



July 2024

## Interpretive Opinion Regarding Maximum Interest Rates under Minn. Stat. § 47.20, subd. 4a(a)

The Department issues this interpretive opinion, pursuant to its authority in Minn. Stat. § 46.35, regarding how to comply with Minn. Stat. § 47.20, subd. 4a(a)'s maximum interest calculation rate for certain mortgage products beginning August 1, 2024.

Minn. Stat. § 47.20, subd. 4a(a) (2023) provides:

No conventional or cooperative apartment loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate in an amount equal to the Federal National Mortgage Association posted yields on 30-year mortgage commitments for delivery within 60 days on standard conventional fixed-rate mortgages published in the Wall Street Journal for the last business day of the second preceding month plus four percentage points.

For years, Fannie Mae calculated and posted the yields described above, known as the “Required Net Yield,” (RNY) on its Historical Daily RNY website, which was then published by the Wall Street Journal. However, on June 3, 2024, Fannie Mae stopped posting the RNY and retired the Historical Daily RNY website. Consequently, beginning on August 1, 2024, the maximum interest rate under this section will be impossible to calculate because of the retirement of the RNY.

“Every law shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. § 645.16. Here, due to the retirement of the RNY, it is no longer possible to give effect to all of the provisions of Minn. Stat. § 47.20, subd. 4a(a). However, “[t]he object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16. In enacting Minn. Stat. § 47.20, subd. 4a(a), the legislature intended to create a maximum lawful interest rate and chose to peg that rate on an easily ascertainable and widely accepted standard.

Therefore, in order to maintain the intent of legislature, and the purpose of the law, the Department believes it is reasonable to substitute the “Average Prime Offer Rate” (APOR) as defined in Regulation Z in 12 C.F.R. § 1026.35(a)(2) as a substitute for the RNY in Minn. Stat. § 47.20, subd. 4a(a), as published on the last available business day of the second preceding month [plus four percentage points]. The APOR is published on a weekly basis by the Consumer Financial Protection Bureau on the Federal Financial Institutions Examination Council website at <https://ffiec.cfpb.gov/documentation/tools/rate-spread>. Like the RNY, the APOR provides a measurable index for 30-year fixed rate mortgage products that fluctuates based on the market and is published

by a federal government agency. Substituting the APOR for the retired RNY is in the public interest because it will provide reasonably similar protections to consumers from usurious interest rates while ensuring that lenders may continue to offer mortgage products in compliance with Minnesota law until a legislative amendment updating the applicable index can be adopted.

Several other states whose laws required consideration of the RNY in calculating maximum interest rates have also elected to utilize the APOR as a substitute. There is also support from the mortgage industry in Minnesota for using the APOR index as an alternative to the retired RNY.

The Department will consider correct substitutions of the APOR for the RNY in calculating the maximum allowable interest rates to be in compliance with Minn. Stat. § 47.20, subd. 4a(a) until the legislature amends the statute or this interpretive opinion is modified or rescinded. This interpretive opinion does not affect or modify any other legal requirements under state or federal law. If, in the future, the Department determines that utilizing APOR is no longer reasonable, the Department will revisit this opinion.

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