

1 AN ACT concerning interest.

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
5 Section 4 as follows:

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

7 Sec. 4. General interest rate.

8 (1) In all written contracts it shall be lawful for the
9 parties to stipulate or agree that 9% per annum, or any less
10 sum of interest, shall be taken and paid upon every \$100 of
11 money loaned or in any manner due and owing from any person
12 to any other person, ~~or corporation,~~ or limited liability
13 company in this state, and after that rate for a greater or
14 less sum, or for a longer or shorter time, except as herein
15 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
19 contract, whether made before or after July 1, 1969, which
20 provides for or purports to authorize, contingent upon a
21 change in the Illinois law after the contract is made, any
22 rate of interest greater than the maximum lawful rate at the
23 time the contract is made, is void.

24 It is lawful for a state bank or a branch of an
25 out-of-state bank, as those terms are defined in Section 2 of
26 the Illinois Banking Act, to receive or to contract to
27 receive and collect interest and charges at any rate or rates
28 agreed upon by the bank or branch and the borrower.

29 It is lawful to receive or to contract to receive and
30 collect interest and charges as authorized by this Act and as
31 authorized by the Consumer Installment Loan Act and by the

1 "Consumer Finance Act", approved July 10, 1935, as now or
2 hereafter amended. It is lawful to charge, contract for, and
3 receive any rate or amount of interest or compensation with
4 respect to the following transactions:

5 (a) Any loan made to a corporation or a limited
6 liability company;

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

13 (c) Any credit transaction between a merchandise
14 wholesaler and retailer; any business loan to a business
15 association or copartnership or to a person owning and
16 operating a business as sole proprietor or to any persons
17 owning and operating a business as joint venturers, joint
18 tenants or tenants in common, or to any limited
19 partnership, or to any trustee owning and operating a
20 business or whose beneficiaries own and operate a
21 business, except that any loan which is secured (1) by an
22 assignment of an individual obligor's salary, wages,
23 commissions or other compensation for services, or (2) by
24 his household furniture or other goods used for his
25 personal, family or household purposes shall be deemed
26 not to be a loan within the meaning of this subsection;
27 and provided further that a loan which otherwise
28 qualifies as a business loan within the meaning of this
29 subsection shall not be deemed as not so qualifying
30 because of the inclusion, with other security consisting
31 of business assets of any such obligor, of real estate
32 occupied by an individual obligor solely as his
33 residence. The term "business" shall be deemed to mean a
34 commercial, agricultural or industrial enterprise which

1 is carried on for the purpose of investment or profit,
2 but shall not be deemed to mean the ownership or
3 maintenance of real estate occupied by an individual
4 obligor solely as his residence;

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

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

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

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

25 (h) Any loan made by a participating bank as part
26 of any loan guarantee program which provides for loans
27 and for the refinancing of such loans to medical
28 students, interns and residents and which are guaranteed
29 by the American Medical Association Education and
30 Research Foundation;

31 (i) Any loan made, guaranteed, or insured in
32 accordance with the provisions of the Housing Act of
33 1949, Subchapter III of Chapter 8A of Title 42 of the
34 United States Code and the Consolidated Farm and Rural

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

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

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

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

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

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

27 (2) Except for loans described in subparagraph (a), (c),
28 (d), (e), (f) or (i) of subsection (1) of this Section, and
29 except to the extent permitted by the applicable statute for
30 loans made pursuant to Section 4a or pursuant to the Consumer
31 Installment Loan Act:

32 (a) Whenever the rate of interest exceeds 8% per
33 annum on any written contract, agreement or bond for deed
34 providing for the installment purchase of residential

1 real estate, or on any loan secured by a mortgage on
2 residential real estate, it shall be unlawful to provide
3 for a prepayment penalty or other charge for prepayment.

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

23 (3) In any contract or loan which is secured by a
24 mortgage, deed of trust, or conveyance in the nature of a
25 mortgage, on residential real estate, the interest which is
26 computed, calculated, charged, or collected pursuant to such
27 contract or loan, or pursuant to any regulation or rule
28 promulgated pursuant to this Act, may not be computed,
29 calculated, charged or collected for any period of time
30 occurring after the date on which the total indebtedness,
31 with the exception of late payment penalties, is paid in
32 full.

33 For purposes of this Section, a prepayment shall mean the
34 payment of the total indebtedness, with the exception of late

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

28 (Source: P.A. 89-208, eff. 9-29-95.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.