

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Interest Act is amended by changing Section
5 4 as follows:

6 (815 ILCS 205/4) (from Ch. 17, par. 6404)

7 Sec. 4. General interest rate.

8 (1) Except as otherwise provided in Section 4.05, in all
9 written contracts it shall be lawful for the parties to
10 stipulate or agree that 9% per annum, or any less sum of
11 interest, shall be taken and paid upon every \$100 of money
12 loaned or in any manner due and owing from any person to any
13 other person or corporation in this state, and after that rate
14 for a greater or less sum, or for a longer or shorter time,
15 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.

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

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

19 (a) Any loan made to a corporation;

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

26 (c) Any credit transaction between a merchandise

1 wholesaler and retailer; any business loan to a business
2 association or copartnership or to a person owning and
3 operating a business as sole proprietor or to any persons
4 owning and operating a business as joint venturers, joint
5 tenants or tenants in common, or to any limited
6 partnership, or to any trustee owning and operating a
7 business or whose beneficiaries own and operate a business,
8 except that any loan which is secured (1) by an assignment
9 of an individual obligor's salary, wages, commissions or
10 other compensation for services, or (2) by his household
11 furniture or other goods used for his personal, family or
12 household purposes shall be deemed not to be a loan within
13 the meaning of this subsection; and provided further that a
14 loan which otherwise qualifies as a business loan within
15 the meaning of this subsection shall not be deemed as not
16 so qualifying because of the inclusion, with other security
17 consisting of business assets of any such obligor, of real
18 estate occupied by an individual obligor solely as his
19 residence. The term "business" shall be deemed to mean a
20 commercial, agricultural or industrial enterprise which is
21 carried on for the purpose of investment or profit, but
22 shall not be deemed to mean the ownership or maintenance of
23 real estate occupied by an individual obligor solely as his
24 residence;

25 (d) Any loan made in accordance with the provisions of
26 Subchapter I of Chapter 13 of Title 12 of the United States

1 Code, which is designated as "Housing Renovation and
2 Modernization";

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

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

11 (g) Interest charged by a broker or dealer registered
12 under the Securities Exchange Act of 1934, as amended, or
13 registered under the Illinois Securities Law of 1953,
14 approved July 13, 1953, as now or hereafter amended, on a
15 debit balance in an account for a customer if such debit
16 balance is payable at will without penalty and is secured
17 by securities as defined in Uniform Commercial
18 Code-Investment Securities;

19 (h) Any loan made by a participating bank as part of
20 any loan guarantee program which provides for loans and for
21 the refinancing of such loans to medical students, interns
22 and residents and which are guaranteed by the American
23 Medical Association Education and Research Foundation;

24 (i) Any loan made, guaranteed, or insured in accordance
25 with the provisions of the Housing Act of 1949, Subchapter
26 III of Chapter 8A of Title 42 of the United States Code and

1 the Consolidated Farm and Rural Development Act,
2 Subchapters I, II, and III of Chapter 50 of Title 7 of the
3 United States Code;

4 (j) Any loan by an employee pension benefit plan, as
5 defined in Section 3 (2) of the Employee Retirement Income
6 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an
7 individual participating in such plan, provided that such
8 loan satisfies the prohibited transaction exemption
9 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108
10 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)
11 (1)) of the Employee Retirement Income Security Act of
12 1974;

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

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

16 (m) Loans made by a sole proprietorship, partnership,
17 or corporation to an employee or to a person who has been
18 offered employment by such sole proprietorship,
19 partnership, or corporation made for the sole purpose of
20 transferring an employee or person who has been offered
21 employment to another office maintained and operated by the
22 same sole proprietorship, partnership, or corporation;

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

25 (2) Except for loans described in subparagraph (a), (c),
26 (d), (e), (f) or (i) of subsection (1) of this Section, and

1 except to the extent permitted by the applicable statute for
2 loans made pursuant to Section 4a or pursuant to the Consumer
3 Installment Loan Act:

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

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

1 (3) In any contract or loan which is secured by a mortgage,
2 deed of trust, or conveyance in the nature of a mortgage, on
3 residential real estate, the interest which is computed,
4 calculated, charged, or collected pursuant to such contract or
5 loan, or pursuant to any regulation or rule promulgated
6 pursuant to this Act, may not be computed, calculated, charged
7 or collected for any period of time occurring after the date on
8 which the total indebtedness, with the exception of late
9 payment penalties, is paid in full.

10 (4) For purposes of this Section, a prepayment shall mean
11 the payment of the total indebtedness, with the exception of
12 late payment penalties if incurred or charged, on any date
13 before the date specified in the contract or loan agreement on
14 which the total indebtedness shall be paid in full, or before
15 the date on which all payments, if timely made, shall have been
16 made. In the event of a prepayment of the indebtedness which is
17 made on a date after the date on which interest on the
18 indebtedness was last computed, calculated, charged, or
19 collected but before the next date on which interest on the
20 indebtedness was to be calculated, computed, charged, or
21 collected, the lender may calculate, charge and collect
22 interest on the indebtedness for the period which elapsed
23 between the date on which the prepayment is made and the date
24 on which interest on the indebtedness was last computed,
25 calculated, charged or collected at a rate equal to 1/360 of
26 the annual rate for each day which so elapsed, which rate shall

1 be applied to the indebtedness outstanding as of the date of
2 prepayment. The lender shall refund to the borrower any
3 interest charged or collected which exceeds that which the
4 lender may charge or collect pursuant to the preceding
5 sentence. The provisions of this amendatory Act of 1985 shall
6 apply only to contracts or loans entered into on or after the
7 effective date of this amendatory Act, but shall not apply to
8 contracts or loans entered into on or after that date that are
9 subject to Section 4a of this Act, the Consumer Installment
10 Loan Act, the Payday Loan Reform Act, or the Retail Installment
11 Sales Act, or that provide for the refund of precomputed
12 interest on prepayment in the manner provided by such Act.

13 (5) For purposes of items (a) and (c) of subsection (1) of
14 this Section, a rate or amount of interest may be lawfully
15 computed when applying the ratio of the annual interest rate
16 over a year based on 360 days. The provisions of this
17 amendatory Act of the 96th General Assembly are declarative of
18 existing law.

19 (Source: P.A. 94-13, eff. 12-6-05; 94-635, eff. 8-22-05;
20 95-331, eff. 8-21-07.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.