

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2370 Session of 2012

INTRODUCED BY METZGAR, HESS, AUMENT, EVERETT, GABLER, GROVE,  
KAUFFMAN, MARSHALL, PICKETT AND RAPP, JUNE 18, 2012

REFERRED TO COMMITTEE ON COMMERCE, JUNE 18, 2012

AN ACT

1 Amending the act of January 30, 1974 (P.L.13, No.6), entitled  
 2 "An act regulating agreements for the loan or use of money;  
 3 establishing a maximum lawful interest rate in the  
 4 Commonwealth; providing for a legal rate of interest;  
 5 detailing exceptions to the maximum lawful interest rate for  
 6 residential mortgages and for any loans in the principal  
 7 amount of more than fifty thousand dollars and Federally  
 8 insured or guaranteed loans and unsecured, noncollateralized  
 9 loans in excess of thirty-five thousand dollars and business  
 10 loans in excess of ten thousand dollars; providing  
 11 protections to debtors to whom loans are made including the  
 12 provision for disclosure of facts relevant to the making of  
 13 residential mortgages, providing for notice of intention to  
 14 foreclose and establishment of a right to cure defaults on  
 15 residential mortgage obligations, provision for the payment  
 16 of attorney's fees with regard to residential mortgage  
 17 obligations and providing for certain interest rates by banks  
 18 and bank and trust companies; clarifying the substantive law  
 19 on the filing of and execution on a confessed judgment;  
 20 prohibiting waiver of provisions of this act, specifying  
 21 powers and duties of the Secretary of Banking, and  
 22 establishing remedies and providing penalties for violations  
 23 of this act," further providing for residential mortgage  
 24 interest rates and for effect on inconsistent acts.

25 The General Assembly of the Commonwealth of Pennsylvania  
 26 hereby enacts as follows:

27 Section 1. Section 301(e) of the act of January 30, 1974  
 28 (P.L.13, No.6), referred to as the Loan Interest and Protection  
 29 Law, amended October 5, 1978 (P.L.1127, No.264), is amended to

1 read:

2 Section 301. Residential Mortgage Interest Rates.--\* \* \*

3 (e) In all proceedings and in all legal actions, the maximum  
4 lawful rate of interest for all residential mortgages, as  
5 defined in this act, as published in the Pennsylvania Bulletin  
6 by the Secretary of Banking shall be the maximum lawful rate of  
7 interest for residential mortgages, as defined in this act,  
8 except that variable interest rate mortgages may be written  
9 provided no increase in interest provided for in any provision  
10 for a variable interest rate contained in a security document,  
11 or evidence of debt issued in connection therewith shall be  
12 lawful unless such provision is set forth in such security  
13 document, or in any evidence of debt issued in connection  
14 therewith, or both, and such document or documents contain the  
15 following provisions:

16 (1) That the index for determining increase or decrease in  
17 interest rate shall be the lawful rate of interest as determined  
18 under subsections (a), (b) and (c) for residential mortgages.

19 (2) A requirement that when an increase in the interest rate  
20 is required by a movement in a particular direction of the  
21 prescribed standard an identical decrease is required in the  
22 interest rate by a movement in the opposite direction of the  
23 prescribed standard.

24 (3) The rate of interest shall change not more often than  
25 once during any semiannual period and at least six months shall  
26 elapse between any two such changes.

27 (4) The change in the interest rate shall be one-fourth of  
28 one per cent in any semiannual period, and shall not result in a  
29 rate more or less than two and five-tenths percentage points  
30 greater or less than the rate for the first loan payment due

1 after the closing of the loan.

2 (5) The rate of interest shall not change during the first  
3 annual period of the loan.

4 (6) Subject to the provisions of paragraphs (3), (4) and  
5 (5), an increase or decrease in the interest rate shall be  
6 effected when the index moves in such percentage that the  
7 difference between the present index rate and present mortgage  
8 rate varies not less than one-fourth of a percentage point from  
9 the difference between the index and mortgage rates at the date  
10 of the first contracted loan repayment.

11 [(7) The contracted periodic payment may at the option of  
12 the borrower be increased or decreased in dollar amount equal to  
13 any periodic increase or decrease in interest requirement, or  
14 the contracted periodic payment may at the option of the  
15 borrower be retained constant provided the maturity of the  
16 mortgage is not extended beyond forty years from the date of  
17 said mortgage or five years beyond the original maturity date  
18 for which said mortgage was written, whichever is the shorter.

19 (8) When a change in the interest rate is required or  
20 permitted by a movement in the prescribed index, the lender  
21 shall give notice to the borrower by mail, addressed to the  
22 borrower's last known post office address, not less than thirty  
23 days prior to any change in interest rate, which notice shall  
24 clearly and concisely disclose:

25 (i) the effective date of the interest rate change;

26 (ii) the interest rate change, and if an increase, the  
27 extent to which the increased rate will exceed the rate in  
28 effect immediately before the increase;

29 (iii) the changes in the index which caused the interest  
30 rate change;

1 (iv) the amount of the borrower's contractual monthly  
2 principal and interest payments before and after the effective  
3 date of the change in the interest rate, any change in the term  
4 of the mortgage and any option that the mortgage debtor may have  
5 to extend or reduce the mortgage term and retain constant  
6 periodic payments.

7 (9) A statement attached to the mortgage and to any evidence  
8 of debt issued in connection therewith printed or written in a  
9 size equal to at least 10-point bold type, consisting of the  
10 following language:

11 Notice to borrower: this document contains provisions for a  
12 variable interest rate.

13 (10) No residential mortgage lender may take a residential  
14 mortgage providing for a variable interest rate unless it has  
15 clearly and conspicuously disclosed to the mortgage debtor in  
16 the mortgage application:

17 (i) That the mortgage rate is subject to change in the  
18 future.

19 (ii) An explanation of the effect of changes in the index on  
20 the rate and term of the mortgage.

21 (iii) An explanation of the index.

22 (iv) A statement in 10-point bold type containing the  
23 following language:

24 If the mortgage lender offers to give you a mortgage with a  
25 variable interest rate, you are entitled by law to also be  
26 offered a mortgage with an interest rate which will not change.  
27 By law, this fixed interest rate mortgage must be offered to you  
28 at reasonably competitive terms and rate.

29 (11) The Secretary of Banking may by regulation prescribe  
30 language and forms which shall be deemed to comply with these

1 disclosure requirements with the exception of the language  
2 contained in subsection e(9) and 10(iv).]

3 \* \* \*

4 Section 2. Section 604 of the act, amended October 5, 1978  
5 (P.L.1100, No.258), is amended to read:

6 Section 604. Effect on Inconsistent Acts.--If any maximum  
7 lawful rate of interest provided for in this act is inconsistent  
8 with the provision of any other act establishing, permitting or  
9 removing a maximum interest rate, or prohibiting the use of  
10 usury as a defense, then the provision of such other act shall  
11 prevail. This shall include but not be limited to the provisions  
12 of the act of April 8, 1937 (P.L.262, No.66). Banks, savings  
13 banks and bank and trust companies, subject to the act of  
14 November 30, 1965 (P.L.847, No.356), may charge a maximum rate  
15 of interest [not in excess of the maximum lawful interest rate  
16 permitted to be charged by a national bank located in  
17 Pennsylvania under 12 U.S.C. §85] as authorized by that act or  
18 other applicable Federal or State law.

19 Section 3. This act shall take effect in 60 days.