

286.8-110 Rates -- Mortgage required as evidence of real estate loan -- Delinquency charges -- Attorneys' fees -- Charges made part of note -- Limits on prepayment penalties.

- (1) Mortgage loan companies are prohibited from making loans and mortgage loan brokers are prohibited from brokering loans in violation of KRS 360.100 and are prohibited from making or brokering such loans at a rate or rates in excess of those provided by KRS 360.010 and 360.025 or other applicable usury statutes.
- (2) Every real estate loan shall be secured by a mortgage or other instrument constituting a lien upon the real estate securing the loan, according to any lawful or well-recognized practice that is best suited to the transaction. Any such instrument, constituting a lien, is herein termed a "mortgage." All such mortgages shall be recorded in accordance with the law of this Commonwealth.
- (3) Delinquency charges may be made for each installment more than ten (10) days in arrears, and only one (1) delinquency charge shall be made on any one (1) installment. No delinquency charge shall be made unless disclosed as required under subsection (2) of this section. In addition to such delinquency charges, attorneys' fees not exceeding fifteen percent (15%) of the unpaid balance shall be taxed as costs and court costs may be collected, provided that the note is referred to an attorney not a salaried employee of the holder for collection.
- (4) Any charges to be assessed against the borrower in the event a loan is paid prior to maturity shall be prominently displayed and made part of the note and the loan closing statement regarding the method of computation of any rebate. No prepayment penalty shall be assessed against the borrower following the third anniversary date of the mortgage or sixty (60) days prior to the date of the first interest rate reset, whichever is less. No prepayment penalty shall exceed three percent (3%) for the first year, two percent (2%) for the second year, and one percent (1%) for the third year of the outstanding balance of the loan; but in no event shall a prepayment penalty be assessed against a borrower refinancing with the mortgage loan company that funded the mortgage.

Effective: April 24, 2008

History: Amended 2008 Ky. Acts ch. 175, sec. 11, effective April 24, 2008. -- Amended 1998 Ky. Acts ch. 197, sec. 11, effective July 15, 1998. -- Amended 1986 Ky. Acts ch. 461, sec. 13, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 365, sec. 12, effective July 15, 1980.

Formerly codified as KRS 294.110.

Legislative Research Commission Note (7/12/2006). In accordance with 2006 Ky. Acts ch. 247, secs. 38 and 39, this statute has been renumbered as a section of the Kentucky Financial Services Code, KRS Chapter 286.