

HOUSE No. 887

Bill accompanying the petition of John J. Walsh for legislation to prohibit the exaction of exorbitant rates of interest for certain loans. Legal Affairs. January 17.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Eleven.

AN ACT

To fix the Legal Rate of Interest of Promissory Notes secured by Mortgage of Land.

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 three of chapter seventy-three or
2 the Revised Laws is hereby amended by striking out all
3 of said section, and substituting therefor the following:—
4 Except as hereinafter provided, if there is no agreement
5 or provision of law for a different rate, the interest of
6 money shall be at the rate of six dollars on each hundred
7 dollars for a year, but except as provided in sections
8 thirty-five, forty-one, fifty-one, fifty-three, fifty-seven,
9 sixty, sixty-one and sixty-two of chapter one hundred and
10 two of the Revised Laws, it shall be illegal to pay, reserve
11 or contract for any rate of interest or discount in excess
12 of twelve dollars on each hundred dollars for a year.

13 No greater rate than six dollars on each hundred
14 dollars for a year shall be recovered in a suit unless the
15 agreement to pay it is in writing, and no bond issued
16 by a corporation shall bear interest at a yearly rate
17 exceeding seven dollars on each hundred.

18 The rate of interest or discount for loans of money
19 secured by mortgage of land shall not exceed twelve per
20 centum per annum on the sum actually loaned. No
21 bonus, gratuity, reward, commission or reservation of
22 any kind or value, except a specified rate of interest not
23 exceeding twelve per centum per annum, shall be charged
24 for loan secured by mortgage of land; but this provision
25 shall not prevent a broker who effects such loan from
26 recovering a commission not exceeding two per centum
27 on the amount actually loaned, nor shall this provision
28 prohibit reasonable charge for examination of title and
29 for drawing of necessary papers.

30 If the maker or endorser of a promissory note secured
31 by mortgage of land, in order to extinguish said note,
32 is compelled to pay, or pays, to holder in due course as
33 defined by section sixty-nine of chapter seventy-three
34 of the Revised Laws, a greater rate of interest than
35 twelve per centum per annum either in the form of a
36 specified rate or by way of bonus, gratuity, reward,
37 reservation, commission or otherwise, he may recover
38 in an action of tort against the payee of such promissory
39 note and the actual lender of the money and the mort-
40 gagee, or either or any of them all sums so paid in excess
41 of the actual amount loaned, if such action is brought
42 within two years from the date of such payment. A judg-
43 ment for the plaintiff in such action shall have the same
44 effect as a judgment in tort for obtaining property by
45 false pretenses.

46 A mortgage of land given to secure a promissory note

47 shall be discharged upon payment or tender by the
48 debtor of the principal sum actually borrowed and
49 interest at the rate of twelve per centum per annum from
50 the time said money was borrowed; but the lender
51 shall be entitled to interest, at said rate, for the full
52 mortgage period and for such further period as the mort-
53 gage, by consent of the parties to it, is allowed to remain.
54 All payments in excess of said rate shall be applied to
55 the discharge of the principal, and the mortgagor shall
56 be obliged to pay or tender only the remainder of the
57 principal and interest, at said rate, due after such appli-
58 cation. The provision of this section shall not affect any
59 loan made at a less rate than twelve per centum per annum,
60 nor shall it affect so much of this act as provides that if
61 there is no agreement for a different rate, the interest of
62 money shall be at the rate of six dollars upon each hun-
63 dred dollars per year.

1 SECTION 2. All acts or parts of acts inconsistent
2 herewith are hereby repealed.

1 SECTION 3. This act shall take effect upon its passage.

