

HOUSE BILL No. 2497

By Committee on Financial Institutions and Pensions

Requested by Representative Hoheisel on behalf of CATALYST

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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.
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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 prepayment of any home loan evidenced by a note secured by a real estate mortgage where such prepayment is made more than six months after execution of such note more than six months after the execution of a note evidencing a home loan made primarily for personal, family or household purposes secured by a real estate mortgage.~~
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18 (c) The lender may collect from the borrower:

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

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

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