



Sen. Jacqueline Y. Collins

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09400HB1100sam003

LRB094 09280 MKM 46485 a

1 AMENDMENT TO HOUSE BILL 1100

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1100, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 1, on page 31, below line 25, by inserting the following:

5 "Section 90-12. The Interest Act is amended by changing  
6 Section 4 as follows:

7 (815 ILCS 205/4) (from Ch. 17, par. 6404)

8 Sec. 4. General interest rate.

9 (1) In all written contracts it shall be lawful for the  
10 parties to stipulate or agree that 9% per annum, or any less  
11 sum of interest, shall be taken and paid upon every \$100 of  
12 money loaned or in any manner due and owing from any person to  
13 any other person or corporation in this state, and after that  
14 rate for a greater or less sum, or for a longer or shorter  
15 time, except as herein provided.

16 The maximum rate of interest that may lawfully be  
17 contracted for is determined by the law applicable thereto at  
18 the time the contract is made. Any provision in any contract,  
19 whether made before or after July 1, 1969, which provides for  
20 or purports to authorize, contingent upon a change in the  
21 Illinois law after the contract is made, any rate of interest  
22 greater than the maximum lawful rate at the time the contract  
23 is made, is void.

24 It is lawful for a state bank or a branch of an

1 out-of-state bank, as those terms are defined in Section 2 of  
2 the Illinois Banking Act, to receive or to contract to receive  
3 and collect interest and charges at any rate or rates agreed  
4 upon by the bank or branch and the borrower. It is lawful for a  
5 savings bank chartered under the Savings Bank Act or a savings  
6 association chartered under the Illinois Savings and Loan Act  
7 of 1985 to receive or contract to receive and collect interest  
8 and charges at any rate agreed upon by the savings bank or  
9 savings association and the borrower.

10 It is lawful to receive or to contract to receive and  
11 collect interest and charges as authorized by this Act and as  
12 authorized by the Consumer Installment Loan Act and by the  
13 "Consumer Finance Act", approved July 10, 1935, as now or  
14 hereafter amended, or by the Payday Loan Reform Act. It is  
15 lawful to charge, contract for, and receive any rate or amount  
16 of interest or compensation with respect to the following  
17 transactions:

18 (a) Any loan made to a corporation;

19 (b) Advances of money, repayable on demand, to an  
20 amount not less than \$5,000, which are made upon warehouse  
21 receipts, bills of lading, certificates of stock,  
22 certificates of deposit, bills of exchange, bonds or other  
23 negotiable instruments pledged as collateral security for  
24 such repayment, if evidenced by a writing;

25 (c) Any credit transaction between a merchandise  
26 wholesaler and retailer; any business loan to a business  
27 association or copartnership or to a person owning and  
28 operating a business as sole proprietor or to any persons  
29 owning and operating a business as joint venturers, joint  
30 tenants or tenants in common, or to any limited  
31 partnership, or to any trustee owning and operating a  
32 business or whose beneficiaries own and operate a business,  
33 except that any loan which is secured (1) by an assignment  
34 of an individual obligor's salary, wages, commissions or

1 other compensation for services, or (2) by his household  
2 furniture or other goods used for his personal, family or  
3 household purposes shall be deemed not to be a loan within  
4 the meaning of this subsection; and provided further that a  
5 loan which otherwise qualifies as a business loan within  
6 the meaning of this subsection shall not be deemed as not  
7 so qualifying because of the inclusion, with other security  
8 consisting of business assets of any such obligor, of real  
9 estate occupied by an individual obligor solely as his  
10 residence. The term "business" shall be deemed to mean a  
11 commercial, agricultural or industrial enterprise which is  
12 carried on for the purpose of investment or profit, but  
13 shall not be deemed to mean the ownership or maintenance of  
14 real estate occupied by an individual obligor solely as his  
15 residence;

16 (d) Any loan made in accordance with the provisions of  
17 Subchapter I of Chapter 13 of Title 12 of the United States  
18 Code, which is designated as "Housing Renovation and  
19 Modernization";

20 (e) Any mortgage loan insured or upon which a  
21 commitment to insure has been issued under the provisions  
22 of the National Housing Act, Chapter 13 of Title 12 of the  
23 United States Code;

24 (f) Any mortgage loan guaranteed or upon which a  
25 commitment to guaranty has been issued under the provisions  
26 of the Veterans' Benefits Act, Subchapter II of Chapter 37  
27 of Title 38 of the United States Code;

28 (g) Interest charged by a broker or dealer registered  
29 under the Securities Exchange Act of 1934, as amended, or  
30 registered under the Illinois Securities Law of 1953,  
31 approved July 13, 1953, as now or hereafter amended, on a  
32 debit balance in an account for a customer if such debit  
33 balance is payable at will without penalty and is secured  
34 by securities as defined in Uniform Commercial

1 Code-Investment Securities;

2 (h) Any loan made by a participating bank as part of  
3 any loan guarantee program which provides for loans and for  
4 the refinancing of such loans to medical students, interns  
5 and residents and which are guaranteed by the American  
6 Medical Association Education and Research Foundation;

7 (i) Any loan made, guaranteed, or insured in accordance  
8 with the provisions of the Housing Act of 1949, Subchapter  
9 III of Chapter 8A of Title 42 of the United States Code and  
10 the Consolidated Farm and Rural Development Act,  
11 Subchapters I, II, and III of Chapter 50 of Title 7 of the  
12 United States Code;

13 (j) Any loan by an employee pension benefit plan, as  
14 defined in Section 3 (2) of the Employee Retirement Income  
15 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an  
16 individual participating in such plan, provided that such  
17 loan satisfies the prohibited transaction exemption  
18 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108  
19 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)  
20 (1)) of the Employee Retirement Income Security Act of  
21 1974;

22 (k) Written contracts, agreements or bonds for deed  
23 providing for installment purchase of real estate;

24 (l) Loans secured by a mortgage on real estate;

25 (m) Loans made by a sole proprietorship, partnership,  
26 or corporation to an employee or to a person who has been  
27 offered employment by such sole proprietorship,  
28 partnership, or corporation made for the sole purpose of  
29 transferring an employee or person who has been offered  
30 employment to another office maintained and operated by the  
31 same sole proprietorship, partnership, or corporation;

32 (n) Loans to or for the benefit of students made by an  
33 institution of higher education.

34 (2) Except for loans described in subparagraph (a), (c),

1 (d), (e), (f) or (i) of subsection (1) of this Section, and  
2 except to the extent permitted by the applicable statute for  
3 loans made pursuant to Section 4a or pursuant to the Consumer  
4 Installment Loan Act:

5 (a) Whenever the rate of interest exceeds 8% per annum  
6 on any written contract, agreement or bond for deed  
7 providing for the installment purchase of residential real  
8 estate, or on any loan secured by a mortgage on residential  
9 real estate, it shall be unlawful to provide for a  
10 prepayment penalty or other charge for prepayment.

11 (b) No agreement, note or other instrument evidencing a  
12 loan secured by a mortgage on residential real estate, or  
13 written contract, agreement or bond for deed providing for  
14 the installment purchase of residential real estate, may  
15 provide for any change in the contract rate of interest  
16 during the term thereof. However, if the Congress of the  
17 United States or any federal agency authorizes any class of  
18 lender to enter, within limitations, into mortgage  
19 contracts or written contracts, agreements or bonds for  
20 deed in which the rate of interest may be changed during  
21 the term of the contract, any person, firm, corporation or  
22 other entity not otherwise prohibited from entering into  
23 mortgage contracts or written contracts, agreements or  
24 bonds for deed in Illinois may enter into mortgage  
25 contracts or written contracts, agreements or bonds for  
26 deed in which the rate of interest may be changed during  
27 the term of the contract, within the same limitations.

28 (3) In any contract or loan which is secured by a mortgage,  
29 deed of trust, or conveyance in the nature of a mortgage, on  
30 residential real estate, the interest which is computed,  
31 calculated, charged, or collected pursuant to such contract or  
32 loan, or pursuant to any regulation or rule promulgated  
33 pursuant to this Act, may not be computed, calculated, charged  
34 or collected for any period of time occurring after the date on

1 which the total indebtedness, with the exception of late  
2 payment penalties, is paid in full.

3 For purposes of this Section, a prepayment shall mean the  
4 payment of the total indebtedness, with the exception of late  
5 payment penalties if incurred or charged, on any date before  
6 the date specified in the contract or loan agreement on which  
7 the total indebtedness shall be paid in full, or before the  
8 date on which all payments, if timely made, shall have been  
9 made. In the event of a prepayment of the indebtedness which is  
10 made on a date after the date on which interest on the  
11 indebtedness was last computed, calculated, charged, or  
12 collected but before the next date on which interest on the  
13 indebtedness was to be calculated, computed, charged, or  
14 collected, the lender may calculate, charge and collect  
15 interest on the indebtedness for the period which elapsed  
16 between the date on which the prepayment is made and the date  
17 on which interest on the indebtedness was last computed,  
18 calculated, charged or collected at a rate equal to 1/360 of  
19 the annual rate for each day which so elapsed, which rate shall  
20 be applied to the indebtedness outstanding as of the date of  
21 prepayment. The lender shall refund to the borrower any  
22 interest charged or collected which exceeds that which the  
23 lender may charge or collect pursuant to the preceding  
24 sentence. The provisions of this amendatory Act of 1985 shall  
25 apply only to contracts or loans entered into on or after the  
26 effective date of this amendatory Act, but shall not apply to  
27 contracts or loans entered into on or after that date that are  
28 subject to Section 4a of this Act, the Consumer Installment  
29 Loan Act, the Payday Loan Reform Act, or the Retail Installment  
30 Sales Act, or that provide for the refund of precomputed  
31 interest on prepayment in the manner provided by such Act.  
32 (Source: P.A. 92-483, eff. 8-23-01.)".