HOUSE . . . . . No. 1778

By Mr. Saggese of Winthrop, petition of Alfred E. Saggese, Jr., relative to the rate of finance charge of certain loans. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Seven.

AN ACT PERTAINING TO CONSUMER CREDIT.

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

SECTION 1. Section 114B of Chapter 140 of the General Laws, as most recently amended by Chapter 384 of the Acts of 1981, is hereby further amended by striking said section and replacing it with the following new section: —

Section 114B. Notwithstanding the provisions of sections one hundred and one hundred and fourteen A, a creditor may charge a daily, monthly or other periodic rate of finance charge on loans made pursuant to an open end credit plan as defined in section one of chapter one hundred and forty D. A finance charge not in excess of fifty cents for a monthly or longer billing cycle or the pro rata part of fifty cents for a billing cycle shorter than monthly may be assessed if the finance charge otherwise assessable is less than fifty cents. For the purpose of this section, a billing cycle shall be considered to be monthly if the billing dates are on the same day of each month or do not vary by more than four days therefrom.

SECTION 2. Section twenty of Chapter one hundred and forty D of the General Laws, as most recently amended by Chapter seven hundred and thirty-three of the Acts of nineteen hundred and eighty-one, is hereby repealed.

SECTION 3. Chapter 140 of the General Laws, as most recently amended by Chapter 264 of the acts of 1980, is hereby further amended by striking Section 114A, and replacing it with the following new section: —

Section 114A. Trust companies, savings banks, co-operative banks, savings and loan associations, credit unions, national banking associations and federal savings and loan associations shall not be subject to the provisions of Sections 96 to 114 inclusive.

SECTION 4. Section 14 of Chapter 255B of the General Laws, as most recently amended by Chapter 733 of the Acts of 1981, is hereby further amended by striking the first sentence and replacing it with the following new sentence: — A retail seller of new or used motor vehicles may charge, receive and collect for any new or used motor vehicle a finance charge.

SECTION 5. Section 11 of Chapter 255D, as most recently amended by Chapter 733 of the Acts of 1981, is hereby further amended by striking Paragraph B and replacing it with the following new paragraph: —

Paragraph B. An installment seller may, in a retail installment sale agreement, contract for and if so contracted for the holder thereof may charge a finance charge.

SECTION 6. Chapter 140 of the General Laws is hereby amended by striking out section 90A, as most recently amended by chapter 19 of the acts of 1973, and inserting in place thereof the following section: —

Section 90A. A person may directly or indirectly charge, take or receive any rate of interest for a loan of more than fifteen hundred dollars for personal, family, or household purposes secured wholly or partially by a mortgage or real estate having thereon a dwelling house with accommodations for four or less separate households and occupied in whole or in part at the time the loan is made as a home by any obligor on the mortgage debt or by any person granting or releasing any interest under said mortgage. The borrower shall have the right to anticipate his debt in whole or in part at any time without being required to pay a penalty to the lender therefor. The aggregate of the amount of money or value actually received or held at the time of the loan, plus the sum of all existing indebtedness of the borrower to the lender secured by any such mortgage shall for purposes of this section and sections ninety B to ninety D, inclusive, be deemed the amount of the loan.

21 Except where the borrower agrees in writing to a different
22 application of his payments, in cases where partial payments are
23 made, the interest shall be calculated to the time of payment, and
24 such payment shall first be applied to interest, and the balance
25 thereafter remaining, if any, shall be applied to principal.
26 The maximum interest shall include all sums paid directly or
27 indirectly by or on behalf of the borrower to the lender for interest,
28 brokerage, commissions, services, extension of loan, forebearance
29 to enforce payment or otherwise for making or securing the loan,
30 not including, however, sums the lender may require the borrower
31 to pay or reimburse the lender for actual recording and foreclosure
32 costs, for reasonable legal charges incurred for the examination of
33 the title and the marketability of the security for the loan, for the
34 drafting of the security instruments or documents, and, when such
35 services are utilized, for collecting the debt or realizing upon the
36 security.
37 As used in this section and in sections ninety B to ninety D,
38 inclusive, the following words shall have the following meanings:
39 "Loan", any loan of money or goods or forebearance of money
40 or goods or choses in action;
41 "Note", the instrument, other than the mortgage, evidencing or
42 containing the debt secured by the mortgage or any extension or
43 renewal of such instrument;
44 "Lender", any person making a loan of more than fifteen
45 hundred dollars secured by a mortgage as described in this section
46 and shall include any legal successor to the rights of the lender;
47 "Borrower", shall include any legal successor to the borrower's
48 rights or obligations.
49 This section and sections ninety B to ninety D, inclusive, shall
50 not apply to a loan secured by a first mortgage on real estate.