

## HOUSE BILL No. 2497

By Committee on Financial Institutions and Pensions

Requested by Representative Hoheisel on behalf of CATALYST

1-21

1 AN ACT concerning financial institutions; relating to loans; prohibiting  
2 the assessment of a prepayment penalty against any party more than six  
3 months after the execution of a note evidencing a home loan made  
4 primarily for personal, family or household purposes secured by a real  
5 estate mortgage; amending K.S.A. 2025 Supp. 16-207 and repealing  
6 the existing section.  
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2025 Supp. 16-207 is hereby amended to read as  
10 follows: 16-207. (a) Subject to the following provision, the parties to any  
11 bond, bill, promissory note or other instrument of writing for the payment  
12 or forbearance of money may stipulate therein for interest receivable upon  
13 the amount of such bond, bill, note or other instrument of writing, at a rate  
14 not to exceed 15% per annum unless otherwise specifically authorized by  
15 law.

16 (b) No *prepayment* penalty shall be assessed against any party ~~for~~  
17 ~~prepayment of any home loan evidenced by a note secured by a real estate~~  
18 ~~mortgage where such prepayment is made more than six months after~~  
19 ~~execution of such note more than six months after the execution of a note~~  
20 *evidencing a home loan made primarily for personal, family or household*  
21 *purposes secured by a real estate mortgage.*

22 (c) The lender may collect from the borrower:

23 (1) The actual fees paid a public official or agency of the state or  
24 federal government, for filing, recording or releasing any instrument  
25 relating to a loan subject to the provisions of this section; and

26 (2) reasonable expenses incurred by the lender in connection with the  
27 making, closing, disbursing, extending, readjusting or renewing of loans  
28 subject to the provisions of this section.

29 (d) Any person so contracting for a greater rate of interest than that  
30 authorized by this section shall forfeit all interest so contracted for in  
31 excess of the amount authorized under this section; and in addition thereto  
32 shall forfeit a sum of money, to be deducted from the amount due for  
33 principal and lawful interest, equal to the amount of interest contracted for  
34 in excess of the amount authorized by this section and such amounts may  
35 be set up as a defense or counterclaim in any action to enforce the

1 collection of such obligation and the borrower shall also recover a  
2 reasonable attorney fee.

3 (e) Subsection (a) shall not apply to:

4 (1) A covered transaction subject to the usury provisions of the  
5 Kansas mortgage business act, K.S.A. 9-2201 et seq., and amendments  
6 thereto;

7 (2) a consumer credit transaction subject to the usury provisions of  
8 the uniform consumer credit code, K.S.A. 16a-1-101 et seq., and  
9 amendments thereto;

10 (3) loans made by a qualified plan, as defined by the internal revenue  
11 code, to an individual participant in such plan or to a member of the family  
12 of such individual participant;

13 (4) a note secured by a real estate mortgage or a contract for deed to  
14 real estate when the note or contract for deed permits adjustment of the  
15 interest rate, the term of the loan or the amortization schedule; or

16 (5) a business or agricultural transaction. For the purpose of this  
17 section, a "business or agricultural transaction" means a loan, including a  
18 note secured by a contract for deed to real estate or a credit sale, which is  
19 made primarily for purposes other than personal, family or household  
20 purposes.

21 (f) Subsections (b), (c) and (d) shall not apply to:

22 (1) A covered transaction under the Kansas mortgage business act,  
23 K.S.A. 9-2201 et seq., and amendments thereto; or

24 (2) a consumer credit transaction under the uniform consumer credit  
25 code, K.S.A. 16a-1-101 et seq., and amendments thereto.

26 Sec. 2. K.S.A. 2025 Supp. 16-207 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the statute book.