

compliance with Minnesota Statutes, Section 645.021.

Approved April 30, 1979.

CHAPTER 48—H.F.No.486

An act relating to usury; extending the expiration date on the law authorizing flexible interest rates on home loans; regulating assumptions of certain mortgages; amending Minnesota Statutes 1978, Section 47.20, Subdivisions 4, 6 and 9.

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

Section 1. 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 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

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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.

(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~~ 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. 2. Minnesota Statutes 1978, Section 47.20, Subdivision 6, is amended to read:

Subd. 6. ~~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. 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~~

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instruments. This subdivision shall apply to conventional loans made on or after the effective date of this act.

Sec. 3. Minnesota Statutes 1978, Section 47.20, Subdivision 9, is amended to read:

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one to four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans 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, shall calculate interest on such funds at a rate of not less than ~~four~~ five percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to his account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976 as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

(a) the mortgagor may manage the payment of insurance and taxes by himself;

(b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or

(c) the mortgagor may elect to maintain a non-interest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b)

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and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to subdivision 9.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, Chapter 350 amending the subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause (2) shall be on forms approved by the commissioner of banking and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause (2) does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

(4) A mortgagee shall make timely payments of tax and insurance bills provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds the mortgagee shall promptly notify the mortgagor of the shortage. Failure to make the payment required by this clause shall subject the mortgagee to liability for all damages caused by the failure except that this sentence shall not deprive the mortgagee of the right to present any legal defenses in any subsequent proceeding. The mortgagee is permitted to make any payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

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CHAPTER 49—H.F.No.523

An act relating to public health; prescribing fees for diagnostic laboratory services provided by the department of health; providing exemptions for charging fees; authorizing the commissioner of health to promulgate rules; amending Minnesota Statutes 1978, Chapter 144, by adding a section.

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