
By Mr. Lewis, a petition (accompanied by bill, Senate, No. 6) of Arthur Joseph Lewis, Jr., for legislation to limit rates on home mortgages. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-eight.

AN ACT LIMITING RATES ON HOME MORTGAGES.

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 90A. No person shall directly or indirectly charge,
2 take or receive for a loan of more than fifteen hundred dol-
3 lars secured wholly or partially by a mortgage of real estate
4 having an assessed value of not over forty thousand dollars,
5 having thereon a dwelling house with accommodations for six
6 or less separate households and occupied in whole or in part
7 at the time the loan is made as a home by any obligor on the
8 mortgage debt or by any person granting or releasing any in-
9 terest under said mortgage, a greater rate of interest than an
10 amount equivalent to one and one half per cent a month com-
11 puted on unpaid balances, but such interest shall not exceed one
12 percent a month after a continuing default for a total period
13 of six months. The borrower shall have the right to anticipate
14 his debt in whole or in part at any time without being required
15 to pay a penalty to the lender therefor. The aggregate of the
16 amount of money or value actually received or held at the time
17 of the loan, plus the sum of all existing indebtedness of the
18 borrower to the lender shall for purposes of this section and
19 sections ninety B to ninety D, inclusive, be deemed the amount
20 of the loan. Except where the borrower agrees in writing to
21 a different application of his payments, in cases where partial
22 payments are made, the interest shall be calculated to the time
23 of payment, and such payment shall first be applied to interest,
24 and the balance thereafter remaining, if any, shall be applied
25 to principal.

26 The maximum interest shall include all sums paid directly
27 or indirectly by or on behalf of the borrower to the lender for
28 interest, brokerage, commissions, services, extension of loan,
29 forbearance to enforce payment or otherwise for making or
30 securing the loan, not including, however, sums the lender
31 may require the borrower to pay or reimburse the lender for
32 actual recording and foreclosure costs for reasonable legal
33 charges incurred for the examination of the title and the mar-
34 ketability of the security for the loan, for the drafting of the
35 security instruments or documents, and, when such services are
36 utilized, for collecting the debt or realizing upon the security.

37 As used in this section and in sections ninety B to ninety D,
38 inclusive, the following words shall have the following mean-
39 ings: —

40 “Loan”, any loan of money or goods or forbearance of
41 money or goods or choses in action;

42 “Note”, the instrument, other than the mortgage, evidencing
43 or containing the debt secured by the mortgage or any exten-
44 sion or renewal of such instrument;

45 “Lender”, any person making a loan of more than fifteen
46 hundred dollars secured by a mortgage as described in this
47 section and shall include any legal successor to the rights of
48 the lender;

49 “Borrower”, shall include any legal successor to the bor-
50 rower’s rights or obligations.

51 No person, other than a bank as defined in section one of
52 chapter one hundred and sixty-seven, a national banking asso-
53 ciation, a federally chartered credit union or a federal savings
54 and loan association, more than eight times in one calendar
55 year, shall make or negotiate, or offer to make or negotiate,
56 any loan subject to this section unless he or his broker, agent
57 or other representative shall have first obtained a license from
58 the commissioner of banks. An application for a license shall
59 be in writing, under oath, and shall be in the form prescribed
60 by the commissioner. The application shall state the name and
61 residence and business address of the applicant, and if the ap-
62 plicant is a partnership, of every member thereof, and if a
63 corporation, of each officer and director thereof. It shall also
64 state the address where the business is to be conducted and

65 any other information the commissioner may require. Each
66 application for a license shall be accompanied by an investiga-
67 tion fee of fifty dollars.

68 The fee for each license shall be not less than one hundred
69 dollars and the license year shall be the calendar year. If a
70 licensee desires to carry on business in more than one place,
71 he shall procure a license for each place where the business is
72 to be conducted. Such license shall not be transferrable or as-
73 signable. Any change of location of an office of a licensee
74 shall require the prior approval of the commissioner. Such re-
75 quest for relocation shall be in writing setting forth the rea-
76 son or reasons for the request, and shall be accompanied by a
77 relocation investigation fee of fifty dollars.

78 The commissioner shall from time to time establish regula-
79 tions respecting the granting of licenses and the removal there-
80 of, the fees to be charged therefor and the business carried on
81 by the licensees. He may either personally or by such assistants
82 as he may designate, whenever he determines it to be in the
83 public interest, investigate the affairs of such licensees, and for
84 that purpose shall have free access to the vaults, books and
85 papers thereof, and shall ascertain the condition of the business
86 and whether it has been transacted in compliance with the law
87 and the regulations made hereunder. The commissioner shall
88 assess the licensee a fee of ninety dollars per day for each per-
89 son participating in such an examination, except that the
90 assessment for the examiner in charge of an examination shall
91 be one hundred and twenty dollars per day; provided, how-
92 ever that the assessment for any examination which requires
93 only one examiner shall be ninety dollars per day.

94 The commissioner may cause an examination of the said
95 books and business to be made by an accountant whom he
96 may select and the cost of any such examination shall be paid
97 by the person whose books are so examined.

98 The commissioner, or such other of his assistants as he may
99 designate, may summon a licensee, or any of his agents or em-
100 ployees, and such other witnesses as he deems necessary, and
101 examine them relative to their transactions, may require the
102 production of books and papers and, for such purposes may ad-
103 minister oaths. Whoever, without justifiable cause, fails or

104 refuses to appear and testify or to produce books and papers
105 when so required, or obstructs the commissioner or his rep-
106 resentatives in the performance of their duties, shall be pun-
107 ished by a fine of not more than five hundred dollars or by im-
108 prisonment for not more than six months, or both.

109 If the commissioner refuses to issue a license, he shall notify
110 the applicant of the denial, and within twenty days thereafter
111 he shall enter upon his records a written decision and findings
112 containing the reasons supporting the denial, and shall forth-
113 with give written notice thereof by registered mail to the ap-
114 plicant. Within thirty days after the date of such notice the
115 applicant may appeal from such denial to the superior court
116 for the county of Suffolk, sitting in equity. The court shall
117 hear all pertinent evidence and determine the facts, and upon
118 the facts as so determined review said denial and, as justice
119 and equity may require, affirm the same or order the commis-
120 sioner to issue such license.

121 A license may be suspended or revoked by the commissioner
122 on the following grounds: (1) material misstatement in ap-
123 plication for license; (2) failure to comply with the provisions
124 of section 90A through 90D of this chapter; (3) defrauding
125 any borrower to the borrower's damage; (4) fraudulent mis-
126 representation, circumvention or concealment by the licensee
127 through whatever subterfuge or device of any of the material
128 particulars or the nature thereof required to be stated or fur-
129 nished to the borrower under this section; (5) the existence of
130 any fact or condition which, if it had existed at the time of the
131 original application for such license, clearly would have war-
132 ranted the commissioner in refusing to issue such license.

133 If a licensee is a corporation, it shall be sufficient cause for
134 the suspension or revocation of its license that any officer or
135 director of a licensed corporation, or any member of a licensed
136 partnership, has so acted or failed to act as would be cause
137 for suspending or revoking a license to such party as an indi-
138 vidual. Each licensee shall be responsible for the acts of any
139 of his employees while acting as his agent, if such licensee
140 after actual knowledge of said acts retained the benefits, pro-
141 ceeds, profits or advantages accruing from said acts or other-
142 wise ratified said acts.

143 No license shall be suspended or revoked except after hear-
144 ing thereon by the commissioner or such of his assistants as
145 he may designate. The commissioner shall give the licensee at
146 least ten days' written notice, in the form of an order to show
147 cause, of the time and place of such hearing by registered
148 mail addressed to the principal place of business in this com-
149 monwealth of such licensee. The said notice shall contain the
150 grounds of complaint against the licensee. Any order suspend-
151 ing or revoking such license shall recite the grounds upon
152 which the same is based. The order shall be entered upon the
153 records of the commissioner and a copy thereof forwarded by
154 certified mail to the licensee at such principal place of business.
155 No revocation, suspension or surrender of any license shall im-
156 pair or affect the obligation of any lawful note or mortgage
157 acquired previously thereto by the licensee. Within thirty days
158 after such suspension or revocation the person aggrieved there-
159 by may appeal to the superior court for the county of Suffolk,
160 sitting in equity. The court shall hear all pertinent evidence
161 and determine the facts, and upon the facts as so determined
162 review said suspension or revocation and, as justice and equity
163 may require, affirm the same or order that the commissioner
164 rescind it.

165 This section and sections ninety B to ninety D, inclusive,
166 shall not apply to a loan secured by a first mortgage on real
167 estate.

The first part of the book is a history of the
 country from the earliest times to the
 present. It is divided into three parts, the
 first of which is a general history of the
 country, the second is a history of the
 different parts of the country, and the
 third is a history of the different
 parts of the country. The first part is
 a general history of the country, the
 second is a history of the different
 parts of the country, and the third is
 a history of the different parts of the
 country. The first part is a general
 history of the country, the second is
 a history of the different parts of the
 country, and the third is a history of
 the different parts of the country.

