

DUE-ON-SALE CLAUSES (EXCERPT)
Act 351 of 1984

445.1621 Definitions.

Sec. 1.

As used in this act:

(a) "Assumed" means transfers of real property subject to a real property loan by assumptions, land contracts, wrap-around loans, or transfers subject to the mortgage or similar lien, and other like transfers.

(b) "Blended rate period" means a period of time commencing on the date that a residential window period loan contract is amended as provided in Section 4 and ending either on a date selected by the lender at least 3 years after the period commences or on the date the loan was originally scheduled to become due and payable in full, whichever date is earlier.

(c) "Due-on-sale clause" means a contract provision which authorizes the lender, at its option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest in the property, securing the real property loan is sold or transferred without the lender's prior written consent.

(d) "FHLBB mortgage index rate" means the national average contract interest rate on conventional 25 plus year fixed rate mortgages charged by all major lenders on mortgage loans for previously occupied homes, as most recently published by the federal home loan bank board in its journal or news releases.

(e) "Lender" means a person or governmental agency, other than the Michigan state housing development authority, making real property loans, including, but not limited to, an individual, a federal or state chartered savings and loan association or savings bank, a state or national bank, a federal or state chartered credit union, an insurance company, or other lender approved as a mortgagee under the national housing act, 12 U.S.C. 1701 to 1750g; a manufactured housing retailer which extends credit; or any assignee or transferee, in whole or in part, of such a person or agency. Lender does not include an individual, with respect to a real property loan made by that individual, if during the calendar year in which that real property loan is made, the individual makes not more than 1 other real property loan.

(f) "Loan secured by a lien on real property" means a loan on the security of any instrument which makes the interest in real property specific security for the payment of the obligation secured by the instrument.

(g) "Loan secured by a lien on stock in a residential cooperative housing corporation" means a loan on the security of the following:

(i) A security interest in stock or a membership certificate issued to a tenant stockholder or resident member by a cooperative housing organization.

(ii) An assignment of the borrower's interest in the proprietary lease of occupancy agreement issued by such organization.

(h) "Loan secured by a lien on a residential manufactured home, whether real or personal property" means a loan made pursuant to an agreement by which the party extending the credit acquires a security interest in the residential manufactured home.

(i) "Real property loan" means a loan, mortgage, advance, or credit sale secured by a lien on real property, on the stock allocated to a dwelling unit in a cooperative housing corporation, or on a residential manufactured home, whether real or personal property.

(j) "Residential manufactured home" means a manufactured home as defined in section 603(6) of the national manufactured housing construction and safety standards act of 1974, 42 U.S.C. 5402(6), which is used as a residence.

(k) "Residential window period loan" means a window period loan which is 1 of the following:

(i) A loan secured by a lien on real property intended for occupancy by not more than 4 families.

(ii) A loan secured by a lien on stock in a residential cooperative housing corporation.

(iii) A loan secured by a lien on a residential manufactured home, whether real or personal property.

(l) "Sale or transfer" means the conveyance of property, or of any right, title, or interest in property, whether legal or equitable, whether voluntary or involuntary, by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than 3 years, lease option contract, or any other method of conveyance of real property interest.

(m) "Window period loan" means a real property loan which was made or assumed during a period beginning on January 5, 1977, and ending on October 15, 1982, other than a real property loan originated by a federal savings and loan association, a federal savings bank, a national bank, or a federally chartered credit union. A lender's identity with respect to a window period loan shall be the lender's identity on the date the loan was originated.

History: 1984, Act 351, Eff. Oct. 15, 1985 ;-- Am. 1985, Act 136, Imd. Eff. Oct. 15, 1985

