

beginning on Dec. 28, 1979, and ending on the earliest of (1) in the case of a State statute, July 1, 1980; (2) the date, after Dec. 28, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section made by Pub. L. 96-161 to apply with respect to loans made in such State; or (3) the date on which such State certifies that the voters of such State, after Dec. 28, 1979, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendment of this section by Pub. L. 96-161, was repealed by Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168.

Pub. L. 96-104, title I, § 107, Nov. 5, 1979, 93 Stat. 792, which provided that amendment by Pub. L. 96-104 was applicable to loans made by any State during the period beginning on Nov. 5, 1979, and ending on the earlier of July 1, 1981, or the date after Nov. 5, 1979, on which such State adopts a law stating in substance that such State does not want the amendment of this section to apply with respect to loans made in such State, or the date on which such State certifies that the voters of such State have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment of the constitution of such State, which prohibits the charging of interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-161, title II, § 212, Dec. 28, 1979, 93 Stat. 1239.

#### EFFECTIVE AND TERMINATION DATES OF 1974 AMENDMENT

Pub. L. 93-501, title II, § 206, Oct. 29, 1974, 88 Stat. 1560, which provided that amendment by Pub. L. 93-501 applicable to loans made in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977, or the date (after Oct. 29, 1974) of enactment by the state of a law prohibiting the charging of interest at the rates provided in the amendment of this section, was repealed by Pub. L. 96-104, § 1, Nov. 5, 1979, 93 Stat. 789.

#### SAVINGS PROVISIONS

Pub. L. 96-221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, provided in part that, notwithstanding the repeal of Pub. L. 96-104 and title II of Pub. L. 96-161, the provisions added to this section by those repealed laws shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions were in effect in such State.

Pub. L. 96-161, title II, § 212, Dec. 28, 1979, 93 Stat. 1239, provided in part that, notwithstanding the repeal, effective at the close of Dec. 27, 1979, of Pub. L. 96-104 [which had enacted sections 86a, 371b-1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title and section 687 of Title 15, Commerce and Trade, repealed sections 371b-1, 1730e, and 1831a of this title and notes set out under sections 371b-1 and 1831a of this title, and enacted provisions set out as notes under this section and sections 86a, 371b-1, and 1831a of this title], the amendment which had been made by title I of Pub. L. 96-104 and the provisions of that title would continue to apply to any loan made in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96-104, and that the amendments made by title II of Pub. L. 96-104 would continue to apply to any deposit made or obligation issued in any State on or after Nov. 5, 1979, but prior to the repeal of Pub. L. 96-104.

Pub. L. 96-104, § 1, Nov. 5, 1979, 93 Stat. 789, provided in part that, notwithstanding the repeal of titles II and III of Pub. L. 93-501 [which had enacted sections 371b-1, 1730e, and 1831a of this title, amended sections 85, 1425b, and 1828 of this title, and section 687 of Title 15, Commerce and Trade, and enacted provisions set out as notes under sections 371b-1 and 1831a of this title], the amendments which had been made by title II of that Act and the provisions of such title would continue to apply to any loan made in any State during the period specified in section 206 of such Act [set out as a note under section 1831a of this title] and that the amend-

ments which had been made by title III of such Act would continue to apply to any deposit made or obligation issued in any State during the period specified in section 304 of such Act [set out as a note under section 371b-1 of this title].

#### CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96-221 [enacting sections 86a, 1730g, 1735f-7a, 1785(g), and 1831d of this title and section 687(i) of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f-7 of this title], section 1735f-7 of this title, or any other provisions of law, including this section, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96-221, set out as a note under section 1735f-7a of this title.

#### STATES HAVING CONSTITUTIONAL PROVISIONS REGARDING MAXIMUM INTEREST RATES

Pub. L. 96-161, title II, § 213, Dec. 28, 1979, 93 Stat. 1240, provided that the provisions of title II of Pub. L. 96-161, which amended this section, repealed provisions which had formerly amended this section, and enacted provisions set out as notes under this section, to continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

### § 86. Usurious interest; penalty for taking; limitations

The taking, receiving, reserving, or charging a rate of interest greater than is allowed by section 85 of this title, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred.

(R.S. § 5198.)

#### CODIFICATION

R.S. § 5198 (less last sentence) derived from act June 3, 1864, ch. 106, § 30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

Section is based on R.S. § 5198, less last sentence as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, which is classified to section 94 of this title.

### § 86a. Omitted

#### CODIFICATION

Section, Pub. L. 96-221, title V, § 511, Mar. 31, 1980, 94 Stat. 164; Pub. L. 96-399, title III, § 324(b), (d), Oct. 8, 1980, 94 Stat. 1648, which authorized interest on business or agricultural loans of \$1,000 or more at a rate of not more than 5 per centum in excess of the discount rate, was omitted pursuant to section 512 of Pub. L. 96-221 which made these provisions applicable only with respect to such loans made in any State during the period beginning on April 1, 1980, and ending on the earlier of (1) April 1, 1983, or (2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly that such State does not want these provisions to apply with respect to loans made in such State.