

HOUSE No. 2211

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 14, 1941.

The committee on Banks and Banking, to whom was referred the petition (accompanied by bill, House, No. 1712) of John W. Vaughan for amendment of the law regulating the business of making small loans, report the accompanying bill (House, No. 2211).

For the committee,

THEODORE P. HOLLIS.

Representatives FALVEY of Somerville and COOK of Boston dissenting.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT RELATIVE TO THE FINANCING OF INSTALLMENT
PAYMENTS UNDER CONTRACTS FOR GOODS, SERVICES OR
INSURANCE IN CERTAIN CASES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section ninety-six of chapter one
2 hundred and forty of the General Laws, as amended
3 by section two of chapter one hundred and seventy-
4 nine of the acts of nineteen hundred and thirty-four,
5 is hereby further amended by inserting after the word
6 "sections" the first time it occurs in the seventeenth
7 line, as appearing in the Tercentenary Edition, the
8 following:—, but the foregoing provisions of this
9 sentence shall not apply in the case of any transaction
10 which involves any note or other instrument evidenc-
11 ing the indebtedness of a buyer to the seller of goods,
12 services or insurance for a part or all of the purchase
13 price, — so as to read as follows:— *Section 96.* No
14 person shall directly or indirectly engage in the busi-
15 ness of making loans of three hundred dollars or less,
16 if the amount to be paid on any such loan for interest
17 and expenses exceeds in the aggregate an amount
18 equivalent to twelve per cent per annum upon the
19 sum loaned, without first obtaining from the commis-
20 sioner of banks, in sections ninety-six to one hundred
21 and fourteen, inclusive, called the commissioner, a

22 license to carry on the said business in the town where
23 the business is to be transacted. When an applica-
24 tion for a loan or for an endorsement or guarantee or
25 for the purchase of a note is made by any person
26 within this commonwealth, and the money is advanced
27 or the endorsement or guarantee is made or furnished
28 by any person without this commonwealth, the trans-
29 action shall be deemed a loan made within this com-
30 monwealth, and such a loan and the parties making
31 it shall be subject to sections ninety-six to one hun-
32 dred and thirteen, inclusive. The buying or endorsing
33 of notes or the furnishing of guarantee or security for
34 compensation shall be considered to be engaging in
35 the business of making small loans within said sec-
36 tions, but the foregoing provisions of this sentence
37 shall not apply in the case of any transaction which
38 involves any note or other instrument evidencing the
39 indebtedness of a buyer to the seller of goods, services
40 or insurance for a part or all of the purchase price.
41 In prosecutions under said sections, the amount to
42 be paid upon any loan of three hundred dollars or less
43 for interest or expenses shall include all sums paid or
44 to be paid by or on behalf of the borrower for interest,
45 brokerage, recording fees, commissions, services, ex-
46 tension of loan, forbearance to enforce payment, and
47 all other sums charged against or paid or to be paid
48 by the borrower for making or securing directly or
49 indirectly the loan, and shall include all such sums
50 when paid by or on behalf of or charged against the
51 borrower for or on account of making or securing the
52 loan, directly or indirectly, to or by any person, other
53 than the lender, if such payment or charge was known
54 to the lender at the time of making the loan, or might
55 have been ascertained by reasonable inquiry. Any
56 person directly or indirectly engaging in the business

57 of negotiating, arranging, aiding or assisting the bor-
58 rower or lender in procuring or making loans of three
59 hundred dollars or less, for which the amount paid
60 or to be paid for interest and expenses, including all
61 amounts paid or to be paid to any other party there-
62 for, exceeds in the aggregate an amount equivalent
63 to twelve per cent per annum, whether such loans are
64 actually made by such person or by another party,
65 shall be deemed to be engaged in the business of mak-
66 ing small loans, and shall be subject to sections ninety-
67 six to one hundred and twelve, inclusive. If, after all
68 deductions or payments, whether on account of
69 interest, expenses or principal made substantially
70 contemporaneously with the making of the loan, the
71 amount retained by the borrower be three hundred
72 dollars or less, the transaction shall be deemed to be
73 a loan in the amount of the sum so retained by the
74 borrower after such deductions or payments, notwith-
75 standing that the loan be nominally for a greater sum.

1 SECTION 2. This act shall apply in the case of any
2 transaction entered into before the time it takes effect
3 which involved any note or other instrument evidenc-
4 ing the indebtedness of a buyer to the seller of goods,
5 services or insurance for a part or all of the purchase
6 price, as well as in the case of any transaction entered
7 into after said time of taking effect which involves
8 such a note or other instrument.

1 SECTION 3. If any provision of this act, or the
2 application thereof to any person, firm, corporation
3 or association or to any circumstances, is held invalid
4 by any court of final jurisdiction, the remainder of
5 this act, and the application of such provision to other
6 persons or circumstances, shall not be affected thereby.