

## 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, 1973SENATOR ZEMPRELLI, BANKING, RE-REPORTED AS AMENDED,  
NOVEMBER 27, 1973

## 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 Federally INSURED OR guaranteed loans; providing protections <—  
6 to debtors to whom loans are made including the provision for  
7 disclosure of facts relevant to the making of residential  
8 mortgages, ~~and the sale of residential property,~~ provision <—  
9 for notice of intention to foreclose and establishment of a  
10 right to cure defaults on residential mortgage obligations,  
11 provision for the payment of attorney's fees with regard to  
12 residential mortgage obligations; ~~prohibiting confession of~~ <—  
13 ~~judgment;~~ CLARIFYING THE SUBSTANTIVE LAW ON THE FILING OF AND <—  
14 EXECUTION ON A CONFESSED JUDGMENT; prohibiting waiver of  
15 provisions of this act, specifying powers and duties of the  
16 Secretary of Banking, and establishing remedies and providing  
17 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,

1 credit report, appraisal, recording documents, actual legal  
2 services on behalf of the borrower, CUSTOMARY AND REASONABLE <—  
3 FEES FOR THE PREPARATION OF DOCUMENTS FOR SETTLEMENT,  
4 conveyancing, surveying, engineering, inspections, notary and  
5 for use of settlement facilities.

6 "DISCOUNT POINTS" MEANS ANY CHARGES, WHETHER OR NOT ACTUALLY <—  
7 DENOMINATED AS "DISCOUNT POINTS," WHICH ARE PAID BY THE SELLER  
8 OF RESIDENTIAL REAL PROPERTY TO A RESIDENTIAL MORTGAGE LENDER  
9 WHICH DIRECTLY OR INDIRECTLY AFFECTS THE ABILITY OF THE BUYER OF  
10 THE REAL ESTATE TO SECURE A RESIDENTIAL MORTGAGE.

11 "Finance charge" means the total cost of a loan or charge for  
12 the use of money, ~~which shall be amortized over the contract~~ <—  
13 ~~term of the loan,~~ including any extensions or grant of credit  
14 regardless of the characterization of the same and includes any  
15 interest, TIME PRICE DIFFERENTIAL, points, premiums, finder's <—  
16 fees, mortgage credit insurance, and other charges levied BY THE <—  
17 RESIDENTIAL MORTGAGE LENDER directly or indirectly against the  
18 person obtaining the loan or against the seller, lender,  
19 mortgagee or any other party to the transaction except any  
20 actual settlement costs and charges or premiums for insurance  
21 against loss or damage to property or against liability arising  
22 out of the use or ownership of property. The finance charges  
23 plus the actual settlement costs charged by the residential  
24 mortgage lender shall include all charges made by the  
25 residential mortgage lender to the residential mortgage debtor  
26 other than the principal of the loan AND COSTS OR CHARGES SUCH <—  
27 AS LEGAL FEES PAID BY THE RESIDENTIAL MORTGAGE LENDER AND NOT  
28 CHARGED TO THE RESIDENTIAL MORTGAGE DEBTOR.

29 "LOAN YIELD" MEANS THE LOAN YIELD IS OBTAINED BY AMORTIZING <—  
30 THE FINANCE CHARGE OVER THE CONTRACT TERM OF THE LOAN.

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

8 "Mortgage commitment" means a legally binding obligation to  
9 ~~loan~~ LEND money on the security of a residential mortgage. <—

10 "Person" means an individual, corporation, business trust,  
11 estate trust, partnership or association or any other legal  
12 entity, and shall include but not be limited to residential  
13 mortgage lenders.

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

22 "Residential mortgage debtor" means ~~an individual mortgager~~ A <—  
23 BORROWER who is obligated to a residential mortgage lender to  
24 repay in whole or in part a residential mortgage and a successor  
25 record owner of the property, if any.

26 "Residential mortgage intermediary" means a real estate  
27 broker, mortgage broker or other person receiving directly or  
28 indirectly from a residential mortgage lender a finder's fee,  
29 commission, placement fee, service charge or other SIMILAR <—  
30 compensation other than actual settlement costs in conjunction

1 with the issuance of a residential mortgage or mortgage  
2 commitment.

3 "Residential mortgage lender" means any person who lends  
4 money or extends or grants credit and obtains a residential  
5 mortgage to assure payment of the debt. The term shall also  
6 include the holder at any time of a residential mortgage  
7 obligation.

8 "Security document" means a mortgage, deed of trust, real  
9 estate sales contract or other document creating upon  
10 recordation a lien upon real estate.

## 11 ARTICLE II

### 12 Maximum Lawful Interest Rate

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

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

## 25 ARTICLE III

### 26 Exceptions to Maximum Lawful Interest Rate

27 Section 301. Residential Mortgage Interest Rates.--(a) The  
28 General Assembly hereby finds that it is necessary and  
29 appropriate to establish a flexible maximum lawful interest rate  
30 for residential mortgages, as defined in this act, and that the

1 Monthly Index of Long Term United States Government Bond Yields  
2 is ~~an~~ THE appropriate basis on which such a maximum rate of  
3 interest may be established and that the monthly index of such  
4 long term United States Government Bond Yields compiled by the  
5 Board of Governors of the Federal Reserve System and as  
6 published by said Board of Governors in the monthly Federal  
7 Reserve Bulletin accurately reflects this function.

<—

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

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

26 (d) The ~~total finance charges payable by~~ LOAN YIELD OBTAINED  
27 BY A RESIDENTIAL MORTGAGE LENDER FROM the residential mortgage  
28 debtor shall not exceed the maximum lawful rate of interest for  
29 residential mortgages established in section 301 (b). The  
30 ~~maximum lawful rate of interest at the contract rate shall~~

<—

<—

1 ~~remain the constant rate for the term of the residential~~  
2 ~~mortgage.~~ A CONTRACT RATE WITHIN THE MAXIMUM LAWFUL INTEREST <—  
3 RATE APPLICABLE TO A RESIDENTIAL MORTGAGE AT THE TIME OF THE  
4 LOAN SETTLEMENT SHALL BE THE MAXIMUM LAWFUL INTEREST RATE FOR  
5 THE TERM OF THE RESIDENTIAL MORTGAGE.

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

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

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

1 maximum rate of interest established by law or by such  
2 department or agency.

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

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

14 (2) The mortgage commitment ~~constituted~~ WHEN AGREED TO BY <—  
15 THE BORROWER SHALL CONSTITUTE a legally binding obligation on  
16 the part of the residential mortgage lender to make a  
17 residential mortgage loan within a specified time period in the  
18 future AS OF THE DATE OF COMMITMENT OFFER. <—

#### 19 ARTICLE IV

##### 20 Protective Provisions

21 Section 401. Disclosure Requirements.--(a) Any residential  
22 mortgage lender shall ~~at the time of issuance of a mortgage~~ <—  
23 ~~commitment but at least ten days prior to consummation of a~~  
24 ~~residential mortgage,~~ AT LEAST FIVE BUSINESS DAYS PRIOR TO THE <—  
25 CONSUMMATION OF A RESIDENTIAL MORTGAGE disclose DIRECTLY to the <—  
26 residential mortgage debtor, or send to the residential mortgage  
27 debtor under such circumstances that the disclosure would  
28 normally be received AT LEAST five business days prior to <—  
29 consummation of the residential mortgage, the finance charge, an  
30 estimated total of the actual settlement costs to be paid by the

1 residential mortgage debtor at settlement, the ANTICIPATED <—  
2 actual settlement costs TO BE charged by the residential <—  
3 mortgage lender, plus the number, amount and due date or periods  
4 of payments scheduled to repay the entire indebtedness, and the  
5 sum of such payments using the term "total of payments," and the  
6 existence, identity and compensation, if any, paid directly or  
7 indirectly by the residential mortgage lender to a residential  
8 mortgage intermediary.

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

13 Section 402. Discount Points Prohibited.--With the exception  
14 of those residential mortgages GUARANTEED OR insured in whole or <—  
15 in part by the Federal Government, or agency thereof, as  
16 enumerated in section 302 of this act, it shall be unlawful for  
17 a residential mortgage lender or any other person to make any  
18 charge, whether or not denominated as "discount points" to be  
19 paid by the seller of real estate that directly or indirectly  
20 affects the ability of the buyer of the real estate to secure a  
21 residential mortgage.

22 Section 403. Notice of Intention to Foreclose.--(a) Before  
23 any residential mortgage lender may accelerate the maturity of  
24 any residential mortgage obligation, commence any legal action  
25 including mortgage foreclosure to recover any such obligation,  
26 or take possession of any security of the residential mortgage  
27 debtor for such residential mortgage obligation, such person  
28 shall give the residential mortgage debtor notice of such  
29 intention at least thirty days in advance as provided in this  
30 section.



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

6 (c) The written notice shall clearly and conspicuously  
7 state:

8 (1) The particular obligation or real estate security  
9 interest;

10 (2) The nature of the default claimed;

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

15 (4) The method of computing the time within which the debtor  
16 must cure the default;

17 (5) The possibility of and the method by which the debtor's  
18 ownership or possession of the real estate may be terminated;  
19 and

20 (6) The right of the debtor, if any, to transfer the real  
21 estate to another person subject to the security interest or to  
22 refinance the obligation and of the transferee's right, if any,  
23 to cure the default.

24 (D) THE NOTICE OF INTENTION TO FORECLOSE PROVIDED IN THIS <—  
25 SECTION SHALL NOT BE REQUIRED WHERE THE RESIDENTIAL MORTGAGE  
26 DEBTOR, WITH NO INTENT OF FURTHER EXERCISING POSSESSION OR  
27 ENJOYMENT OF THE PROPERTY, HAS VACATED OR VOLUNTARILY  
28 SURRENDERED THE PROPERTY WHICH IS THE SUBJECT OF A RESIDENTIAL  
29 MORTGAGE.

30 Section 404. Right to Cure a Default.--(a) Notwithstanding

1 the provisions of any other law, after a notice of intention to  
2 foreclose has been given pursuant to section 403 of this act, at  
3 any time ~~before the issuance of a judgment or decree of judicial~~ <—  
4 ~~foreclosure or like action~~ PRIOR TO THE COMMENCEMENT OF BIDDING <—  
5 AT A SHERIFF SALE OR OTHER JUDICIAL SALE on a residential  
6 mortgage obligation, the residential mortgage debtor or anyone in  
7 his behalf, NOT MORE THAN THREE TIMES IN ANY CALENDAR YEAR, may <—  
8 cure his default and prevent sale or other disposition of the  
9 real estate and avoid acceleration, if any, by tendering the  
10 amount or performance specified in subsection (b) of this  
11 section.

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

14 (1) Pay or tender all sums which would have been due AT THE <—  
15 TIME OF PAYMENT OR TENDER in the absence of default and the  
16 exercise of an acceleration clause, if any;

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

20 (3) Pay or tender the reasonable costs of proceeding to  
21 foreclosure as specified in writing by the residential mortgage  
22 lender actually incurred to the date of payment.

23 (4) Pay any reasonable late penalty, if provided for in the  
24 security document.

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

28 Section 405. Prepayment Penalty Prohibited.--Residential  
29 mortgage obligations contracted for on or after the effective  
30 date of this act may be prepaid without any penalty or other

1 charge for such prepayment at any time before the end of the  
2 period of the loan.

3 Section 406. Attorney's Fees Payable.--With regard to  
4 residential mortgages, no residential mortgage lender shall  
5 contract for or receive attorney's fees for a residential  
6 mortgage debtor except as follows:

7 (1) Reasonable fees for actual settlement costs.

8 ~~(2) Upon commencement of foreclosure or other legal action~~ <—  
9 ~~with respect to the residential mortgage, reasonable fees not to~~  
10 ~~exceed five per cent of the outstanding obligation if a judgment~~  
11 ~~is obtained in favor of the residential mortgage lender or two~~  
12 ~~and one half per cent of the outstanding obligation if the~~  
13 ~~dispute is settled prior to judgment: Provided, That no legal~~  
14 ~~fees may be charged for action taken during the thirty day~~  
15 ~~notice period provided in section 403 of this act.~~

16 (2) UPON COMPLETION OF FORECLOSURE OR OTHER LEGAL ACTION <—  
17 WITH RESPECT TO A RESIDENTIAL MORTGAGE, ATTORNEY'S FEES WHICH  
18 ARE REASONABLE AND ACTUALLY INCURRED BY THE RESIDENTIAL MORTGAGE  
19 LENDER MAY BE CHARGED TO THE RESIDENTIAL MORTGAGE DEBTOR. NO  
20 ATTORNEY'S FEES MAY BE CHARGED FOR LEGAL EXPENSES INCURRED  
21 DURING THE THIRTY DAY NOTICE PERIOD PROVIDED IN SECTION 403 OF  
22 THIS ACT OR BEFORE ACTUAL COMMENCEMENT OF FORECLOSURE OR OTHER  
23 LEGAL ACTION.

24 Section 407. Confession of Judgment.--~~(a) Any judgment or~~ <—  
25 ~~decree on confession, whether by amicable action or otherwise,~~  
26 ~~or on a note, bond or other instrument in writing confessing~~  
27 ~~judgment shall not serve as the basis for a levy, execution or~~  
28 ~~garnishment until plaintiff files an appropriate action and~~  
29 ~~proceeds to judgment or decree against defendant as in any~~  
30 ~~original action. The judgment by confession shall be changed as~~

1 ~~may be appropriate by a judgment, order or decree entered by the~~  
2 ~~court in the action. After the above mentioned original action~~  
3 ~~has been prosecuted and a judgment obtained, that judgment shall~~  
4 ~~merge with the confessed judgment and shall be of the priority~~  
5 ~~of the confessed judgment in time and standing even though the~~  
6 ~~amount of the judgments may be different. The parties to the~~  
7 ~~action shall have the same rights as parties to other original~~  
8 ~~proceedings.~~ (A) AS TO ANY RESIDENTIAL MORTGAGE, A PLAINTIFF <—

9 SHALL NOT HAVE THE RIGHT TO LEVY, EXECUTE OR GARNISH ON THE  
10 BASIS OF ANY JUDGMENT OR DECREE ON CONFESSION, WHETHER BY  
11 AMICABLE ACTION OR OTHERWISE, OR ON A NOTE, BOND OR OTHER  
12 INSTRUMENT IN WRITING CONFESSING JUDGMENT UNTIL PLAINTIFF,  
13 UTILIZING SUCH PROCEDURES AS MAY BE PROVIDED IN THE PENNSYLVANIA  
14 RULES OF CIVIL PROCEDURE, FILES AN APPROPRIATE ACTION AND  
15 PROCEEDS TO JUDGMENT OR DECREE AGAINST DEFENDANT AS IN ANY  
16 ORIGINAL ACTION. THE JUDGMENT BY CONFESSION SHALL BE CHANGED AS  
17 MAY BE APPROPRIATE BY A JUDGMENT, ORDER OR DECREE ENTERED BY THE  
18 COURT IN THE ACTION. AFTER THE ABOVE MENTIONED ORIGINAL ACTION  
19 HAS BEEN PROSECUTED AND A JUDGMENT OBTAINED, THAT JUDGMENT SHALL  
20 MERGE WITH THE CONFESSED JUDGMENT AND SHALL BE OF THE PRIORITY  
21 OF THE CONFESSED JUDGMENT IN TIME AND STANDING EVEN THOUGH THE  
22 AMOUNT OF THE JUDGMENTS MAY BE DIFFERENT. THE PARTIES TO THE  
23 ACTION SHALL HAVE THE SAME RIGHTS AS PARTIES TO OTHER ORIGINAL  
24 PROCEEDINGS.

25 (b) Any debtor who prevails in any action to remove or  
26 enforce a judgment entered by confession shall be entitled to  
27 recover reasonable attorney's fees and costs as determined by  
28 the court.

29 (c) Hereafter when any plaintiff has received satisfaction  
30 for any judgment entered by confession he shall order the record

1 in the proceeding ~~market~~ MARKED satisfied within thirty days of <—  
2 the receipt thereof, and shall not require any action on the  
3 part of the defendant or any payment by him to cover the cost of  
4 satisfying the judgment. ~~Any judgment entered by confession not~~ <—  
5 ~~revived within one year from the date on which the lien of said~~  
6 ~~judgment has lapsed by operation of law shall be considered~~  
7 ~~satisfied and may not thereafter be revived.~~

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

## 11 ARTICLE V

### 12 Remedies and Penalties

13 Section 501. Excessive Interest Need Not Be Paid.--When a  
14 rate of interest for the loan or use of money, exceeding that  
15 provided by this act or otherwise by law, shall have been  
16 reserved or contracted for, the borrower or debtor shall not be  
17 required to pay to the creditor the excess over such maximum  
18 interest rate and it shall be lawful for such borrower or  
19 debtor, at his option, to retain and deduct such excess from the  
20 amount of such debt.

21 Section 502. Usury AND EXCESS CHARGES Recoverable.--A person <—  
22 who has paid a rate of interest for the loan or use of money at  
23 a rate in excess of that provided for by this act or otherwise  
24 by law OR HAS PAID CHARGES NOT ALLOWED BY THIS ACT OR OTHERWISE <—  
25 BY LAW may recover triple the amount of such excess INTEREST OR <—  
26 CHARGES in a suit at law against the person who has collected  
27 such excess interest OR CHARGES: Provided, That no action to <—  
28 recover such excess shall be sustained in any court of this  
29 Commonwealth unless the same shall have been commenced within  
30 four years from and after the time of such payment.

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

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

13 (1) The time and labor required, the novelty and difficulty  
14 of the questions involved and the skill requisite properly to  
15 conduct the case.

16 (2) The customary charges of the MEMBERS OF THE bar for <—  
17 similar services.

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

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

21 Section 504. Individual ~~and Class~~ Actions Permitted.--(a) <—

22 Any person affected by a violation of the act shall have the  
23 substantive right to bring an action on behalf of himself  
24 individually ~~or on behalf of himself and all persons similarly~~ <—  
25 ~~situated~~ for damages by reason of such conduct or violation,  
26 together with costs including reasonable attorney's fees and  
27 such other relief to which such person may be entitled under  
28 law.

29 ~~(b) One or more of the persons affected by violations of~~ <—  
30 ~~this act may sue as representative parties on behalf of all~~

1 ~~members of the class only if:~~

2 ~~(1) The class is so numerous that joinder of all members is~~  
3 ~~impracticable;~~

4 ~~(2) There are questions of law or fact common to the class;~~

5 ~~(3) The claims of the representative parties are typical of~~  
6 ~~the claims of the class; and~~

7 ~~(4) The representative parties will fairly and adequately~~  
8 ~~protect the interests of the class.~~

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

12 Section 506. Enforcement.--~~(a) The Attorney General may~~ <—  
13 ~~recover on behalf of the Commonwealth in a civil action from a~~  
14 ~~person who violates the provisions of this act a civil penalty~~  
15 ~~of not less than one hundred dollars (\$100) and not more than~~  
16 ~~one thousand dollars (\$1,000) for each violation.~~

17 ~~(b) In addition to the amount provided under subsection (a)~~  
18 ~~of this section, the Attorney General may recover on behalf of~~  
19 ~~the Commonwealth in a civil action from a person who knowingly~~  
20 ~~or wilfully violates the provisions of this act a civil penalty~~  
21 ~~of not less than one thousand dollars (\$1,000) and not more than~~  
22 ~~ten thousand dollars (\$10,000) for each violation.~~

23 ~~(c)~~ When the Attorney General has reason to believe that any  
24 person has violated the provisions of this act, or the  
25 regulations promulgated hereunder, he shall have standing to  
26 bring a civil action for injunctive relief, ~~damages as provided~~ <—  
27 ~~in section 502 on behalf of those who have paid excessive~~  
28 ~~interest, RELIEF and such other relief, including civil~~ <—  
29 ~~penalties,~~ as may be appropriate to secure compliance with this  
30 act or the regulations promulgated hereunder.

ARTICLE VI

General Provisions

Section 601. Regulations.--The Secretary of Banking shall prescribe regulations to carry out the purposes of this act. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments for any class of transactions, as in the judgment of the department are necessary or proper to effectuate the purposes of this act, to prevent circumvention or evasion thereof, to facilitate compliance therewith, and to insure their being supplemental to and not inconsistent with regulations under the Federal Consumer Credit Protection Act.

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

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

Section 604. Effect on Inconsistent Acts.--If any maximum lawful rate of interest provided for in this act is inconsistent with the provision of any other act establishing, PERMITTING OR REMOVING a maximum interest rate, OR PROHIBITING THE USE OF USURY AS A DEFENSE, then the provision of such other act shall prevail. THIS SHALL INCLUDE BUT NOT BE LIMITED TO THE PROVISIONS OF THE ACT OF APRIL 8, 1937 (P.L.262, NO.66).

Section 605. Effective Date.--This act shall take effect immediately EXCEPT THAT SECTIONS 401, 403 AND 404 SHALL TAKE 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.