

DRAFT BILL

AN ACT RESPECTING INTEREST ON SMALL LOANS

3rd Session, 18th Parliament, 2 George VI, 1938

THE HOUSE OF COMMONS OF CANADA

BILL No.

An Act respecting Interest on Small Loans.

Whereas it has become the common practice for money-lenders to make charges against borrowers described as being for commission, brokerage, chattel mortgage and recording fees, inquiries, renewals, defaults, fines and penalties, which, in truth and substance are, in whole or in part, compensation for the use of money loaned or for the acceptance of the risk of loss or are so mixed with such compensation as to be indistinguishable therefrom and are, in some cases, charges primarily payable by the lender but required by the lender to be paid by the borrower; and whereas the result of these practices is to add to the cost of the loan without increasing the nominal rate of interest charged so that the provisions of the law relating to interest and usury have been rendered ineffective: Therefore His Majesty, by and with the consent of the Senate and the House of Commons of Canada, enacts as follows:—

1. This Act may be cited as the *Small Loans Interest Act, 1938*.
2. In this Act unless the context otherwise requires,
 - (a) "Cost" of a loan means the whole of the cost of the loan to the borrower including interest or discount and expenses and charges for commission, brokerage, chattel mortgage and recording fees, inquiries, defaults, renewals, fines, penalties, or other similar costs, whether paid to or charged by the lender or paid to or charged by any other person, and whether fixed and determined by the loan contract itself or in whole or in part by any other collateral contract or document by which the charges if any, imposed under the loan, contract or the terms of the repayment of the loan are effectively varied.
 - (b) "Licensee" means a person licensed under this Act;
 - (c) "Loan" means a loan made by a money-lender of not more than five hundred dollars and includes the consideration for a wage assignment: Provided that if, after deducting all payments whether on account of interest, expenses or principal, made by the borrower to the money-lender at or about the same time as a loan is made, the amount retained by the borrower is five hundred dollars or less, the transaction or transactions shall be deemed to have resulted in a loan of the amount so retained by the borrower notwithstanding that nominally a loan for a larger sum has been made;
 - (d) "Minister" means the Minister of Finance;
 - (e) "Money-Lender" means any person who carries on the business of money-lending or advertises, or holds himself or itself out in any way as carrying on that business, but does not include a registered pawnbroker;
 - (f) "Small loans company" means a company incorporated by special Act of Parliament to which the provisions of Part Two of this Act apply;
 - (g) "Superintendent" means the Superintendent of Insurance;
 - (h) "wage assignment" means a sale, assignment, transfer or order for payment of wages, salary, commissions or other remuneration for services whether earned or to be earned when made or given in consideration