

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 3, 1956.

The committee on Banks and Banking, to whom were referred the petition (accompanied by bill, Senate, No. 148) of William D. Fleming and Harold R. Lundgren for legislation to amend the Small Loans Act and related statutes; the petition (accompanied by bill, Senate, No. 149) of Joseph F. Gibney for legislation to further regulate the rates of interest that may be charged on certain loans; the petition (accompanied by bill, Senate, No. 150) of C. Henry Glovsky for legislation to amend the Small Loans Act and related statutes; the petition (accompanied by bill, House, No. 113) of Herbert B. Hollis for legislation relative to licenses for the making of small loans; the petition (accompanied by bill, House, No. 462) of Harold W. Canavan and William H. J. Rowan that loans of one thousand dollars or less be made subject to the provisions of the Small Loans Act; the petition (accompanied by bill, House, No. 463) of Patrick F. Plunkett for legislation relative to small loans; the petition (accompanied by bill, House, No. 583) of Norman S. Weinberg for legislation relative to the making of loans of twenty-five hundred dollars or less; the petition (accompanied by bill, House, No. 584) of Lawrence F. Feloney for legislation relative to the making of small loans; the petition (accompanied by bill, House, No. 782) of Charles W. Patterson for legislation relative to small loans; the petition (accompanied by bill, House, No. 894) of William D. Morton, Jr., for legislation to regulate further the rate of interest on small loans; the petition (accompanied by bill, House, No. 896) of Anthony M. Scibelli for legislation establishing the Massachusetts consumer finance act; the petition (accompanied by bill, House, No. 1030) of Edward

L. Kerr for legislation to establish the Massachusetts consumer loan act; the petition (accompanied by bill, House, No. 1498) of Pasquale Caggiano for legislation relative to small loans; the petition (accompanied by resolve, House, No. 1499) of Pasquale Caggiano for an investigation by a special commission (including members of the General Court) of companies engaged in the making of small loans; the petition (accompanied by bill, House, No. 1904) of James L. O'Dea, Jr., for legislation relative to small loans; the petition (accompanied by bill, House, No. 2068) of James W. Kelleher for legislation relative to the small loan statute and tender act; and the petition (accompanied by bill, House, No. 2069) of James W. Kelleher for legislation to establish the small loans act, report the accompanying bill (House, No. 2957).

For the committee,

LAWRENCE F. FELONEY.

Senator LUNDGREN, and Representative MORTON of Wellesley dissenting.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Six.

AN ACT RELATIVE TO SMALL LOANS.

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 96 of chapter 140 of the General
2 Laws, as last amended by chapter 158 of the acts of
3 1941, is hereby amended by striking out said section and
4 inserting in place thereof the following section: —

5 *Section 96.* No person shall directly or indirectly
6 engage in the business of making loans of one thousand
7 dollars or less, if the amount to be paid on any such
8 loan for interest and expenses exceeds in the aggregate
9 an amount equivalent to twelve per cent per annum
10 upon the sum loaned, without first obtaining from the
11 commissioner of banks, in sections ninety-six to one
12 hundred and fourteen, inclusive, called the commis-
13 sioner, a license to carry on the said business in the
14 town where the business is to be transacted. When an
15 application for a loan or for an endorsement or guarantee
16 or for the purchase of a note is made by any person
17 within this commonwealth, and the money is advanced
18 or the endorsement or guarantee is made or furnished
19 by any person without this commonwealth, the trans-
20 action shall be deemed a loan made within this com-
21 monwealth, and such a loan and the parties making it
22 shall be subject to sections ninety-six to one hundred
23 and thirteen, inclusive. The buying or endorsing of
24 notes or the furnishing of guarantee or security for com-
25 pensation shall be considered to be engaging in the
26 business of making small loans within said sections,

27 but the foregoing provisions of this sentence shall not
28 apply in the case of any transaction which involves any
29 note or other instrument evidencing the indebtedness
30 of a buyer to the seller of goods, services or insurance
31 for a part or all of the purchase price. In prosecutions
32 under said sections, the amount to be paid upon any
33 loan of one thousand dollars or less for interest or
34 expenses shall include all sums paid or to be paid by or
35 on behalf of the borrower for interest, brokerage, re-
36 cording fees, commissions, services, extension of loan,
37 forbearance to enforce payment, and all other sums
38 charged against or paid or to be paid by the borrower
39 for making or securing directly or indirectly the loan,
40 and shall include all such sums when paid by or on
41 behalf of or charged against the borrower for or on
42 account of making or securing the loan, directly or
43 indirectly, to or by any person, other than the lender,
44 if such payment or charge was known to the lender at
45 the time of making the loan, or might have been ascer-
46 tained by reasonable inquiry. Any person directly or
47 indirectly engaging in the business of negotiating,
48 arranging, aiding or assisting the borrower or lender
49 in procuring or making loans of one thousand dollars or
50 less, for which the amount paid or to be paid for in-
51 terest and expenses, including all amounts paid or to
52 be paid to any other party therefor, exceeds in the
53 aggregate an amount equivalent to twelve per cent per
54 annum, whether such loans are actually made by such
55 person or by another party, shall be deemed to be en-
56 gaged in the business of making small loans, and shall
57 be subject to sections ninety-six to one hundred and
58 twelve, inclusive. If after all deductions or payments,
59 whether on account of interest, expenses or principal
60 made substantially contemporaneously with the making
61 of the loan, the amount retained by the borrower, plus
62 the sum of all other principal indebtedness owing by
63 the borrower to the lender at the time of the making
64 of the loan, be one thousand dollars or less, the trans-
65 action for the purposes of sections ninety-six through

66 one hundred and fourteen A shall be deemed to be a
67 loan in the amount of the aggregate of the sum so re-
68 tained and so owing by the borrower after such deduc-
69 tions or payments, notwithstanding that the loan be
70 nominally for a greater sum.

1 SECTION 2. Section 100 of chapter 140 of the
2 General Laws as last amended by chapter 174 of the
3 acts of 1946 is hereby amended by striking out said
4 section and inserting in place thereof the following
5 section:—

6 *Section 100.* The total amount to be paid on any
7 loan for interest and expense shall not exceed an
8 amount resulting from applying to the principal amount
9 of the loan such rate as will yield thirteen dollars and
10 forty-seven cents for one hundred dollars of principal
11 which is to be repaid in twelve equal and consecutive
12 monthly installments of principal and charges com-
13 bined, plus extension and default charges as hereinafter
14 provided, or the equivalent rate of two per cent per
15 month computed on unpaid principal balances, for a
16 period terminating not later than one year after ma-
17 turity, and to six per cent per annum after the termi-
18 nation of said year. Charges shall not be discounted or
19 deducted from the principal of the loan, or paid or
20 received at the time the loan is made, and shall not be
21 compounded, but charges on loans contracted to be
22 repaid in substantially equal and consecutive monthly
23 installments of principal and charges combined may
24 be included in such installments, and payments may be
25 applied to the unpaid balance of principal and charges
26 combined, subject to adjustments in said charges as
27 hereinafter provided.

28 (a) When the first installment period of such a loan
29 is more or less than one month, the amount of charge
30 earned for such period shall bear the same proportion
31 to the amount which would be earned by the licensee if
32 prepayment in full occurred on the first installment
33 date, as provided in paragraph (b) of this section, as the

34 number of days in said period bears to the number
35 thirty.

36 (b) If the loan contract is prepaid in full by cash,
37 renewal or refinancing one month or more before
38 maturity, the borrower shall receive a refund or credit
39 computed by the rule commonly known as the rule of
40 seventy-eight, under which the refund shall be as great
41 a proportion of the total scheduled charges as the
42 sum of the full periodic installment balances of the
43 loan after the month in which the loan is prepaid in full
44 bears to the sum of all the periodic installment balances
45 of the loan, both sums to be determined according to
46 the payment schedules which had been agreed upon
47 in the loan contract. When such prepayment is made
48 on other than the installment date, then a similar
49 calculation shall be made in respect to the installment
50 date immediately preceding the date of prepayment or
51 the date of contract if no preceding installment date.
52 For each day preceding the subsequent installment
53 date, a further refund or credit shall be made of one
54 thirtieth of the difference between the two calculations.

55 (c) In the event of default lasting more than fifteen
56 days of any scheduled installment the licensee may
57 charge and collect a sum not exceeding the amount of
58 refund which would be due the borrower if the loan were
59 prepaid in full one month before maturity, multiplied
60 by the nearest number of months such installment is in
61 default. If the payment date for any scheduled in-
62 stallment and all subsequent installments is extended
63 one or more months, the licensee may charge and
64 collect an extension charge not exceeding the amount
65 of default charge on one installment for one month
66 multiplied by the number of installments and the
67 number of full months the payment date for such
68 installments is so extended; provided, that the receipt
69 which shall be given to the borrower for such extension
70 charge shall also state the time for which installments
71 are extended and the new maturity date of the contract.

72 (d) If the maturity of the loan contract is accelerated

73 for any reason, the licensee shall make the same refund
74 or credit as would be required for prepayment in full.
75 If the contract so provides, the licensee may reduce the
76 contract balance as of any installment date by the refund
77 or credit which would be required for prepayment in full
78 on such installment date, and thereafter receive charges
79 at the agreed rate computed on unpaid principal
80 balances, subject to the limitations set forth in this
81 section.

82 The provisions of paragraphs (a) through (d) above
83 shall apply only where the interest charge is added
84 on to the principal sum or precomputed in advance, and
85 the aggregate of such principal and interest is payable
86 in substantially equal and consecutive monthly in-
87 stallments.

88 No licensee or company or association to which
89 sections ninety-six to one hundred and twelve, in-
90 clusive, apply shall charge or receive upon any loan a
91 greater rate of charge than that established herein.
92 No charge, bonus, fee, expense or demand of any nature
93 whatsoever, except as above provided, shall be made
94 upon loans to which said sections relate.

1 SECTION 3. Section 110 of chapter 140 of the General
2 Laws, as last amended by chapter 347 of the acts of
3 1913, is hereby amended by striking out the words
4 "three hundred" in the third sentence and inserting
5 in place thereof the words: — one thousand, — so that
6 said sentence will read as follows: — *Section 110.* In
7 prosecutions under said sections the fact that the
8 defendant has made or assisted in the making of two or
9 more loans of one thousand dollars or less, upon which
10 there has directly or indirectly been paid or charged,
11 for interest, brokerage, recording fees, commissions,
12 services, extension of loan, forbearance to enforce pay-
13 ment or other expenses, a sum which exceeds in the
14 aggregate an amount equivalent to twelve per cent per
15 annum upon the amount actually received by the
16 borrower, whether such sum has been paid to or charged

17 by the defendant or paid to or charged by any other
18 person, shall be prima facie evidence that the defendant
19 has engaged in and carried on the business of making
20 loans to which sections ninety-six to one hundred and
21 twelve, inclusive, apply.

1 SECTION 4. Chapter 140 of the General Laws is
2 hereby amended by adding after section 114 the follow-
3 ing new section: —

4 *Section 114A.* Trust companies, savings banks,
5 co-operative banks, savings and loan associations,
6 credit unions, national banking associations and federal
7 savings and loan associations shall not be subject to the
8 provisions of sections ninety-six to ninety-nine, in-
9 clusive, or sections one hundred and one to one hundred
10 and fourteen, inclusive, of this chapter. Loans made
11 by trust companies, savings banks, co-operative banks,
12 savings and loan associations, credit unions, national
13 banking associations, and federal savings and loan
14 associations in violation of section one hundred of this
15 chapter, or any regulations made thereunder, may be
16 declared void by the supreme judicial or superior court
17 in equity upon petition by the person to whom the loan
18 was made, and any person violating any provision of
19 said section one hundred, or any regulation made
20 thereunder, shall be subject to a fine of not more than
21 five hundred dollars.

1 SECTION 5. Section 2 of chapter 154 of the General
2 Laws, as last amended by section 31 of chapter 550 of
3 the acts of 1948, is hereby further amended by striking
4 out the words "three hundred" and inserting in place
5 thereof the words: — one thousand.

1 SECTION 6. This act shall not affect any contract
2 made prior to its effective date.