

owner shall not increase rent, decrease services or bring an action for possession as a penalty for a tenant's:

(a) Good faith complaint to a government agency charged with responsibility for enforcement of a building or housing code or empowered to enforce chapter 327; or

(b) Good faith attempt to exercise his rights or remedies pursuant to chapter 327. The burden of proving otherwise shall be on the mobile home park owner if the action by the owner occurs within 90 days after the tenant has engaged in any of the activities described above. After 90 days the burden of proof shall be on the tenant.

Sec. 10. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved May 29, 1979.

CHAPTER 265—S.F.No.27

An act relating to financial institutions; defining reverse mortgage loans; authorizing investments in reverse mortgage loans by certain financial institutions and insurance companies; providing for disregard of reverse mortgage loan proceeds in determining eligibility or amount of public assistance; providing tax deductions for accrued interest on reverse mortgage loans; allowing lenders to include accrued earned interest on such loans in their yearly earned income under certain circumstances; amending Minnesota Statutes 1978, Section 290.09, Subdivision 3; and Chapters 47, by adding a section; 256, by adding a section; and 290, by adding a section.

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

Section 1. Minnesota Statutes 1978, Chapter 47, is amended by adding a section to read:

[47.58] REVERSE MORTGAGE LOANS. Subdivision 1. DEFINITIONS. For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Reverse mortgage loan" means a loan:

(1) Made to a borrower wherein the committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement;

(2) Which is secured by a mortgage on residential property owned solely by the borrower; and

(3) Which is due when the committed principal amount has been fully paid to the

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borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in chapter 290A.

(b) "Lender" means any bank subject to chapter 48, savings bank organized and operated pursuant to chapter 50, savings and loan association subject to chapter 51A, or any insurance company as defined in section 60A.02, subdivision 4. "Lender" also includes any federally chartered bank supervised by the comptroller of the currency or federally chartered savings and loan association supervised by the federal home loan bank board, to the extent permitted by federal law.

(c) "Borrower" includes any natural person holding an interest in severalty or as joint tenant or tenant-in-common in the property securing a reverse mortgage loan.

(d) "Outstanding loan balance" means the current net amount of money owed by the borrower to the lender whether or not that sum is suspended pursuant to the terms of the reverse mortgage loan agreement or is immediately due and payable. The outstanding loan balance is calculated by adding the current totals of the items described in clauses (1) to (5) and subtracting the current totals of the item described in clause (6):

(1) The sum of all payments made by the lender which are necessary to clear the property securing the loan of any outstanding mortgage encumbrance or mechanics or materialmen's lien.

(2) The total disbursements made by the lender to date pursuant to the loan agreement as formulated in accordance with subdivision 3.

(3) All taxes, assessments, insurance premiums and other similar charges paid to date by the lender pursuant to subdivision 6, which charges were not reimbursed by the borrower within 60 days.

(4) All actual closing costs which the borrower has deferred, if a deferral provision is contained in the loan agreement as authorized by subdivision 7.

(5) The total accrued interest to date, as authorized by subdivision 5.

(6) All payments made by the borrower pursuant to subdivision 4.

(e) "Actual closing costs" mean reasonable charges or sums ordinarily paid at the time of closing for the following, whether or not retained by the lender:

(1) Any insurance premiums on policies covering the mortgaged property including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance.

(2) Abstracting, title examination and search, and examination of public records related to the mortgaged property.

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(3) The preparation and recording of any or all documents required by law or custom for closing a reverse mortgage loan agreement.

(4) Appraisal and survey of real property securing a reverse mortgage loan.

(5) A single service charge, which service charge shall include any consideration, not otherwise specified in this section as an "actual closing cost", paid by the borrower to the lender for or in relation to the acquisition, making, refinancing or modification of a reverse mortgage loan, and shall also include any consideration received by the lender for making a commitment for a reverse mortgage loan, whether or not an actual loan follows the commitment. The service charge shall not exceed one percent of the bona fide committed principal amount of the reverse mortgage loan.

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

Subd. 2. AUTHORIZATION. Pursuant to rules which the commissioner of banks or commissioner of insurance may find to be necessary and proper, if any, and subject to federal laws and regulations, lenders may make investments in reverse mortgage loans and purchases of obligations representing reverse mortgage loans, provided the aggregate total of committed principal of the investment in reverse mortgage loans by any bank, savings bank, or savings and loan association, does not exceed five percent of that lender's total deposits and savings accounts. This limitation shall be determined at each June 30 and December 31 for the following six month period. Any decline in the total of deposits and savings accounts subsequent to a determination may be disregarded. Security for loans made under this section shall be a first lien on residential property (a) which the borrower occupies as principal residence and which qualifies for a homestead credit pursuant to section 273.13, and (b) to which the borrower alone has title.

Subd. 3. PAYMENT; REPAYMENT; AMOUNT. The committed principal amount of a reverse mortgage loan shall be paid to the borrower over the period of months or years as specified in the loan agreement. The borrower and lender may, by written agreement, amend the loan agreement from time to time. Pursuant to the terms of the contract the borrower shall make repayment to the lender:

(a) Upon payment to the borrower of the final installment unless, by written agreement between the borrower and lender whereunder the borrower agrees to periodically pay the lender interest accruing on the outstanding loan balance, repayment of the outstanding loan balance is postponed until default in payment of interest or until the occurrence of any of the events specified in clauses (b) to (e):

(b) Upon sale of the property securing the loan;

(c) Upon the death of the last surviving borrower;

(d) Upon the borrower terminating use of the property as principal residence so as to disqualify the property from the homestead credit given in section 273.13; or

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(e) Upon renegotiation of the terms of the reverse mortgage loan agreement, unless the parties agree in writing to postpone repayment.

Except as otherwise provided in this subdivision, the outstanding loan balance as projected by the lender to the anticipated time of payment to the borrower of the final installment of committed principal shall not exceed 80 percent of the appraised value of the property at inception of the loan. If upon reappraisal of the property made at any time during the term of the loan, the projected outstanding loan balance does not exceed 70 percent of the reappraised value of the property, the schedule of the lender's installment payments may be extended and the amount of the committed principal amount increased, provided the revised outstanding loan balance at payment of the lender's final installment of committed principal does not exceed 80 percent of the reappraised value of the property.

Subd. 4. EXTENSION; EARLY REPAYMENT. The installments may be extended by written agreement of the parties and repayment or partial repayment of the outstanding loan balance may be made at any time without penalty, except that partial repayment may be made not more often than once per year and in no amount less than \$1,000. The borrower may cancel the reverse mortgage loan at any time without penalty by payment of the outstanding loan balance.

Subd. 5. INTEREST. Notwithstanding the provisions of section 334.01, subdivision 1, lenders may make reverse mortgage loans and purchases of obligations representing reverse mortgage loans, at an interest rate or loan yield not in excess of the maximum lawful interest rate prescribed for conventional loans by section 47.20, subdivision 4. If section 47.20, subdivision 4 expires, the interest rate last published pursuant to the provisions of section 47.20, subdivision 4 shall be the maximum lawful interest rate for reverse mortgage loans. A contract rate within the maximum lawful interest rate applicable to a reverse mortgage loan at the time the loan is made shall be the maximum lawful interest rate for the term of the reverse mortgage loan.

Notwithstanding the provisions of section 334.01, subdivision 1, a reverse mortgage loan agreement may provide that interest will be added to the outstanding loan balance monthly as it accrues, with interest accruing on the outstanding loan balance at a rate not to exceed the rate of interest permitted under this subdivision at the time of the signing of the original loan agreement or any subsequent extension agreement.

Subd. 6. TAXES; INSURANCE. The borrower shall pay real estate taxes, assessments and insurance premiums on the property securing the loan, and the lender may require the borrower to provide evidence of payment. If the borrower does not make timely payment the lender may pay taxes, assessments, insurance premiums and other similar charges for the protection of the property securing its loan and may add these payments to the outstanding loan balance if not repaid by the borrower within 60 days after the borrower receives notice that the lender has made the payment.

Subd. 7. LOAN CLOSING. The lender may require the borrower to pay no more than actual closing costs incurred in connection with the making, closing, disbursing or extending of a reverse mortgage loan. A reverse mortgage loan agreement or extension

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agreement may provide for deferral of payment of any portion of actual closing costs. Deferred closing costs shall be added to the outstanding loan balance as provided, in section 1, subdivision 1, clause (e). Unless the agreement provides for deferral, actual closing costs shall be paid by the borrower at the time of signing the agreement.

Upon signing a reverse mortgage loan agreement or extension agreement the lender shall furnish to the borrower:

(a) A schedule showing the projected pattern of the outstanding loan balance over the period of the agreement;

(b) A statement indicating in detail the charges and fees the borrower has paid or obligated himself to pay to the lender or to any other person in connection with the loan; and

(c) Any other information required by state or federal law.

Sec. 2. Minnesota Statutes 1978, Chapter 256, is amended by adding a section to read:

[256.99] REVERSE MORTGAGE PROCEEDS DISREGARDED. All reverse mortgage loan proceeds received pursuant to section 1, including interest or earnings thereon, shall be disregarded and shall not be considered available to the borrower for purposes of determining initial or continuing eligibility for, or amount of, medical assistance or any other public assistance program, or federal or state low interest loan or grant. This section applies regardless of the time elapsed since the loan was made or the disposition of the proceeds.

Sec. 3. Minnesota Statutes 1978, Section 290.09, Subdivision 3, is amended to read:

Subd. 3. **INTEREST.** (a) All interest paid or accrued within the taxable year on indebtedness, except as hereinafter provided.

(b) Interest paid or accrued within the taxable year on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is excludable from gross income under section 290.08, or on indebtedness incurred or continued in connection with the purchasing or carrying of a single premium life insurance, annuity, or endowment contract, shall not be allowed as a deduction. (For purposes of this paragraph, a contract shall be treated as a single premium contract if substantially all the premiums on the contract are paid within a period of four years from the date on which the contract is purchased, or if an amount is deposited after January 1, 1955 with the insurer for payment of a substantial number of future premiums on the contract.)

(c) If personal property or educational services are purchased under a contract which provides that payment of part or all of the purchase price is to be made in installments, and in which carrying charges are separately stated but the interest charge cannot be ascertained, then the payments made during the taxable year under the

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contract shall be treated for purposes of this paragraph as if they included interest equal to six percent of the average unpaid balance under the contract during the taxable year, and such interest shall be allowed as a deduction. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12. In the case of any contract to which this paragraph applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

For purposes of this subdivision the term "educational services" means any service including lodging which is purchased from an educational institution (as defined in section 151(e) (4) of the Internal Revenue Code of 1954, as amended through December 31, 1976) and which is provided for a student of such institution.

(d) A cash basis taxpayer may elect to deduct interest as it accrues on a reverse mortgage loan as defined in section 1, subdivision 1 of this act, rather than when it is actually paid. This election must be made, if at all, in the first taxable year in which it is available to the cash basis taxpayer and, if made, shall be binding on the taxpayer for each subsequent taxable year until maturity of the loan.

Sec. 4. Minnesota Statutes 1978, Chapter 290, is amended by adding a section to read:

[290.165] INTEREST ON REVERSE MORTGAGE LOANS; HOW TAKEN INTO ACCOUNT IN COMPUTING NET INCOME. Irrespective of the accounting basis used for tax computation purposes, any lender as defined in section 1, subdivision 1, who enters into a reverse mortgage loan or purchases an obligation representing a reverse mortgage loan may elect to include as part of its yearly earned income any accrued interest charged to the outstanding loan balance of its borrower pursuant to section 1, subdivision 5 of this act. This election must be made, if at all, in the first taxable year in which interest is charged by the lender on the outstanding loan balance and, if made, shall be binding on the lender for each subsequent taxable year until the loan is repaid in full. When accrued interest is charged to the outstanding loan balance pursuant to this section it shall be recognized as earned income to the lender on a monthly basis.

Sec. 5. This act is effective January 1, 1980. Sections 3 and 4 are effective for taxable years commencing after December 31, 1979.

Approved May 30, 1979.

CHAPTER 266—S.F.No.481

An act relating to transportation; appropriating money to the department of transportation for the purpose of providing operating subsidies for Medicine Lake transit service under certain conditions.

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