

CHAPTER 136 — H.F.No. 564

An act relating to insurance; allowing a township mutual fire insurance company to insure certain property; amending Minnesota Statutes 1980, Section 67A.14, Subdivision 5.

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

Section 1. Minnesota Statutes 1980, Section 67A.14, Subdivision 5, is amended to read:

Subd. 5. **WHAT MAY NOT BE INSURED; PROPERTY OUTSIDE DESIGNATED TERRITORY; EXCEPTIONS.** (a) No township mutual fire insurance company shall insure any property in cities of the first or second class ~~of~~.

(b) If by annexation or other growth in population a city, town, township or unorganized territory or any portion thereof is reclassified into a city of the second class, a township mutual insurance company may continue to do business in that portion of the city in which it was authorized to do business prior to the reclassification.

(c) No township mutual insurance company shall insure any property outside of the limits of the territory in which the company is authorized by its certificate or articles of incorporation to transact business, ~~except personal property temporarily outside of the authorized territory.~~

(d) The prohibition in clause (c) shall not apply to any property temporarily outside of the authorized territory of the township mutual insurance company.

Approved May 8, 1981

CHAPTER 137 — H.F.No. 579

An act relating to financial institutions; allowing new mortgage instruments; modifying rate restrictions on certain loans; providing a maximum late charge on certain loans; amending Minnesota Statutes 1980, Section 47.20, Subdivisions 1, 2, 4, 4a, 6, 12, and by adding subdivisions.

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

Section 1. Minnesota Statutes 1980, Section 47.20, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. Pursuant to such rules as the commissioner of banks finds to be necessary and proper, if any, banks, savings banks, mutual savings banks, building and loan associations, and savings and loan associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of banks, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, or approved or certified by the federal home loan mortgage corporation, or approved or certified by the federal national mortgage association, are authorized:

(1) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are insured or guaranteed by the secretary of housing and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration pursuant to the consolidated farm and rural development act, Pub. L. 87-128, as amended, and to obtain such insurance or guarantees;

(2) To make such loans secured by mortgages on real property which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration has insured or *guaranteed or made a commitment to insure or guarantee, and to obtain such insurance or guarantees;*

(3) To make, purchase, or participate in such loans and advances of credit as would be eligible for purchase, in whole or in part, by the federal national mortgage association or the federal home loan mortgage corporation, but without regard to any limitation placed upon the maximum principal amount of an eligible loan;

(4) To make, purchase or participate in such loans and advances of credit secured by mortgages on real property which are authorized by the federal home loan bank board or the office of the comptroller of the currency.

Sec. 2. Minnesota Statutes, 1980, 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

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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 includes 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 also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include 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) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than \$100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "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, and which is not made pursuant to the authority granted

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in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.

(4) "Forward commitment fee" means 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 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, 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.

(5) "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 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.

(6) "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 the 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.

(7) "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 forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender

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other than the principal of the conventional loan. The finance charge, with respect to wraparound mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate of those funds actually advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

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

(9) "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. For purposes of this section, with respect to wraparound mortgages, the rate of interest or loan yield shall be based upon the principal balance set forth in the wraparound note and mortgage and shall not include any interest differential or yield differential between the stated interest rate on the wraparound mortgage and the stated interest rate on the one or more prior mortgages included in the stated loan amount on a wraparound note and mortgage.

(10) "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.

(11) "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.

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

(13) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes 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.

(14) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed.

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Sec. 3. Minnesota Statutes 1980, Section 47.20, Subdivision 4, is amended to read:

Subd. 4. No conventional loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which is 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 or contract for deed made or contracted for during any calendar month is 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 or contracts for deed 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 or contract for deed~~ at the time the loan is made shall be the maximum lawful interest rate for the term of the ~~conventional loan or contract for deed~~.

(4) Contracts for deed executed pursuant to a commitment for a contract for deed, or 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 contract for deed or conventional loan is actually executed or 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 administra-

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tor of the farmers home administration, or (c) a contract for deed by making a conventional loan is 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 is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is 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. *A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or his authorized agent.

(5) A contract for deed executed pursuant to a commitment for a contract for deed, or 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 July 31, 1983 at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision expires July 31, 1983.

Sec. 4. Minnesota Statutes 1980, Section 47.20, Subdivision 4a, is amended to read:

Subd. 4a. No conventional loan or contract for deed 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 or contract for deed made or contracted for during any calendar month is 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.

(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 or contracts for deed 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

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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 is 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 or contract for deed~~ at the time the loan is made is the maximum lawful interest rate for the term of the ~~conventional loan or contract for deed~~.

(4) Contracts for deed executed pursuant to a commitment for a contract for deed, or 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 contract for deed or conventional loan is actually executed or 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 is 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 is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is 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. A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or his authorized agent.

(5) A contract for deed executed pursuant to a commitment for a contract for deed, or 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 continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision supersedes subdivision 4 from May 31, 1979 until November 30, 1982.

(7) This subdivision expires November 30, 1982.

Sec. 5. Minnesota Statutes 1980, 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. This subdivision applies to all conventional loans made on or after June 1, 1979, and before the effective date of this act.

Sec. 6. Minnesota Statutes 1980, Section 47.20, is amended by adding a subdivision to read:

Subd. 6a. If the purpose of a conventional loan, or loan made pursuant to the authority granted in subdivision 1, clause (3) or (4), 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 and 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, (2) executes an agreement in writing with the lender whereby the transferee

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assumes the obligations of the existing borrower under the loan instruments, and (3) executes an agreement in writing to pay interest on the remaining obligation at a new interest rate which will be the bank's current market rate of interest on similar loans at the time of the transfer, but which will be no greater than the most recently published monthly index of the federal national mortgage association auction yields as compiled by the federal national mortgage association. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument.

Sec. 7. Minnesota Statutes 1980, Section 47.20, is amended by adding a subdivision to read:

Subd. 6b. Charges or fees for late payments on conventional loans shall be governed by chapter 51A for all lenders.

Sec. 8. Minnesota Statutes 1980, Section 47.20, Subdivision 12, is amended to read:

Subd. 12. All lenders, including the Minnesota housing finance agency but excluding lenders making no more than five conventional loans in any calendar year, shall make an annual report containing the following information and such further information as the commissioner may require to the commissioner of banks describing the lender's number of:

(a) conventional loans to individuals secured by a residential unit located in this state made during each month of the reporting period and the total dollar amount thereof by month;

(b) conventional loans to individuals secured by a residential unit located in this state not made by the lender but acquired from others, the total dollar amount thereof, and from whom the loans were acquired;

(c) loans, other than conventional loans, to individuals secured by a residential unit located in this state made by the lender categorized as to those 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, those made pursuant to the authority granted in subdivision 1, clause (3) or (4), and all other such loans with the total dollar amount for each category of loan;

(d) conventional loans made by the lender to individuals secured by a residential unit located outside this state and the total dollar amount thereof;

(e) conventional loans to individuals secured by a newly built residential unit located in this state made by the lender and the total dollar amount thereof;

(f) conventional loans made by the lender and sold to the Minnesota housing finance agency and the total dollar amount thereof;

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(g) commitments to individuals issued for conventional loans to be secured by a residential unit located in this state, and not made, and the total dollar amount thereof.

The reports shall be filed on or before March 1 of each year and shall cover the preceding calendar year.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective the day following final enactment.

Approved May 8, 1981

CHAPTER 138 — H.F.No. 588

An act relating to financial institutions; providing for maximum interest rates on overdraft checking loans; amending Minnesota Statutes 1980, Section 48.185, Subdivision 3.

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

Section 1. Minnesota Statutes 1980, Section 48.185, Subdivision 3, is amended to read:

Subd. 3. A bank or savings bank may collect a periodic rate of finance charge in connection with extensions of credit pursuant to ~~this section~~ an overdraft checking plan, which rate does not exceed one and one-half percent per month or, with respect to open-end credit extended in use of a bank credit card, one percent per month, or if no annual charge is imposed pursuant to subdivision 4, clause (a), one and one-half percent per month, computed on an amount no greater than the average daily balance of the account during each monthly billing cycle. Notwithstanding variations from cycle to cycle, a billing cycle is "monthly" for purposes of this section if the average length of 12 successive billing cycles is not less than 30 or more than 32 days. If the billing cycle is other than monthly, the maximum finance charge for that billing cycle shall be that percentage which bears the same relation to one percent or, if applicable, to one and one-half percent as the number of days in the billing cycle bears to 30.

If credit is extended pursuant to an overdraft checking plan on the day on which an increase in the periodic rate of finance charge is made effective pursuant to this section, the rate in effect prior to the increase shall be the maximum lawful rate chargeable on the amount of credit so extended until that credit is fully repaid according to the terms of the plan.

Approved May 8, 1981

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