

# HB1337



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1337

Introduced 2/9/2011, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

765 ILCS 5/11

from Ch. 30, par. 10

Amends the Conveyances Act. Provides that notwithstanding any other provision of the Act that concerns the form of a mortgage, no person may challenge the validity of or the priority of an otherwise lawfully executed and recorded mortgage solely on the basis that the rate of interest was not expressed in the mortgage.

LRB097 05449 AJO 45507 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Conveyances Act is amended by changing  
5 Section 11 as follows:

6 (765 ILCS 5/11) (from Ch. 30, par. 10)

7 Sec. 11. (a) Mortgages of lands may be substantially in the  
8 following form:

9 The Mortgagor (here insert name or names), mortgages and  
10 warrants to (here insert name or names of mortgagee or  
11 mortgagees), to secure the payment of (here recite the nature  
12 and amount of indebtedness, showing when due and the rate of  
13 interest, and whether secured by note or otherwise), the  
14 following described real estate (here insert description  
15 thereof), situated in the County of ....., in the State of  
16 Illinois.

17 Dated (insert date).

18 (signature of mortgagor or mortgagors)

19 The names of the parties shall be typed or printed below  
20 the signatures. Such form shall have a blank space of 3 1/2  
21 inches by 3 1/2 inches for use by the recorder. However, the  
22 failure to comply with the requirement that the names of the

1 parties be typed or printed below the signatures and that the  
2 form have a blank space of 3 1/2 inches by 3 1/2 inches for use  
3 by the recorder shall not affect the validity and effect of  
4 such form.

5 Such mortgage, when otherwise properly executed, shall be  
6 deemed and held a good and sufficient mortgage in fee to secure  
7 the payment of the moneys therein specified; and if the same  
8 contains the words "and warrants," the same shall be construed  
9 the same as if full covenants of ownership, good right to  
10 convey against incumbrances of quiet enjoyment and general  
11 warranty, as expressed in Section 9 of this Act were fully  
12 written therein; but if the words "and warrants" are omitted,  
13 no such covenants shall be implied. When the grantor or  
14 grantors in such deed or mortgage for the conveyance of any  
15 real estate desires to release or waive his, her or their  
16 homestead rights therein, they or either of them may release or  
17 waive the same by inserting in the form of deed or mortgage (as  
18 the case may be), provided in Sections 9, 10 and 11, after the  
19 words "State of Illinois," in substance the following words,  
20 "hereby releasing and waiving all rights under and by virtue of  
21 the homestead exemption laws of this State."

22 Mortgages securing "reverse mortgage" loans shall be  
23 subject to this Section except where requirements concerning  
24 the definiteness of the term and amount of indebtedness  
25 provisions of a mortgage would be inconsistent with the Acts  
26 authorizing "reverse mortgage" loans, or rules and regulations

1 promulgated under those Acts.

2 Mortgages securing "revolving credit" loans shall be  
3 subject to this Section.

4 (b) Notwithstanding any provision of subsection (a) of this  
5 Section, no person may challenge the validity or priority of an  
6 otherwise lawfully executed and recorded mortgage solely on the  
7 basis that the rate of interest was not expressed in the  
8 recorded mortgage instrument.

9 (Source: P.A. 91-357, eff. 7-29-99.)