AN ACT to repeal 138.056 (3) (a); to renumber 138.056 (3) (b); to amend 138.056 (3) (title); and to create 138.056 (3m) of the statutes; relating to: prepayment penalties on variable rate residential mortgage loans.

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

SECTION 1. 138.056 (3) (title) of the statutes is amended to read:
138.056 (3) (title) FEES AND PENALTIES PROHIBITED.

SECTION 2. 138.056 (3) (a) of the statutes, as affected by 2003 Wisconsin Act 257, is repealed.

SECTION 3. 138.056 (3) (b) of the statutes is renumbered 138.056 (3).

SECTION 4. 138.056 (3m) of the statutes is created to read:
138.056 (3m) PREPAYMENT PENALTIES. (a) Notwithstanding s. 138.052 (2) (a), and except as provided in s. 428.207, a lender may not include a prepayment penalty in a variable rate loan using an approved index unless all of the following are satisfied:

1. The lender also makes variable rate loans without prepayment penalties and the lender provides the borrower with a written statement that the lender also makes variable rate loans without prepayment penalties.
2. At the time of the offer of the variable rate loan, and the borrower acknowledges, in writing, receipt of the statement specified in subd. 1.
3. The penalty is limited to prepayment that is made within 3 years of the date of the loan.
4. The prepayment is not made in connection with the sale of a dwelling or mobile home securing the loan.
(b) This subsection applies to variable rate loans made, refinanced, renewed, extended, or modified on or after the effective date of this paragraph .... [revisor inserts date].