

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1255 Session of  
1973INTRODUCED BY ZEMPRELLI, LAMB, COPPERSMITH, HILL, MAZZEI, HOLL,  
ORLANDO, ROVNER, ROSS AND SCALES, OCTOBER 26, 1973

AS AMENDED ON THIRD CONSIDERATION, JANUARY 14, 1974

## AN ACT

1 Regulating agreements for the loan or use of money; establishing  
2 a maximum lawful interest rate in the Commonwealth; providing  
3 for a legal rate of interest; detailing exceptions to the  
4 maximum lawful interest rate for residential mortgages AND <—  
5 FOR ANY LOANS IN THE PRINCIPAL AMOUNT OF MORE THAN FIFTY  
6 THOUSAND DOLLARS and Federally insured or guaranteed loans;  
7 providing protections to debtors to whom loans are made  
8 including the provision for disclosure of facts relevant to  
9 the making of residential mortgages, provision for notice of  
10 intention to foreclose and establishment of a right to cure  
11 defaults on residential mortgage obligations, provision for  
12 the payment of attorney's fees with regard to residential  
13 mortgage obligations; clarifying the substantive law on the  
14 filing of and execution on a confessed judgment; prohibiting  
15 waiver of provisions of this act, specifying powers and  
16 duties of the Secretary of Banking, and establishing remedies  
17 and providing penalties for violations of this act.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

## ARTICLE I

## Preliminary Provisions

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

23 ~~"Actual settlement costs" means reasonable sums paid for~~ <—  
24 ~~title insurance premium, other insurance premiums except~~  
25 ~~mortgage credit insurance premiums, title examination fee,~~

~~credit report, appraisal, recording documents, actual legal  
services on behalf of the borrower, customary and reasonable  
fees for the preparation of documents for settlement,  
conveyancing, surveying, engineering, inspections, notary and  
for use of settlement facilities.~~

"ACTUAL SETTLEMENT COSTS" MEANS REASONABLE SUMS PAID FOR: <—

(A) ANY INSURANCE PREMIUMS WHICH HAVE BEEN APPROVED BY THE  
INSURANCE COMMISSIONER OF THE COMMONWEALTH.

(B) TITLE EXAMINATION AND SEARCH, AND EXAMINATION OF PUBLIC  
RECORDS.

(C) THE PREPARATION AND RECORDING OF ANY OR ALL DOCUMENTS  
REQUIRED BY LAW OR CUSTOM FOR SETTLEMENT.

(D) APPRAISAL OF PROPERTY SECURING THE LOAN.

(E) A SINGLE SERVICE CHARGE, WHICH SHALL INCLUDE ANY  
CONSIDERATION PAID BY THE RESIDENTIAL MORTGAGE DEBTOR AND  
RECEIVED AND RETAINED BY THE RESIDENTIAL MORTGAGE LENDER FOR OR  
RELATED TO THE ACQUISITION, MAKING, REFINANCING OR MODIFICATION  
OF A RESIDENTIAL MORTGAGE LOAN, PLUS ANY CONSIDERATION RECEIVED  
BY THE RESIDENTIAL MORTGAGE LENDER FOR MAKING A MORTGAGE  
COMMITMENT, WHETHER OR NOT AN ACTUAL LOAN FOLLOWS SUCH  
COMMITMENT.

THE SERVICE CHARGE SHALL NOT EXCEED ONE PER CENT OF THE  
ORIGINAL BONA FIDE PRINCIPAL AMOUNT OF THE LOAN, EXCEPT THAT IN  
THE CASE OF A CONSTRUCTION LOAN, THE SERVICE CHARGE SHALL NOT  
EXCEED TWO PER CENT OF THE ORIGINAL BONA FIDE PRINCIPAL AMOUNT  
OF THE LOAN.

(F) CHARGES AND FEES NECESSARY FOR OR RELATED TO THE  
TRANSFER OF THE PROPERTY OR THE CLOSING OF THE RESIDENTIAL  
MORTGAGE LOAN, PAID BY THE RESIDENTIAL MORTGAGE DEBTOR AND  
RECEIVED BY ANY PARTY OTHER THAN THE RESIDENTIAL MORTGAGE

1 LENDER, WHETHER OR NOT PAID BY THE RESIDENTIAL MORTGAGE DEBTOR  
2 DIRECTLY TO THE THIRD PARTY OR TO THE RESIDENTIAL MORTGAGE  
3 LENDER FOR PAYMENT TO THE THIRD PARTY.

4 "Discount points" means any charges, whether or not actually  
5 denominated as "discount points," which are paid by the seller  
6 of residential real property to a residential mortgage lender  
7 which directly or indirectly affects the ability of the buyer of  
8 the real estate to secure a residential mortgage.

9 "Finance charge" means the total cost of a loan or charge for  
10 the use of money, including any extensions or grant of credit  
11 regardless of the characterization of the same and includes any  
12 interest, time price differential, points, premiums, finder's  
13 fees, ~~mortgage credit insurance,~~ and other charges levied by the <—  
14 residential mortgage lender directly or indirectly against the  
15 person obtaining the loan or against the seller, lender,  
16 mortgagee or any other party to the transaction except any  
17 actual settlement costs. ~~and charges or premiums for insurance~~ <—  
18 ~~against loss or damage to property or against liability arising~~  
19 ~~out of the use or ownership of property.~~ The finance charges  
20 plus the actual settlement costs charged by the residential  
21 mortgage lender shall include all charges made by the  
22 residential mortgage lender to the residential mortgage debtor  
23 other than the principal of the loan. ~~and costs or charges such~~ <—  
24 ~~as legal fees paid by the residential mortgage lender and not~~  
25 ~~charged to the residential mortgage debtor.~~

26 "Loan yield" means ~~the loan yield is obtained by amortizing~~ <—  
27 ~~the finance charge over the contract term of the loan~~ THE ANNUAL <—  
28 RATE OF RETURN OBTAINED BY A RESIDENTIAL MORTGAGE LENDER FROM A  
29 RESIDENTIAL MORTGAGE DEBTOR OVER THE TERM OF THE LOAN AND SHALL  
30 BE DETERMINED IN ACCORDANCE WITH REGULATIONS ISSUED BY THE

1 SECRETARY OF BANKING. SUCH REGULATIONS SHALL ESTABLISH THE  
2 METHOD FOR CALCULATING SUCH RATE OF RETURN AND SHALL PROVIDE  
3 THAT THE FINANCE CHARGE BE AMORTIZED OVER THE CONTRACT TERM OF  
4 THE LOAN.

5 "Monthly Index of Long Term United States Government Bond  
6 Yields" means the monthly unweighted average of the daily  
7 unweighted average of the closing bid yield quotations in the  
8 over the counter market for all outstanding United States  
9 Treasury Bond issues, based on available statistics, which are  
10 either maturing or callable in ten years or more. This index is  
11 expressed in terms of percentage interest per annum.

12 "Mortgage commitment" means a legally binding obligation to  
13 lend money on the security of a residential mortgage.

14 "Person" means an individual, corporation, business trust,  
15 estate trust, partnership or association or any other legal  
16 entity, and shall include but not be limited to residential  
17 mortgage lenders.

18 "Residential mortgage" means an obligation to pay a sum of  
19 money in an original bona fide principal amount of fifty  
20 thousand dollars (\$50,000) or less, evidenced by a security  
21 document and secured by a lien upon real property located within  
22 this Commonwealth containing two or fewer residential units or  
23 on which two or fewer residential units are to be constructed  
24 and shall include such an obligation on a residential  
25 condominium unit.

26 "Residential mortgage debtor" means a NON-CORPORATE borrower <—  
27 who is obligated to a residential mortgage lender to repay in  
28 whole or in part a residential mortgage and a successor record  
29 owner of the property, if any, WHO GIVES NOTICE THEREOF TO THE <—  
30 RESIDENTIAL MORTGAGE LENDER.

1 "Residential mortgage intermediary" means a real estate  
2 broker, mortgage broker or other person receiving directly or  
3 indirectly from a residential mortgage lender a finder's fee,  
4 commission, placement fee, service charge or other similar  
5 compensation other than actual settlement costs in conjunction  
6 with the issuance of a residential mortgage or mortgage  
7 commitment.

8 "Residential mortgage lender" means any person who lends  
9 money or extends or grants credit and obtains a residential  
10 mortgage to assure payment of the debt. The term shall also  
11 include the holder at any time of a residential mortgage  
12 obligation.

13 "Security document" means a mortgage, deed of trust, real  
14 estate sales contract or other document creating upon  
15 recordation a lien upon real estate.

16 ARTICLE II

17 Maximum Lawful Interest Rate

18 Section 201. Maximum Lawful Interest Rate.--Except as  
19 provided in Article III of this act, the maximum lawful rate of  
20 interest for the loan or use of money in an amount of fifty  
21 thousand dollars (\$50,000) or less in all cases where no express  
22 contract shall have been made for a less rate shall be six per  
23 cent per annum.

24 Section 202. Legal Rate of Interest.--Reference in any law  
25 or document enacted or executed heretofore or hereafter to  
26 "legal rate of interest" and reference in any document to an  
27 obligation to pay a sum of money "with interest" without  
28 specification of the applicable rate shall be construed to refer  
29 to the rate of interest of six per cent per annum.

30 ARTICLE III

1                   Exceptions to Maximum Lawful Interest Rate

2           Section 301. Residential Mortgage Interest Rates.--(a) The  
3 General Assembly hereby finds that it is necessary and  
4 appropriate to establish a flexible maximum lawful interest rate  
5 for residential mortgages, as defined in this act, and that the  
6 Monthly Index of Long Term United States Government Bond Yields  
7 is the appropriate basis on which such a maximum rate of  
8 interest may be established and that the monthly index of such  
9 long term United States Government Bond Yields compiled by the  
10 Board of Governors of the Federal Reserve System and as  
11 published by said Board of Governors in the monthly Federal  
12 Reserve Bulletin accurately reflects this function.

13           (b) The maximum lawful rate of interest for residential  
14 mortgages, as defined in this act, entered into or contracted  
15 for during any calendar month shall be equal to the Monthly  
16 Index of Long Term United States Government Bond Yields for the  
17 second preceding calendar month plus an additional two and one-  
18 half per cent per annum rounded off to the nearest quarter of  
19 one per cent per annum.

20           (c) On or before the twentieth day of each month, the  
21 Secretary of Banking (i) shall determine, based on available  
22 statistics, the Monthly Index of Long Term United States  
23 Government Bond Yields for the preceding calendar month; and  
24 (ii) shall determine the maximum lawful rate of interest for  
25 residential mortgages for the next succeeding month, as defined  
26 in subsection (b) of this section, and shall cause such maximum  
27 lawful rate of interest to be filed with the Legislative  
28 Reference Bureau for publication in the Pennsylvania Bulletin;  
29 such maximum lawful rate of interest to be effective on the  
30 first day of the next succeeding month.

1 (d) The loan yield obtained by a residential mortgage lender  
2 from the residential mortgage debtor shall not exceed the  
3 maximum lawful rate of interest for residential mortgages  
4 established in section 301 (b). A contract rate within the  
5 maximum lawful interest rate applicable to a residential  
6 mortgage at the time of the loan settlement shall be the maximum  
7 lawful interest rate for the term of the residential mortgage.

8 (e) In all proceedings and in all legal actions, the maximum  
9 lawful rate of interest for all residential mortgages, as  
10 defined in this act, as published in the Pennsylvania Bulletin  
11 by the Secretary of Banking shall be the maximum lawful rate of  
12 interest for residential mortgages, as defined in this act.

13 (f) The maximum lawful rate of interest set forth in this  
14 section and in section 201 of this act shall not apply to (i) an  
15 obligation to pay a sum of money in an original bona fide  
16 principal amount of more than fifty thousand dollars (\$50,000);  
17 (ii) an obligation to pay a sum of money in an original bona  
18 fide principal amount of fifty thousand dollars (\$50,000) or  
19 less, evidenced by a security document and secured by a lien  
20 upon real property, other than a residential mortgage as defined  
21 in this act or (iii) to a loan to a person subject to the act of  
22 April 27, 1927 (P.L.404, No.260), entitled "An act prohibiting  
23 corporations from pleading usury as a defense," section 313 of  
24 the act of May 5, 1933 (P.L.364, No.106), known as the "Business  
25 Corporation Law," or Title 15 Pa.S. section 7544.

26 Section 302. Federally Guaranteed Loans.--The maximum lawful  
27 rate of interest prescribed in sections 201 and 301 of this act  
28 shall not apply to any loan insured or guaranteed in whole or in  
29 part by the Federal Housing Administration, the Veterans  
30 Administration or any other department or agency of the United

1 States Government: Provided, That any such loan is subject to a  
2 maximum rate of interest established by law or by such  
3 department or agency.

4 Section 303. Commitments to Enter Into Residential  
5 Mortgages.--A residential mortgage commitment which provides for  
6 consummation within some future time following the issuance of  
7 the mortgage commitment may be consummated pursuant to the  
8 provisions, including interest rate, of such commitment  
9 notwithstanding the fact that the maximum lawful rate of  
10 interest at the time the residential mortgage is entered into is  
11 less than the commitment rate of interest, provided:

12 (1) The commitment rate of interest does not exceed the  
13 maximum lawful interest rate in effect on the date the mortgage  
14 commitment was issued;

15 (2) The mortgage commitment when agreed to by the borrower  
16 shall constitute a legally binding obligation on the part of the  
17 residential mortgage lender to make a residential mortgage loan  
18 within a specified time period in the future AT A RATE OF <—  
19 INTEREST NOT EXCEEDING THE MAXIMUM LAWFUL RATE OF INTEREST  
20 EFFECTIVE as of the date of commitment offer.

#### 21 ARTICLE IV

#### 22 Protective Provisions

23 Section 401. Disclosure Requirements.--(a) Any residential  
24 mortgage lender ~~shall~~, SIMULTANEOUS WITH THE ISSUANCE OF A <—  
25 MORTGAGE COMMITMENT BUT IN ANY EVENT at least five business days  
26 prior to the ~~consummation~~ LOAN SETTLEMENT of a residential <—  
27 mortgage, SHALL disclose directly to the residential mortgage <—  
28 debtor, or send to the residential mortgage debtor under such  
29 circumstances that the disclosure would normally be received at  
30 least five business days prior to ~~consummation~~ LOAN SETTLEMENT <—



1 of the residential mortgage, the finance charge, an estimated  
2 total of the actual settlement costs, AS DEFINED IN THIS ACT, to <—  
3 be paid by the residential mortgage debtor at settlement, the  
4 anticipated actual settlement costs to be charged by the  
5 residential mortgage lender, plus the number, amount and due  
6 date or periods of payments scheduled to repay the entire  
7 indebtedness, and the sum of such payments using the term "total  
8 of payments," and the existence, identity and compensation, if  
9 any, paid directly or indirectly by the residential mortgage  
10 lender to a residential mortgage intermediary.

11 (b) The disclosure provided for in section 401 shall be made  
12 in the manner provided by the Secretary of Banking by  
13 regulation. The disclosure shall clearly and conspicuously set  
14 forth all required disclosure information.

15 Section 402. Discount Points Prohibited.--With the exception  
16 of those residential mortgages guaranteed or insured in whole or  
17 in part by the Federal Government, or agency thereof, as  
18 enumerated in section 302 of this act, AND WITH THE EXCEPTION OF <—  
19 ANY ACTUAL SETTLEMENT COSTS (BUT NOT DISCOUNT POINTS, AS DEFINED  
20 IN THIS ACT) PAID BY A SELLER OF REAL ESTATE, it shall be  
21 unlawful for a residential mortgage lender ~~or any other person~~ <—  
22 ~~to make any charge, whether or not denominated as "discount~~  
23 ~~points" to be paid by the seller of real estate that directly or~~  
24 ~~indirectly affects the ability of the buyer of the real estate~~  
25 ~~to secure a residential mortgage.~~ TO CHARGE TO OR RECEIVE FROM A <—  
26 SELLER OF REAL ESTATE DIRECTLY OR INDIRECTLY ANY DISCOUNT  
27 POINTS.

28 Section 403. Notice of Intention to Foreclose.--(a) Before  
29 any residential mortgage lender may accelerate the maturity of  
30 any residential mortgage obligation, commence any legal action

<—

1 including mortgage foreclosure to recover ~~any~~ UNDER such  
2 obligation, or take possession of any security of the  
3 residential mortgage debtor for such residential mortgage  
4 obligation, such person shall give the residential mortgage  
5 debtor notice of such intention at least thirty days in advance  
6 as provided in this section.

7 (b) Notice of intention to take action as specified in  
8 subsection (a) of this section shall be in writing, sent to the  
9 residential mortgage debtor by registered or certified mail at  
10 his last known address and, if different, at the residence which  
11 is the subject of the residential mortgage.

12 (c) The written notice shall clearly and conspicuously  
13 state:

14 (1) The particular obligation or real estate security  
15 interest;

16 (2) The nature of the default claimed;

17 (3) The right of the debtor to cure the default as provided  
18 in section 404 of this act and exactly what performance  
19 including what sum of money, if any, must be tendered to cure  
20 the default;

21 (4) ~~The method of computing the time~~ THE TIME within which  
22 the debtor must cure the default;

<—

23 (5) ~~The possibility of and the method~~ THE METHOD OR METHODS  
24 by which the debtor's ownership or possession of the real estate  
25 may be terminated; and

<—

26 (6) The right of the debtor, if any, to transfer the real  
27 estate to another person subject to the security interest or to  
28 refinance the obligation and of the transferee's right, if any,  
29 to cure the default.

30 (d) The notice of intention to foreclose provided in this

1 section shall not be required where the residential mortgage  
2 debtor, ~~with no intent of further exercising possession or~~ <—  
3 ~~enjoyment of the property, has vacated~~ HAS ABANDONED or <—  
4 voluntarily surrendered the property which is the subject of a  
5 residential mortgage.

6 Section 404. Right to Cure a Default.--(a) Notwithstanding  
7 the provisions of any other law, after a notice of intention to  
8 foreclose has been given pursuant to section 403 of this act, at  
9 any time AT LEAST ONE HOUR prior to the commencement of bidding <—  
10 at a sheriff sale or other judicial sale on a residential  
11 mortgage obligation, the residential mortgage debtor or anyone in  
12 his behalf, not more than three times in any calendar year, may  
13 cure his default and prevent sale or other disposition of the  
14 real estate and avoid acceleration, if any, by tendering the  
15 amount or performance specified in subsection (b) of this  
16 section.

17 (b) To cure a default under this section, a residential  
18 mortgage debtor shall:

19 (1) Pay or tender IN THE FORM OF CASH, CASHIER'S CHECK OR <—  
20 CERTIFIED CHECK, all sums which would have been due at the time  
21 of payment or tender in the absence of default and the exercise  
22 of an acceleration clause, if any;

23 (2) Perform any other obligation which he would have been  
24 bound to perform in the absence of default or the exercise of an  
25 acceleration clause, if any;

26 (3) Pay or tender ANY REASONABLE FEES ALLOWED UNDER SECTION <—  
27 406 (2) AND the reasonable costs of proceeding to foreclosure as  
28 specified in writing by the residential mortgage lender actually  
29 incurred to the date of payment.

30 (4) Pay any reasonable late penalty, if provided for in the

1 security document.

2 (c) Cure of a default pursuant to this section restores the  
3 residential mortgage debtor to the same position as if the  
4 default had not occurred.

5 Section 405. Prepayment Penalty Prohibited.--Residential  
6 mortgage obligations contracted for on or after the effective  
7 date of this act may be prepaid without any penalty or other  
8 charge for such prepayment at any time before the end of the  
9 period of the loan.

10 Section 406. Attorney's Fees Payable.--With regard to  
11 residential mortgages, no residential mortgage lender shall  
12 contract for or receive attorney's fees ~~for~~ FROM a residential  
13 mortgage debtor except as follows:

14 (1) Reasonable fees for SERVICES INCLUDED IN actual  
15 settlement costs.

16 (2) Upon ~~completion~~ COMMENCEMENT of foreclosure or other  
17 legal action with respect to a residential mortgage, attorney's  
18 fees which are reasonable and actually incurred by the  
19 residential mortgage lender may be charged to the residential  
20 mortgage debtor. No attorney's fees may be charged for legal  
21 expenses incurred during the thirty day notice period provided  
22 in section 403 of this act or before actual commencement of  
23 foreclosure or other legal action.

24 Section 407. Confession of Judgment.--(a) As to any  
25 residential mortgage, a plaintiff shall not have the right to  
26 levy, execute or garnish on the basis of any judgment or decree  
27 on confession, whether by amicable action or otherwise, or on a  
28 note, bond or other instrument in writing confessing judgment  
29 until plaintiff, utilizing such procedures as may be provided in  
30 the Pennsylvania Rules of Civil Procedure, files an appropriate

1 action and proceeds to judgment or decree against defendant as  
2 in any original action. The judgment by confession shall be  
3 changed as may be appropriate by a judgment, order or decree  
4 entered by the court in the action. After the above mentioned  
5 original action has been prosecuted and a judgment obtained,  
6 that judgment shall merge with the confessed judgment and ~~shall~~ <—  
7 ~~be of the priority of the confessed judgment in time and~~  
8 ~~standing even though the amount of the judgments may be~~  
9 ~~different~~ THE CONFESSED JUDGMENT SHALL BE CONFORMED AS TO AMOUNT <—  
10 AND EXECUTION SHALL BE HAD ON THE CONFESSED JUDGMENT. The  
11 parties to the action shall have the same rights as parties to  
12 other original proceedings. NOTHING IN THIS ACT SHALL PROHIBIT A <—  
13 RESIDENTIAL MORTGAGE LENDER FROM PROCEEDING BY ACTION IN  
14 MORTGAGE FORECLOSURE IN LIEU OF JUDGMENT BY CONFESSION IF THE  
15 RESIDENTIAL MORTGAGE LENDER SO DESIRES.

16 (b) Any debtor who prevails in any action to remove, SUSPEND <—  
17 or enforce a judgment entered by confession shall be entitled to  
18 recover reasonable attorney's fees and costs as determined by  
19 the court.

20 (c) Hereafter when any plaintiff has received ~~satisfaction~~ <—  
21 PAYMENT IN FULL for any judgment entered by confession he shall <—  
22 order the record in the proceeding marked satisfied within  
23 thirty days of the receipt thereof, and shall not require any  
24 action on the part of the defendant or any payment by him to  
25 cover the cost of satisfying the judgment.

26 Section 408. Waivers.--Notwithstanding any other law, the  
27 provisions of this act may not be waived by any oral or written  
28 agreement executed by any person.

29 ARTICLE V

30 Remedies and Penalties

1       Section 501. Excessive Interest Need Not Be Paid.--When a  
2 rate of interest for the loan or use of money, exceeding that  
3 provided by this act or otherwise by law, shall have been  
4 reserved or contracted for, the borrower or debtor shall not be  
5 required to pay to the creditor the excess over such maximum  
6 interest rate and it shall be lawful for such borrower or  
7 debtor, at his option, to retain and deduct such excess from the  
8 amount of such debt PROVIDING THE BORROWER OR DEBTOR GIVES <—  
9 NOTICE OF THE ASSERTED EXCESS TO THE CREDITOR.

10       Section 502. Usury and Excess Charges Recoverable.--A person  
11 who has paid a rate of interest for the loan or use of money at  
12 a rate in excess of that provided for by this act or otherwise  
13 by law or has paid charges ~~not allowed~~ PROHIBITED OR IN EXCESS <—  
14 OF THOSE ALLOWED by this act or otherwise by law may recover  
15 triple the amount of such excess interest or charges in a suit  
16 at law against the person who has collected such excess interest  
17 or charges: Provided, That no action to recover such excess  
18 shall be sustained in any court of this Commonwealth unless the  
19 same shall have been commenced within four years from and after  
20 the time of such payment. RECOVERY OF TRIPLE THE AMOUNT OF SUCH <—  
21 EXCESS INTEREST OR CHARGES, BUT NOT THE ACTUAL AMOUNT OF SUCH  
22 EXCESS INTEREST OR CHARGES, SHALL BE LIMITED TO A FOUR-YEAR  
23 PERIOD OF THE CONTRACT.

24       Section 503. Reasonable Attorney's Fees Recoverable.--(a) If  
25 a borrower or debtor, including but not limited to a residential  
26 mortgage debtor, prevails in an action arising under this act,  
27 he shall recover the aggregate amount of costs and expenses  
28 determined by the court to have been reasonably incurred on his  
29 behalf in connection with the prosecution of such action,  
30 together with a reasonable amount for attorney's fee.

1 (b) The award of attorney's fees shall be in an amount  
2 sufficient to compensate attorneys representing debtors in  
3 actions arising under this act as provided in subsection (a) of  
4 this section. In determining the amount of the fee, the court  
5 may consider:

6 (1) The time and labor required, the novelty and difficulty  
7 of the questions involved and the skill requisite properly to  
8 conduct the case.

9 (2) The customary charges of the members of the bar for  
10 similar services.

11 (3) The amount involved in the controversy and the benefits  
12 resulting to the client or clients from the services.

13 (4) The contingency or the certainty of the compensation.

14 Section 504. Individual Actions Permitted.--Any person  
15 affected by a violation of the act shall have the substantive  
16 right to bring an action on behalf of himself individually for  
17 damages by reason of such conduct or violation, together with  
18 costs including reasonable attorney's fees and such other relief  
19 to which such person may be entitled under law.

20 Section 505. Penalties.--Any person who knowingly and  
21 intentionally violates the provisions of this act shall be  
22 guilty of a misdemeanor of the third degree.

23 Section 506. Enforcement.--When the Attorney General has  
24 reason to believe that any person has violated the provisions of  
25 this act, or the regulations promulgated hereunder, he shall  
26 have standing to bring a civil action for injunctive relief and  
27 such other relief, as may be appropriate to secure compliance  
28 with this act or the regulations promulgated hereunder.

29 ARTICLE VI

30 General Provisions

1       Section 601. Regulations.--The Secretary of Banking shall  
2 prescribe regulations to carry out the purposes of this act.  
3 These regulations may contain such classifications,  
4 differentiations, or other provisions, and may provide for such  
5 adjustments for any class of transactions, as in the judgment of  
6 the department are necessary or proper to effectuate the  
7 purposes of this act, to prevent circumvention or evasion  
8 thereof, to facilitate compliance therewith, TO INSURE  
9 MEANINGFUL DISCLOSURE TO THE USER OF RESIDENTIAL MORTGAGE  
10 CREDIT, and to insure their being supplemental to and not  
11 inconsistent with regulations under the Federal Consumer Credit  
12 Protection Act.

<—

13       Section 602. Construction; Title of Purchaser.--No provision  
14 of this act shall be construed to adversely affect the title of  
15 a bona fide purchaser of real estate who purchases such real  
16 estate in good faith without notice of any deficiency in the  
17 procedures provided herein.

18       Section 603. Repeals.--The act of May 28, 1858 (P.L.622, No.  
19 557), entitled "An act Regulating the Rate of Interest," is  
20 hereby repealed.

21       Section 604. Effect on Inconsistent Acts.--If any maximum  
22 lawful rate of interest provided for in this act is inconsistent  
23 with the provision of any other act establishing, permitting or  
24 removing a maximum interest rate, or prohibiting the use of  
25 usury as a defense, then the provision of such other act shall  
26 prevail. This shall include but not be limited to the provisions  
27 of the act of April 8, 1937 (P.L.262, No.66).

28       Section 605. Effective Date.--This act shall take effect  
29 immediately except that sections 401, 403 and 404 shall take  
30 effect in sixty days. Notwithstanding any other provision of



1 this act, the Secretary of Banking, immediately upon final  
2 enactment of this act, shall determine the maximum lawful rate  
3 of interest for residential mortgages as provided in section 301  
4 of this act, for the month in which this act becomes effective  
5 and for the next succeeding month. Such rates shall be  
6 immediately published in the Pennsylvania Bulletin and shall  
7 become effective upon such publication for the respective  
8 months. Thereafter the secretary shall determine and publish the  
9 maximum lawful rate of interest for residential mortgages in  
10 conformity with the other provisions of this act.