

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1255 Session of
1973

INTRODUCED BY ZEMPRELLI, LAMB, COPPERSMITH, HILL, MAZZEI, HOLL,
ORLANDO, ROVNER, ROSS AND SCALES, OCTOBER 26, 1973

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JANUARY 29, 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 FOR A MAXIMUM LAWFUL INTEREST RATE FOR RESIDENTIAL~~ <—
8 ~~MORTGAGES OF FIFTY THOUSAND DOLLARS OR LESS;~~
9 REGULATING AGREEMENTS FOR THE LOAN OR USE OF MONEY; ESTABLISHING <—
10 A MAXIMUM LAWFUL INTEREST RATE IN THE COMMONWEALTH; PROVIDING
11 FOR A LEGAL RATE OF INTEREST; DETAILING EXCEPTIONS TO THE
12 MAXIMUM LAWFUL INTEREST RATE FOR RESIDENTIAL MORTGAGES AND
13 FOR ANY LOANS IN THE PRINCIPAL AMOUNT OF MORE THAN FIFTY
14 THOUSAND DOLLARS AND FEDERALLY INSURED OR GUARANTEED LOANS
15 AND UNSECURED, NONCOLLATERALIZED LOANS IN EXCESS OF THIRTY-
16 FIVE THOUSAND DOLLARS AND BUSINESS LOANS IN EXCESS OF TEN
17 THOUSAND DOLLARS; providing protections to debtors to whom
18 loans are made including the provision for disclosure of
19 facts relevant to the making of residential mortgages,
20 ~~provision~~ PROVIDING for notice of intention to foreclose and <—
21 establishment of a right to cure defaults on residential
22 mortgage obligations, provision for the payment of attorney's
23 fees with regard to residential mortgage obligations AND <—
24 PROVIDING FOR CERTAIN INTEREST RATES BY BANKS AND BANK AND
25 TRUST COMPANIES; clarifying the substantive law on the filing
26 of and execution on a confessed judgment; prohibiting waiver
27 of provisions of this act, specifying powers and duties of
28 the Secretary of Banking, and establishing remedies and
29 providing penalties for violations of this act.

30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ARTICLE I

3 Preliminary Provisions

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

5 "Actual settlement costs" means reasonable sums paid for:

6 (a) Any insurance premiums which have been approved by the
7 Insurance Commissioner of the Commonwealth.

8 (b) Title examination and search, and examination of public
9 records.

10 (c) The preparation and recording of any or all documents
11 required by law or custom for settlement.

12 (d) Appraisal AND/OR SURVEY of property securing the loan. <—

13 (e) A single service charge, which shall include any
14 consideration paid by the residential mortgage debtor and
15 received and retained by the residential mortgage lender for or
16 related to the acquisition, making, refinancing or modification
17 of a residential mortgage loan, plus any consideration received
18 by the residential mortgage lender for making a mortgage
19 commitment, whether or not an actual loan follows such
20 commitment.

21 The service charge shall not exceed one per cent of the
22 original bona fide principal amount of the loan, except that in
23 the case of a construction loan, the service charge shall not
24 exceed two per cent of the original bona fide principal amount
25 of the loan.

26 (f) Charges and fees necessary for or related to the
27 transfer of the property or the closing of the residential
28 mortgage loan, paid by the residential mortgage debtor and
29 received by any party other than the residential mortgage
30 lender, whether or not paid by the residential mortgage debtor

1 directly to the third party or to the residential mortgage
2 lender for payment to the third party.

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

8 "Finance charge" means the total cost of a loan or charge for
9 the use of money, including any extensions or grant of credit
10 regardless of the characterization of the same and includes any
11 interest, time price differential, points, premiums, finder's
12 fees, and other charges levied by the residential mortgage
13 lender directly or indirectly against the person obtaining the
14 loan or against the seller, lender, mortgagee or any other party
15 to the transaction except any actual settlement costs. The
16 finance charges plus the actual settlement costs charged by the
17 residential mortgage lender shall include all charges made by
18 the residential mortgage lender to the residential mortgage
19 debtor other than the principal of the loan.

20 "Loan yield" means the annual rate of return obtained by a
21 residential mortgage lender from a residential mortgage debtor
22 over the term of the loan and shall be determined in accordance
23 with regulations issued by the Secretary of Banking. Such
24 regulations shall establish the method for calculating such rate
25 of return and shall provide that the finance charge be amortized
26 over the contract term of the loan.

27 "Monthly Index of Long Term United States Government Bond
28 Yields" means the monthly unweighted average of the daily
29 unweighted average of the closing bid yield quotations in the
30 over the counter market for all outstanding United States

1 Treasury Bond issues, based on available statistics, which are
2 either maturing or callable in ten years or more. This index is
3 expressed in terms of percentage interest per annum.

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

6 "Person" means an individual, corporation, business trust,
7 estate trust, partnership or association or any other legal
8 entity, and shall include but not be limited to residential
9 mortgage lenders.

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

18 "Residential mortgage debtor" means a non-corporate borrower
19 who is obligated to a residential mortgage lender to repay in
20 whole or in part a residential mortgage and a successor record
21 owner of the property, if any, who gives notice thereof to the
22 residential mortgage lender.

23 "Residential mortgage intermediary" means a real estate
24 broker, mortgage broker or other person receiving directly or
25 indirectly from a residential mortgage lender a finder's fee,
26 commission, placement fee, service charge or other similar
27 compensation other than actual settlement costs in conjunction
28 with the issuance of a residential mortgage or mortgage
29 commitment. RESIDENTIAL MORTGAGE INTERMEDIARY SHALL NOT MEAN AN
30 EMPLOYE OF A RESIDENTIAL MORTGAGE LENDER.

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

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

9 ARTICLE II

10 ~~Maximum Lawful Interest Rate SCOPE OF ACT~~ <—

11 MAXIMUM LAWFUL INTEREST RATE <—

12 ~~Section 201. Maximum Lawful Interest Rate. Except as~~ <—

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

18 ~~SECTION 201. SCOPE OF ACT. THIS ACT APPLIES TO RESIDENTIAL~~ <—

19 ~~MORTGAGES AS DEFINED HEREIN IN THE BONA FIDE PRINCIPAL AMOUNT OF~~
20 ~~FIFTY THOUSAND DOLLARS (\$50,000) OR LESS AND SHALL NOT AFFECT~~
21 ~~ANY EXISTING LAW EXCEPT AS TO RESIDENTIAL MORTGAGES IN SUCH~~
22 ~~AMOUNT.~~

23 SECTION 201. MAXIMUM LAWFUL INTEREST RATE.--EXCEPT AS <—

24 PROVIDED IN ARTICLE III OF THIS ACT, THE MAXIMUM LAWFUL RATE OF
25 INTEREST FOR THE LOAN OR USE OF MONEY IN AN AMOUNT OF FIFTY
26 THOUSAND DOLLARS (\$50,000) OR LESS IN ALL CASES WHERE NO EXPRESS
27 CONTRACT SHALL HAVE BEEN MADE FOR A LESS RATE SHALL BE SIX PER
28 CENT PER ANNUM.

29 Section 202. Legal Rate of Interest.--Reference in any law
30 or document enacted or executed heretofore or hereafter to

1 "legal rate of interest" and reference in any document to an
2 obligation to pay a sum of money "with interest" without
3 specification of the applicable rate shall be construed to refer
4 to the rate of interest of six per cent per annum.

5 ARTICLE III

6 ~~Exceptions to Maximum Lawful Interest~~ <—

7 ~~Rate ON RESIDENTIAL MORTGAGES~~ <—

8 EXCEPTIONS TO MAXIMUM LAWFUL INTEREST RATE <—

9 Section 301. Residential Mortgage Interest Rates.--(a) The
10 General Assembly hereby finds that it is necessary and
11 appropriate to establish a flexible maximum lawful interest rate
12 for residential mortgages, as defined in this act, and that the
13 Monthly Index of Long Term United States Government Bond Yields
14 is the appropriate basis on which such a maximum rate of
15 interest may be established and that the ~~monthly index~~ MONTHLY <—
16 INDEX of such ~~long term~~ LONG TERM United States Government Bond <—
17 Yields compiled by the Board of Governors of the Federal Reserve
18 System and as published by said Board of Governors in the
19 monthly Federal Reserve Bulletin accurately reflects this
20 function.

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

28 (c) On or before the twentieth day of each month, the
29 Secretary of Banking (i) shall determine, based on available
30 statistics, the Monthly Index of Long Term United States

1 Government Bond Yields for the preceding calendar month; and
2 (ii) shall determine the maximum lawful rate of interest for
3 residential mortgages for the next succeeding month, as defined
4 in subsection (b) of this section, and shall cause such maximum
5 lawful rate of interest to be filed with the Legislative
6 Reference Bureau for publication in the Pennsylvania Bulletin;
7 such maximum lawful rate of interest to be effective on the
8 first day of the next succeeding month.

9 (d) The loan yield obtained by a residential mortgage lender
10 from the residential mortgage debtor shall not exceed the
11 maximum lawful rate of interest for residential mortgages
12 established in section 301 (b). A contract rate within the
13 maximum lawful interest rate applicable to a residential
14 mortgage at the time of the loan settlement shall be the maximum
15 lawful interest rate for the term of the residential mortgage.

16 (e) In all proceedings and in all legal actions, the maximum
17 lawful rate of interest for all residential mortgages, as
18 defined in this act, as published in the Pennsylvania Bulletin
19 by the Secretary of Banking shall be the maximum lawful rate of
20 interest for residential mortgages, as defined in this act.

21 (f) The maximum lawful rate of interest set forth in this
22 ~~section and in section 201 of this act~~ AND IN SECTION 201 OF
23 THIS ACT shall not apply to (i) an obligation to pay a sum of
24 money in an original bona fide principal amount of more than
25 fifty thousand dollars (\$50,000); (ii) an obligation to pay a
26 sum of money in an original bona fide principal amount of fifty
27 thousand dollars (\$50,000) or less, evidenced by a security
28 document and secured by a lien upon real property, other than a
29 residential mortgage as defined in this act; ~~or~~ (iii) to a loan
30 to a person subject to the act of April 27, 1927 (P.L.404,

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1 No.260), entitled "An act prohibiting corporations from pleading
2 usury as a defense," section 313 of the act of May 5, 1933
3 (P.L.364, No.106), known as the "Business Corporation Law," or
4 Title 15 Pa.S. section 7544; OR (IV) AN UNSECURED, <—
5 NONCOLLATERALIZED LOAN IN EXCESS OF THIRTY-FIVE THOUSAND DOLLARS
6 (\$35,000); OR (V) BUSINESS LOANS THE PRINCIPAL AMOUNT OF WHICH
7 IS IN EXCESS OF TEN THOUSAND DOLLARS (\$10,000).

8 Section 302. Federally Guaranteed Loans.--The maximum lawful
9 rate of interest prescribed in sections 201 and 301 of this act
10 shall not apply to any loan insured or guaranteed in whole or in
11 part by the Federal Housing Administration, the Veterans
12 Administration or any other department or agency of the United
13 States Government: Provided, That any such loan is subject to a
14 maximum rate of interest established by law or by such
15 department or agency.

16 Section 303. Commitments to Enter Into Residential
17 Mortgages.--A residential mortgage commitment which provides for
18 consummation within some future time following the issuance of
19 the mortgage commitment may be consummated pursuant to the
20 provisions, including interest rate, of such commitment
21 notwithstanding the fact that the maximum lawful rate of
22 interest at the time the residential mortgage is entered into is
23 less than the commitment rate of interest, provided:

24 (1) The commitment rate of interest does not exceed the
25 maximum lawful interest rate in effect on the date the mortgage
26 commitment was issued;

27 (2) The mortgage commitment when agreed to by the borrower
28 shall constitute a legally binding obligation on the part of the
29 residential mortgage lender to make a residential mortgage loan
30 within a specified time period in the future at a rate of

1 interest not exceeding the maximum lawful rate of interest
2 effective as of the date of commitment offer.

3 ARTICLE IV

4 Protective Provisions

5 Section 401. Disclosure Requirements.--(a) Any residential
6 mortgage lender, simultaneous with the issuance of a mortgage
7 commitment but in any event at least five business days prior to
8 the loan settlement of a residential mortgage, shall disclose
9 directly to the residential mortgage debtor, or send to the
10 residential mortgage debtor under such circumstances that the
11 disclosure would normally be received at least five business
12 days prior to loan settlement of the residential mortgage, the
13 finance charge, an estimated total of the actual settlement
14 costs, as defined in this act, to be paid by the residential
15 mortgage debtor at settlement, the anticipated actual settlement
16 costs to be charged by the residential mortgage lender, plus the
17 number, amount and due date or periods of payments scheduled to
18 repay the entire indebtedness, and the sum of such payments
19 using the term "total of payments," and the existence, identity
20 and compensation, if any, paid directly or indirectly by the
21 residential mortgage lender to a residential mortgage
22 intermediary.

23 (b) The disclosure provided for in THIS section ~~401~~ shall be <—
24 made in the manner provided by the Secretary of Banking by
25 regulation. The disclosure shall clearly and conspicuously set
26 forth all required disclosure information.

27 Section 402. Discount Points Prohibited.--With the exception
28 of those residential mortgages guaranteed or insured in whole or
29 in part by the Federal Government, or agency thereof, as
30 enumerated in section 302 of this act, and with the exception of

1 any actual settlement costs (but not discount points, as defined
2 in this act) paid by a seller of real estate, it shall be
3 unlawful for a residential mortgage lender to charge to or
4 receive from a seller of real estate directly or indirectly any
5 discount points.

6 Section 403. Notice of Intention to Foreclose.--(a) Before
7 any residential mortgage lender may accelerate the maturity of
8 any residential mortgage obligation, commence any legal action
9 including mortgage foreclosure to recover under such obligation,
10 or take possession of any security of the residential mortgage
11 debtor for such residential mortgage obligation, such person
12 shall give the residential mortgage debtor notice of such
13 intention at least thirty days in advance as provided in this
14 section.

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

20 (c) The written notice shall clearly and conspicuously
21 state:

22 (1) The particular obligation or real estate security
23 interest;

24 (2) The nature of the default claimed;

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

29 (4) The time within which the debtor must cure the default;

30 (5) The method or methods by which the debtor's ownership or

1 possession of the real estate may be terminated; and

2 (6) The right of the debtor, if any, to transfer the real
3 estate to another person subject to the security interest or to
4 refinance the obligation and of the transferee's right, if any,
5 to cure the default.

6 (d) The notice of intention to foreclose provided in this
7 section shall not be required where the residential mortgage
8 debtor, has abandoned or voluntarily surrendered the property
9 which is the subject of a residential mortgage.

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

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

23 (1) Pay or tender in the form of cash, cashier's check or
24 certified check, all sums which would have been due at the time
25 of payment or tender in the absence of default and the exercise
26 of an acceleration clause, if any;

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

30 (3) Pay or tender any reasonable fees allowed under section

1 406—(2) 406 and the reasonable costs of proceeding to <—
2 foreclosure as specified in writing by the residential mortgage
3 lender actually incurred to the date of payment.

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

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

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

14 Section 406. Attorney's Fees Payable.--With regard to
15 residential mortgages, no residential mortgage lender shall
16 contract for or receive attorney's fees from a residential
17 mortgage debtor except as follows:

18 (1) Reasonable fees for services included in actual
19 settlement costs.

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

28 (3) PRIOR TO COMMENCEMENT OF FORECLOSURE OR OTHER LEGAL <—
29 ACTION ATTORNEYS' FEES WHICH ARE REASONABLE AND ACTUALLY
30 INCURRED NOT IN EXCESS OF FIFTY DOLLARS (\$50) PROVIDED THAT NO

1 ATTORNEYS' FEES MAY BE CHARGED FOR LEGAL EXPENSES INCURRED PRIOR
2 TO OR DURING THE THIRTY-DAY NOTICE PERIOD PROVIDED IN SECTION
3 403 OF THIS ACT.

4 Section 407. Confession of Judgment.--(a) As to any
5 residential mortgage, a plaintiff shall not have the right to
6 levy, execute or garnish on the basis of any judgment or decree
7 on confession, whether by amicable action or otherwise, or on a
8 note, bond or other instrument in writing confessing judgment
9 until plaintiff, utilizing such procedures as may be provided in
10 the Pennsylvania Rules of Civil Procedure, files an appropriate
11 action and proceeds to judgment or decree against defendant as
12 in any original action. The judgment by confession shall be
13 changed as may be appropriate by a judgment, order or decree
14 entered by the court in the action. After the above mentioned
15 original action has been prosecuted and a judgment obtained,
16 that judgment shall merge with the confessed judgment and the
17 confessed judgment shall be conformed as to amount and execution
18 shall be had on the confessed judgment. The parties to the
19 action shall have the same rights as parties to other original
20 proceedings. Nothing in this act shall prohibit a residential
21 mortgage lender from proceeding by action in mortgage
22 foreclosure in lieu of judgment by confession if the residential
23 mortgage lender so desires.

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

28 (c) Hereafter when any plaintiff has received payment in
29 full for any judgment entered by confession he shall order the
30 record in the proceeding marked satisfied within thirty days of

1 the receipt thereof, and shall not require any action on the
2 part of the defendant or any payment by him to cover the cost of
3 satisfying the judgment.

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

7 ARTICLE V

8 Remedies and Penalties

9 Section 501. Excessive Interest Need Not Be Paid.--When a
10 rate of interest for the loan or use of money, exceeding that
11 provided by this act ~~or otherwise by law FOR A RESIDENTIAL~~ <—
12 ~~MORTGAGE COVERED BY THIS ACT~~, OR OTHERWISE BY LAW shall have <—
13 been reserved or contracted for, the borrower or debtor shall
14 not be required to pay to the creditor the excess over such
15 maximum interest rate and it shall be lawful for such borrower
16 or debtor, at his option, to retain and deduct such excess from
17 the amount of such debt providing the borrower or debtor gives
18 notice of the asserted excess to the creditor.

19 Section 502. Usury and Excess Charges Recoverable.--A person
20 who has paid a rate of interest for the loan or use of money at
21 a rate in excess of that provided for by this act ~~or otherwise~~ <—
22 ~~by law FOR A RESIDENTIAL MORTGAGE COVERED BY THIS ACT OR~~ <—
23 OTHERWISE BY LAW or has paid charges prohibited or in excess of
24 those allowed by this act ~~or otherwise by law FOR A RESIDENTIAL~~ <—
25 ~~MORTGAGE COVERED BY THIS ACT OR OTHERWISE BY LAW~~ may recover <—
26 triple the amount of such excess interest or charges in a suit
27 at law against the person who has collected such excess interest
28 or charges: Provided, That no action to recover such excess
29 shall be sustained in any court of this Commonwealth unless the
30 same shall have been commenced within four years from and after

1 the time of such payment. Recovery of triple the amount of such
2 excess interest or charges, but not the actual amount of such
3 excess interest or charges, shall be limited to a four-year
4 period of the contract.

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

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

17 (1) The time and labor required, the novelty and difficulty
18 of the questions involved and the skill requisite properly to
19 conduct the case.

20 (2) The customary charges of the members of the bar for
21 similar services.

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

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

25 (C) ANY TIME ATTORNEYS' FEES ARE AWARDED PURSUANT TO ANY
26 PROVISION OF THIS ACT, A BORROWER OR DEBTOR SHALL NOT BE
27 ENTITLED TO DUPLICATE RECOVERY OF ATTORNEYS' FEES UNDER THIS
28 SECTION, SECTIONS 407 OR 504 OR ANY OTHER PROVISION OF THIS ACT.

29 Section 504. Individual Actions Permitted.--Any person
30 affected by a violation of the act shall have the substantive

1 right to bring an action on behalf of himself individually for
2 damages by reason of such conduct or violation, together with
3 costs including reasonable attorney's fees and such other relief
4 to which such person may be entitled under law.

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

8 Section 506. Enforcement.--When the Attorney General has
9 reason to believe that any person has violated the provisions of
10 this act, or the regulations promulgated hereunder, he shall
11 have standing to bring a civil action for injunctive relief and
12 such other relief as may be appropriate to secure compliance
13 with this act or the regulations promulgated hereunder.

14 SECTION 507. EFFECT ON OTHER ACTS.--THE REMEDIES AND
15 PENALTIES PROVIDED IN THIS ACT SHALL BE SUPPLEMENTARY TO AND
16 SHALL NOT REPEAL OR OTHERWISE EFFECT THE REMEDIES AND PENALTIES
17 PROVIDED IN ANY OTHER ACT.

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18 ARTICLE VI

19 General Provisions

20 Section 601. Regulations.--The Secretary of Banking shall
21 prescribe regulations to carry out the purposes of this act.
22 These regulations may contain such classifications,
23 differentiations, or other provisions, and may provide for such
24 adjustments for any class of transactions, as in the judgment of
25 the department are necessary or proper to effectuate the
26 purposes of this act, to prevent circumvention or evasion
27 thereof, to facilitate compliance therewith, to insure
28 meaningful disclosure to the user of residential mortgage
29 credit, and to insure their being supplemental to and not
30 inconsistent with regulations under the Federal Consumer Credit

1 Protection Act.

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

7 Section 603. Repeals.--The act of May 28, 1858 (P.L.622, No.
8 557), entitled "An act Regulating the Rate of Interest," is
9 hereby repealed. ~~ONLY TO THE EXTENT APPLICABLE TO RESIDENTIAL~~ <—
10 ~~MORTGAGES WITHIN THE SCOPE OF THIS ACT.~~

11 Section 604. Effect on Inconsistent Acts.--If any maximum
12 lawful rate of interest provided for in this act is inconsistent
13 with the provision of any other act establishing, permitting or
14 removing a maximum interest rate, or prohibiting the use of
15 usury as a defense, then the provision of such other act shall
16 prevail. This shall include but not be limited to the provisions
17 of the act of April 8, 1937 (P.L.262, No.66). ~~EXCEPT WITH~~ <—
18 ~~RESPECT TO RESIDENTIAL MORTGAGES ON WHICH THE MAXIMUM LAWFUL~~
19 ~~RATE OF INTEREST SHALL BE DETERMINED PURSUANT TO SECTION 301 OF~~
20 ~~THIS ACT, NOTHING IN THIS ACT SHALL PROHIBIT BANKS AND BANK AND~~
21 ~~TRUST COMPANIES, SUBJECT TO THE ACT OF NOVEMBER 30, 1965~~
22 ~~(P.L.847, NO.356), FROM CHARGING A MAXIMUM RATE OF INTEREST NOT~~
23 ~~IN EXCESS OF THE MAXIMUM LAWFUL INTEREST RATE PERMITTED TO BE~~
24 ~~CHARGED BY A NATIONAL BANK LOCATED IN PENNSYLVANIA UNDER 12~~
25 ~~U.S.C. §85.~~

26 Section 605. Effective Date.--This act shall take effect
27 immediately except that sections 401, 403 and 404 shall take
28 effect in sixty days. Notwithstanding any other provision of
29 this act, the Secretary of Banking, immediately upon final
30 enactment of this act, shall determine the maximum lawful rate

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