

State of Arkansas

CALL ITEM 36

76th General Assembly

Third Extraordinary Session, 1988

HOUSE BILL 1025

By: Representative Shaver

"AN ACT TO AMEND ARKANSAS CODE 23-32-908 PERTAINING TO
THE PREPAYMENT OF LOANS SECURED BY AGRICULTURAL LAND;
AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 23-32-908 is hereby amended to read as follows:

"23-32-908. Loans secured by liens on agricultural lands.

(a) Any person obtaining a loan secured by a lien on real estate in this state which is used primarily for agricultural or livestock purposes, shall have the privilege of prepaying the loan in multiples of one hundred dollars (\$100), during any one (1) year following the first anniversary of the date of the loan, on interest-paying dates, provided the prepayment plus required payments does not exceed twenty percent (20%) of the initial principal amount of the loan.

(b) The privilege shall not be cumulative, and the borrower shall have no further prepayment privilege except that the borrower may, at any time, prepay the principal balance of the loan with accrued interest thereon plus prepayment fees in amounts not exceeding the following:

(1) Five percent (5%) of the unpaid principal balance if prepaid during the first year;

(2) Four percent (4%) of the unpaid principal balance if prepaid during the second year;

(3) Three percent (3%) of the unpaid principal balance if prepaid during the third year;

(4) Two percent (2%) of the unpaid principal balance if prepaid during the fourth year;

(5) One percent (1%) of the unpaid principal balance if prepaid during

the fifth year;

(6) No penalty if prepaid more than five (5) years after the date of the note creating the debt.

(c) The provisions of this section shall apply only to loans secured by a lien on real estate used primarily for agricultural or livestock purposes. The provisions of this section shall not apply in instances where the mortgage, deed of trust, note or other instrument evidencing the indebtedness provides that this section does not apply to the indebtedness evidenced by the instrument.

(d) Any lender or other person applying or attempting to apply more restrictive prepayment requirements, or otherwise violating the provisions of this section, shall be guilty of a Class A misdemeanor and shall be punished accordingly.

(e) In addition to the criminal penalties provided in subsection (d) of this section, any lender or other person applying or attempting to apply more restrictive prepayment requirements or otherwise violating the provisions of this section shall forfeit all unmatured interest and principal on the loan and shall be liable for reasonable attorneys' fees incurred by the debtor as a result of the lender's violation of this section.

(f) Any payment of interest or principal made by the debtor shall not constitute a waiver of any of the debtor's rights provided by this section or any other law."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. Emergency. It is hereby found and determined by the General Assembly that the present law applicable to the prepayment of loans secured by agricultural land is too inflexible and in some cases has resulted in farmers being unable to obtain vital loans; that this Act will provide the needed flexibility in the law to make certain loans more readily available to farmers; and that this Act should be given immediate effect in order to provide needed relief to farmers as soon as possible. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

