

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 483**      Session of  
2007

INTRODUCED BY BROWNE, FERLO, BOSCOLA, PILEGGI, ERICKSON, COSTA  
AND BAKER, MARCH 15, 2007

REFERRED TO BANKING AND INSURANCE, MARCH 15, 2007

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 "department"; and further providing  
24 for the definition of "residential mortgage" and for the  
25 duties of the Department of Banking.

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

28 Section 1. The definition of "residential mortgage" in  
29 section 101 of the act of January 30, 1974 (P.L.13, No.6),

1 referred to as the Loan Interest and Protection Law, and more  
2 commonly referred to as the Usury Law, amended April 6, 1979  
3 (P.L.15, No.4), is amended and the section is amended by adding  
4 a definition to read:

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

6 \* \* \*

7 "Department" means the Department of Banking of the  
8 Commonwealth.

9 \* \* \*

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] one hundred ninety-seven  
13 thousand dollars (\$197,000) or less, adjusted annually for  
14 inflation by the Department of Banking through notice published  
15 in the Pennsylvania Bulletin, evidenced by a security document  
16 and secured by a lien upon real property located within this  
17 Commonwealth containing two or fewer residential units or on  
18 which two or fewer residential units are to be constructed and  
19 shall include such an obligation on a residential condominium  
20 unit.

21 \* \* \*

22 Section 2. Section 201 of the act is amended to read:

23 Section 201. Maximum Lawful Interest Rate.--(a) 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 (b) The maximum lawful rate of interest set forth in this  
30 section shall not apply to:

1     (1) an obligation to pay a sum of money in an original bona  
2 fide principal amount of more than fifty thousand dollars  
3 (\$50,000);

4     (2) an unsecured, noncollateralized loan in excess of thirty-  
5 five thousand dollars (\$35,000); or

6     (3) business loans of any principal amount.

7     Section 3. Section 301(f) of the act, amended October 5,  
8 1978 (P.L.1100, No.258), is amended to read:

9     Section 301. Residential Mortgage Interest Rates.--\* \* \*

10     (f) The maximum lawful rate of interest set forth in this  
11 section [and in Article II of this act] shall not apply to (i)  
12 an obligation to pay a sum of money in an original bona fide  
13 principal amount of more than [fifty thousand dollars (\$50,000)]  
14 one hundred ninety-seven thousand dollars (\$197,000), adjusted  
15 annually for inflation by the department through notice  
16 published in the Pennsylvania Bulletin; (ii) an obligation to  
17 pay a sum of money in an original bona fide principal amount of  
18 [fifty thousand dollars (\$50,000) or less] one hundred ninety-  
19 seven thousand dollars (\$197,000) or less, adjusted annually for  
20 inflation by the department through notice published in the  
21 Pennsylvania Bulletin, evidenced by a security document and  
22 secured by a lien upon real property, other than residential  
23 real property as defined in this act; [(iii) to a loan to a  
24 person subject to the act of April 27, 1927 (P.L.404, No.260),  
25 entitled "An act prohibiting corporations from pleading usury as  
26 a defense," section 313 of the act of May 5, 1933 (P.L.364,  
27 No.106), known as the "Business Corporation Law," or Title 15  
28 Pa.C.S. section 7544; or (iv) an unsecured, noncollateralized  
29 loan in excess of thirty-five thousand dollars (\$35,000);] or  
30 (v) business loans [the principal amount of which is in excess

1 of ten thousand dollars (\$10,000)] of any principal amount.

2 Section 4. Sections 505 and 506 of the act are amended to  
3 read:

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

7 (b) Any person who violates a provision of this act shall be  
8 subject to a fine levied by the department of ten thousand  
9 dollars (\$10,000) per offense.

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

17 (b) The department may examine any instrument, document,  
18 account, book, record, electronic data or file of any person, or  
19 make such other investigation as may be necessary to administer  
20 the provisions of this act. Any person subject to such  
21 examination or investigation shall pay the department any costs  
22 associated with such examination or investigation. In connection  
23 with any examination or investigation authorized by this act,  
24 the department shall have the power to issue subpoenas requiring  
25 the attendance of, or the production of pertinent books, papers,  
26 electronic data or information of any kind which is in any form  
27 by, the officers, directors, agents, employees, or members,  
28 respectively, of any person which the department is authorized,  
29 under the provisions of this act, to examine. The department  
30 shall have power to issue subpoenas to any other person or

1 entity of any kind whatsoever provided that the information from  
2 such person or entity is necessary for the enforcement of this  
3 act. The department shall also have the power to question such  
4 witnesses under oath or affirmation, and to examine such books  
5 and papers. Any witness who refuses to obey a subpoena issued  
6 under this section, or who refuses to be sworn or affirmed, or  
7 to testify, or who is guilty of any contempt after summons to  
8 appear, may be found in contempt of court. For this purpose, an  
9 application may be made to Commonwealth Court or any court of  
10 common pleas within whose territorial jurisdiction the offense  
11 was committed, for which purpose such court is hereby given  
12 jurisdiction.

13 (c) If the department determines that a person has violated  
14 the provisions of this act, the department may do any of the  
15 following:

16 (1) Suspend, revoke or refuse to renew any license issued to  
17 the person by the department.

18 (2) Prohibit or permanently remove an individual responsible  
19 for a violation of this act from working in his or her present  
20 capacity or in any other capacity related to activities  
21 regulated by the department.

22 (3) Order the person to cease and desist any violation of  
23 this act and to make restitution for actual damages to any  
24 aggrieved person.

25 (4) Require the person to pay costs associated with any  
26 department enforcement action initiated under the provisions of  
27 this act.

28 (5) Impose such other conditions by order or otherwise as  
29 the department deems appropriate.

30 Section 5. This act shall take effect in 60 days.