

- b) Medel v. Court of Appeals, G.R. No. 131622, November 27, 1998, the stipulated interest of 5.5% per month was declared illegal, and reduced to 12 % per annum.

The proposed Ordinance has been the subject of a very well written legal opinion of then City Prosecutor and Acting City Legal Officer, and now RTC Judge, Atty. James Clinton C. Nuevo, wherein he stated that the legal basis of the proposed Ordinance is Section 16 of the Local Government Code of 1991 (R.A. No. 7160), otherwise known as GENERAL WELFARE CLAUSE, and that it is not unconstitutional. Attached is a photocopy of the aforementioned Legal Opinion dated January 27, 2006 of Atty. Nuevo, for ready reference.

FOREGOING PREMISES CONSIDERED, on motion of City Councilor Mariano Y. Corro, Chairman, Committee on Ways and Means, severally seconded by City Councilors Fernando P. Parrilla, Sotero M. Pepito and Jose C. Alfaro, Jr.; be it

RESOLVED, to enact:

ORDINANCE NO. 158

AN ORDINANCE REGULATING THE INTEREST RATES FOR LOAN OF MONEY IMPOSABLE/ COLLECTIBLE BY LENDERS FROM BORROWERS WITHIN THE TERRITORIAL JURISDICTION OF ORMOC CITY.

BE IT ORDAINED BY THE ELEVENTH SANGGUNIANG PANLUNGSOD NG ORMOC, that;

SECTION 1. This Ordinance shall be known and cited as the "INTEREST RATE REGULATORY ORDINANCE OF ORMOC CITY".

SECTION 2. It is the declared policy of the City government of Ormoc that MONEY LENDERS should not impose/ collect interest from their borrowers, which is EXCESSIVE, INIQUITOUS, UNCONSCIONABLE AND EXHIBITANT as this is contrary to MORALS, and therefore, considered VOID as provided for in Article 1409 of the Civil Code of the Philippines.

SECTION 3. DEFINITION OF TERMS-

- a. MONEY LENDERS/ CREDITOR means any person, natural or juridical engaged in the business of extending credit (including any person who as a regular business practice make loans or sells or service on a time, credit, or instalment basis, either as a principal or as agent) who requires as an incident to the extension of credit, the payment of a finance charge.
- b. INTEREST shall mean a charge of payment for money used or a charged made for a loan or credit facility.
- c. SURCHARGE/ PENALTY is money or payment due to the lender as addition for a failure on the part of the borrower to meet the schedule of payment or amortization as set forth in the loan agreement.

SECTION 4. It is declared ILLEGAL for any money lender to impose or collect interest on loans for money from his borrowers with interest exceeding three (3%) percent per month, any amount paid as interest in excess thereof, may be recovered by the borrower with interest thereon at legal rate from the date of payment until fully recovered.

SECTION 5. As expressly provided for in Article 1956 of the Civil Code of the Philippines, "NO INTEREST SHALL BE DUE UNLESS IT HAS BEEN EXPRESSLY STIPULATED IN WRITING".

SECTION 6. Charging interest in advance is permissible provided said interest does not correspond to interest for more than one year.

SECTION 7. In case the borrower is delinquent in the payment of his loan, amortization or installment(s) as the case may be a reasonable penalty (surcharge) thereon may be collected provided it must be agreed in writing by the parties and in consonance with Section 8, paragraph 3, subparagraph 2 hereof.

SECTION 8. In accordance with the Truth on Lending Act of 2007 (R.A. No. 9474) and prior to the consumation of the transaction, the Money Lender shall furnish the debtor/ borrower a disclosure statement, setting forth, to the extent applicable, the following statement;

- a) the principal amount of the loan;
- b) rate of interest of the loan;
- c) service or processing fee, if any;
- d) amortization schedule;
- e) surcharge - any penalty charge for late amortization payment;
- f) collection fee;
- g) all other fees in connection with the loan transaction;
- h) description of the collection and lien enforcement procedures; and
- i) method of calculating the total amount of obligation in case of default.

The aforementioned DISCLOSURE STATEMENT must be signed by the debtor/ borrower and must contain a statement that the contents thereof were explained to him, and that he understood the same.

Further, the following must be observed, to wit:

1. The service or processing fee, if any, must not be more than 2% of the amount of the loan applied for, but not more than P1,000.00 and not oftener than once every six months for the same borrower/ debtor, which is also applicable to restructured loans.
2. The surcharge or penalty for late amortization payment if any, must not be more than 3% of the amount due or payable;
3. No compounding of interest, meaning the interest due shall not earn interest;
4. Collection fee, if any, shall only be collected if payment is not made at the residence or office of the Money Lender; if payment is made through the efforts of the collector of the Money Lender outside his residence or office, the collection fee must not be more than one half of one percent (.005) of the amount due, and shall not earn any interest.

SECTION 9. This Ordinance shall not apply to banking institutions, investment houses, savings and loans associations, financing companies, pawnshops, insurance companies, cooperatives and other credit institutions which are already regulated by special or specific law.

SECTION 10. If for any reasons, any part of the provision of this Ordinance shall be declared unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 11. All ordinances, resolutions, rules and regulations, and other similar issuances, or parts thereof which are inconsistent herewith, are hereby repealed or modified accordingly.


SECTION 12. This Ordinance shall take effect immediately after its publication once in the local newspaper of general circulation within the City of Ormoc, and posting at conspicuous public places in Ormoc City for a period of three (3) weeks whichever occurs later.

ENACTED, December 17, 2009.

RESOLVED, FURTHER, to furnish copies of this Ordinance one each to His Honor, City Mayor Eric C. Codilla, the City Administrator, the City Director, DILG, the Municipal Trial Court in Cities, the Regional Trial Court, the City Prosecutor and others concerned, all in Ormoc City;

CARRIED UNANIMOUSLY.


I HEREBY CERTIFY to the correctness of the foregoing ordinance.


JOEL S. DUERO
Secretary to the
Sangguniang Panlungsod

ATTESTED:


NEPOMUCENO P. APARIS I
Vice Mayor & Presiding Officer

APPROVED:


ERIC C. CODILLA
City Mayor

DEC 20 2009

(Date)