office in this State shall be the
10 maximum rate of interest that was applicable to federally insured depository
11 institutions under 12 U.S.C. § 1831u effective on March 1, 2009.

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13 SECTION 3. Other Loans. The maximum lawful rate of interest on
14 loans or contracts not described in Sections 1 and 2 shall not exceed
15 seventeen percent (17%) per annum.

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17 SECTION 4. Energy Efficiency Project Bonds – Issuance – Terms and
18 Conditions.

19 (a) A governmental unit, under laws adopted by the General Assembly,
20 may issue bonds to finance all or a portion of the costs of energy efficiency
21 projects. The bonds may bear such terms, be issued in such manner, and be
22 subject to such conditions as may be authorized by the General Assembly. The
23 bonds authorized by Section 4 shall be governmental bonds subject to the
24 provisions of Section 1 of this amendment.

25 (b) Bonds may be secured by a pledge of the savings from the energy
26 efficiency project and may be repaid from general revenues, special revenues,
27 revenues derived from taxes or any other revenues available to the
28 governmental unit.

29 (c) The authority conferred by this Section 4 shall be supplemental to
30 other constitutional provisions which authorize the issuance of bonds.

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32 SECTION 5. Definitions. (a) The term "bonds" means all bonds, notes,
33 certificates, financing leases, or other interest-bearing instruments or
34 evidences of indebtedness.

35 (b) The term "Federal Reserve Primary Credit Rate" means the Primary
36 Credit Rate, or such successor rate, as established by and in effect in the

1 Federal Reserve Bank in the Federal Reserve District in which Arkansas is
2 located.

3 (c) The term "federally insured depository institution" means a state
4 bank, a national bank, or a savings association, as such terms are defined in
5 12 U.S.C. § 1813 as such statute existed on January 1, 2009, the deposits of
6 which are insured by the Federal Insurance Deposit Corporation, or its
7 successor.

8 (d) The term "governmental unit" means the State of Arkansas; any
9 county, municipality, school district, or other political subdivision of the
10 State of Arkansas; any special assessment or taxing district established
11 under the laws of the State of Arkansas; and any agency, board, commission,
12 or instrumentality of any of the foregoing.

13 (e) The term "loan or financing transaction by or to a federally
14 insured depository institution" means all direct or indirect advances of
15 funds and moneys that are conditioned on the obligation of a person or entity
16 to repay the funds and moneys pursuant to loan agreements, lease agreements,
17 installment sale agreements, security agreements, notes, bill of exchange, or
18 other evidence of debt or other instruments or documents evidencing the
19 indebtedness and are made by or to a federally insured depository
20 institution.

21 (f) The term "loans made by or to governmental units" means all direct
22 or indirect advances of funds and moneys that are conditioned on the
23 obligation of a person or entity to repay the funds and moneys pursuant to
24 loan agreements, lease agreements, installment sale agreements, security
25 agreements, notes, or other instruments or documents evidencing the
26 indebtedness and are made by or to governmental units.

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28 SECTION 6. Miscellaneous.

29 (a) The provisions of this amendment are not intended and shall not be
30 deemed to supersede or otherwise invalidate any provisions of federal law
31 applicable to loans or interest rates including loans secured by residential
32 real property.

33 (b) All contracts under Section 3 having a rate of interest in excess
34 of the maximum lawful rate shall be void as to principal and interest and the
35 General Assembly shall prohibit the same by law.

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1 SECTION 7. The ballot title for this amendment shall be:

2 An amendment providing that constitutional provisions setting the
3 maximum lawful rate of interest on bonds issued by and loans made by or to
4 governmental units are repealed; the maximum lawful rate of interest on loans
5 by federally insured depository institutions shall remain at the rate
6 resulting from the federal preemption effective on March 1, 2009;
7 establishing that the maximum lawful rate of interest on any other loan or
8 contract shall not exceed seventeen percent (17%) per annum; authorizing
9 governmental units to issue bonds to finance energy efficiency projects and
10 allowing such bonds to be repaid from any source including general revenues
11 derived from taxes; providing that any federal laws applicable to loans or
12 interest rates are not superseded by the amendment; and repealing Article 19,
13 § 13, and the interest rate provisions of Amendment Nos. 30, 38, 62, 65, and
14 78 of the Arkansas Constitution.

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16 SECTION 8. Nothing in this amendment shall limit the power of the
17 General Assembly to fix, from time to time, one or more interest rate limits
18 on various types of bonds issued by and loans made by or to governmental
19 units.

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21 SECTION 9. If this amendment or the application thereof to any person
22 or circumstances is held invalid, the remainder of the amendment and its
23 application to persons or circumstances other than those to which it is held
24 invalid shall not be affected.

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26 SECTION 10. The provisions of this amendment, other than the
27 provisions of Section 4 of this amendment, shall be self-executing.

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29 SECTION 11. The General Assembly may by a three-fourths vote of each
30 house of the General Assembly amend the provisions of this amendment so long
31 as the amendments are germane to this amendment and consistent with its
32 policy and purposes.

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34 SECTION 12. The provisions of this amendment shall apply to all bonds
35 issued and loans made after the effective date of this amendment.

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1 SECTION 13. The effective date of this amendment is January 1, 2011.

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3 SECTION 14. This amendment shall repeal Article 19, § 13, and the
4 interest rate provisions of Amendment Nos. 30, 38, 62, 65, and 78 of the
5 Arkansas Constitution.

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9 /s/ Cheatham