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**CHAPTER 278—H.F.No.534**

*An act relating to Murray and Goodhue Counties; allowing the county and local government units to participate in a federal railroad assistance program.*

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

Section 1. Murray County, Goodhue County and the statutory and home rule charter cities and towns in Murray County and Goodhue County may disburse money to participate in the federal local rail service continuation program conducted pursuant to 49 U.S.C.A. Section 1654.

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

Approved May 30, 1979.

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**CHAPTER 279—H.F.No.564**

*An act relating to financial institutions; providing a new interest index for conventional home loans; regulating mortgage assumptions; regulating private mortgage insurance; regulating various interest rates; amending Minnesota Statutes 1978, Sections 47.20, Subdivisions 2, 3, 4, 6, 7, and 13, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1978, 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:

(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.

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(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 borrower's interest rate commitment or for making a borrower's loan commitment ~~for a conventional loan~~, whether or not an actual loan follows such commitment. The term service charge shall not include ~~developer's forward~~ 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 Forward~~ 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 binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, by a ~~person creating the apartments provided that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.~~

(4) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional loan is made

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following issuance of and pursuant to the commitment, the conventional loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

(5) "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and 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 is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue such borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(4) (6) "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 forward commitment fee. The finance charges plus the actual closing costs and any developer's forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional loan.

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

(6) (8) "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) (9) "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.

(10) "Monthly index of the federal national mortgage association auction yields" means the gross weighted average yield of accepted offers in the second free market system conventional home mortgage auction held by the federal national mortgage association in a month.

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

(9) (12) "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. 2. Minnesota Statutes 1978, Section 47.20, Subdivision 3, is amended to read:

Subd. 3. Notwithstanding the provisions of section 334.01, lenders are authorized to make conventional loans and purchases of obligations representing conventional loans pursuant to such rules as the commissioner of banks finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4 or 4a.

Sec. 3. Minnesota Statutes 1978, 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 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) 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.

(4) Conventional loans made pursuant to a borrower's interest rate commitment for a conventional loan, ~~including or made pursuant to a borrower's loan commitment, or made pursuant to~~ a commitment for conventional loans made upon payment of a ~~developer's forward~~ commitment fee including a borrower's loan commitment issued

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pursuant to a forward commitment, which commitment 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~~ the 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 borrower's interest rate commitment or a borrower's loan 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. A forward commitment shall be deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one.~~

(5) A loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, ~~including or made pursuant to a forward commitment for conventional loans made upon payment of a developer's forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment~~, issued on or before July 31, ~~1979~~ 1983 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.

(6) This subdivision expires July 31, ~~1979~~ 1983.

Sec. 4. Minnesota Statutes 1978, Section 47.20, is amended by adding a subdivision to read:

Subd. 4a. 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 the federal national mortgage association auction yields as compiled by the federal national mortgage association. 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 the federal national mortgage association auction yields for the first preceding calendar month rounded off to the next highest quarter of one percent per annum.

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(2) On or before the last day of each month the commissioner of banking shall determine, based on available statistics, the monthly index of the federal national mortgage association auction yields for that 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 first day of each month or as soon thereafter as practicable 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 that month. If a federal national mortgage association free market system conventional home mortgage auction is not held in any month, the maximum lawful rate of interest determined by the commissioner of banks pursuant to the last auction shall be the maximum lawful rate of interest through the last day of the month in which the next auction is held.

(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.

(4) Conventional loans made pursuant to a borrower's interest rate commitment or made pursuant to a borrower's loan commitment, or made pursuant to a commitment for conventional loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, which commitment 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 the 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. 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 borrower's interest rate commitment or a borrower's loan commitment shall be deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment shall be deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one.

(5) A loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a forward commitment for conventional loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, issued on or before November 30, 1982, at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made shall continue to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision supersedes subdivision 4 from the effective date of this act

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until November 30, 1982.

(7) This subdivision expires November 30, 1982.

Sec. 5. Minnesota Statutes 1978, Section 47.20, Subdivision 6, is amended to read:

Subd. 6. If the purpose of a conventional loan is to enable a borrower to purchase a one to four family dwelling for his or her primary residence, the lender shall consent to the subsequent transfer of the real estate if the existing borrower continues after transfer to be obligated for repayment of the entire remaining indebtedness. The lender shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, and (2) executes an agreement in writing with the lender whereby the transferee assumes the obligations of the existing borrower under the loan instruments. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument. A lender may charge a fee not in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan or advance of credit is assumed by the transferee and the existing borrower continues after the transfer to be obligated for repayment of the entire assumed indebtedness. A lender may charge a fee not in excess of one percent of the remaining unpaid principal balance in the event the remaining indebtedness is assumed by the transferee and the existing borrower is released from all obligations under the loan instruments. No conventional loan or loan authorized in subdivision 4 made on or after the effective date of Laws 1977, Chapter 350 shall contain a provision requiring or permitting the imposition of a fee or penalty in excess of one-tenth of one percent of the remaining unpaid principal balance in the event the loan or advance of credit and the obligation incurred thereby is assumed by another person.

Sec. 6. Minnesota Statutes 1978, Section 47.20, Subdivision 7, is amended to read:

Subd. 7. (1) No conventional loan made on or after the effective date of Laws 1977, Chapter 350 and prior to the effective date of this act shall contain a provision requiring or permitting the imposition, directly or indirectly, of any discount points, whether or not actually denominated as discount points, on any person. Conventional loans made on or after the effective date of this act may contain provisions permitting discount points, if the loan does not provide a loan yield in excess of that permitted by subdivision 4 or 4a. The loan yield is computed using the amount resulting when the discount points are included in the finance charge.

(2) Forward commitment fees are not discount points shall be deemed not to include a developer's commitment fee within the meaning of this subdivision.

(3) No charges, fees, or sums permitted by this section which are paid to and received by a lender may be increased for purposes of evading compliance with this subdivision.

(4) This subdivision shall not apply to conventional loans secured by mortgages  
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committed for purchase, purchased, or sold by the government national mortgage association pursuant to Section 445 of the Housing and Urban Development Act of 1969; Public Law 91-152; if the charge for any discount points when added to the finance charge does not result in a loan yield in excess of that permitted by subdivision 4. The loan yield shall be computed using the sum resulting when the discount points are so added to the finance charge.

Sec. 7. Minnesota Statutes 1978, 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 or 4a as applicable 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. 8. Minnesota Statutes 1978, Section 47.20, is amended by adding a subdivision to read:

Subd. 14. (a) A lender requiring or offering private mortgage insurance shall make available to the borrower or other person paying the insurance premium the same premium payment plans as are available to the lender in paying the private mortgage insurance premium.

(b) Any refund or rebate for unearned private mortgage insurance premiums shall be paid to the borrower or other person actually providing the funds for payment of the premium.

Sec. 9. This act is effective the day following final enactment.

Approved May 30, 1979.

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#### CHAPTER 280—H.F.No.597

*An act relating to the state transportation system; authorizing the issuance and sale of Minnesota state transportation bonds; authorizing the expenditure of the proceeds for grants for construction and reconstruction of certain bridges and for certain preliminary studies; appropriating money; amending Minnesota Statutes 1978, Section 174.50, by adding a subdivision.*

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

Section 1. **STATE TRANSPORTATION BONDS; ISSUANCE AND SALE.** The commissioner of finance shall, upon the request of the commissioner of transportation, issue and sell Minnesota state transportation bonds for the purposes provided in Minnesota Statutes, Section 174.51, Subdivision 1, in the aggregate principal amount of \$52,000,000 in the manner and upon the conditions prescribed in Minnesota Statutes,

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