



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 2020



Introduced by: **REPRESENTATIVE IRENE GAY F. SAULOG**
KALINGA PARTY-LIST

EXPLANATORY NOTE

The lifting of the ceilings for interest rates by the Monetary Board pursuant to the issuance of its CB Circular No. 905 and upholding the parties' freedom of contract to agree freely on the rate of interest has led to the imposition of an unconscionable rates of interest or finance charges on money debts. As such, many of the borrowers were enslaved by their creditors and became victims of loan sharks engaged in usurious practices.

Borrowers of a "five-six" lending scheme pay a hefty interest rate of at least 20 percent a month, which the public, especially those people who are mostly poor and underprivileged, are nevertheless forced to tap either because they do not have the capacity or means to go through the tedious loan processing of banks, or do not have the documents and collateral required when borrowing from traditional financial institutions.

Furthermore, with the advancement of technology, these loan sharks have widened their coverage and are now operating through their respective mobile platforms imposing an interest rate of 2 percent a day or 60 percent a month, targeting the public who were left with no other option but to consent in order to strive and survive during this time of pandemic.

Worse, even traditional financial institutions like banks, impose exorbitant interest rates. BSP data will show that the average annualized interest rate on credit card receivables issued by these banks ranges from 18% to 58% from January to June 2020.

While the Supreme Court already made a pronouncement that "The imposition of an unconscionable rate of interest on a money debt, even if knowingly and voluntarily assumed, is immoral and unjust. It is tantamount to a repugnant spoliation and an iniquitous deprivation of property, repulsive to the common sense of man. It has no support in law, in principles of justice, or in the human conscience nor is there any reason whatsoever which may justify such imposition as righteous and as one that may be sustained within the sphere of public or private morals."¹, there have been no law or any pronouncement, as to what stipulated interest rates are excessive, iniquitous, unconscionable and exorbitant.

There is no clear rule in determining whether an interest rate is unconscionable. It "may be iniquitous and unconscionable in one case but may be totally just and equitable in another."² As observed by Justice Leonen in his dissenting and concurring opinion, "This Court had previously found that the stipulated monthly interest rates of 2.5%, five percent (5%), 14 5.5%, six percent (6%), and 10% were unconscionable. However, in *Toledo v. Hyden*, this Court upheld as valid a monthly interest rate of six percent (6%) to seven percent (7%). It noted that in that case, the borrower was not in dire need of money when she obtained a loan, and it was the borrower herself who was guilty of inequitable acts"³

While the courts are empowered to reduce interests which they consider as unconscionable, the delay in the proceedings and the expenses, by way of court and legal fees, plus the effort for such litigation, may even be more costly than the money matter in question. This scenario gives the lender an opportunity to take advantage and impose an interest rate at his own will. As of the moment, and with the suspension of the effectivity of the Usury Law, there is no law to criminally hold these persons or entities who engaged in usurious practices, making it easy for them to victimize the public, especially the poor, who were only forced by circumstances to "cling to the knife".

¹ Medel v. CA, 359 Phil. 820 (1998).

² Rizal Commercial Banking Corporation v. Court of Appeals, 352 Phil. 101, 126 (1998) [Per J. Melo, Second Division].

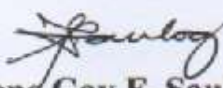
³ G.R. No. 225433, August 28, 2019, Concurring and Dissenting Opinion, Leonen,

The State shall treat the rich and poor equally, but today, people who are poor are systemically treated worse than the wealthy. People without financial means are the common victims of these loan sharks, sending them into an inescapable cycle of financial hardship, making them poorer and trapping them in an endless cycle of poverty.

It is perhaps in light of these considerations that I strongly believe that there is a need to set a ceiling on what interest rate should be considered conscionable, without having the need to resort to courts for its determination, and to readily penalize those who will violate it. We must seriously address this current issue faced by ordinary Filipinos who are forced to seek temporary financing despite the exorbitant interest rates, in order to meet their daily needs.

"Allowing money to produce more money-for instance, lending money at excessive interest rates as a way of increasing money-lays the foundation for a growing wealth disparity, since loans are usually extended by those who are richer (with capital) to those who are poorer (without capital). This does not serve the demands of social justice; that is, "the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated."⁴

This Bill seeks to declare as iniquitous and unconscionable an interest rate of more than twice the prevailing legal rate of interest on a money debt and penalize those who will violate it. It is in accordance with the wisdom of the Supreme Court which held that "Thus, the maximum interest rate that will not cross the line of conscionability is "not more than twice the prevailing legal rate of interest." If the stipulated interest exceeds this standard, the creditor must show that the rate is necessary under current market conditions, or that the parties were on an equal footing when they stipulated on the interest rate."⁵


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⁴ Calalang v. Williams, 70 Phil. 726, 734 (1940) [Per J. Laurel, First Division].

⁵ Philippine National Bank v. Court of Appeals, 308 Phil. 18, 24 (1994) [Per J. Puno, Second Division] citing Philippine National Bank v. Court of Appeals, 273 Phil. 789 (1991) [Per J. Griño-Aquino, First Division]



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AN ACT
PENALIZING PERSONS OR CORPORATIONS WHO IMPOSE INIQUITOUS
OR UNCONSCIONABLE FINANCE CHARGE ON CREDIT
TRANSACTIONS

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the “Conscionable Interest Rate Act”.

SEC. 2. Declaration of Policy. – The State shall protect and serve the demands of social justice by the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated.

The rights of the parties to have the freedom to stipulate interest while ensuring that they have an equal footing during bargaining and that neither of the parties has a relatively greater bargaining power to command a higher or lower interest rate shall be the paramount consideration in the enactment of this Bill.

Towards this end, the State shall ensure that the finance charges on credit transactions are neither iniquitous nor unconscionable, without the parties having to undergo court proceedings and incur expenses for the determination on what interest rates on money debt are iniquitous or unconscionable.

As such, the State shall establish a standardized rate ceiling on credit transactions imposing finance charge, as the basis in determining whether such finance charge is iniquitous or unconscionable, without prejudice to such rates as maybe prescribed by the Monetary Board of the BANGKO SENTRAL NG PILIPINAS or other laws for that purpose in accordance with the authority granted to it.

SEC. 3. *Scope.* – This Act shall cover all credit transactions imposing a finance charge, whether regulated or not by the Monetary Board of the BANGKO SENTRAL NG PILIPINAS or other laws, except those transactions wherein the said Monetary Board or other laws has already prescribed a maximum interest rate for that purpose which shall not exceed twenty four percent (24%) per annum.

SEC. 4. *Definition of Terms.* – As used in this Act.

- (a) *Credit transactions* refers to any loan, mortgage, deed of trust, advance, or discount; any credit card and credit card cash advancements; any conditional sales contract; any contract to sell, or sale or contract of sale of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract; any contract or arrangement for the hire, bailment, or leasing of property; any option, demand, lien, pledge, or other claim against, or for the delivery of, property or money; any purchase, or other acquisition of, or any credit upon the security of, any obligation of claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.
- (b) *Credit card* refers to any card or other credit device intended for the purpose of obtaining money, property, or services on credit.
- (c) *Credit card cash advancements* refers to cash obtained from the credit card account in any manner availed by the cardholder.
- (d) *Finance charge* refers to interest, fees, service charges, discounts, and such other charges incident to the extension of credit.
- (e) *Iniquitous or unconscionable finance charge* refers to interest, fees, service charges, discounts, and such other charges incident to the extension of credit which is more than twice the prevailing legal rate of interest on loans or

forbearance of any money good or credit as prescribed by Monetary Board of the BANGKO SENTRAL NG PILIPINAS.

SEC. 5. Punishable Act. – No person or Corporation shall directly or indirectly impose an iniquitous or unconscionable finance charge from any credit transactions as defined in this Act *unless* the Monetary Board of the BANGKO SENTRAL NG PILIPINAS or other laws has already prescribed a maximum interest rate for that purpose which shall not exceed twenty four percent (24%) per annum.

SEC. 6. Penalties. – Without prejudice to the proper civil action, violation of this Act and the implementing rules and regulations promulgated by the Monetary Board shall be subject to criminal prosecution and the guilty person shall, upon conviction, be sentenced to a fine of not less than the amount equivalent to the principal obligation nor more than double the amount equivalent to the principal obligation, or to imprisonment for not less than thirty (30) days nor more than one year, or both, in the discretion of the court, and to return the entire sum received as interest from the party aggrieved, including all costs and expenses incurred in the prosecution of the offense, and in cases of nonpayment, to suffer subsidiary imprisonment at the rate of one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court subject to the rules set forth under REPUBLIC ACT NO. 10159 (AN ACT AMENDING ARTICLE 39 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE): Provided, that in case of corporations, associations, societies, or companies the manager, administrator or gerent or the person who has charge of the management or administration of the business shall be criminally responsible for any violation of this Act.

SEC. 7. Information Dissemination. – The Monetary Board of the BANGKO SENTRAL NG PILIPINAS, in coordination with Philippine Information Agency, Department of Finance, Department of Trade and Industry, Securities and Exchange Commission, and other departments/instrumentalities/agencies, including the private sector, which the Monetary Board may deem proper to coordinate, shall make known to the public by all means necessary, information regarding this Act and its implementation to the public.

SEC. 8. Implementing Rules and Regulations. – Within ninety (90) days, the Monetary Board of the BANGKO SENTRAL NG PILIPINAS, after due consultation with Philippine Information Agency, Department of Finance, Department of Trade and Industry, Securities and Exchange Commission, and other departments/instrumentalities/agencies, including the private sector, which the

Monetary Board may deem proper to consult, shall promulgate the rules and regulations to implement this Act.

SEC. 9. *Separability Clause.* – If any provision or part of this Act is declared unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 10. *Repealing Clause.* – Laws, decrees, letters of instructions, executive issuances, resolutions, orders, or parts thereof which are inconsistent with the provision of this Act are hereby repealed, modified, or amended accordingly.

SEC. 11. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,