

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 27, 1962.

The committee on Banks and Banking, to whom were referred the petition (accompanied by bill, House, No. 1195) of Joseph Del Grosso that the Commissioner of Banks be authorized to regulate the rate of interest to be charged on certain small loans and for abolishing the Small Loans Regulatory Board; the petition (accompanied by bill, House, No. 1207) of Paul C. Menton for legislation relative to the further regulation of small loans; the petition (accompanied by resolve, House, No. 2115) of John M. Eaton, Jr., for an investigation by a special commission (including members of the General Court) of the existence and extent of finance and credit institutions and the licensing and regulating of said institutions; the petition (accompanied by bill, House, No. 2118) of Charles L. Shea that the Commissioner of Banks be authorized to establish the rate of interest to be charged on certain small loans; the petition (accompanied by bill, House, No. 2635) of Robert H. Quinn that the Commissioner of Banks be authorized to establish the rate of interest to be charged on certain small loans; the petition (accompanied by bill, House, No. 2636) of Garrett H. Spillane, Jr., and Thomas M. White that the Commissioner of Banks be authorized to regulate the rate of interest to be charged on certain small loans and for abolishing the Small Loans Regulatory Board; and the petition (accompanied by bill, House, No. 2873) of Leo J. Turo for legislation to limit to five per cent per annum the interest rates on personal loans made by lending agencies, report the accompanying bill (House, No. 3526).

For the committee,

ROBERT H. QUINN.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Two.

AN ACT MAKING LOANS UP TO THREE THOUSAND DOLLARS SUBJECT TO THE PROVISIONS OF SECTIONS NINETY-SIX THROUGH ONE HUNDRED AND FOURTEEN A OF CHAPTER ONE HUNDRED AND FORTY.

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. Sections 96, 110 and 114A of chapter 140 of the
2 General Laws are hereby amended by striking out said sections
3 and inserting the following sections: —

4 *Section 96.* No person shall directly or indirectly engage in
5 the business of making loans of three thousand dollars or less,
6 if the amount to be paid on any such loan for interest and ex-
7 penses exceeds in the aggregate an amount equivalent to twelve
8 per cent per annum upon the sum loaned, without first obtain-
9 ing from the commissioner of banks, in sections ninety-six to
10 one hundred and fourteen, inclusive, called the commissioner,
11 a license to carry on the said business in the town where the
12 business is to be transacted. When an application for a loan
13 or for an endorsement or guarantee or for the purchase of a
14 note is made by any person within this commonwealth, and
15 the money is advanced or the endorsement or guarantee is made
16 or furnished by any person without this commonwealth, the
17 transaction shall be deemed a loan made within this common-
18 wealth, and such a loan and the parties making it shall be sub-
19 ject to sections ninety-six to one hundred and thirteen, inclu-
20 sive. The buying or endorsing of notes or the furnishing of
21 guarantee or security for compensation shall be considered to
22 be engaging in the business of making small loans within said
23 sections, but the foregoing provisions of this sentence shall not
24 apply in the case of any transaction which involves any note or
25 other instrument evidencing the indebtedness of a buyer to the
26 seller of goods, services or insurance for a part or all of the pur-
27 chase price. In prosecutions under said sections, the amount
28 to be paid upon any loan of three thousand dollars or less for
29 interest or expenses shall include all sums paid or to be paid

30 by or on behalf of the borrower for interest, brokerage, record-
31 ing fees, commissions, services, extension of loan, forbearance
32 to enforce payment, and all other sums charged against or paid
33 or to be paid by the borrower for making or securing directly
34 or indirectly the loan, and shall include all such sums when
35 paid by or on behalf of or charged against the borrower for on
36 account of making or securing the loan, directly or indirectly,
37 to or by any person, other than the lender, if such payment or
38 charge was known to the lender at the time of making the loan,
39 or might have been ascertained by reasonable inquiry. Any
40 person directly or indirectly engaging in the business of nego-
41 tiating, arranging, aiding or assisting the borrower or lender in
42 procuring or making loans of three thousand dollars or less, for
43 which the amount paid or to be paid for interest and expenses,
44 including all amounts paid or to be paid to any other party
45 therefor, exceeds in the aggregate an amount equivalent to
46 twelve per cent per annum, whether such loans are actually
47 made by such person or by another party, shall be deemed to
48 be engaged in the business of making small loans, and shall be
49 subject to sections ninety-six to one hundred and twelve, in-
50 clusive. If, after all deductions or payments, whether on ac-
51 count of interest, expenses or principal made substantially con-
52 temporaneously with the making of the loan, the amount
53 retained by the borrower be three thousand dollars or less, the
54 transaction shall be deemed to be a loan in the amount of the
55 sum so retained by the borrower after such deductions or pay-
56 ments, notwithstanding that the loan be nominally for a greater
57 sum.

58 *Section 110.* Whoever, not being duly licensed as provided
59 in section ninety-six, on his own account or on account of any
60 other person not so licensed, engages in or carries on, directly
61 or indirectly, either separately or in connection with or as a
62 part of any other business, the business of making loans or buy-
63 ing notes or furnishing endorsements or guarantees, to which
64 sections ninety-six to one hundred and eleven, inclusive, apply,
65 shall be punished by a fine of not more than five hundred dol-
66 lars or by imprisonment for not more than two months, or
67 both. Any loan made or note purchased or endorsement or
68 guarantee furnished by an unlicensed person in violation of
69 said sections shall be void. In prosecutions under said sections
70 the fact that the defendant has made or assisted in the making

71 of two or more loans of three thousand dollars or less, upon
72 which there has directly or indirectly been paid or charged, for
73 interest, brokerage, recording fees, commissions, services, ex-
74 tension of loan, forbearance to enforce payment or other ex-
75 penses, a sum which exceeds in the aggregate an amount equiv-
76 alent to twelve per cent per annum upon the amount actually
77 received by the borrower, whether such sum has been paid to
78 or charged by the defendant or paid to or charged by any other
79 person, shall be prima facie evidence that the defendant has
80 engaged in and carried on the business of making loans to which
81 sections ninety-six to one hundred and twelve, inclusive, apply.

82 *Section 114A.* Trust companies, savings banks, co-operative
83 banks, savings and loan associations, credit unions, national
84 banking associations and federal savings and loan associations
85 shall not be subject to the provisions of sections ninety-six to
86 one hundred and fourteen, inclusive; provided, that such insti-
87 tutions may not take, receive, reserve or charge interest, ex-
88 penses and other considerations for making or securing a loan
89 of three thousand dollars or less in excess of those permitted by
90 section one hundred. Any loan of three thousand dollars or
91 less made by any trust company, savings bank, co-operative
92 bank, savings and loan association, credit union, national bank-
93 ing association or federal savings and loan association on which
94 charges for interest, expenses and other considerations exceed
95 those permitted by section one hundred may be declared void
96 by the supreme judicial or superior court in equity upon peti-
97 tion by the person to whom the loan was made, and any such
98 trust company, bank, association or credit union making such
99 loan shall be subject to a fine of not more than five hundred
100 dollars.

1 SECTION 2. Until such time as the Small Loans Regulatory
2 Board shall establish a maximum interest rate on that part of
3 the unpaid principal balance of a loan exceeding one thousand
4 five hundred dollars but not exceeding three thousand dollars
5 the maximum charge for interest, expenses and other considera-
6 tions on such unpaid principal balance shall not exceed the
7 maximum rate of interest established by said board on the un-
8 paid principal balance of a loan exceeding one thousand dollars
9 but not exceeding one thousand five hundred dollars.