
By Mr. Morton of Wellesley, petition of William D. Morton, Jr., for legislation to limit interest rates on home mortgages. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Six.

AN ACT LIMITING INTEREST RATES ON HOME MORTGAGES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 140 of the General Laws is
2 hereby amended by adding thereto the following new
3 sections: —

4 *Section 90A. Rate of Interest.* — No person shall
5 directly or indirectly charge, take or receive for a loan
6 of one thousand dollars or more secured wholly or
7 partially by a mortgage of real estate having thereon
8 a dwelling house with accommodations for six or less
9 separate households and occupied in whole or in part
10 at the time the loan is made as a home by any obligor
11 on the mortgage debt or by any person granting or
12 releasing any interest under said mortgage, a greater
13 rate of interest than one and one half per cent per
14 month on the unpaid principal balance of the loan and
15 for the period after the expiration of six successive
16 months of continuing default a greater rate of interest
17 than one per cent per month. The aggregate of the
18 amount of money or value actually received or held
19 at the time of the loan, forbearance or other trans-
20 action plus the sum of all existing indebtedness of the
21 borrower to the lender shall for the purposes of sec-
22 tion ninety A through ninety G be deemed the amount
23 of the loan. Except where the borrower agrees in

24 writing to a different application, in calculating in-
25 terest, where partial payments may have been made,
26 the interest shall be calculated to the time when the
27 payment shall have been made, and such payment
28 shall be applied to the payment first of such interest,
29 and if such payment exceeds the interest, the balance
30 shall be applied to diminish the principal, and the
31 same course shall be followed in all subsequent pay-
32 ments.

33 The maximum interest shall include all sums paid,
34 directly or indirectly, by or on behalf of the borrower
35 to the lender for interest, brokerage, commissions,
36 services, extension of loan, forbearance to enforce pay-
37 ment or otherwise for making or securing the loan.
38 Notwithstanding the above, the lender may require
39 the borrower to pay or reimburse the lender for ac-
40 tual recording and foreclosure costs and for reasonable
41 attorney's fees when the services of an attorney are
42 utilized by the lender in order to examine and/or pass
43 upon the title and the marketability of the security
44 for the loan or to draw the security instruments or
45 documents, or when such services are utilized to col-
46 lect the debt or realize upon the security.

47 As used in sections ninety A through ninety G, the
48 word "loan" shall mean any loan of money or goods
49 or for forbearance of money or goods or chose in action;
50 the word "note" shall mean the instrument, other
51 than the mortgage, evidencing or containing the debt
52 secured by the mortgage or any extension or renewal
53 of such instrument; the word "lender" shall mean
54 any person making a loan of one thousand dollars or
55 more secured by a mortgage as described in section
56 ninety A and shall include the lender or any legal suc-
57 cessor to the rights of the lender; the word "borrower"
58 shall mean the borrower or any legal successor to the
59 borrower's rights or obligations.

60 *Section 90B. Requirements of Note and Notice.* —
61 Any note secured by such a mortgage and any such
62 mortgage shall, among its provisions, specify as sep-

63 arate items the principal sum, the rate of interest or
64 its equivalent in money the period of the loan and the
65 periodic due dates, if any, of principal and interest,
66 otherwise the lender shall have no right to collect
67 interest.

68 Within fifteen days after receipt by the lender of
69 a written request therefor from the borrower or his
70 authorized representative sent by registered or certi-
71 fied mail the lender shall by either of such mail send
72 to the person requesting the same to the address speci-
73 fied in the request a conformed copy of the note. At
74 least fifteen days prior to the commencement of any
75 foreclosure proceedings the lender shall send to the
76 borrower by either of such mail a statement of inten-
77 tion to foreclose which shall specify the amount of
78 principal, interest and other indebtedness, if any,
79 owing and accruing under the note and mortgage.
80 Failure by the lender to comply with the foregoing
81 provisions of this paragraph shall suspend the holder's
82 rights until such requirements are complied with.

83 *Section 90C. Loans not Void.* — Nothing contained
84 in sections ninety A through ninety G shall be con-
85 strued to entitle anyone to assert affirmatively, or
86 by way of defence or otherwise, that the loan or any
87 security therefor is void, voidable or unenforceable in
88 accordance with its terms except to the extent that
89 the right to collect interest charged in violation of sec-
90 tion ninety A is limited by the provisions of subpara-
91 graph (a) of section ninety D and except to the extent
92 that the rights of the lender may be limited or sus-
93 pended under section ninety B.

94 *Section 90D. Civil Penalties.* — (a) If the lender
95 shall charge as interest on the loan a rate or sum in
96 excess of that permitted under section ninety A, such
97 lender shall not be entitled to recover any interest
98 on such loan in any action brought against the bor-
99 rower therefor.

100 (b) Every person who shall pay as interest on the
101 loan a sum in excess of that permitted under section

102 ninety A may recover in a suit in equity in the supreme
103 judicial or superior court against the person who with
104 knowledge of such violation shall have received and
105 accepted the same or against his personal represent-
106 atives three times the excess so accepted plus a reason-
107 able attorney's fee if the services of an attorney are
108 utilized if such suit is brought within one year after
109 the payment or delivery. If the lender shall receive
110 as a result of a prepayment of any installments a
111 greater sum than is allowed under section ninety A on
112 a loan which if paid as agreed when originally made
113 would not have resulted in such greater sum, such
114 lender shall not be subject to any of the provisions of
115 sections ninety A through ninety G if such lender
116 shall upon the expiration of thirty days after final pay-
117 ment of the balance of such loan and thereafter within
118 ten days after written demand therefor by the bor-
119 rower, repay to the borrower any excess paid by the
120 borrower above the sum provided in section ninety A.

121 (c) None of the penalties provided in the foregoing
122 subparagraphs (a) and (b) of this section shall apply
123 to a holder in due course.

124 *Section 90E. Lender to give Borrower Receipts for*
125 *Payments.* — The lender shall, whenever the borrower
126 makes payment of any money, either principal or in-
127 terest, give to said borrower, upon request, upon such
128 payment being made, a receipt, said receipt contain-
129 ing the date of the payment and the amount paid, and
130 the lender shall within sixty days after written demand
131 therefor by the borrower made after the payment give
132 a statement showing whether the payment is appli-
133 cable to interest on the sum borrowed or applicable
134 to the principal, and in the amounts applicable to each.
135 All such receipts shall be signed with the signature
136 of the lender or his duly authorized representative.
137 Whoever refuses upon written demand received by
138 registered or certified mail to give a receipt or state-
139 ment in accordance with the requirement of this sec-
140 tion shall forfeit the entire interest upon the princi-
141 pal sum.

142 *Section 90F. Penalty.* — A willful violation of sec-
143 tion ninety A by any person shall be punishable by a
144 fine of not less than one hundred dollars nor more than
145 five hundred dollars.

146 *Section 90G. Restitution a Bar to Further Penalties.*
147 — No person shall be subject to section ninety F unless
148 within ten days after receipt of written demand by
149 registered or certified mail from the borrower such
150 person shall fail to return the excess money, goods or
151 thing taken, accepted or received, or the value thereof,
152 in violation of section ninety A.

153 *Section 90H. Certain other Statutes not Affected.* —
154 Nothing contained in sections ninety A through ninety
155 G of this chapter shall be construed to affect the pro-
156 visions of sections ninety-six through one hundred and
157 fourteen A of this chapter, which sections shall be
158 controlling in the case of loans to which they apply.

159 *Section 90I. Unconstitutionality, Effect.* — If any
160 section or clause of sections ninety A through ninety G
161 of this chapter is held invalid or unconstitutional by
162 a court of competent jurisdiction the remainder shall
163 not be affected thereby.

1 SECTION 2. All contracts and agreements legally
2 in existence prior to the enactment of this act to which
3 the provisions of section one would apply shall not be
4 affected thereby.

1 SECTION 3. This act shall take effect on January
2 first, nineteen hundred and fifty-seven.

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