

By Mr. Ciccarelli of Watertown, petition of Salvatore Ciccarelli relative to regulating second mortgage loans on real estate. Banks and Banking.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO SECOND MORTGAGE LOANS.

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

5 *Section 90A.* No person shall directly or indirectly charge, take
6 or receive for a loan of more than fifteen hundred dollars for
7 personal, family, or household purposes secured wholly or par-
8 tially by a mortgage of real estate having an assessed value of not
9 over forty thousand dollars, having thereon a dwelling house with
10 accommodations for four or less separate households and occu-
11 pied in whole or in part at the time the loan is made as a home by
12 any obligor on the mortgage debt or by any person granting or
13 releasing any interest under said mortgage, a greater rate of interest
14 than an amount equivalent to one and three-quarters per cent a
15 month computed on unpaid balances. The borrower shall have the
16 right to anticipate his debt in whole or in part at any time without
17 being required to pay a penalty to the lender therefor. The aggre-
18 gate of the amount of money or value actually received or held at
19 the time of the loan, plus the sum of all existing indebtedness of the
20 borrower to the lender shall for purposes of this section and
21 sections ninety B to ninety D, inclusive, be deemed the amount of
22 the loan. Except where the borrower agrees in writing to a different
23 application of his payments, in cases where partial payments are

24 made, the interest shall be calculated to the time of payment, and
25 such payment shall first be applied to interest, and the balance
26 thereafter remaining, if any, shall be applied to principal.

27 The maximum interest shall include all sums paid directly or
28 indirectly by or on behalf of the borrower to the lender for interest,
29 brokerage, commissions, services, extension of loan, forbearance
30 to enforce payment or otherwise for making or securing the loan,
31 not including, however, sums the lender may require the borrower
32 to pay or reimburse the lender for actual recording and foreclosure
33 costs, for reasonable lawful charges incurred for the examination
34 of title and the marketability of the security for the loan, for
35 optional credit insurance, for the drafting of the security instru-
36 ments of documents, for other charges in an amount payable in a
37 comparable cash transaction, and reasonable fees paid to an attor-
38 ney for collecting the debt or realizing upon the security.

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

42 “Loan”, any loan of money or goods or forbearance of money or
43 goods or choses in action;

44 “Note”, the instrument, other than the mortgage, evidencing or
45 containing the debt secured by the mortgage or any extension or
46 renewal of such instrument;

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

50 “Borrower”, shall include any legal successor to the borrower’s
51 rights or obligations.

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

1 SECTION 2. Section 90D of said chapter 140, as appearing in
2 section 1 of chapter 505 of the acts of 1959, is hereby amended by
3 striking out, in line 6, the word “eighteen” and inserting in place
4 thereof the word: — twenty-one.