

Sec. 2. This act shall be effective upon its approval by the board of Independent School District No. 710 and upon compliance with section 645.021.

Approved March 23, 1978.

CHAPTER 528-S.F.No.1656

[Not Coded]

An act relating to parks; authorizing the use of certain appropriated money for the acquisition and development of recreation facilities for the handicapped at Islands of Peace park; amending Laws 1977, Chapter 352, Section 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Laws 1977, Chapter 352, Section 1, is amended to read:

Section 1. **RECREATION FACILITIES FOR THE HANDICAPPED; ISLANDS OF PEACE PARK; APPROPRIATION.** There is appropriated from the general fund in the state treasury to the state planning agency the sum of \$150,000 to be used to acquire and develop recreation facilities which demonstrate the feasibility of meeting the special needs of handicapped persons at Islands of Peace park in the city of Fridley. This appropriation is available until the project is completed or abandoned. The director of the state planning agency shall not allocate any funds to any local unit of government until (1) the commissioner of natural resources has approved a detailed work program proposed by the local unit of government; and (2) the sum of \$50,000 has been raised from other public or private sources for the purposes of this act. Local units of government receiving funds from the state planning agency under this section shall be responsible for the continued operation and maintenance of the land and facilities. If a local unit of government which received funds under this section fails to satisfy this responsibility, the structures and real property within Islands of Peace park purchased with funds under this section and any unexpended funds received pursuant to this section shall revert to the state.

Sec. 2. **EFFECTIVE DATE.** This act is effective the day following its final enactment.

Approved March 23, 1978.

CHAPTER 529-S.F.No.1662

An act relating to commerce; regulating interest rates; providing loan yield computations; providing investigation powers; redefining "banking day"; amending Minnesota Statutes 1976, Sections 51A.39, Subdivision 1; 334.02; 334.03; 336.4-104; Minnesota

Changes or additions indicated by underline deletions by strikeout

Statutes, 1977 Supplement, Section 47.20, Subdivisions 2, 4, and 13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 336.4-104, is amended to read:

336.4-104 **DEFINITIONS AND INDEX OF DEFINITIONS.** (1) In this article unless the context otherwise requires:

(a) "Account" means any account with a bank and includes a checking, time, interest or savings account;

(b) "Afternoon" means the period of a day between noon and midnight;

(c) "Banking day" means that part of any day, excluding Saturday, Sunday and holidays, on which a bank is open to the public for carrying on substantially all of its banking functions;

(d) "Clearinghouse" means any association of banks or other payors regularly clearing items;

(e) "Customer" means any person having an account with a bank or for whom a bank has agreed to collect items and includes a bank carrying an account with another bank;

(f) "Documentary draft" means any negotiable or non-negotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft;

(g) "Item" means any instrument for the payment of money even though it is not negotiable but does not include money;

(h) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(i) "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;

(j) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as instructed. A settlement may be either provisional or final;

(k) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(2) Other definitions applying to this article and the sections in which they appear

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are:

"Collecting bank," section 336.4-105

"Depository bank," section 336.4-105

"Intermediary bank," section 336.4-105

"Payor bank," section 336.4-105

"Presenting bank," section 336.4-105

"Remitting bank," section 336.4-105

(3) The following definitions in other articles apply to this article:

"Acceptance," section 336.3-410

"Certificate of deposit," section 336.3-104

"Certification," section 336.3-411

"Check," section 336.3-104

"Draft," section 336.3-104

"Holder in due course," section 336.3-302

"Notice of dishonor," section 336.3-508

"Presentment," section 336.3-504

"Protest," section 336.3-509

"Secondary party," section 336.3-102

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 2. Minnesota Statutes, 1977 Supplement, Section 47.20, Subdivision 2, is amended to read:

Subd. 2. For the purposes of this section the terms defined in this subdivision have the meanings given them:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

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(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, 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 closing a conventional loan.

(d) Appraisal and survey of real property securing a conventional loan.

(e) A single service charge, which shall include any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional loan, and shall also include any consideration received by the lender for making a commitment for a conventional loan, whether or not an actual loan follows such commitment. The term service charge shall not include developer's commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real property securing a conventional loan or the closing of a conventional loan paid by the borrower and received by any party other than the lender.

(2) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration. The term mortgage shall not include contracts for deed or installment land contracts.

(3) "Developer's commitment fee" means a fee or other consideration paid to a lender by a person in the business of building or arranging for building residential units for the purpose of securing a commitment by the lender to make conventional loans to credit worthy purchasers of residential units, or a fee or other consideration paid to a lender for the purpose of securing a commitment by the lender to make conventional loans to credit worthy purchasers of apartments as defined in section 515.02 to be created

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out of existing structures pursuant to the Minnesota condominium act, by a person creating the apartments.

(4) "Finance charge" means the total cost of a conventional loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional loan or against a seller of real property securing a conventional loan, or any other party to the transaction except any actual closing costs and any developer's commitment fee. The finance charges plus the actual closing costs and any developer's commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional loan.

(5) "Lender" means any person making a conventional loan. The term shall also include the holder or assignee at any time of a conventional loan.

(6) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c) and (d) of Regulation Z, 12 C.F.R. section 226, but using the definition of finance charge provided for in this subdivision. The finance charge shall be amortized over the contract term of the conventional loan.

(7) "Monthly index of long term United States government bond yields" means the monthly unweighted average of the daily unweighted average of the closing bid yield quotations in the over the counter market for all outstanding United States treasury bond issues, based on available statistics, which are either maturing or callable in ten years or more. This index is expressed in terms of percentage interest per annum.

(8) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(9) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and shall include a unit in a townhouse or planned unit development, a condominium apartment, a non-owner occupied residence, and any other type of residence regardless of whether such unit is used as a principal residence, secondary residence, vacation residence or residence of some other denomination.

Sec. 3. Minnesota Statutes, 1977 Supplement, Section 47.20, Subdivision 4, is amended to read:

Subd. 4. No conventional loan shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which shall be based upon the monthly index of long term United States government bond yields as compiled by the United States treasury department and published by the department in the monthly treasury bulletin. The maximum lawful interest rate shall be computed as follows:

(1) The maximum lawful rate of interest for a conventional loan made or contracted for during any calendar month shall be equal to the monthly index of long term United States government bond yields for the second preceding calendar month plus

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an additional two percent per annum rounded off to the nearest quarter of one percent per annum or rounded off to the highest quarter of one percent per annum if equidistant.

(2) On or before the 20th day of each month the commissioner of banking shall determine, based on available statistics, the monthly index of long term United States government bond yields for the preceding calendar month and shall determine the maximum lawful rate of interest for conventional loans for the next succeeding month, as defined in clause (1) and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey county on or before the 20th day of each month and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of the next succeeding month.

~~(3) The loan yield obtained from a conventional loan shall not exceed the maximum lawful rate of interest established in clause (1).~~

(4) ~~(3)~~ A contract rate within the maximum lawful interest rate applicable to a conventional loan at the time the loan is made shall be the maximum lawful interest rate for the term of the conventional loan.

~~(5)~~ (4) Conventional loans made pursuant to a commitment for a conventional loan, including a commitment for conventional loans made upon payment of a developer's commitment fee, which provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time such conventional loan is actually made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued and provided that the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment was issued. The refinancing of (a) an existing conventional loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional loan shall be deemed to be a new conventional loan for purposes of determining the maximum lawful rate of interest under this subdivision. A commitment shall be deemed to be issued on the date the commitment is hand delivered by the lender to the borrower, or mailed to the borrower or to any one of them if there should be more than one.

~~(6)~~ (5) A loan made pursuant to a commitment, including a commitment for conventional loans made upon payment of a developer's commitment fee, issued on or before July 31, 1979 at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the contract or commitment for the loan was made shall continue to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

~~(7)~~ (6) This subdivision expires July 31, 1979.

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Sec. 4. Minnesota Statutes, 1977 Supplement, Section 47.20, Subdivision 13, is amended to read:

Subd. 13. Any conventional loan having an interest rate or loan yield in excess of the maximum lawful interest rate provided for in subdivision 4 shall be usurious and subject to the same penalties as a loan made in violation of section 334.01. Any lender intentionally violating any other provision of this section shall be fined not more than \$100 for each offense.

Sec. 5. Minnesota Statutes 1976, Section 51A.39, Subdivision 1, is amended to read:

51A.39 LOAN EXPENSES. Subdivision 1. FEES AND CHARGES. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorney, abstract, recording, and registration fees, title examination, loan insurance, credit report, survey, drawing of papers, escrow services, loan closing costs, and taxes or charges imposed upon or in connection with the making and recording of any loan. Every association also may require borrowing members to pay the cost of all other necessary and incidental services rendered by the association or by others in connection with real estate and other loans in such reasonable amounts as may be fixed by the board of directors. Without limiting the generality of the foregoing, such costs may include the costs of services of inspectors, engineers, and architects. Such initial charges may be collected by the association from the borrower and paid to any persons, including any director, officer, or employee of the association rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may make a reasonable charge, part or all of which may be retained by the association which renders such service, or part of all of which may be paid to others who render such services. The fees and charges authorized by this and the preceding section shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this state which limits the rate of interest which may be exacted in any transaction. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided. This section shall not apply to a conventional loan made pursuant to section 47.20.

Sec. 6. Minnesota Statutes 1976, Section 334.02, is amended to read:

334.02 USURIOUS INTEREST; RECOVERY. Every person who for any such loan or forbearance shall have paid or delivered any greater sum or value than in section 334.01 allowed to be received may, by himself or his personal representatives, recover in an action against the person who shall have received the same, or his personal representatives, the full amount of interest or premium so paid, with costs, if action ~~therefor be~~ is brought within two years after such payment or delivery; ~~provided, that one-half of the amount so recovered shall be paid by the officer collecting the same into the treasury of the county where collected, for the use of common schools.~~

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Sec. 7. Minnesota Statutes 1976, Section 334.03, is amended to read:

334.03 USURIOUS CONTRACTS INVALID; EXCEPTIONS. All bonds, bills, notes, mortgages, and all other contracts and securities, and all deposits of goods, or any other thing, whereupon or whereby there shall be reserved, secured, or taken any greater sum or value for the loan or forbearance of any money, goods, or things in action than ~~hereinbefore~~ prescribed, except such instruments which are taken or received in accordance with and in reliance upon the provisions of any statute, shall be void except as to ~~bona fide purchasers of negotiable paper, in good faith, for a valuable consideration and before maturity, as hereinafter provided a holder in due course.~~ No merely clerical error in the computation of interest, made without intent to avoid the provisions of this chapter, shall constitute usury. Interest at the rate of one-twelfth of eight percent for every 30 days shall not be construed to exceed eight percent per annum; nor shall the payment of interest in advance of one year, or any less time, at a rate not exceeding eight percent per annum constitute usury; and nothing herein shall prevent the purchase of negotiable mercantile paper, usurious or otherwise, for a valuable consideration, by ~~an innocent~~ a purchaser without notice, at any price before the maturity of the same, when there has been no intent to evade the provisions of this chapter, or where such purchase has not been a part of the original usurious transactions; but where the original holder of a usurious note sells the same to an innocent purchaser, the maker thereof, or his representatives, may recover back from the original holder the amount of principal and interest paid by him on the note.

Sec. 8. This act is effective the day following final enactment.

Approved March 23, 1978.

CHAPTER 530-S.F.No.1684

[Coded]

An act relating to federal aid to state government; requiring consultation with the legislative advisory commission prior to expenditure of certain federal aid.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[4.073] ANTI-RECESSION FINANCIAL ASSISTANCE.** In the case of money received by the state from the federal government under the program for anti-recession financial assistance, 42 U.S.C.A., Sections 6721 to 6735, the money shall not be expended until the governor has consulted with the legislative advisory commission and received its recommendation thereon. The recommendation is advisory only.

Sec. 2. This act is effective the day following final enactment.

Approved March 23, 1978.

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