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REGULATION OF SMALL LOANS IN WASHINGTON

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A loan shark is a person who, as a business, loans small amounts at illegal rates, and whose operational methods are characterized by fraud and oppression. His interest charges run from 60 per cent and up, mostly up;[1] his collection methods resemble those of gangsters;[2] his political activities are devious.[3] He preys for the most part on wage earners and from that class syphons off such sums as to keep many of his victims in a state of virtual peonage. Loan sharkery has indeed become one of the principal social problems of our times, and its growth has been nurtured by an increasing demand for small consumer cash loans and inadequate governmental regulation. The demand is primarily a consequence of the changes wrought in our social and economic fabric by industrialization. Under the impact of high pressure sales propaganda and so-called "easy credit" the idea that debt is "bad" has broken down. Particularly, debt incurred in anticipation of income, for consumer goods and services. There has arisen a numerous wage earning group, living at subsistence and near-subsistence levels, incapable of accumulating a surplus for emergency needs and requiring cash credit for many purposes. The current aggregate of consumer indebtedness is tremendous and a substantial part of it is in the form of cash loans.[4] Much of this credit is sought in loans of small sums, which entail handling and collection expenses high in

[1] Simpson, *Costs of Loans to Borrowers under Unregulated Lending* (1941) 8 LAW & CONTEMP. PROB. 73.

[2] Birkhead, *Collection Tactics of Illegal Lendors* (1941) 8 LAW & CONTEMP. PROB. 78.

[3] Kilgore, *Legislative Tactics of Unregulated Lendors* (1941) 8 LAW & CONTEMP. PROB. 173.

[4] The amount is estimated to be in excess of eight billions; of the total, cash loans account for approximately one billion. Neifeld, *Institutional Organization of Consumer Credit* (1941) 8 LAW & CONTEMP. PROB. 23; Foster, *The Personal Finance Business Under Regulation* (1941) 8 LAW & CONTEMP. PROB. 154. Dr. Foster also gives figures which shed some light on the types of small loan borrower and the purposes for which such loans are sought.

relation to the principal. Much of it is sought by borrowers who lack security or the general financial solidarity preferred by the traditional conservative lendor, who are not, in fact, good individual credit risks and among whom the incidence of unpaid loans will be substantial. The demand for this sort of loan simply cannot be met within the normal usury limits. It can be met at higher rates by spreading the risk over many items and the sharks long ago recognized the profitable possibilities in the combination of need, or desire for credit, coupled with the unavailability of legal lending agencies and the consequent weak bargaining position of borrowers.[5]

The sum and substance of the matter then is that there exists a demand for credit which cannot be legally supplied without special statutory provision. Where it cannot be legally supplied, it is illegally supplied by loan sharks. Since the need exists and will continue to exist, it is absurd to dismiss the problem, as some legislators have, by saying that interest above 10 per cent or 12 per cent is immoral, and that legislative sanction for higher rates should be denied. This attitude does not extinguish the demand for loans; it merely throws the business to a criminal class with attendant hardships on borrowers. The only sensible approach is to determine the rate at which small loans can be handled with a fair profit, and to make statutory changes accordingly. That loan sharks have flourished in this country is in large part the fault of those legislatures which have failed to make an exception for the small loan, within the framework of the interest laws, in order that the business of making such loans can be legalized and regulated. A part of the fault lies, too, in failure to provide criminal penalties for usury violation, since experience has shown that civil penalties have utterly failed to curb illegal lending.[6]

During the past 40 years legislative attempts to solve the small loan problem have taken various forms. Fairly typical are the Washington statutes which are the main subject matter of this paper.

INDUSTRIAL LOAN ACTS

The Morris Plan is the prototype of modern industrial loan company statutes and gives them their distinguishing characteristic, the invest-

[5] Kelso, *Social and Economic Background of the Small Loan Problem* (1941) 8 LAW & CONTEMP. PROB. 14; Nugent, *The Loan Shark Problem* (1941) 8 LAW & CONTEMP. PROB. 3. Mr. Kelso estimates that loan balances of loan sharks were about $72,000,000 in 1939, for the most part concentrated in the 12 states which still lacked adequate statutory regulation.

[6] The failure of usury laws, which provide merely for forfeiture of varying parts of the debt, to curb the spread of illegal lending is demonstrated by an abundance of evidence. See Kelly, *Legal Techniques for Combating Loan Sharks* (1941) 8 LAW & CONTEMP. PROB. 88. Among the reasons why usury laws are insufficient protection for borrowers is the difficulty in proving usury. High raters are ingenious in setting up their transactions in such a way as to make resort to the courts by borrowers unsatisfactory. See Collins, *Evasion and Avoidance of Usury Laws* (1941) 8 LAW & CONTEMP. PROB. 54.

ment certificate. The borrower executes a note bearing the maximum lawful rate, and at the same time "purchases" an "investment certificate" upon which he undertakes to make periodic payments and upon which the lendor undertakes to pay interest—at a rate much less than that which the note carries. When the certificate balance equals the loan balance the borrower can charge one against the other and so liquidate the obligation. The differential between loan and certificate interest rates, plus the disguised installment repayment are a source of profit to the lendor. In other details the statutes vary greatly from state to state.[7]

The Washington Industrial Loan Act, enacted in 1923,[8] provided for the incorporation in this state of companies to carry on this type of business, fixing minimum capitalizations,[9] vesting some control in the Supervisor of Banking,[10] and setting at 8 per cent deductible in advance the interest rate to be charged.[11] The act also permitted a flat fee of $2 on loans under $100, or 2 per cent on loans over that amount,[12] plus other fees in reimbursement "for money actually expended" by the lendor.[13] The operation of an unlicensed industrial loan business was made a misdemeanor.[14]

These rates proved insufficient to attract lendors and the high minimum capitalizations discouraged them. The statute was little used and loan sharks multiplied in Washington as other states adopted increasingly stringent regulations.

Minor amendments were made in 1925,[15] 1929,[16] and 1931.[17] Then in 1939 several drastic changes were made. The capital requirements were reduced,[18] the interest rate was raised to 10 per cent and, in addition to the charge of $2 or 2 per cent, the lendor was permitted a collection fee of 50 cents per month. The exaction of additional fees for any purpose save reimbursement of filing costs was forbidden. The lendor was required to pay 3 per cent on investment certificates.[19]

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[7] See table on pp. 120-21. The table was prepared by Herbert J. Droker of the student editorial board of the REVIEW.

[8] WASH. LAWS 1923, c. 172; REM. REV. STAT. § 3862-1 *et seq.*

[9] *Id.* § 7a. The sums set were $50,000 for cities under 100,000, $100,000 for cities between 100,000 and 200,000, and $200,000 for cities over 200,000 in population.

[10] These powers were, principally, control over incorporation, *id.* § 2, 3, 4, 5, 8d; power of periodical examination of the activities of licensed companies, § 15, 16; power to issue cease and desist orders against statutory violations, § 20; and certain powers over foreign industrial loan corporations, § 22, 23.

[11] *Id.* § 8a.

[12] *Id.* § 8b.

[13] *Id.* § 8b. This provision was unfortunate because it opened an avenue for improper exactions by the lendor.

[14] *Id.* § 24.

[15] WASH. LAWS 1925, c. 186

[16] WASH. LAWS 1929, c. 71.

[17] WASH. LAWS 1931, c. 9.

[18] WASH. LAWS 1939, c. 95, § 3.

[19] *Id.* § 2.

A number of incorporations under the act followed and in 1940 14 companies were operating 27 offices in the state, loaning during that year $4,885,040.63.[20]

In 1941 the statute was amended again. The requirement that 3 per cent be paid on investment certificates was eliminated,[21] which means

[20] Summary of Reports of Industrial Loan Companies for the year 1940. Office of the Supervisor of Banking.

[21] *Id.* § 3. This section also reworded REM. REV. STAT. § 3862-8, clarifying the language but leaving the essential matter unchanged.

COMPARATIVE ANALYSIS OF

Statutory Citation	Minimum Capital Stock Requirement	CHARGES Maximum Interest Deductible
Ariz. Laws 2d Spec. Sess. 1937, c. 13, §51-1001.	$15,000 in city under 15,000. 50,000 in city over 15,000. 100,000 in city over 50,000.	10% Per Annum.
c. 13, §51-818		Legal
Calif. Gen. Laws 1937 Art. 3603 §4.	$25,000 in city under 50,000. 50,000 in city over 50,000. 100,000 in city over 100,000.	6% Per Annum.
Colo. Comp. Laws (Supp. 1932) §2789.1.	$30,000 in city under 100,000. 75,000 in city over 100,000.	10% Per Annum.
Conn. Rev. Stat. (1930) c. 211 §1031	$50,000 in city under 50,000. 100,000 in city over 50,000.	6% Per Annum.
Fla. Laws 1935, c. 16791.	$25,000 in city under 50,000. 50,000 in city over 50,000.	8% Per Annum.
Hawaii Laws 1937, c. 223A.	$15,000.	12% P. A. for 18 months; 9% P. A. for next 12 months; 6% P. A. for next 12 months; 3% P. A. for next 6 months.
Ind. Acts 1935, c. 181	$50,000.	Fixed
Carroll's Ky. Stat. (Baldwin, Rev. 1936) c. 72A Art II.	$12,500 in fifth class city 25,000, others.	6% Per Annum.
Me. Rev. Stat. (1930) c. 57 §133.	No. 3.	8% Per Annum.
Ann. Laws Mass. (Michie's Supp. 1940) c. 172A.	$50,000 in city under 100,000. 100,000 in city over 100,000. 200,000 in city over 300,000.	12% Per Annum. 9% if over $500.
Mich. Comp. Laws (Supp. 1940) §11897-138.	No. 3.	7% Per Annum.
Mason Minn. Stat. (Supp. 1936) §7774-25.	$25,000 in city under 50,000. 50,000 in city over 50,000. 75,000 in city over 100,000.	8% Per Annum.
Mo. Rev. Stat. (1929) §4979.	$2,000.	Lawful.
Mont. Rev. Code (1935) §6109.1.	$25,000.	Lawful.
Thompson's N. Y. Laws (1939) Art. VII. §290.	No. 3.	6% Per Annum.
No. Caro. Code (1935) Art. X. §225a.	$25,000 in city under 15,000. 50,000 in city over 15,000. 100,000 in city over 25,000.	Lawful.
Ore. Code (1930) §22-2401; Ore. Laws 1937, c. 303; Ore. Code (Supp. 1935) §22-2405.	$50,000 in city under 200,000. 150,000 in city over 200,000.	10% Per Annum.
Pa. Laws 1937, Vol. 1 p. 262.	$25,000.	6% Per Annum.
R. I. Laws 1938, c. 145.		6% Per Annum. 8% if secured by Realty Mortgage.
So. Caro. Code (1932) §6738.		1½% Per Month on loan of from $10 to $200.
Vernon's Tex. Stat. (1936) c. 9 Art. 542.	No. 3.	6% Per Annum.
Utah Rev. Stat. (1933) §7-6-1.	$50,000 in city under 100,000. 100,000 in city over 100,000.	1% Per Month.
Vir. Code (1936) §4168 (1).	$30,000.	Legal.
W. Vir. Code (1937) §3165.	$25,000.	Lawful.

No. 1 Same as Banks.

No. 2 Subject to Supervision of:
a. Bank Superintendent and Examiner.
b. Corporation Commissioner.

the lendor can set his own rate. It will probably be less than 3 per cent in the future, although no concerted movement to reduce the rate has as yet developed. The capital requirements were further reduced,[22] which seems sound. The new limits are high enough to discourage shoe-string operators and low enough to encourage additional incor-

[22] *Id.* § 2. The minimum capitalizations are now $25,000 for cities under 100,000 and $50,000 for cities over that population.

STATE INDUSTRIAL LOAN LAWS

PERMITTED		
Service Charges	Delinquency Charges	Administrative Features
None.	None.	No. 1.
$1 per $50.	5c per $100, not cumulative over 5 wks.	No. 2a.
$2 per $50.		No. 2b. Can sue within 10 days to restrain enforcement of order.
		No. 1.
$1 per $50, Maximum $10, plus fees paid public officials.		No. 1.
2% of loan, plus fees paid.	5 cents per $1, not cumulative.	No. 1.
Actual fees and costs paid.	12% of delinquent installment.	Bank Examiner must approve license. Appeal lies to a board, and then to circuit court.
by Department of Financial Institutions.		Department may make rules.
$1 per $50.		Bank Commissioner must approve Articles of Incorporation.
$1 per $50, $5 maximum.		No. 2c.
		No. 4a.
$1 per $50, $15 maximum.		No. 1.
$1 per $50, $10 max. 1% of amount over $500, $15 total maximum.	5 cents per $1, not cumulative, maximum $5 or 1% of loan over $50.	No. 1.
$1 per $50.		
$1 per $50.		No. 2d.
$1 per $50, $5 max. 1% of amount over $250, $20 total maximum.	5c per $1, max. 50c on loan of $50 or less, 1% if over $50, $5 max. in any case.	No. 4b.
$1 per $50 up to $250, $1 per $250 over. $5 additional where loan secured by Realty Mortgage.		No. 2c.
$3 on loan of $100 or less, 3% on loan over $100.	5 cents per $1 per week for four weeks.	No. 1. Can sue within 10 days to restrain enforcement.
$1 per $50 up to $500, $1 per $100 over $500. Plus actual fees paid. Minimum charge of $3 on loan of $25 or less for a year, $6 on loan of over $25 for a year.	1½% per month on amount on arrears.	No. 2e.
$1 per $50. 5% if secured by Realty Mortgage.	5 cents per $1 for not over 10 successive defaults.	No. 1.
$1 per $50.		No. 1.
$2 on $100 or less, 2% on over $100.		No. 4a.
2%.	10% of defaulted payment, not cumulative.	No. 2b. After 30 days notice of irregularities, receiver appointed.
$1 per $50.	5 cents per $1.	No. 1.

c. Bank Commissioner.
d. Bank Department.
e. Secretary of Banking.

No. 3 $ 25,000 in city under 50,000.
50,000 in city over 50,000.
100,000 in city over 150,000.

No. 4 Must Report to:
a. Bank Commissioner.
b. Superintendent of Banks.

porations. The limits set in the original statute were needlessly high. Several other changes of minor importance were made.[23]

The most significant amendments, however, were of an administrative nature. The old statute was seriously defective in that it failed to vest the supervisor of banking with rule-making powers, and this was remedied.[24] The regulatory features of the statute were also strengthened by sections requiring the companies to maintain adequate records[25] and forbidding false advertising of "rates, terms or conditions for the lending of money" by industrial loan companies.[26]

Of the constitutionality of the industrial loan act, both in its segregation of a special type of lendor permitted to exceed the general usury rate[27] and in its delegation of powers to the supervisor of banking,[28] there appears to be little doubt.

Of the social utility of the statute, however, there is some question. The act permits certain fees and does not set an absolute ceiling in terms of interest. These fees, reduced to interest percentages, can be very high. For example, on a loan of $10 for one week, $2, plus 50 cent, plus 10 per cent per annum, can be charged. This is about 1,200 per cent. On $30 for thirty days, the interest works out at about 108 per cent; on $50 for sixty days, at 45 per cent. The joker lies in the flat $2 or 2 per cent, which, on a small loan for a short time, produces an ex-

[23] WASH. LAWS 1941, c. 18, § 1, rewording REM. REV. STAT. § 3862-1a; *id.* § 3, rewording REM. REV. STAT. § 3862-8a; *id.* § 4, reducing the period of loans made on chattel mortgage security from 3 years to 2 years and affecting REM. REV. STAT. § 3862-9d; *id.* § 4, rewording REM. REV. STAT. § 3862-91, limiting to 2½ per cent of paid up capital and surplus the certificates which can be outstanding in one person, firm or corporation.

[24] *Id.* § 6. "The supervisor of banking is hereby authorized and empowered to make such general rules and regulations and such specific rulings, demands, and findings as may be necessary for the proper conduct of such business and the enforcement of this act, in addition hereto and not inconsistent herewith." The section also provides for appeal from the supervisor's rulings to the Superior Court of Thurston County.

[25] *Id.* § 6.

[26] *Id.* § 6.

[27] Columbus Industrial Bank v. Miller, 125 Conn. 313, 6 A. (2d) 42, (1939); Mesaba Loan Co. v. Sher, 203 Minn. 589, 282 N. W. 823 (1939). See also an extensive annotation in 69 A. L. R. 581, and 125 A. L. R. 743, discussing generally the constitutionality of statutes regulating the business of making small loans. Although the statutes covered are, for the most part, small loan acts of the Russell Sage type, the constitutional problems would appear to be similar. Acme Finance Co. v. Huse, 192 Wash. 96, 73 P. (2d) 341 (1937), rehearing on a petition for clarification, 194 Wash. 706, 77 P. (2d) 595 (1938), noted in Note (1938) 13 WASH L. REV. 57, seems hardly to cast doubt on the constitutionality of the industrial loan act. The court there had under consideration a small loan act enacted by the legislature in 1935, the statute having been so emasculated by gubernatorial veto as to be merely a criminal statute punishing the exaction of interest in excess of 12 per cent and excepting a number of different types of lendor. In holding the statute to be unconstitutional, these factors were stressed before the court. The case appears strictly limited in meaning to the facts before the court.

[28] Similar problems arising under small loan acts have been extensively litigated and in the great majority of the cases, the statute has been held to be constitutional. See Hubachek, *Annotations on Small Loan Laws* (1938) (published by the Russell Sage Foundation).

cessive cost to the borrower. There is evidence, both here and in other states, that loan sharks are taking advantage of the industrial loan acts.[29] As a curb on unconscionable loan charges the statute, as it now reads, is only as successful as the character of the operators under it dictates, and while most of the Washington companies are operating at fair rates, there is no assurance that this state of affairs will continue. The statute should set, in percentage terms, a limit beyond which charges, labeled "interest" or otherwise, cannot go, and should strictly control the matter of renewals.[30]

The investment certificate device has several drawbacks. It means added bookkeeping expense for the lendor. It is confusing to the borrower. It enables an unscrupulous lendor to conceal and misrepresent the true amount of his charges. There appear to be no compensating advantages in its use, justifying its retention. As a means of increasing the lendor's profits it is hardly necessary. The statute undertakes to legalize charges in excess of 12 per cent and could fix higher charges if need be to attract legitimate lendors. Since certificates can be sold to the public, the device is theoretically a way of raising capital and it is so used in some states.[31] In Washngton industrial loan companies are not raising capital in this way and there is no evidence that they will in the future.

Industrial loan companies have made many loans that would otherwise have gone to the sharks and have probably forced some reduction in their rates. The act has to that extent been valuable. But experience here and in other states has clearly shown that illegal lendors are not entirely driven out by the existence of legal lendors able to handle the business. By misrepresentation, by working on the ignorant, by capitalizing on secrecy, sharks continue to operate. It has been estimated that these gentry now have out in Washington some $4,750,000.[32] The only effective curb on illegal lending is criminal punishment and absolute forfeiture of both the principal and interest of illegal loans, plus rigorous enforcement of the law.[33]

The usefulness of the Industrial Loan Act, in its broader aspect, as a means whereby sources of small loans at reasonable rates are opened up, has been greatly reduced by the enactment in 1941 of the Small Loan Act. As a subsequent discussion of this new statute will show, it covers the field adequately, handles the matter of charges more sensibly, and lacks the investment certificate feature. It would

[29] Collins, *Evasion and Avoidance of Usury Laws* (1941) 8 LAW & CONTEMP. PROB. 54, 65.

[30] For an example of this type of amendatory statute see CALIF. LAWS 1940, Senate Bill 61.

[31] REM. REV. STAT. § 3862-8c.

[32] Nugent, *The Loan Shark Problem* (1941) 8 LAW. & CONTEMP. PROB. 5, 8.

[33] Kelly, *Legal Techniques for Combating Loan Sharks* (1941) 8 LAW & CONTEMP. PROB. 88.

seem advantageous for a legitimate small loan operator to proceed under the new act and for the borrower to patronize a lendor who operates under it. Diminished activity by industrial loan companies and transfers by present companies from the Industrial Loan Act to the Small Loan Act may be expected.

SMALL LOAN LAW

After a good deal of investigation of the expenses of handling small loans and of the administrative technics already in use, the Russell Sage Foundation in 1916 proposed a Uniform Small Loan Law. Several adoptions followed immediately and as experience showed the need for changes, successive drafts were promulgated, the current one being the sixth. In one or another of its drafts the statute has been enacted in 28 states, Hawaii and Canada.[34]

The essential features of the law are the legalization of specific rates higher than those fixed by the general usury statute, for lendors licensed under the law, severe penalties for violations of the law, including illegal lending, and extensive supervision by a state official. It has proved to be the most successful legislation yet devised for meeting the small loan problem and where it has been adopted and vigorously administered, loan sharks have practically disappeared.

The Washington legislature in 1941 enacted the sixth draft of the uniform law with some modifications which are indicated below.

The general scope of the statute is indicated in Sec. 2: "No person shall engage in the business of making secured or unsecured loans of money, credit, goods, or things in action in the amount or of the value of five hundred dollars ($500) or less and charge, contract for, or receive a greater rate of interest, discount or consideration therefor than the lendor would be permitted by law to charge if he were not a licensee hereunder except as authorized by this act and without first obtaining a license from the supervisor."[35]

In bringing under regulation loans up to $500, the Washington act is unusual, the maximum being set generally at $300. Since interest above 12 per cent per annum is permitted only on loan balances of $300 or less under our statute, it is not clear what considerations induced the draftsmen to set the higher figure. It is justifiable only if there are in the state lendors in the business of making loans between $300 and $500 for whom the regulatory features of the act are desirable.

Licensees are permitted to charge 3 per cent per month on loan balances up to $300, 1 per cent per month on balances over that

[34] Hubachek, *The Development of Regulatory Small Loan Laws* (1941) 8 LAW & CONTEMP. PROB. 108, 123. Several other states have enacted the statute but with variations of such scope as to greatly reduce its effectiveness. *Id.* p. 124.

[35] WASH. LAWS 1941, c. 208.

amount and up to $500. At this point the local enactment differs from the Uniform Law, which graduates the rate of charge, allowing 3½ per cent per month on balances up to $100 and 2½ per cent on balances between $100 and $300.[36] This method was adopted on the basis of experience under earlier drafts and for persuasive reasons.[37] In an endeavor to achieve somewhat the same objective our statute goes on to permit a charge of "one dollar ($1) per month, or fraction thereof," in lieu of 3 per cent, where the licensee prefers.[38] This charge can be made on one loan not oftener than once a month and loans cannot be split up so as to take advantage of it.[39] In effect, the section permits on loans of $35 or less rates above 3 per cent per month, rates which can go above 240 per cent.[40] Granted that on very small amounts, even 3 per cent per month is not profitable, the propriety of legalizing such oppressive rates is arguable. The problem is admittedly a difficult one to solve. The fact that very small loans are not profitable at 3 per cent is apt to discourage the making of such loans by licensees and so to open up a market for sharks, unless special provision is made for them. Even so, some absolute maximum, in interest terms, should have been set.

The rate fixing sections of the act are implemented by prohibitions against the splitting of loans in order to bring them within the higher rates[41] and against compounding or advance deduction of interest.[42]

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[36] *Id.* § 13a.

[37] The notes prepared by the draftsmen of the Uniform Small Loan Law read in part: "The general recommendation of a graduated rate is a departure from the previous policy of the Department of Consumer Credit Studies. This change has been adopted only after an examination of all of the available expense data for the small loan business and after an examination of the experience with graduated rates in several states. The possibility of lower rates of charge on larger loans has always been recognized. But the flat rate was the most easily enforced by state supervising officers, and most readily understood by the borrower. It was anticipated that competition would reduce the going rate for the most profitable loans and that this competition would be most effective if the maximum charge were expressed as a single rate. The graduated rate has been recommended in spite of these advantages of the flat rate rather than because they no longer exist. Three circumstances have influenced the choice. First, the greater profitableness of larger loans has led to a vigorous competition for such loans to the neglect, although not to the exclusion, of loans of smaller sums. Because of this neglect of the smaller loans by licensed lenders, unlicensed lenders have frequently been able to build up a business in very small loans at exorbitant rates. We believe the graduated rate will tend to encourage the making of smaller loans by licensed lenders, and to prevent unlicensed lending in these sums . . ." Hubachek, *The Development of Regulatory Small Loan Laws* (1941) 8 LAW & CONTEMP. PROB. 108, 145.

[38] WASH. LAWS 1941, c. 208 § 13a.

[39] *Id.*

[40] *I.e.*, on a loan of $5 for one month a charge of $1 means a charge of 240 per cent. On loans for periods less than a month the interest rates on very small loans can reach astronomical figures.

[41] WASH. LAWS 1941, c. 208, § 13c.

[42] *Id.* § 13b.

The lendor is required to furnish to the borrower when the loan is made a written statement showing the charges made, and to permit prepayment.[43]

The statute is carefully drawn to cover all of the forms a loan can take and to close all avenues for evasion. The language used in defining the regulated transactions is very broad: "Interest, discount, or consideration," "upon the loan, use, or forbearance of money, goods or things in action or upon the loan, use or sale of credit."[44] Wage assignments are specifically included.[45]

The exaction of charges in excess of those allowed by the act are heavily penalized. The entire debt is forfeited.[46] The lendor is subject to punishment for gross misdemeanor.[47]

The borrower is further protected by provisions requiring of licensees a bond,[48] directing that upon repayment the borrower shall receive a receipt and release of collateral,[49] prohibiting false advertising of rates,[50] prohibiting the taking of confessions of judgment,[51] and authorizing the supervisor to require the removal of a licensee from offices occupied by another business where the latter is found to be such as will "facilitate evasion of this act."[52]

The administrative sections of the act are comprehensive. Under the jurisdiction of the Supervisor of Banking come the licensing of lendors,[53] approval and maintenance of bonds,[54] periodic inspection of lendors,[55] and revocation of licenses for cause.[56] He is also given power to make regulations within the frame-work of the act.[57] The rights of lendors are preserved by the requirement of hearings[58] and by provision for a right of appeal to the Superior Court of Thurston County from decisions and rulings of the supervisor.

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[43] *Id.* § 14a, § 14c.
[44] *Id.* § 15, § 17.
[45] *Id.* § 16.
[46] *Id.* § 18.
[47] *Id.* § 18. This section exempts from its punitive provisions loans "legally made in any state or county by a licensee under a regulatory small loan law similar in principle to this Act." The word "county" does not appear in the Uniform Act and the reason for its inclusion is not clear. It may be a misprint of "country."
[48] *Id.* § 3.
[49] *Id.* § 14b, § 14d.
[50] *Id.* § 12.
[51] *Id.* § 12.
[52] *Id.* § 12.
[53] *Id.* § 3, 4, 5, 7 and 8. These sections also indicate the fees to be paid to the supervisor.
[54] *Id.* § 3, § 6.
[55] *Id.* § 10, § 24; § 11 requires that licensees maintain such records as will enable the supervisor to determine what they are doing, and that they make periodic reports to the supervisor.
[56] *Id.* § 9.
[57] *Id.* § 20.
[58] *Id.* § 9.

The Washington statute requires of licensees a minimum working capital of $10,000 as against $25,000 under the Uniform Law.[59] The lower figure may prove to be insufficient. The purposes sought to be achieved by setting a minimum capitalization are, to insure for each licensee funds ample to give the volume requisite for profitable operation, and to reduce the number of licensees necessary to supply the demand for loans and thus to ease the administrative burden of regulation. Although these objectives may be not possible at the figure named in the statute, amendment will no doubt be sought by the supervisor should such numbers of insufficiently capitalized lendors appear as to produce an acute problem.

Several types of lending institutions, all of them subject to other specific statutory regulation, are exempted from the Small Loan Act.[60]

The various drafts of the Uniform Law have been so extensively litigated during the past 25 years that the statute comes to us with a considerable background of decision. These cases should provide answers for the questions of interpretation and constitutionality which may arise under the Washington act. It is sufficient here to point out that the law has generally been sustained against every variety of constitutional attack. And that the task of finding the cases has been greatly simplified by the Annotations to the Uniform Law, prepared by F. B. Hubachek.[61]

In the Small Loan Act this state has the statutory machinery necessary for stamping out loan sharkery and for making available to the public sources of small loans at fair rates. While it is, of course, too early to determine how many lendors will come forward for licensing, the history of the act in other states justifies the prediction that qualifications will be numerous. The machinery is here, and there should be no dearth of licensees. How well the statute works will turn pretty much on the quality of the administration given it by the Supervisor of Banking. It is to be hoped that he will be provided with the staff required for the vigorous investigation and prosecution of violations of the act and for the maintenance of the constant vigilance essential for the continued success of this legislation.[62]

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[59] *Id.* § 23.

[60] *Id.* § 19.

[61] The cases to 1938 appear in Hubachek, *Annotations to Small Loan Laws* (1938); those between January 1, 1938, and December 1, 1940, appear in Hubachek, *The Development of Regulatory Small Loan Laws* (1941) 8 LAW & CONTEMP. PROB. 109, 137.

[62] See Sullivan, *Administration of a Regulatory Small Loan Law* (1941) 8 LAW & CONTEMP. PROB. 146.