

INITIATIVE PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of the state of South Dakota at the general election on November 8, 2016, for their approval or rejection pursuant to the Constitution of the State of South Dakota.

Title: An initiated measure to set a maximum finance charge for certain licensed money lenders.

Attorney General Explanation: The initiated measure prohibits certain State-licensed money lenders from making a loan that imposes total interest, fees and charges at an annual percentage rate greater than 36%. The measure also prohibits these money lenders from evading this rate limitation by indirect means. A violation of this measure is a misdemeanor crime. In addition, a loan made in violation of this measure is void, and any principal, fee, interest, or charge is uncollectible.

The measure's prohibitions apply to all money lenders licensed under South Dakota Codified Laws chapter 54-4. These licensed lenders make commercial and personal loans, including installment, automobile, short-term consumer, payday, and title loans. The measure does not apply to state and national banks, bank holding companies, other federally insured financial institutions, and state chartered trust companies. The measure also does not apply to businesses that provide financing for goods and services they sell.

Filed this 7th day of

July 2015

Shantal Krebs

SECRETARY OF STATE

The text of the proposed law is as follows:

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That 54-3-14 be amended to read as follows:

The term "regulated lenders" as used in § 54-3-13 means:

- (1) A bank organized pursuant to chapter 51A-1, et seq.;
- (2) A bank organized pursuant to 12 U.S.C. § 21;
- (3) A trust company organized pursuant to chapter 51A-6;
- (4) A savings and loan association organized pursuant to chapter 52-1, et seq.;
- (5) A savings and loan association organized pursuant to 12 U.S.C. § 1464;
- (6) Any wholly owned subsidiary of a state or federal bank or savings and loan association which subsidiary is subject to examination by the comptroller of the currency, or the federal reserve system, or the South Dakota Division of Banking, or the federal home loan bank board and which subsidiary has been approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act;
- (7) A federal land bank organized pursuant to 12 U.S.C. § 2011;
- (8) A federal land bank association organized pursuant to 12 U.S.C. § 2031;
- (9) A production credit association organized pursuant to 12 U.S.C. § 2091;
- (10) A federal intermediate credit bank organized pursuant to 12 U.S.C. § 2071;
- (11) An agricultural credit corporation or livestock loan company or its affiliate, the principal business of which corporation is the extension of short and intermediate term credit to farmers and ranchers;
- (12) A federal credit union organized pursuant to 12 U.S.C. § 1753;
- (13) A federal financing bank organized pursuant to 12 U.S.C. § 2283;
- (14) A federal home loan bank organized pursuant to 12 U.S.C. § 1423, et seq.;
- (15) A national consumer cooperative bank organized pursuant to 12 U.S.C. § 3011;
- (16) A bank for cooperatives organized pursuant to 12 U.S.C. § 2121;
- (17) Bank holding companies organized pursuant to 12 U.S.C. § 1841, et seq.;
- (18) National Homeownership Foundation organized pursuant to 12 U.S.C. § 1701y;
- (19) Farmers Home Administration as provided by 7 U.S.C. § 1981;
- (20) Small Business Administration as provided by 15 U.S.C. § 633;
- (21) Government National Mortgage Association and Federal National Mortgage Association as provided by 12 U.S.C. § 1717;
- (22) South Dakota Housing Development Authority as provided by chapter 11-11;
- (23) Insurance companies, whether domestic or foreign, authorized to do business in this state, and which as a part of their business engage in mortgage lending in this state. However, § 54-3-13 does not exempt insurance companies from the provisions of § 58-15-15.8; or
- (24) Any wholly owned service corporation subsidiary of a domestic or foreign insurance company, authorized to do business in this state, and which subsidiary is subject to examination by the same insurance examiners as the parent company; or
- (25) An installment loan licensee under the provisions of chapter 54-4 and 54-6

Section 2. That 54-4-44 be amended to read as follows:

After procuring such license from the Division of Banking, the licensee may engage in the business of making loans and may contract for and receive interest charges and other fees at rates, amounts, and terms as agreed to by the parties which may be included in the principal balance of the loan and specified in the contract. However, no licensee may contract for or receive finance charges in excess of an annual rate of thirty-six percent, including all charges for any ancillary product or service and any other charge or fee incident to the extension of credit. A violation of this section is a Class 1 misdemeanor. Any loan made in violation of this section is void and uncollectible as to any principal, fee, interest, or charge.

Section 3. That chapter 54-4 be amended by adding a NEW SECTION to read as follows:

No person may engage in any device, subterfuge, or pretense to evade the requirements of § 54-4-44, including, but not limited to, making loans disguised as a personal property sale and leaseback transaction; disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or making, offering, assisting, or arranging a debtor to obtain a loan with a greater rate of interest, consideration, or charge than is permitted by this chapter through any method including mail, telephone, internet, or any electronic means regardless of whether the person has a physical location in the state. Notwithstanding any other provision of this chapter, a violation of this section is subject to the penalties in § 54-4-44.

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME	RESIDENCE	DATE/COUNTY
SIGN 1 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 2 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 3 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 4 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 5 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 6 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 7 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 8 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 9 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 10 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 11 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION
SIGN 12 PRINT	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER CITY OR TOWN	DATE OF SIGNING COUNTY OF REGISTRATION

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section **must** be completed following circulation and before filing.

Print name of the circulator _____ Residence Address _____ City _____ State _____

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, that I made reasonable inquiry and to the best of my knowledge each person signing the petition is a qualified voter in the county indicated on the signature line, that no state statute regarding petition circulation was knowingly violated, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Sworn to before me this _____ day of _____, _____
Signature of Circulator _____

(Seal)

Signature of Officer Administering Oath _____

My Commission Expires _____

Title of Officer Administering Oath _____

South Dakotans for Responsible Lending
P.O. Box 709
Sioux Falls, South Dakota 57101

RECEIVED
JUL 06 2015
S.D. SEC. OF STATE

1 July 2015

Honorable Shantel Krebs, Secretary of State
Capitol Building
500 East Capitol Avenue
Suite 204
Pierre, South Dakota 57501-5070


Secretary Krebs;

Attached are:

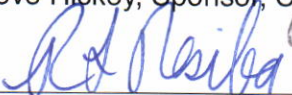
a) the 8.5x11, single sheet two-sided petition form we propose to circulate to initiate in South Dakota, titled by the Attorney General, "An initiated measure to set a maximum finance charge for certain licensed money lenders" in the November 8, 2016 General Election,

and b) the double sided notecard-sized petition signer handout with the required Attorney General explanation on the reverse side.

We will await acknowledgement of receipt and approval prior to circulation and signature gathering.



Steve Hildebrand, Sponsor, Co-Chair, South Dakotans for Responsible Lending


Steve Hickey, Sponsor, Co-Chair, South Dakotans for Responsible Lending


Reynold Nesiba, Sponsor, Treasurer, South Dakotans for Responsible Lending

Sworn to before me this 1st day of July, 2015




Signature of officer administering oath

Notary
Title of officer administering oath

My commission expires: 2-25-16