

HOUSE No. 5931

The Commonwealth of Massachusetts

House of Representatives, July 14, 1970.

The committee on Banks and Banking, to whom was referred so much of the message from His Honor the Lieutenant-Governor, Acting Governor, recommending legislation relative to law enforcement and the administration of criminal justice (House, No. 5439) as relates to prohibiting and penalizing loan sharking (App. F), report the accompanying bill (House, No. 5931).

For the committee,

PAUL C. MENTON.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT TO PROHIBIT AND PENALIZE LOAN SHARKING.

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

1 Chapter 271 of the General Laws is hereby amended by
2 inserting after section 48, as appearing in chapter 91 of the acts
3 of 1962, the following new section: —

4 *Section 49.* (a) Whoever in exchange for either a loan of money
5 or other property knowingly contracts for, charges, takes or
6 receives, directly or indirectly, interest and expenses the aggregate
7 of which exceeds an amount greater than twenty per centum per
8 annum upon the sum loaned or the equivalent rate for a longer or
9 shorter period, shall be guilty of criminal usury and shall be
10 punished by imprisonment in the state prison for not more than
11 ten years or by a fine of not more than ten thousand dollars, or
12 by both such fine and imprisonment. For the purposes of this
13 section the amount to be paid upon any loan for interest or
14 expenses shall include all sums paid or to be paid by or on behalf
15 of the borrower for interest, brokerage, recording fees, commis-
16 sions services, extension of loan, forbearance to enforce payment,
17 and all other sums charged against or paid or to be paid by the
18 borrower for making or securing directly or indirectly the loan,
19 and shall include all such sums when paid by or on behalf of or
20 charged against the borrower for or on account of making or
21 securing the loan, directly or indirectly to or by any person, other
22 than the lender, if such payment or charge was known to the
23 lender at the time of making the loan, or might have been
24 ascertained by reasonable inquiry.

25 (b) Whoever, with knowledge of the contents thereof, possesses
26 any writing, paper, instrument or article used to record a
27 transaction proscribed under the provisions of paragraph (a) shall
28 be punished by imprisonment in a jail or house of correction for

29 not more than two and one half years, or by a fine of not more
30 than five thousand dollars, or by both such fine and imprison-
31 ment.

32 (c) Any loan at a rate of interest proscribed under the
33 provisions of paragraph (a) may be declared void by the supreme
34 judicial or superior court in equity upon petition by the person to
35 whom the loan was made.

36 (d) The provisions of paragraphs (a) to (c), inclusive shall not
37 apply to any person who notifies the Attorney General of an
38 intent to engage in a transaction or transactions which, but for
39 the provisions of this paragraph, would be proscribed under the
40 provisions of paragraph (a) providing any such person maintains
41 records of any such transaction. Such notification shall be valid
42 for a two year period; and shall contain the person's name and
43 accurate address. No lender shall publicly advertise the fact of
44 such notification nor use the fact of such notification to solicit
45 business except that such notification may be revealed to an
46 individual upon his inquiry. Illegal use of such notification shall
47 be punished by a fine of one thousand dollars. Such records shall
48 contain the name and address of the borrower, the amount
49 borrowed, the interest and expenses to be paid by the borrower,
50 the date the loan is made and the date or dates on which any
51 payment is due. Any such records shall be made available to the
52 Attorney General for the purposes of inspection upon his request.
53 Such records and their contents shall be confidential but may be
54 used by the Attorney General, or any district attorney with the
55 approval of the Attorney General, for the purposes of conducting
56 any criminal proceeding to which such records or their contents
57 are relevant. For the purposes of this section, person shall mean
58 any individual, individuals or entity capable of holding a legal or
59 beneficial interest in property.

60 (e) The provisions of this section shall not apply to any loan
61 the rate of interest for which is regulated under any other
62 provision of general or special law or regulations promulgated
63 thereunder.

