

By Mr. Petrolati of Ludlow, petition of Thomas M. Petrolati for legislation to regulate certain actions for the defense of loan agreements. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO LOAN AGREEMENTS.

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 1 of Chapter 259 of the General Laws, as
2 appearing in the 1994 Official Edition, is hereby amended by
3 inserting the symbol "(a)" before the words "No action" in line 1.

1 SECTION 2. Section 1 of Chapter 259 of the General Laws, as
2 appearing in the 1994 Official Edition, is hereby further amended
3 by inserting the following at the end of said Section 1:—

4 (b) No action may be brought nor defense maintained based
5 upon a failure to perform an alleged promise, undertaking,
6 accepted offer, commitment, or agreement:

7 (1) to lend or to borrow money;

8 (2) to defer or forbear in the repayment of money; or

9 (3) to renew, modify, amend, or cancel a loan of money or any
10 provision with respect to a loan of money involving in any such
11 case a principal amount in excess of \$50,000, unless the party
12 seeking to maintain the action or defense has received a writing
13 from the party to be charged containing the material terms and
14 conditions of the promise, undertaking, accepted offer, commit-
15 ment, or agreement and the party to be charged, or some person
16 thereunto by him lawfully authorized, has signed the writing.

17 (c) Failure to comply with paragraph (b) of the section shall
18 preclude an action or defense, with respect to any alleged
19 promise, undertaking, accepted offer, commitment, or agreement
20 described in said paragraph (b), based on any of the following
21 legal or equitable theories:

- 22 (1) an implied agreement based on course of dealing or perfor-
23 mance or on a fiduciary relationship;
- 24 (2) promissory or equitable estoppel;
- 25 (3) partial performance (except to the extent that partial perfor-
26 mance may be explained only by reference to the alleged promise,
27 undertaking, accepted offer, commitment or agreement); or
- 28 (4) negligent misrepresentation.
- 29 (d) Paragraphs (b) and (c) of this section shall not apply to a
30 loan of money used primarily for personal, family or household
31 purposes.