



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1354/1
ARG:jld:rs

2015 ASSEMBLY BILL 24

February 5, 2015 – Introduced by Representatives KATZMA, DOYLE, R. BROOKS, MACCO, THIESFELDT, SANFELIPPO, A. OTT, NYGREN, TITTL, KREMER, BRANDTJEN, KAPENGA, CRAIG, SKOWRONSKI, WEATHERSTON, KNODL, VORPAGEL, ALLEN, HORLACHER, JARCHOW and STEFFEN, cosponsored by Senator WANGGAARD. Referred to Committee on Financial Institutions.

- 1 **AN ACT** *to amend* 138.056 (2) (intro.) and 138.056 (2) (b); and *to create* 138.056
2 (2m) of the statutes; **relating to:** variable rate loans.

Analysis by the Legislative Reference Bureau

Under current law, a residential mortgage loan is a loan secured by a first lien real estate mortgage on, or equivalent security interest in, a one-family to four-family dwelling that the borrower uses as his or her principal place of residence. A manufactured home transaction is a consumer credit sale of, or a consumer loan secured by a first lien or equivalent security interest in, a manufactured home or mobile home. A variable rate loan is a residential mortgage loan or manufactured home transaction the terms of which permit the interest rate to be increased or decreased.

Current law imposes various requirements and limitations on variable rate loans, including limitations on adjustments to the interest rate of a variable rate loan. If interest rate adjustments correspond to an index, the index must be an approved index. An approved index is an index that is either one of certain specified indexes or is an index readily verifiable by borrowers, beyond the control of an individual lender, and approved by the applicable state regulator, such as the Division of Banking in the Department of Financial Institutions (DFI) or the Office of Credit Unions attached to DFI. Interest rate adjustments must correspond to upward and downward changes in the approved index, except: the lender may decrease the interest rate or decline to increase the interest rate at any time; and, the lender may decline to decrease the interest rate if this offsets prior interest rate increases declined by the lender. Also, interest rate decreases may be limited only if interest rate increases are limited at least to the same extent.

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This bill allows a lender making a variable rate loan based on an approved index to include a lower, discounted initial interest rate. During the initial interest rate period, provisions of current law related to the approved index do not apply, but they do apply after expiration of the initial interest rate period. The bill also eliminates the provision that interest rate decreases may be limited only if interest rate increases are limited at least to the same extent.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 138.056 (2) (intro.) of the statutes is amended to read:

2 138.056 **(2)** REQUIRED TERMS. (intro.) ~~A- Except as provided in sub. (2m), a~~
3 variable rate loan contract shall:

4 **SECTION 2.** 138.056 (2) (b) of the statutes is amended to read:

5 138.056 **(2)** (b) Use an approved index if it provides for adjustments to the
6 interest rate corresponding to an index. ~~The Subject to sub. (2m), the initial index~~
7 value shall be the most recently available value of the index prior to the date of
8 closing of the loan. The interest rate at adjustment shall reflect the difference, in
9 reference to the interest rate of the variable rate loan at the date of closing or, if sub.
10 (2m) is applicable, upon expiration of the initial interest rate period, between the
11 initial index value and the index value most recently available as of the date notice
12 of the interest rate adjustment is mailed under sub. (4) except the lender may
13 decrease the interest rate or decline to increase the interest rate at any time. The
14 interest rate shall be decreased to reflect any downward movement of the index
15 except to the extent the decrease offsets increases in the index not implemented as
16 interest rate increases. An increase in the index permitting the lender to increase
17 the interest rate but declined by the lender for any rate adjustment interval may be
18 carried over and applied in succeeding interest rate adjustment intervals to the
19 extent the increase is not offset by subsequent decreases in the index. ~~The variable~~

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1 ~~rate loan contract may provide for minimum interest rate change increments which~~
2 ~~shall apply to both increases and decreases. The variable rate loan contract may~~
3 ~~limit interest rate decreases only if interest rate increases are restricted at least to~~
4 ~~the same extent.~~

5 **SECTION 3.** 138.056 (2m) of the statutes is created to read:

6 138.056 **(2m)** DISCOUNTED INITIAL RATE. A variable rate loan contract may
7 include a discounted initial interest rate that is lower than the rate established
8 under sub. (2) (b). Upon expiration of the initial interest rate period, sub. (2) (b) shall
9 apply. For purposes of sub. (2) (b), the initial index value shall be the most recently
10 available value of the index immediately prior to the expiration of the initial interest
11 rate period. This subsection applies to variable rate loan contracts entered into on
12 or after the effective date of this subsection [LRB inserts date].

13 **SECTION 4. Initial applicability.**

14 (1) The treatment of section 138.056 (2) (b) of the statutes first applies to
15 variable rate loan contracts entered into on or after the effective date of this
16 subsection.

17 (END)