

Opinion No. 65-71

April 28, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Oliver E. Payne, Deputy Attorney General

TO: Al Sanchez, District Attorney, County Court House, Santa Fe, New Mexico

QUESTION

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How is House Bill 360, the so-called "pawnbroker act", to be applied?

CONCLUSION

See Analysis.

OPINION

{*121} ANALYSIS

House Bill 360, which was enacted by the last legislative session and approved by the Governor, provides that:

"No person, corporation or business association, directly, indirectly or by any subterfuge, shall charge interest for the loan of money, or for the extension of credit, at a rate in excess of four percent per month in any case where some part of the value of the loan or indebtedness is secured by pledge, bailment, or other giving over of possession of tangible personal property; except that a minimum charge of five dollars or ten percent of the amount loaned, whichever is greater, may be charged."

Certain questions have been raised as to the proper operation of this law. Such questions can, we believe, best be answered by way of example.

Assume that a pawnbroker loaned a customer, who pledged tangible personal property, one hundred dollars for six months. Under such circumstances the pawnbroker could charge up to four percent interest per month, namely, twenty-four dollars interest for the six-month period. However, the legislature recognized that pawnbrokers often make short-term loans. Assume that the pawnbroker had loaned the one hundred dollars for thirty days. He could then charge a flat interest fee equal to ten percent of the amount loaned, namely, ten dollars. If he were limited to the four percent per month, he could only charge four dollars.

The legislature also recognized that a pawnbroker often makes small loans. Assume that he loans twenty dollars for thirty days. If he were limited to the four percent per month, he could only charge eighty cents. Further, if he were limited to the flat ten percent of the amount loaned, he could only charge two dollars. This is the reason for the five dollar minimum charge provision.

The law as enacted then simply allows the pawnbroker to use any **one** of the three options in computing his fee.