

31:1-1

LEGISLATIVE HISTORY CHECKLIST

HJSA 31:1-1; 46:10B-2 (Mortgage interest rate--Peg to U.S. Government Bond Index)

LAWS OF 1979 CHAPTER 253

Bill No. S3476

Sponsor(s) Bedell

Date Introduced Nov. 29, 1979

Committee: Assembly -----

Senate Labor, Industry and Professions

Amended during passage Yes ~~x~~ Amendments during passage denoted by asterisks. Substituted for A3643 (OCR attached; original bill not printed)

Date of Passage: Assembly Dec. 17, 1979

Senate Dec. 10, 1979

Date of approval Dec. 21, 1979

Following statements are attached if available:

Sponsor statement Yes ~~x~~
Committee Statement: Assembly ~~x~~ No
Senate ~~x~~ No
Fiscal Note ~~x~~ No
Veto message ~~x~~ No
Message on signing Yes ~~x~~

Following were printed:

Reports ~~x~~ No
Hearings ~~x~~ No

Recommendation for legislation made in: (attached)

974.90 N.J. Governor, 1974- (Byrne)
G52 Address before Joint Session of the Legislature. Mt. Holly, November 19, 1979.

(See pp.5-6)

SENATE, No. 3476

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 29, 1979

By Senator BEDELL

Referred to Committee on Labor, Industry and Professions

AN ACT concerning certain loans and amending R. S. 31:1-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 31:1-1 is amended to read as follows:

2 31:1-1. (a) Except as herein and otherwise provided by law, no
3 person shall, upon contract, take, directly or indirectly for loan of
4 any money, wares, merchandise, goods and chattels, above the value
5 of \$6.00 for the forbearance of \$100.00 for a year.

6 (b) The Commissioner of Banking may by regulations adopted,
7 amended and rescinded from time to time, provide that the value
8 which may be taken for any such loans shall be a value more than
9 \$6.00 but not more than **[\$10.75** for the forebearance of \$100.00
10 for a year, as shall be prescribed in such regulation, and after
11 that rate for a greater or less sum or for longer or shorter time.
12 In no event, however, shall the rate set by the commissioner exceed **]**
13 the Monthly Index of Long Term United States Government Bond
14 Yields, compiled by the Board of Governors of the Federal Reserve
15 System and as published by said Board of Governors in the monthly
16 Federal Reserve Bulletin, for the second preceding calendar month
17 plus an additional **[2½%** 4% per annum rounded off to the
18 nearest quarter of 1% per annum. Within the limits as provided
19 by this subsection, and if he finds it to be in the best interests of
20 the citizens and economy of this State, the commissioner may
21 establish:

22 (1) A rate of interest on loans secured by a first lien on real
23 property on which there is erected or to be erected a structure
24 containing one, two, three, four, five or six dwelling units, a portion
25 of which structure may be used for nonresidential purposes. The
26 commissioner may establish different rates for such loans based
27 upon the ratio of the loan to the appraised value of the real
28 property. With respect to loans covered by this subsection, the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

29 commissioner may by regulation provide that any mortgage
30 commitment outstanding as of the date of an increase in the
31 rate set by the commissioner shall be extended from that date for
32 a period not to exceed 60 days, provided that such extension shall
33 not apply to any commitment which expires beyond the extension
34 period so established.

35 (2) A rate of interest on all loans not included within paragraph
36 (1) of this subsection, except as otherwise provided by law.

37 If for any reason no such index of long term bonds is compiled
38 or published for any 1 or more months, the commissioner shall
39 determine and publish such an index based upon available statistics.

40 In the case of a loan secured by a first lien on real property as
41 described in subsection (1) of this section, beginning in the calendar
42 year following the date of the mortgage loan, and annually there-
43 after, the mortgagee shall notify the mortgagor of the interest
44 rate ceilings established by the commissioner as of the fifteenth
45 day of the month preceding. Such notification shall be given at the
46 same time as the mortgagee gives notice to the mortgagor for
47 Federal Income Tax purposes of the interest paid on the loan in
48 the preceding calendar year.

49 (c) When, however, pursuant to any such contract, interest or
50 discount is taken or reserved for a period of less than 1 year, or
51 when interest is required to be paid at intervals of less than 1 year,
52 such interest or discount may be computed on a daily basis, or on a
53 monthly basis, or on a combination of both such bases when the
54 period for which interest or discount is taken or reserved contains
55 1 or more months and 1 or more days; and, in any such case, a day
56 shall be deemed to be a $1/360$ part of a year, and a month shall
57 be deemed to be a $1/12$ part of a year, regardless of the number of
58 days contained in such month. Any computation of interest or
59 discount made on any such basis shall constitute a compliance with
60 this section, and any such basis may be applied regardless whether
61 the principal debt is payable in more than or less than 1 year from
62 the time of making the loan.

63 (d) In making, amending and rescinding regulations pursuant
64 to subsection (b) of this section, the Commissioner of Banking
65 shall consider the general state of the economy, the discount rates
66 prescribed by the Federal Reserve Bank of New York and the
67 Federal Reserve Bank of Philadelphia, the advance rate as pres-
68 cribed by the Federal Home Loan Bank of New York, the avail-
69 ability of funds for loans, studies and statistics published by the
70 Federal Home Loan Bank Board and other agencies of the United
71 States and of this State, and such other factors and bases for

72 determination as the commissioner may deem pertinent. The rate
73 established by any such regulations shall reasonably reflect pre-
74 vailing market conditions, regionally and nationally, based upon
75 the studies, statistics and factors considered, and shall remain
76 in force until such time as such regulation is rescinded or such
77 rate is increased or decreased by a subsequent regulation. Any
78 such regulation shall have prospective effect only, and any rate
79 established in excess of 8% shall apply only to loans secured by real
80 estate on which there is erected or to be erected a structure contain-
81 ing one, two, three, four, five or six dwelling units, a portion of
82 which structure may also be used for nonresidential purposes.

83 (e) Notwithstanding the provisions of paragraph (a) or (b) of
84 this section, contracts for the following classes or types of loans
85 may provide for any rate of interest which the parties agree upon,
86 and interest at any such rate may be taken, notwithstanding that
87 it exceeds a rate limited by paragraph (a) or (b) of this section:

88 (1) Loans in the amount of \$50,000.00 or more, except loans
89 where the security given is a first lien on real property on which
90 there is erected or to be erected a structure containing one, two,
91 three, four, five or six dwelling units, a portion of which structure
92 may be used for nonresidential purposes. The rate of interest
93 stated in such contract upon the origination of such loans may be
94 taken notwithstanding that payments thereon reduce the amount
95 outstanding to less than \$50,000.00;

96 (2) Loans or advances of credit made by savings and loan
97 association, banking institutions, or any Department of Housing
98 and Urban Affairs or Federal Housing Administration approved
99 mortgagees which are subsequently purchased, in whole or in part,
100 by the Federal Housing Administration, Veterans Administration,
101 Farmers Home Administration, Federal National Mortgage As-
102 sociation, Government National Mortgage Association, Federal
103 Home Loan Mortgage Corporation, and any successor thereof or
104 by any organization authorized by the Emergency Home Finance
105 Act of 1970 to purchase such loans or by any State or Federal
106 Governmental or quasi-governmental organizations.

107 If such loan is not purchased within 395 days from the date the
108 loan instruments are executed, the maximum rate of interest which
109 may be charged on such loan shall not be in excess of that autho-
110 rized by the commissioner under the provisions of this section and
111 such rate of interest, if in excess of that rate, shall be reduced to
112 the rate in effect at the date of the execution of the loan instru-
113 ments. No such reduction shall change the maturity date of the
114 loan without the written consent of the borrower nor shall such

115 reduction affect the lien of the mortgage which secures the loan.
116 (f) Any provision in a mortgage commitment contracted prior to
117 the effective date of this act providing for an increase in interest
118 rates to be charged based on the highest lawful interest rate shall
119 be null and void.

1 2. This act shall take effect immediately.

STATEMENT

This bill removes the $10\frac{3}{4}\%$ interest rate limit on residential mortgages. This bill allows the Banking Commissioner to set a maximum rate that is pegged to the Monthly Index of Long Term U. S. Government Bond Yields plus an additional 4% rounded to the nearest $\frac{1}{4}\%$.

The index was 8.35 in July, 8.42 in August, 8.68 in September and 9.44 in October. Under this bill the Commissioner would have had the flexibility to establish a maximum rate of $12\frac{1}{4}\%$ in September, 12.5% in October, $12\frac{3}{4}\%$ in November and $13\frac{1}{2}\%$ in December.

This bill would allow the Banking Commissioner to establish residential mortgage rates that are more reflective of the prevailing economic climate.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 3476

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1979

This bill removes the 10 $\frac{3}{4}$ % interest rate limit on residential mortgages.

As amended, the bill would permit the Commissioner of Banking to set a maximum rate on residential mortgages that is 8% over the Long Term Government Bond Index. The maximum for December 1979 would be between 17% and 18%.

The Senate Labor, Industry and Professions Committee amended the bill to remove all prepayment penalties for mortgage loans.

SENATE COMMITTEE AMENDMENTS TO
SENATE, No. 3476

STATE OF NEW JERSEY

ADOPTED DECEMBER 10, 1979

Amend page 1, title, line 1, after "loans", insert ","; after "R. S. 31:1-1", insert " and P. L. 1968, c. 54".

Amend page 1, section 1, line 17, omit "4%", insert "8%".

Amend page 4, section 1, after line 119, insert new section 2 as follows:

"2. Section 2 of P. L. 1968, c. 54 (C. 46:10B-2) is amended to read as follows:

2. Prepayment of a mortgage loan may be made by or on behalf of a mortgagor at any time[]], and the holder of the mortgage loan shall be entitled to charge and collect a fee for the exercise of the right of such prepayment according to the following schedule:

(a) If prepayment is made within the first 6 months from the date of such mortgage loan, the prepayment fee shall not exceed 3% of the balance due on the mortgage loan as of the date of prepayment of the mortgage loan;

(b) If prepayment is made on or after 6 months from the date of the mortgage plan, but within 12 months from such date, the prepayment fee shall not exceed 2% of the balance due on the mortgage loan as of the date of prepayment of the mortgage loan;

(c) If prepayment is made on or after 12 months from the date of the mortgage loan, but within 18 months from such date, the prepayment fee shall not exceed 1% of the balance due on the mortgage loan as of the date of prepayment of the mortgage loan;

(d) If prepayment is made on or after 18 months from the date of the mortgage loan, no fee shall be charged or collected therefor[]] *without penalty.*"

Amend page 4, section 2, line 1, omit "2", insert "3".

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

253

N. J. 1979

APPROVED 12-21-79

[OFFICIAL COPY REPRINT]

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STATE OF NEW JERSEY

INTRODUCED NOVEMBER 29, 1979

By Senator BEDELL

Referred to Committee on Labor, Industry and Professions

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**and P. L. 1968, c. 54*.*

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7 amended and rescinded from time to time, provide that the value
8 which may be taken for any such loans shall be a value more than
9 \$6.00 but not more than **[\$10.75** for the forbearance of \$100.00
10 for a year, as shall be prescribed in such regulation, and after
11 that rate for a greater or less sum or for longer or shorter time.
12 In no event, however, shall the rate set by the commissioner exceed**]**
13 the Monthly Index of Long Term United States Government Bond
14 Yields, compiled by the Board of Governors of the Federal Reserve
15 System and as published by said Board of Governors in the monthly
16 Federal Reserve Bulletin, for the second preceding calendar month
17 plus an additional **[2½%]** ***[4%]** ***8%*** per annum rounded off
18 to the nearest quarter of 1% per annum. Within the limits as
19 provided by this subsection, and if he finds it to be in the best
20 interests of the citizens and economy of this State, the commissioner
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97 association, banking institutions, or any Department of Housing
98 and Urban Affairs or Federal Housing Administration approved
99 mortgagees which are subsequently purchased, in whole or in part,
100 by the Federal Housing Administration, Veterans Administration,
101 Farmers Home Administration, Federal National Mortgage As-
102 sociation, Government National Mortgage Association, Federal
103 Home Loan Mortgage Corporation, and any successor thereof or
104 by any organization authorized by the Emergency Home Finance
105 Act of 1970 to purchase such loans or by any State or Federal
106 Governmental or quasi-governmental organizations.

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108 loan instruments are executed, the maximum rate of interest which
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112 the rate in effect at the date of the execution of the loan instru-
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18 mortgage loan as of the date of prepayment of the mortgage loan;

19 (d) If prepayment is made on or after 18 months from the date
20 of the mortgage loan, no fee shall be charged or collected therefor~~]~~
21 *without penalty.**

1 *~~[2.]~~* *3.* This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

DECEMBER 21, 1979

PAT SWEENEY

Governor Brendan Byrne today signed S-3476, sponsored by Senator Eugene J. Bedell (D-Monmouth).

This bill will permit the Commissioner of Banking to set the mortgage rate at a level not to exceed eight percent above the Monthly Index of Long Term United States Government Bond Yields, rounded off to the nearest 1/4 percent, for the second preceding calendar month.

It will also eliminate any pre-payment penalty for mortgages.

"This legislation will permit the flow of mortgage money in New Jersey," according to Governor Byrne.

The bill allows the Commissioner to set the usury rate up to 17.5 percent, though he is expected to establish it well below that 17.5 percent.

The bill is expected to be superseded by federal legislation approved by Congress Wednesday, which would temporarily suspend ceilings on mortgage rates in all 50 states until March 31, 1980.

The Governor said he signed the bill today before President Carter acts on the federal legislation, knowing that it would be superseded and that the federal law will provide uniformity throughout the Nation.

The New Jersey law, however, will take effect when the temporary federal suspension of mortgage interest ceilings expires.

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