

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1784 Session of
1979

INTRODUCED BY REED, JONES, PUCCIARELLI, RITTER AND MANMILLER,
SEPTEMBER 26, 1979

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,
SEPTEMBER 27, 1979

AN ACT

1 Amending the act of January 30, 1974 (P.L.13, No.6), entitled
2 "An act regulating agreements for the loan or use of money;
3 establishing a maximum lawful interest rate in the
4 Commonwealth; providing for a legal rate of interest;
5 detailing exceptions to the maximum lawful interest rate for
6 residential mortgages and for any loans in the principal
7 amount of more than fifty thousand dollars and Federally
8 insured or guaranteed loans and unsecured, noncollateralized
9 loans in excess of thirty-five thousand dollars and business
10 loans in excess of ten thousand dollars; providing
11 protections to debtors to whom loans are made including the
12 provision for disclosure of facts relevant to the making of
13 residential mortgages, providing for notice of intention to
14 foreclose and establishment of a right to cure defaults on
15 residential mortgage obligations, provision for the payment
16 of attorney's fees with regard to residential mortgage
17 obligations and providing for certain interest rates by banks
18 and bank and trust companies; clarifying the substantive law
19 on the filing of and execution on a confessed judgment;
20 prohibiting waiver of provisions of this act, specifying
21 powers and duties of the Secretary of Banking, and
22 establishing remedies and providing penalties for violations
23 of this act," defining the term "worst case" and further
24 providing for interest rates on residential mortgages.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Section 101, act of January 30, 1974 (P.L.13,
28 No.6), referred to as the Loan Interest and Protection Law, is

1 amended by adding a definition to read:

2 Section 101. Definitions.--As used in this act:

3 * * *

4 "Worst case" as it applies to variable rate mortgages means
5 the maximum rate of interest that the mortgage could legally be
6 increased in the minimum amount of time.

7 Section 2. Clauses (7), (8) and (10) of subsection (e) of
8 section 301 of the act, added October 5, 1978 (P.L.1127,
9 No.264), are amended and a clause is added to read:

10 Section 301. Residential Mortgage Interest Rates.--* * *

11 (e) In all proceedings and in all legal actions, the maximum
12 lawful rate of interest for all residential mortgages, as
13 defined in this act, as published in the Pennsylvania Bulletin
14 by the Secretary of Banking shall be the maximum lawful rate of
15 interest for residential mortgages, as defined in this act,
16 except that variable interest rate mortgages may be written
17 provided no increase in interest provided for in any provision
18 for a variable interest rate contained in a security document,
19 or evidence of debt issued in connection therewith shall be
20 lawful unless such provision is set forth in such security
21 document, or in any evidence of debt issued in connection
22 therewith, or both, and such document or documents contain the
23 following provisions:

24 * * *

25 (7) The contracted periodic payment may at the option of the
26 borrower be increased or decreased in dollar amount equal to any
27 periodic increase or decrease in interest requirement, or the
28 contracted periodic payment may at the option of the borrower be
29 retained constant provided the maturity of the mortgage is not
30 extended beyond forty years from the date of said mortgage or

1 [five years beyond the original maturity date for which said
2 mortgage was written, whichever is the shorter.] a maximum of
3 one-third of the original term for which said mortgage is
4 written, whichever is shorter.

5 (8) When a change in the interest rate is required or
6 permitted by a movement in the prescribed index, the lender
7 shall give notice to the borrower by mail, addressed to the
8 borrower's last known post office address, not less than thirty
9 days prior to any change in interest rate, which notice shall
10 clearly and concisely disclose:

11 (i) the effective date of the interest rate change;

12 (ii) the interest rate change, and if an increase, the
13 extent to which the increased rate will exceed the rate in
14 effect immediately before the increase;

15 (iii) the changes in the index which caused the interest
16 rate change and the old and new index rates;

17 (iv) the amount of the borrower's contractual monthly
18 principal and interest payments before and after the effective
19 date of the change in the interest rate, any change in the term
20 of the mortgage and any option that the mortgage debtor may have
21 to extend or reduce the mortgage term and retain constant
22 periodic payments;

23 (v) the borrower may, without penalty, repay the loan within
24 ninety days of the receipt by him of a notice of increase in
25 rate.

26 * * *

27 (10) No residential mortgage lender may take a residential
28 mortgage providing for a variable interest rate unless it has
29 clearly and conspicuously disclosed to the mortgage debtor in
30 the mortgage application:

(i) That the mortgage rate is subject to change in the future.

(ii) An explanation of the effect of changes in the index on the rate and term of the mortgage. This explanation shall show payment schedules including the worst case schedule as defined above for variable rate mortgages and total payments in dollars over the full term of each type of loan. In explaining the index any association which shows in its disclosure materials a payment schedule indicating a decrease in the interest rates or a projection in contrast to the worst case schedule shall also include a documented ten-year history of the national cost of funds index or whatever index is used in determining changes in the mortgage rate.

(iii) An explanation of the index.

(iv) A statement in 10-point bold type containing the following language:

If the mortgage lender offers to give you a mortgage with a variable interest rate, you are entitled by law to also be offered a mortgage with an interest rate which will not change. By law, this fixed interest rate mortgage must be offered to you at reasonably competitive terms and rate.

(v) When offering an interest rate which will not change by law, a side by side comparison of differing terms between standard rate and variable rate mortgages shall be shown.

* * *

(12) Institutions offering variable rate mortgages may offer both portability and assumability options as inducements. Portability shall mean the borrower has the option to carry the mortgage to another property should the borrower sell the property on which the variable rate mortgage is initially

1 written. Assumability shall mean the borrower has the option of
2 permitting a purchaser of the borrower's property to assume the
3 property at the current, prevailing mortgage rate.

4 Section 3. This act shall take effect in 60 days.