Has carefully compared same and finds it correctly enrolled.

SHANNON, Chairman.

Austin, Texas, April 24, 1963

Hon. Byron M. Tunnell, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills to whom was referred

H. B. No. 1003, An Act creating a conservation and reclamation district to be known as "Clear Lake City Water Authority," describing the area of the Authority; finding that all of the land and other property within the Authority will be benefited; finding that the boundaries of said Authority form a closure; setting forth the rights, privileges, powers, authority and functions of the Authority; providing that it shall not be necessary to call a confirmation election, a hearing on the exclusion of lands, or a hearing on the plan of taxation; providing further rights, powers and authority; providing for the use of public roadways, streets, alleys or public easements; providing for contracts with municipal corporations and others relating to the development of lands; providing for a Board of Directors; making provision in the event of relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, or similar facilities; providing that the bonds of the Authority are legal and authorized investments of certain entities; providing for a depository bank; providing for the keeping of a complete system of accounts; finding that the Authority will be performing an essential public function; finding that the enactment hereof is in fulfillment of a duty conferred by the Constitution of the State of Texas; providing a severability clause; and declaring an emergency.

Has carefully compared same and finds it correctly enrolled.

SHANNON, Chairman.

SENT TO THE GOVERNOR
April 24, 1963

H. C. R. No. 60.
April 25, 1963 HOUSE JOURNAL 1323

The Speaker laid before the House its second reading and passage to third reading.

S. B. No. 15. A bill to be entitled "An Act to classify loans and lenders and provide for their regulation; stating legislative intent; providing for the licensing and regulation of lenders; providing penalties for failure to obtain license including fees and imprisonment and loss of all principal and interest; defining interest and fixing the maximum rate of interest on loans with cash advance of $1,000 or less; defining terms; prescribing and defining unlawful acts; providing for and defining licensing; defining duties, power and authority of licensees; creating the office of Consumer Finance Commissioner and providing for appointment by the Finance Commission; defining duties, powers and authority of Consumer Finance Commissioner as administrator of the Act, including the appointment, bonding and removal of deputy commissioner; examinations and employees and the prescribing of their duties; providing for compensation of commissioner, deputy commissioner, examiners and employees, disposition of fees and revenue; providing for reports to Governor and Legislature; providing for nonliability for official acts and defense by the Attorney General; providing for short title of Act; providing for exemptions; providing for investigation of applicant for license; providing for the issuance or denial of license; fixing annual license fees; providing for examination fees; fixing minimum assets of licensees; requiring separate license for each place of business and for amendment of license upon removal of place of business; providing that residence of borrower shall not affect validity of loan; providing for the revocation, temporary suspension, surrender and reinstatement of license and for appeals; providing for examination of licensees; providing for the power of subpoena or other process in investigations and hearings by the commissioner; providing for cease and desist orders and injunctions; providing for the keeping of books and records and their availability to the commissioner; providing for annual reports; giving the commissioner authority and power to make regulations and orders interpreting, applying or explaining this Act; providing for certified copies of instruments and documents upon payment of costs therefor; prohibiting advertising by licensees which is false, misleading or deceptive with reference to rates, terms, or conditions of loans; providing for the conduct of other businesses in the same office as licensees;
Chapter 81, Acts of the 50thLegislature, Regular Session, 1943, compiled as Article 4444(b), Revised Civil Statutes of Texas, 1925, and Article 5069, Revised Civil Statutes of Texas, 1925, and Article 5073, Revised Civil Statutes of Texas, 1925, repealing of laws in conflict herewith to the extent of such conflict; carrying into effect the amendment of Article XVI, Sec. 11 of the Constitution adopted November 8, 1960; providing for penalties; providing for severability; and declaring an emergency.

The bill was read second time.

Mr. Heasty offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend Senate Bill No. 15 by striking all below the enacting clause and inserting in lieu thereof the following:

“Section 1. Declaration of Legislative Intent.

The Legislature finds as facts and determines:

(a) The Legislature should, in obedience to Article XVI, Section 11, of the Constitution of Texas, as amended in 1969, classify loans and lenders, license and regulate lenders, define interest and fix a maximum rate of interest pertaining to licensees under this Act.

(b) Consumer loans make an essential and useful contribution to our society in that they provide the only means by which many individuals and families can secure credit to improve their standards of living and to meet unforeseen financial emergencies.

(c) There exists among citizens of this state a widespread demand for such loans, the scope and intensity of which has been increased progressively by many social and economic forces.

(d) Due to the lack of adequate regulation, many unethical and unscrupulous lenders are engaged in the making of loans of this type and are subjecting borrowers to abuses.

(e) These facts characterize and distinguish loans with cash advances of One Thousand Five Hundred Dollars ($1,500) or less, and legislation to control this class of loans is necessary to protect the public welfare.

(f) It is the intent of the Legislature in enacting this statute to bring under public supervision those engaged in the business of making such loans, to eliminate practices that facilitate abuse of borrowers; to establish a system of regulation
for the purpose of insuring honest and efficient loan service and of stimulating competition in such lending; to provide for interest that is fair, just, and equitable, and to provide the administrative machinery necessary for effective enforcement.

Sec. 2. Short Title.
This Act may be cited as the 'Texas Regulatory Loan Act.'

Sec. 3. Definitions.
The following words and terms when used in this Act shall have the following meanings, unless the context clearly requires a different meaning. The meanings applied to the singular forms shall also apply to the plural.

(a) 'Person' means an individual, copartnership, association, trust, corporation and any other legal entity.

(b) 'License' means the authority to do business under this Act.

(c) 'Licensee' means any person to whom one or more licenses have been issued.

(d) 'Commissioner' means the Regulatory Loan Commissioner of the State of Texas.

(e) 'Finance Commission' means the Finance Commission of Texas created by the Texas Banking Code of 1943.

(f) 'Cash advance' means the amount of cash or its equivalent the borrower actually receives and shall also include that paid out at his direction or request, on his behalf or for his benefit.

(g) 'Interest' shall be that compensation allowed by this Act, for the use or forbearance or detention of the cash advance. The maximum rate of interest permitted by this Act is that amount authorized in Section 17, Any gain or advantage arising from the sale or providing of insurance as authorized in Section 18 shall not be interest.

(h) 'Amount of loan' means the cash advance plus the interest, authorized by Section 17.

(i) 'Month' means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date then the last day of such following calendar month and when computations are made for a fraction of a month a day shall be one-thirtieth (1/30) of a month.

Sec. 4. Office of Regulatory Loan Commissioner Created.
(a) There is hereby created the office of Regulatory Loan Commissioner of the State of Texas. The commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The commissioner shall be an employee of the Finance Commission, subject to its orders and directions, and shall receive such compensation as is fixed by the Finance Commission. The commissioner is authorized to appoint and remove examiners and employees, and to prescribe the duties of each. The number of examiners and employees to be appointed and the compensation to be paid them shall be approved by the Finance Commission.

(b) The commissioner shall, from time to time, as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of this office, and the Finance Commission may, from time to time, examine the financial records of the Regulatory Loan Commissioner, or cause them to be examined. In addition, the office of the Regulatory Loan Commissioner shall be audited from time to time by the state auditor in the same manner as state departments, and the actual costs of such audit shall be paid to the state auditor from the funds of the Regulatory Loan Commissioner. All fees and revenues collected by the Regulatory Loan Commissioner from every source whatever shall be retained and held by said office and no part of such fees and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the office of the Regulatory Loan Commissioner shall be paid only from such fees and revenues and no such expense shall ever be a charge against the General Revenue Fund of this State.

The Finance Commission shall adopt and from time to time amend, bud-
gets which shall direct the purposes and prescribe the amounts, for which the fees and revenues of this office shall be expended, and the Finance Commission shall, as of December 31, 1963, and annually thereafter report to the Governor of the State of Texas the receipts and disbursements of the office of the Regulatory Loan Commissioner for each calendar year.

(c) The commissioner shall appoint a deputy commissioner, such examiners and assistant examiners as may be required to examine all licensees under this Act annually and such employees as may be necessary to maintain and operate the office of the Regulatory Loan Commissioner and to enforce the laws of this state relative to the licensees under this Act. The deputy commissioner, the examiners and assistant examiners and all such officers and employees shall receive such compensation as shall be fixed by the Finance Commission.

(d) The commissioner, the deputy commissioner, the examiners and assistant examiners shall, before entering upon the duties of office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars ($10,000) payable to the Finance Commission and its successors in office, in individual, schedule or blanket form, executed by a surety or sureties acceptable to the Finance Commission. The bond shall be in form approved by the Finance Commission. The premium for all such bonds shall be paid out of the fees and revenues collected by the commissioner.

(e) The commissioner shall supervise and shall regulate as provided in this Act all licensees and shall enforce the provisions of this Act in person through the deputy commissioner or any examiner or assistant examiner. The commissioner, the deputy commissioner, each examiner and assistant examiner and each employee under this Act shall not be personally liable for damages occasioned by his official act or omissions except when such acts or omissions are corrupt or malicious.

The Attorney General shall defend any action brought against any of the above-mentioned officers or employees by reason of his official act or omission whether or not at the time of the institution of the act the defendant has terminated his services with the office of the Regulatory Loan Commissioner.

Sec. 5. Scope.

(a) On and after ninety ($90) days from the effective date of this Act, no person shall, without first obtaining a license from the commissioner, engage in the business of making loans with cash advances of One Thousand Five Hundred Dollars ($1,500) or less, and contract for, charge or receive, directly or indirectly, on or in connection with any such loan, any charges, whether for interest, compensation, consideration or expense or other thing or otherwise, which in the aggregate are greater than such person would be permitted by law to charge; and upon conviction thereof, shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than Five Hundred Dollars ($500) and not more than One Thousand Dollars ($1,000) or by confinement in the county jail for not more than six (6) months, or both. Any loan contract in the making or collection of which any act shall have been done which violates Section 5 (a) shall be void and the lender shall have no right to collect, receive or retain any principal interest or charges.

(b) The provisions of Section 5 (a) shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatsoever.

(c) Any person and the several members, officers, directors, agents and employees thereof, who shall wilfully violate or participate in the violation of Section 5 (a) shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not less than Five Hundred Dollars ($500) and not more than One Thousand Dollars ($1,000) or by confinement in the county jail for not more than six (6) months, or both. Any loan contract in the making or collection of which any act shall have been done which violates Section 5 (a) shall be void and the lender shall have no right to collect, receive or retain any principal interest or charges.

Sec. 6. Exemptions.

(a) The provisions of this Act shall not apply to any of the follow-
ing persons and the following trans-

(1) Any person doing business
under the authority of and as per-
mitted by the Texas Banking Code
of 1943, as amended.

(2) Any person doing business
under the authority of and as per-
mited by Articles 552 through 581,
Revised Civil Statutes of Texas,
1925, and Chapter 61, Acts of the
41st Legislature, Second Called Ses-

(3) Any person doing business
under the authority of and as per-
mited by Articles 2461 through
2484, Revised Civil Statutes of Tex-
as, 1925, as amended, and Section 5
of House Bill No. 47, Acts of the
46th Legislature, Regular Session,
1949, and Chapter 173, Acts of the
51st Legislature, Regular Session,
1949, relating to Credit Unions.

(4) Any person doing business
under the authority of and as per-
mited by Articles 1512 through
1519, Revised Civil Statutes of Tex-
as, 1925, relating to Agricultural
Finance Corporations.

(5) Any person doing business
under the authority of and as per-
mited by Articles 2494 through
2499, Revised Civil Statutes of Tex-
as, 1925, as amended, relating to
Agricultural and Livestock Pools.

(6) Any person doing business
under the authority of and as per-
mited by Articles 2506 through
2507, Revised Civil Statutes of Tex-
as, 1925, as amended, relating to
Mutual Loan Corporations.

(7) Any person doing business
under the authority of and as per-
mited by Articles 2512 through
2513, Revised Civil Statutes of Tex-
as, 1925, relating to Cooperative
Credit Associations.

(8) Any person doing business
under the authority of and as per-
mited by Articles 2514 through
2524, Revised Civil Statutes of Tex-
as, 1925, relating to Farmers Co-

(9) Any person doing business
under the authority of and as per-
mited by Articles 5578 through
5611, Revised Civil Statutes of Tex-
as, 1925, relating to Markets and
Warehouse Corporations.

(10) Any person doing business
as an insurance company under the
authority of and as permitted by
the Insurance Code of Texas, as
amended.

(11) Any person doing business
under the authority of and as per-
mitted by any law of the United
States relating to National Banks,
Federal Credit Unions or other
Federal Lending Agencies or Insti-
tutions.

(12) Any person doing business
as a pawnbroker under the authority
of and as permitted by Articles 6146
through 6161, Revised Civil Statutes
of Texas, 1925, when such person
does not require the personal liability
of the borrower in a loan transaction.

(13) Any person doing business
under the authority of and as per-
mited by Article 1362, Revised Civil
Statutes of Texas, 1935, and Chapter
388, Acts of the 54th Legislature,
Regular Session, 1957, relating to
Trust Companies.

(14) Any person doing business
under the authority of and as per-
mited by Subdivision 49, Article
2602, Revised Civil Statutes of Tex-
as, 1925, as amended, or Section
1, Chapter 275, Acts 49th Legis-

(15) Any person acting as Trustee
of a Trust, if the Trust (1) is for
the employees savings plan, and (2)
provides that loans may be made to
participants in the Trust.

(b) The provisions of this Act
shall not apply to any bona fide
cash or credit sale transaction or any
contract or obligation arising from
or acquired as a result thereof.
Sec. 7. Application for License; Fees; Appointment.

(a) Application for a license shall be under oath, shall give the approximate location from which the business is to be conducted, and shall contain such relevant information as the commissioner may require including identification of the principal parties in interest, to provide the basis for the findings necessary under Section 8. When making application, the applicant shall pay Two Hundred Dollars ($200) to the commissioner as an investigation fee and One Hundred Dollars ($100) as the annual fee provided in Section 9 (b) of this Act for the current calendar year, provided if the license is granted after June 30th in any year such fee shall be Fifty Dollars ($50) for that year.

(b) Every licensee shall maintain on file with the commissioner a written appointment of a resident of this state as his agent for service of all judicial or other process or legal notice, unless the licensee has appointed an agent under another statute of this state. In case of non-compliance with Section 7(b), such service may be made on the commissioner.

(c) Every applicant shall, also, at the time of filing any such application, file with the commissioner a bond satisfactory to him and in an amount not less than Five Thousand Dollars ($5,000) with a surety company qualified to do business in this state as surety, whose total liability in the aggregate shall not exceed the amount of such bond so fixed. The said bond shall run to the state for the use of the state and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this Act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this Act and of all rules and regulations lawfully made by the commissioner hereunder, and will pay to the state and to any such person or persons any and all amounts of money that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this Act during the calendar year for which said bond is given.

Sec. 8. Issuance or Denial of License.

(a) Upon filing of such application, bond, and payment of the required fees, the commissioner shall investigate the facts and if he shall find the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief the business will be operated lawfully and fairly, within the purposes of this Act, and the applicant has available for the operation of such business assets of at least Fifteen Thousand Dollars ($15,000), he shall grant such application and issue to the applicant a license which shall be his license and authority to make loans under the provisions of this Act.

(b) If the commissioner shall not so find, he shall notify the applicant, who shall, on request within thirty (30) days, be entitled to a hearing on such application within sixty (60) days after the date of said request. The investigation fee shall be retained by the commissioner, but the annual fee shall be returned to the applicant in the event of denial.

(c) The commissioner shall grant or deny each application for a license within thirty (30) days from its filing with the required fees, or, from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the commissioner.

Sec. 9. License; Annual Fee; Minimum Assets.

(a) Each license shall state the address of the office from which the business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable.

(b) Each license shall remain in full force and effect until relinquished, suspended, revoked, or has expired. Every license shall, on or before each December 10th, pay the commissioner One Hundred Dollars
April 25, 1963

HOUSE JOURNAL

Page 1329

(100) for each license held by him, as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the commissioner, the license shall thereupon expire but not before December 31st of any year for which an annual fee has been paid.

(c) Every licensee shall maintain assets of at least Fifteen Thousand Dollars ($15,000), either used or readily available for use, in the conduct of the business of each licensed office.

Sec. 10. Offices; Removal.

(a) A separate license shall be required for each office operated under this Act. The commissioner may issue more than one license to any one person upon compliance with this Act as to each license. Nothing contained herein shall be construed to require a license for any place of business devoted to accounting or other record keeping and where loans under this Act are not made.

(b) When a licensee wishes to move his office to another location in the same city or town in which the license was originally granted, he shall give thirty (30) days written notice to the commissioner who shall amend the license accordingly. In such event, the licensee shall also give fifteen (15) days written notice to the commissioner who shall amend the license accordingly.

(c) When a licensee wishes to move his office from a location in one city or town to a location in another city or town, he shall make application to the commissioner for permission to make such change. The commissioner, if he finds that the interests of the city or town will be served thereby, shall indorse on the license a transfer to the new place of business with the date of such transfer, which indorsement shall be authority for the operation of the business under the license at the new location.

(d) No person shall be eligible to be licensed under this Act unless he is a resident citizen of the State of Texas at the time of the filing of the application. No license shall be issued to a corporation unless at least fifty-one per cent (51%) of the stock of such corporation is owned at all times by citizens who reside within the state; provided, however, the restrictions contained herein shall not apply to corporations which were authorized to engage in the loan business in this state under charter or permit issued prior to January 1, 1963. The commissioner may issue more than one (1) license but not more than sixty (60) licenses to any one person upon compliance with this Act as to each license; provided however, such restriction shall not apply to any person engaged or authorized to engage in the loan business in this state prior to January 1, 1963; and provided further, nothing contained herein shall prohibit the acquiring or bona fide purchase of existing licensees.

Sec. 11. Revocation; Suspension; Surrender; Reinstatement of Licenses.

(a) The commissioner may, after notice and hearing, suspend or revoke any license if he finds that:

(1) The licensee has failed to pay the annual license fee imposed by this Act or an examination fee, investigation fee or other fee or charge imposed by the commissioner under the authority of this Act; or that

(2) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or that

(3) Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the commissioner in refusing to issue such license.

The hearing shall be held upon twenty (20) days notice in writing setting forth the time and place thereof and a concise statement of the facts alleged to sustain the suspension or revocation. The hearing shall be full, fair and public. Such suspension or revocation and its effective date shall be set forth in a written order accompanied by findings of fact and a copy thereof shall be forthwith delivered to the licensee.
Such order, findings and the evidence considered by the commissioner shall be filed with the public records of the Commission.

(b) If the commissioner finds that probable cause for revocation of any license exists and that enforcement of the Act requires immediate suspension of such license pending investigation, he may, upon ten (10) days written notice and a hearing enter an order suspending such license for a period not exceeding three (3) months.

(c) Any licensee may surrender any license by delivering it to the commissioner with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

(d) No revocation, suspension, or surrender of any license shall impair any existing lawful contract between the licensee and any borrower.

(e) The commissioner may relieve state suspended licenses or issue new licenses to a person whose license or licenses have been revoked if no fact or condition then exists which clearly would have justified the commissioner in refusing originally to issue such license under this Act.

Sec. 12. Examination of Licensees; Access to Records; Investigations; Injunctions.

(a) At least once each year and at such other times as the commissioner shall deem necessary, the commissioner, or his duly authorized representative shall make an examination of the place of business of each licensee and shall inquire into and examine the loans, transactions, books, accounts, papers, correspondence, and records of such licensee insofar as they pertain to the business regulated by this Act. In the course of such examination, the commissioner or his duly authorized representative shall have free access to the office, places of business, files, safes and vaults of such licensees, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the commissioner is authorized or required by this Act to consider, investigate, or secure information. Any licensee who shall fail or refuse to let the commissioner or his duly authorized representative examine or make copies of such books, or other documents shall thereby be deemed in violation of this Act and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the commissioner the cost of the examination, but not to exceed Fifty Dollars ($50) per day per examiner and the total cost of examinations assessed and charged a licensee in any one calendar year shall not exceed Two Hundred Fifty Dollars ($250) for each licensed office.

(b) For the purpose of discovering violations of this Act or of securing information required hereunder, the commissioner or his duly authorized representatives may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the commissioner has reasonable cause to believe is violating any provision of this Act whether or not such person shall claim to be within the authority or scope of this Act. For the purpose of this subsection any person who advertises for, solicits or holds himself out as willing to make loans with cash advances in the amount or the value of One Thousand Five Hundred Dollars ($1500) or less, shall be presumed to be engaged in the business described in Section 6 of this Act.

(c) In the course of any examination or investigation or hearing looking to the enforcement or administration of any provision of this Act, the commissioner may require by subpoena or summons, issued by the commissioner addressed to any peace officer within this state, the attendance and testimony of witnesses, and the production of books, accounts, papers, correspondence, or records (excepting such as are absolutely necessary for the continued
course of business, which such books, accounts, papers, correspondence, or records the commissioner shall have the right to examine, or cause to be examined, at the office, or place of business, and to require copies of such portions thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of such concern or an officer of such concern, and shall, when certified by the commissioner, be admissible in evidence in any investigation or hearing under this Act, or in an appeal to the District Court as provided by this Act and for this purpose the commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena, or of the contempt of any witness appearing before the commissioner, the commissioner may invoke the aid of the district court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, correspondence, records and other documents touching the matter in question. Upon the filing of such application to enforce such subpoena, which application shall be treated in the same manner as a motion in a civil suit pending in said court, the court shall forthwith set such application down for hearing and shall cause a notice of the filing of such application and of such hearing to be served upon the party to whom such subpoena is directed. Such notice may be served by any peace officer in the State of Texas. Such application shall take precedence over all other matters of a different nature pending before such court. Any failure to obey such order of the court may be punished by such court as contempt thereof.

(d) In the course of any examination, investigation or hearing described in subsection (c) of this section, the commissioner may appoint a hearing officer to conduct such examination, investigation or hearing, and such hearing officer shall be vested for the purpose of such examination, investigation or hearing with the power and authority as the commissioner would have if he were personally conducting such examination, investigation or hearing, provided that such hearing officer shall not be authorized to make any order upon the subject matter of such examination, investigation or hearing, and provided further, that the record of any examination, investigation or hearing conducted before the hearing officer may be considered by the commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any examination, investigation or hearing.

(e) The fee for serving the subpoena shall be the same as that paid a sheriff or constable for similar services. Each witness required to attend before the commissioner shall receive for each day's attendance, the sum of Two Dollars ($2) and shall receive in addition the sum of Ten Cents (10¢) for each mile traveled by such witness by the usual route going to or returning from the place where his presence is required, provided that such fees shall not become payable until the witness has actually appeared at such hearing. All disbursements made in the payment of such fees shall be included in, and paid in the same manner as is provided for other expenses incident to the administration and enforcement of this Act.

(f) The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the commissioner upon any party in interest to the record or may be divided between any and all parties in interest to the record in such proportion as the commissioner may determine.

(g) Whenever the commissioner has reasonable cause to believe that any licensee or any other person is violating any provisions of this Act, he may in addition to all actions provided for in this Act and without prejudice thereto enter an order requiring such person to desist or to refrain from such violation; and an action may be brought in any District Court of this state having jurisdiction and venue, on the relation of the Attorney General at the request of the commissioner, to enjoin any person from engaging in or continuing such violation or from doing any
act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunctive as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for the property and business of the defendant, including books, papers, documents and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of this Act through or by means of the use of said property and business. Such receiver, when appointed and qualified, shall have such powers and duties as to custody, collection administration, winding up and liquidation of such property and business as shall from time to time be conferred upon him by the court. This provision shall be cumulative of Articles 2293 through 2219, inclusive, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 13. Records; Annual Reports.

(a) Each licensee shall keep in this state such books and records relating to loans made under this Act as are necessary to enable the commissioner to determine whether the licensee is complying with this Act. Such books and records shall be consistent with accepted accounting practices.

Each licensee shall preserve such books and records in this state for at least four (4) years after making the final entry of any loan recorded therein. Each licensee's system of records shall be accepted if it discloses such information as may be reasonably required under Section 14(a) of this Act. All obligations signed by borrowers shall be kept at an office in this state designated by the licensee, except when hypothecated under an agreement by which the creditor gives the commissioner access thereto.

(b) Each licensee shall annually on or before the first day of April file a report with the commissioner giving such relevant information and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the commissioner, who shall make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential.

Sec. 14. Regulations; Copies; Public Record.

(a) The commissioner may make regulations necessary for the enforcement of this Act and consistent with all of its provisions. Each such regulation shall include reference only to the section or subsection to which it applies. Before making a regulation, the commissioner shall give every licensee at least twenty (20) days written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee may be heard and may introduce evidence, data or arguments or place the same on file. After consideration of all relevant matter presented, the commissioner shall promulgate every regulation in written form stating its effective date and the date of promulgation. Each regulation shall be entered in a permanent book which shall be a public record and be kept in the commissioner's office. A copy of every regulation shall be mailed to each licensee and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing.

(b) On application of any person and payment of the costs therefor, the commissioner shall furnish, under his seal and signed by him or his deputy, a certificate of good standing, a certified copy of any license, regulation or order.

(c) Any transcript of any hearing held by the commissioner or by the commissioner under this Act shall be a public record and open to inspection at all reasonable times.

Sec. 15. Advertising.

No licensee shall advertise or cause or permit to be advertised, in any manner whatsoever, any false,
misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans. If rates are stated in advertising, the commissioner may require them to be stated fully and clearly.

No licensee under this Act shall use any advertising stating that said licensee is licensed by, or regulated by, the State of Texas, or any agency thereof; nor shall such licensee use words of similar import for advertising purposes.

Sec. 16. More Than One Business in Single Office.

(a) A licensee may conduct the business of making loans under this Act, within any offices, suite, room or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business, unless the commissioner shall find, after a hearing, that the conduct by the licensee of such other business in the particular licensed office has concealed evasions of this Act and shall order such licensee, in writing, to desist from such conduct in such office.

(b) No licensee shall conduct the business of making loans provided for by this Act under any name, or at any place of business within this state, other than that stated in the license.

(c) Nothing in this Act shall be construed to limit the loans of any licensee to residents of the community in which the licensed office is situated or to prohibit the licensee from making loans by mail.

Sec. 17. Maximum Rates of Interest.

(a) Every licensee may contract for and receive on any loan made under this Act repayable in installments an add-on interest charge computed on the cash advance for the full term of the loan contract, in accordance with the following schedule:

1. Nineteen Dollars ($19) per One Hundred Dollars ($100) per annum on that part of the cash advance in excess of Three Hundred Dollars ($300) but not in excess of Six Hundred Dollars ($600).
2. Twelve Dollars ($12) per One Hundred Dollars ($100) per annum on that part of the cash advance in excess of Six Hundred Dollars ($600) but not in excess of One Thousand Dollars ($1,000).
3. Seven Dollars ($7) per One Hundred Dollars ($100) per annum on that part of the cash advance in excess of One Thousand Dollars ($1,000) but not in excess of One Thousand Five Hundred Dollars ($1,500).

(2) Interest authorized in Section 17 (a)(1) shall be computed at the time the loan is made for the full term of the loan contract notwithstanding the requirement of the loan contract for payment in substantially equal and consecutive monthly installments and shall be computed on the basis of a full month for any fractional period in excess of fifteen (15) days. Interest authorized by Section 17 (a)(1) shall be added to the cash advance and said sum shall be the amount of the loan.

(3) Notwithstanding the requirement of consecutive monthly installments, substantially equal in amount, loans may be made under loan contracts which require repayment in irregular or unequal installment payments and the interest thereon may be in an amount computed in advance on a basis which provides the same interest yield in relation to the balances of the cash advance schedules to be outstanding from time to time under the loan contract, as is permitted under Section 17 (a)(1), having due regard for the schedule of payments.

(4) Notwithstanding the requirement of consecutive monthly installments, substantially equal in amount, a licensee and borrower may agree to the first installment date may exceed one (1) month by not more than fifteen (15) days and the amount of such installment may be increased by one-thirtieth (1/30th) of the amount of interest which would be applicable to a first installment period of one (1) month for each extra day, but such interest shall be excluded in computing the additional interest for delay and shall not be subject to refund.

(5) Additional interest for default, if contracted for, may equal
but shall not exceed the Three Cents ($0.03) for each One Dollar ($1) of any scheduled installment when any portion of such installment continues unpaid for five (5) days or more following the date such payment is due, including Sundays and holidays. Interest for such default shall not be collected more than once on the same installment. If the payment due date of each wholly unpaid installment, on which no interest for default or deferment may be collected at the time of default or deferment, or at any time thereafter, is more than one (1) month prior to such date multiplied by the number of months in the deferment period following a deferment period, the licensee shall retain for partial prepayments and no refund of less than One Dollar ($1) need be made.

(7) No licensee shall induce or permit any person, or husband and wife, to be obligated, directly or indirectly, under more than one loan contract under this Act at the same time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted by this Act; but such limitation shall not apply to the acquisition by purchase of bona fide obligations of the borrower incurred for goods or services, and provided further if a licensee purchases all or substantially all the loan contracts of another licensee, he shall retain for any unexpired balance scheduled to be collected, and has at the time of such purchase loan contracts with one (1) or more of the borrowers whose loans are purchased, the purchaser shall be entitled to collect principal and authorized charges thereon according to the terms of each loan contract.

(8) In addition to the authorized charges provided in this Act no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, bonuses, commissions, brokerage, discounts, expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing, such charges...
may be any form of costs or compensation, whether contracted for or not, received by the licensee, or any other person, in connection with (1) the investigating, arranging, negotiation, procuring, guaranteeing, making, servicing, collecting or enforcing of a loan; or (2) the for- insurance of money, credit, goods or things in action; or (3) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a licensee as court costs; attorney fees assessed by a court; lawful fees for filing, record, or releasing to any public office any instrument securing a loan; the reasonable cost actually expended for repossessing, storing, or selling any security; or fees for noting a lien or transferring a certificate of title to any motor vehicle offered as security for a loan made under this Act, or premiums or identifiable charge received in connection with the sale of insurance authorized under Section 18 of this Act.

(9) If any amount in excess of the authorized charges permitted by this Act is charged, contracted for, or received, except as the result of an accidental and bona fide error, the original loan shall be void against public policy, and the licensee shall have no right to collect or receive any principal, authorized charges or recompense whatsoever, and the licensee and the several members, officers, directors, agents and employees thereof who shall have violated or participated in such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars ($1,000) and not less than One Hundred Dollars ($100) or by confinement in the county jail for not more than six (6) months, or by both such fine and confinement.

(b) On loans of Ninety-nine Dollars ($99) or less, a licensee may charge, in lieu of charges specified in Section 17 (a) (1) of this Act, not in excess of One Dollar ($1) for each Five Dollars ($5) of cash or credit advanced to the borrower, up to the amount of Ninety-nine Dollars ($99); and a period of at least fifteen (15) days must be allowed for the repayment of each Five Dollars ($5) cash or credit advanced, in excess of Twenty Dollars ($20) such charges cannot be assessed by any subterfuge or device on any loan over Ninety-nine Dollars ($99) or less, when the original loan was greater than Ninety-nine Dollars ($99).

On such loans under this subsection, no insurance premium charges or any other charges of any nature whatsoever shall be permitted.

Sec. 18. Insurance.

(a) A licensee may require, as additional security for any loan, credit life insurance and credit health and accident insurance on a borrower under a group or individual policy subject to the following:

(1) The premium or identifiable charge collected from the borrower for such insurance shall not exceed an amount equal to the maximum premium rates fixed by the State Board of Insurance under the Article of the Insurance Code of Texas which defines credit life insurance and credit health and accident insurance and provides the State Board of Insurance shall make and file the schedule of reasonable and adequate maximum premium rates which may be charged by insurers on such insurance, nor in any event, shall the amount charged to the borrower by the licensee for such insurance exceed the amount of the premium paid to the insurer by the licensee for such insurance, as computed at the time the charge to the borrower is determined.

(2) The terms, provisions, coverage and form of any such insurance policies shall satisfy and be in accordance with the particular requirements of the respective applicable statutes;

(3) The maximum premium rates fixed by the State Board of Insurance and the other requirements of such Article shall apply to insurance required in connection with loans exceeding One Thousand Dollars ($1,000) with the same force it applies to insurance required in connection with loans of One Thousand Dollars ($1,000) and less;

(4) If such Article of the Insurance Code is amended or repealed or
a similar Statute is enacted under which the State Board of Insurance is required to or may fix or approve maximum premium rates for credit life insurance and credit health and accident insurance, the premium or a similar charge collected from the borrower for such insurance shall not exceed the maximum premium rate so fixed or approved; not in any event, shall the amount charged to the borrower by the licensee for such insurance exceed the amount of premium paid to the insurer by the licensee for such insurance as computed at the time the charges to the borrower are determined.

(5) Such insurance shall be written and sold in accordance with the provisions of the Insurance Code of Texas which apply to group policies or the provisions of the Insurance Code of Texas which apply to individual policies; provided, however, that the maximum premium rate charged a borrower by a licensee in connection with loans made under this Act for credit insurance on which such rates and/or compensation by commissions are not limited by law or fixed by the State Board of Insurance shall never exceed the maximum premium charged and/or commissions fixed by the State Board of Insurance for the sale of individual credit insurance policies with the same coverage.

(6) Any such insurance required under Section 18 shall be written for a time not in excess of one month beyond the term of the loan contract. The initial amount of credit life insurance which may be written on a group or individual policy shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater. The total amount of indemnity payable by credit accident and health insurance whether written on a group or individual policy in the event of disability, as defined in the policy, shall not exceed the total amount repayable under the contract of indebtedness; and the amount of such periodic indemnity payment shall not exceed the scheduled periodic installment payment on the indebtedness; and

(7) Only one policy of life insurance and one policy of health and accident insurance may be in force with respect to any one loan contract at one time.

(b) A licensee may, in addition, require a borrower, on loans with a cash advance in excess of Three Hundred Dollars ($300), to secure tangible personal property, when offered as security for a loan, against any substantial risk or loss, damage or destruction for an amount not to exceed the actual value of such property, and for a term and on conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan contract, in accordance with provisions of this subsection. Insurance on tangible personal property other than motor vehicles and trailers, which secures a loan as authorized by this subsection, shall include those coverages promulgated by the State Board of Insurance for fire and extended coverage on such property, and the total aggregate premiums for such insurance shall not exceed the maximum premiums promulgated by the State Board of Insurance for such fire and extended coverage insurance on such property. Insurance on motor vehicles and trailers securing a loan, as authorized by this subsection, shall be written only for the standard coverages promulgated by the State Board of Insurance for such motor vehicles and trailers and at premiums which do not exceed the maximum premiums promulgated by the State Board of Insurance for such standard coverages on such motor vehicles and trailers; provided, however, that as to coverage and insurers specifically so authorized in advance by the commissioner, such insurance may be written at filed rates in excess of such rates promulgated by the State Board of Insurance only where the licensee, its officers, agents or employees, receive no benefit or compensation whatever, either directly or indirectly, from such insurance, other than in payment of losses claimed to the property which was security for the loan.

(c) When insurance is written under this section, the licensee shall
deliver or cause to be delivered, to the borrower within thirty (30) days from the date of the loan contract, a certificate or other memorandum showing the coverages and the cost of such insurance, if any, to the borrower, the name of the insuring company and the policy number.

(d) In accepting insurance provided by this section as security for a loan, the licensee, its officers, agents, or employees may deduct the premiums or identifiable charges for such insurance from the proceeds of the loan, which premiums or identifiable charges shall not exceed those authorized by this section, and pay such premiums to the insurance company writing such insurance. Any gain or advantage, to the licensee, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall not be considered as additional interest or further charge in connection with any loan made under this Act except as specifically provided herein; arranging for and collecting an identifiable charge shall not be deemed a sale of insurance.

(e) No insurance shall be written under this section by a company which is not authorized to conduct such business in this State. The licensee shall not by any method, directly or indirectly, encourage or require the purchase of insurance from any agent or broker designated by the licensee, nor shall the licensee decline existing coverages or substantially similar benefits that comply with the provisions of this section. In the event of any violation of this section by a licensee, or should any additional charge be made for insurance other than that authorized in this section, all charges made for insurance shall be deemed as interest, and this provision is supplemental to and not exclusive of all other remedies and penalties hereunder.

Sec. 19. Licensee's Duty to Borrower.

(a) When a loan is made, the licensee shall deliver to the borrower, or, if more than one, to one of them, a statement in writing in the English language showing the following information:

(1) The name and address of the borrower and of the licensee;

(2) The date and amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;

(3) The nature of the security, if any;

(4) The charges contracted for as authorized by this Act;

(5) The charges for default and deferment authorized by this Act;

(6) The type of insurance, if any, provided in connection with the loan, and the premiums for such insurance.

If the note or loan contract shows the information required above, a copy of such note or loan contract may be delivered rather than a separate statement.

(b) The licensee shall give a receipt to the person making a cash payment on any loan.

(c) At any time during regular business hours, the licensee shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one or more full installments.

(d) When a loan is repaid in full, the licensee shall cancel and return to the borrower, within a reasonable time, any note, assignment, mortgage, deed of trust, or other instrument securing such loan which no longer secures any indebtedness of the borrower to the licensee.

Sec. 20. Prohibited Practices.

(a) No licensee shall take a lien upon real estate as security for any loan made under this Act, except such lien as is created by law upon the recording of an abstract of judgment.

(b) No licensee shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding.

(c) No licensee shall take any promise to pay or loan obligation that does not disclose the amount of the cash advanced, the time for which it is made, the schedule of payments, the maturity date, the amount of authorized charges and the types of insurance, if any, provided in connection with the loan,
and the premiums for such insurance.

(d) No licensee shall take any instrument in which blanks are left to be filled in after the loan is made.

Sec. 21. Limitation of Loan Period.

No licensee shall enter any contract under this Act, under which the borrower agrees to make any scheduled payment of principal more than thirty-seven (37) calendar months from the date of making such contract.

Sec. 22. Wage Assignments Prohibited.

Assignments of wages shall be prohibited for the purposes of securing loans made under this Act.

Sec. 23. Disposition of Fees and Revenues.

All fees and other revenues received by the commissioner under the provisions of this Act shall be used for the administration of this Act and shall be funded and disbursed in accordance with the provisions of the Banking Department Self-Support and Administration Act.

Sec. 24. Hearings and Review.

(a) At all hearings before the commissioner under the provisions of this Act, parties in interest shall have the right to appear in person and by counsel, and to present oral and written evidence. If requested by a party in interest, a record shall be made of all evidence offered by such party and all other evidence considered by the commissioner.

(b) Any party in interest aggrieved by any order, ruling or decision of the commissioner may, within thirty (30) days after the date of entry, file in the District Court of Travis County, Texas, a petition against the commissioner officially as defendant, alleging therein in brief detail the order, ruling or decision complained of and praying for a reversal or modification thereof. The commissioner shall within twenty (20) days after the service upon him of such petition, certify to said District Court the record of the proceedings to which the petition refers, or such portion thereof as may be required by the petitioner. The cost of preparing and certifying such record shall be paid to the commissioner by the petitioner and taxed as a part of the costs of the case. Upon the filing of an answer by the commissioner, the case before the District Clerk shall be at issue, without further pleadings, and upon application of either party shall be advanced and heard without further delay. The order of the commissioner shall be sustained unless the hearing was conducted in a manner contrary to the rudiments of a fair hearing; or the order was based upon an error of law which affected petitioner's substantial rights; or was arbitrary, capricious or unreasonable; or the findings of fact were not reasonably supported by substantial evidence in the record, considered as a whole, adduced before the commissioner. Provided, however, that any appeal to the District Court of Travis County, Texas, of an order, ruling or decision of the commissioner, refusing to grant a license or licenses to an applicant or revoking the license or licenses of a licensee, such appeal shall be upon trial de novo as that term is used in appealing from justice of the peace court to county court.

(c) Upon a showing of good cause therefor by a party in interest, the commissioner or the court may enter an order staying, pending appeal, the effect of an order of the commissioner from which the party in interest desires to appeal.

Sec. 25. Pre-existing Contracts.

No modification, amendment, or repeal of this Act or any part thereof shall impair or affect the obligation or any pre-existing lawful contract.

April 25, 1963  HOUSE JOURNAL  1339

...tion or any officer, agent, servant or employee of such person, firm or corporation who is engaged in the business of habitually loaning money for the use and detention of which usurious interest has been charged against or contracted to be paid by the borrower, from demanding, receiving or by the use of any means attempting to collect from the borrower usurious interest on account of any loan, or from hereafter charging any borrower usurious interest, or contracting for any usurious interest. All persons, firms or corporations, and their agents, officers, servants and employees similarly engaged in making loans of money as herein defined who reside in the same county, may be joined in a single suit and no plea of misjoinder of parties defendant shall ever be available to any defendant in such suit.

'Section 2. By the term "habitual" as used in this Act is meant the making of as many as three (3) loans on which or in connection with which usurious interest is charged or contracted for within a period of six (6) months next preceding the filing of any such suit.

'By the term "usurious interest" as used in this Act is meant interest at a rate in excess of ten per centum (10%) per annum, unless as to any class of credit transactions a higher rate of interest is fixed, as in the Texas Regulatory Loan Act, Acts of the Fifty-eighth Legislature, 1963, or other Acts fixing maximum interest rates, or as to such transactions, the term "usurious interest" means interest at a rate in excess of that allowed by law.

'Section 2a. Nothing in this Act shall in any way modify, alter or change any valid provision of Article 5069, Revised Civil Statutes of Texas, 1925.

'Article 5069, Revised Civil Statutes of Texas, 1925, is hereby amended to read as follows:

'Article 5069. Definitions.

'"Interest" is the compensation allowed by law or fixed by the parties to a contract for the use or forbearance or detention of money; "legal interest" is that interest which is allowed by law when the parties to a contract have not agreed upon any particular rate of interest; and "usurious interest" is that interest which is agreed upon and fixed by the parties to a written contract. The maximum rate of interest shall not exceed that specifically fixed by the Legislature as in the Texas Regulatory Loan Act, Acts of the Fifty-eighth Legislature, 1963, or other legislation; provided, however, in the absence of such legislation fixing maximum rates of interest, a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious. "Usury" is interest in excess of the amount allowed by law; all contracts for usury are contrary to public policy and shall be void.'

'Sec. 28. Amending Article 5071, Revised Civil Statutes of Texas, 1925.

Article 5071, Revised Civil Statutes of Texas, 1925, is hereby amended to read as follows:

'Article 5071. Definitions.

'"Usury" includes every loan, contract, writing or other promise, whereby any person, firm or corporation, or any officer, agent, servant or employee thereof, shall lend or loan money, to use or detain for any other person, firm or corporation, for any consideration, or any officer, agent, servant or employee thereof, shall lend or loan money, to use or detain for any other person, firm or corporation, for any consideration, for the use of which the interest thereon, or any part thereof, is charged or contracted for, to be paid by the borrower.

'Sec. 2. By the term "principal" as used in this Act is meant the amount of principal of any loan, or from hereafter charging any borrower usurious interest, or contracting for any usurious interest. All persons, firms or corporations, and their agents, officers, servants and employees similarly engaged in making loans of money as herein defined who reside in the same county, may be joined in a single suit and no plea of misjoinder of parties defendant shall ever be available to any defendant in such suit.

'Section 2a. Nothing in this Act shall in any way modify, alter or change any valid provision of Article 5069, Revised Civil Statutes of Texas, 1925.

'Article 5069, Revised Civil Statutes of Texas, 1925, is hereby amended to read as follows:

'Article 5069. Definitions.

'"Interest" is the compensation allowed by law or fixed by the parties to a contract for the use or forbearance or detention of money; "legal interest" is that interest which is allowed by law when the parties to a contract have not agreed upon any particular rate of interest; and "usurious interest" is that interest which is agreed upon and fixed by the parties to a written contract. The maximum rate of interest shall not exceed that specifically fixed by the Legislature as in the Texas Regulatory Loan Act, Acts of the Fifty-eighth Legislature, 1963, or other legislation; provided, however, in the absence of such legislation fixing maximum rates of interest, a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious. "Usury" is interest in excess of the amount allowed by law; all contracts for usury are contrary to public policy and shall be void.'

'Sec. 28. Amending Article 5071, Revised Civil Statutes of Texas, 1925.
Article 5071. Revised Civil Statutes of Texas, 1925, is hereby amended to read as follows:

"Article 5071. Limit on Rate.

"Except where otherwise specifically provided by the Legislature, as in the Texas Regulatory Loan Act, Acts of the 58th Legislature, 1963, the parties to any written contract may agree to and stipulate for any rate of interest not exceeding ten per centum (10%) per annum on the amount of the contract; and except as above provided in this Article all other written contracts whatever, which may in any way, directly or indirectly, provide for a greater rate of interest shall be void and of no effect for the amount of the contract may be received and recovered."

Sec. 29. Amending Article 5073. Revised Civil Statutes of Texas, 1925.

Article 5073, Revised Civil Statutes of Texas, 1925, is hereby amended to read as follows:

"Article 5073. Action on Usurious Rate.

"Within two (2) years after the time that a greater rate of interest than that fixed in the Texas Regulatory Loan Act, Acts of the Fifty-eighth Legislature, 1963, or by some other Act of the Legislature, but if no other rate is so fixed, than ten per centum (10%) per annum, shall have been received or collected upon any contract, the person paying the same or his legal representative may by an action of debt recovery double the amount of such interest from the person, firm, or corporation receiving the same. Such action shall be instituted in any court of this State having jurisdiction thereof, in the county of the defendant's residence, or in the county where such usurious interest shall have been received or collected, or where said contract has been entered into or where the parties who paid the usurious interest resided when such contract was made."

Sec. 30. Certain Statutes Inapplicable.

Chapter 144, Acts of the 49th Legislature, Regular Session, 1927, compiled as Article 6185b, Vernon's Annotated Civil Statutes, and Articles 9069, 9071 and 9073, Revised Civil Statutes of Texas, 1925, where inconsistent with this Act shall not apply to licensees under this Act, nor shall the provisions of Article 1524(a) as amended apply to such licensees.

Sec. 31. Statutes Repealed.

Chapter 473, Acts of the 52nd Legislature, Regular Session, 1951, compiled as Article 1524a-1, Vernon's Annotated Civil Statutes, Chapter 17, Acts of the 49th Legislature, First Called Session, 1957, as last amended by Chapter 186, Acts of the 49th Legislature, Regular Session, 1945, compiled as Article 6185a, Vernon's Annotated Civil Statutes and Article 1129a, Vernon's Annotated Penal Code; and Subsections (5) and (8) of Article 19.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency, except as otherwise provided in this Act, and except that nothing herein contained in this Act shall affect those laws specified and exempted in Section 6 herein. Provided further, that the amendment or repeal of any law of this State by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of any or all other laws prior to the amendment or repeal thereof.

Sec. 32. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 33. Emergency Clause.

The fact that the voters of Texas adopted by an overwhelming majority a Constitutional Amendment on November 6, 1960, directing the Legislature to classify loans and lenders, license lenders, define interest and regulate lenders to prevent other abuses, creates an emergency
and a public necessity that the Legislature carry out this mandate of the people and creates a public necessity and emergency that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and said Rule is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted."

(Mr. Butler in the Chair)

Mr. Hinson offered the following amendment to Committee Amendment No. 1:

Amend Committee Substitute for S. B. 15, Sec. 4 (b), Page 2 by striking out all the sentence beginning after the word "Commissioner" on line 42 and inserting in lieu thereof the following:

"All fees and other revenues received by the Commissioner under the provisions of this Act shall be deposited into the General Revenue Fund of the State of Texas, and all salaries and expenses shall be fixed by the Legislature through its General Appropriation Act."

The amendment was adopted.

(Speaker in the Chair)

Mr. Hinson moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Woods offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to S. B. 15 by deleting therefrom the words One Thousand Five Hundred Dollars ($1,500) or less, from lines 24 and 25 of page 3 of said committee amendment and substituting therefor the following words: "in any amount."

Mr. Garrison moved to table the amendment offered by Mr. Esquivel and the motion to table prevailed.

Mr. Woods offered the following amendment to Committee Amendment No. 1:

Amend Section 5 of Committee Amendment No. 1 by striking the numbers and words "ninety (90) days" on line 30 of page 3 of the printed version of the bill and inserting the number and words "one hundred and eighty (180) days" in lieu thereof.

The amendment was adopted without objection.

Mr. Hinson offered the following amendment to Committee Amendment No. 1:

Amend Committee Substitute for S. B. 15, Sec. 6 (a), Page 3, Paragraph (1) by adding a comma after the word "amended" in lieu of the period and continuing with the following language:

"Except that any person or firm doing business under provisions of this Code may be granted a permit to set up a separate division within the operations of such business institution and in conformity to provisions of this Act."

Mr. Garrison moved to table the amendment, and the motion to table prevailed.

Mr. Murray offered the following amendment to Committee Amendment No. 1:

Amend Committee Substitute to Senate Bill 15 by inserting a new section to be numbered Section 7-a, Residential, which Section 7-a shall read as follows:
Section 7-a. Residential. No person who is not a citizen of the State of Texas shall be eligible to receive a license under this Act. No license shall be issued to a corporation unless the same be incorporated under the laws of this state and at least fifty-one percent (51%) of the stock of the corporation is owned at all times by citizens of the State of Texas and who possess the qualifications required of other applicants for license; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations which were doing business in this state under charter or license prior to January 8, 1963, but any such corporation which does not meet the requirements of such restrictions shall not be issued a license for any place of business other than those being operated by it on January 8, 1963. Partnerships, firms, and associations applying for licenses shall be composed wholly of citizens possessing the qualifications above enumerated. Any person holding a license under this Act which shall violate any provision hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its license and if a corporation, Its charter shall be subject to forfeiture, and It shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such forfeiture of charter and cancellation of the license in a district court in Travis County, Texas.

Mr. Garrison moved to table the amendment.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Murray was lost by the following vote:  

Yeas—10

Cherry
Doke
Egan
Garrison
Green

Nays—131

Alarid
Allen
Arledge

Barrett
Bass
Beacham
Beryl
Birkner
Bilias
Boyns
Bridges
Brooks
Brown
Brown of Galveston
Brown of Taylor
Butler
Cain
Caldwell
Canales
Carrillo
Cavness
Chapman
Clayton
Collins
Collins
Coton
Coughran
Cowden
Cowles
Crain
Crews
Duggan
Dugger
Edwards
Esequiel
Fairchild
Finney
Fisher
Ford
Foreman
Gibbons
Gladden
Glen
Groover
Guay
Haines of Briscoe
Haines of Brazos
Harding
Haring
Harris
Hutson
Hutson
Ibarra
Inman
Jackson
Jarvis
Johnson of Dallas
Johnson of Bexar
Klagen
Kochmamn
Lack
Ligarde
McClinton
McDonald
McLaughlin
McDonald of Rusk
McGregor
McNulty
McNutt
Macates
Mann
Markgraf
Miller
Morgan
Moyer
Murray
Mutchler
Nugent
Parker
Parsley
Peeler
Pendleton
Petry
Pipkin
Price
Quilliam
Rapp
Richardson
Ritter
Roberts
Rodrigues
Roosen
Satterwhite
Schiller
Songinas
Segrest
Shannon
Shipley
Shutt
Simpson
Sluder
Smith of Bexar
Smith of Jefferson
Stewart
Stollenwerk
Thompson
Townsend
Trager
Walker
Ward
Weldon
Wells
Whaley
Whaley
Whitfield
Wieting
Wilson
Wood

1342 HOUSE JOURNAL
Present—Not Voting
Eckhardt
Adams
Absent
Slack
Absent—Excused
Carpenter
de la Garza
Kilpatrick
Koliba
Thurmond

PAIRED
Mr. Eckhardt (present), who would vote Yea, with Mr. de la Garza (absent) who would vote Nay.

(The above record vote was requested by Mr. Finney, Mr. Bridges and Mr. Stewart.)

The amendment offered by Mr. Murray was then adopted.

Mr. Murray moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bills and resolutions:

S. B. No. 35, "An Act amending Chapter 436, Acts of the Forty-fifth Legislature, Regular Session, 1937, as amended, (compiled as Article 52.21c, Vernon's Texas Civil Statutes), by adding thereto a new section so as to provide for the extension of the period between internal inspections of certain stationary and unfired boilers; and declaring an emergency."

S. B. No. 151, "An Act to transfer to the Board for Texas State Hospitals and Special Schools all lands, funds and property belonging to or purchased for the Texas Blind, Deaf and Orphan School; providing that the Board for Texas State Hospitals and Special Schools shall have exclusive jurisdiction and control over the Texas Blind, Deaf and Orphan School; prescribing certain duties of the Executive Director and Administrator of Special Schools; providing for jurisdiction over all physical assets; providing that all appropriations, grants, and gifts made for the benefit of the Texas Blind, Deaf and Orphan School shall be administered and expended by the Board for Texas State Hospitals and Special Schools, and declaring an emergency."

S. B. No. 113, "An Act amending Section 15 of Chapter 166, Acts of 1925, 39th Legislature, Regular Session, so as to provide that contracts executed by the Highway Department for highway improvements may provide for partial payments to an amount not exceeding ninety-five per cent (95%) of the value of the work done and that only five per cent (5%) of the contract price need be retained until the entire work has been completed; providing a severability clause; and declaring an emergency."

S. B. No. 145, "An Act relating to Brazoria County Water Control and Improvement District—Lake Alaska; providing for the repeal of Chapter 46, Acts of the 57th Legislature, Third Called Session, 1962, creating said water control and improvement district; and declaring an emergency."

S. B. No. 161, "An Act amending Section Ten of the Texas Trust Act to permit a trustee to lend funds of a trust to a beneficiary of such trust when the terms of the instrument or transaction by which such trust was established expressly authorize such action, and declaring an emergency."

S. C. R. No. 54, Commending Blackie Sherrard of the Dallas Times Herald on his winning the National Headliners Club Award.

S. C. R. No. 65, Commending the Dallas Morning News and staff.

H. B. No. 236, "An Act amending Section 2 of Chapter 297, Acts of the Fifty-second Legislature, Regular Session, 1951, as amended, relating to commercial fishing in certain counties, to prohibit fishing commercially in that portion of the Angelina River that is the boundary line between Cherokee and Nacogdoches Counties north of Texas Highway 21; and declaring an emergency."

H. B. No. 505, "An Act relating to the authority of and the procedures...
to be followed by county auditors in certain counties in auditing all books, accounts, reports, vouchers and other records of all funds handled by county systems of education; providing for severability; repealing laws in conflict; and declaring an emergency."

H. B. No. 690, An Act amending Section 1 and Section 2 of Chapter 169, Acts of the Forty-ninth Legislature, 1945, removing the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners from the County Court of Titus County; transferring the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners to the district court having jurisdiction in Titus County; and declaring an emergency."

H. C. R. No. 62, Congratulating the DeKalb High School track team.

H. C. R. No. 65, Authorizing corrections in H. B. No. 511.

MESSAGE FROM THE SENATE
Austin, Texas, April 25, 1963
Hon. Byron Tunnell, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to Senate Bill No. 61 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate:

Senators: Creighton, Chairman; Crump, Kasen, Krueger, and Word.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to Senate Bill No. 231 and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate:

Senators: Moore, Chairman; Crump, Krueger, Herrington, and Creighton.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to S. B. No. 23 by viva voce vote.

I am directed by the Senate to inform the House that the Senate has passed the following:

H. B. No. 554, By Butler: Authorizing the supplementing of salary of the 81st Judicial District Attorney; and declaring an emergency.

H. B. No. 565, By Cory: Providing for temporary emergency interim succession to certain state and local public officers; and declaring an emergency. (with amendments).

The Senate has appointed the following Conference Committee on H. B. No. 523:

Hazlewood, Chairman; Alkis, Doss, Hardeman, and Moffett.

I am directed by the Senate to inform the House that the Senate has passed the following:

S. B. No. 474, By Colson: Relating to Brookshire Municipal Water District; and declaring an emergency.

H. B. No. 11, By Walker: Creating the Texas Tourist Development Agency; and declaring an emergency.

H. B. No. 661, By Townsends: Relating to the Texas Municipal Retirement System earnings; and declaring an emergency.

S. B. No. 212, By Krueger: Exempting certain non-profit corporations from franchise tax; and declaring an emergency.

S. B. No. 463, By Hardeman: Relating to suspension of drivers licenses and appeals from orders of suspension; and declaring an emergency.

S. J. R. No. 10, By Moore: Providing for medical care for the aged; and declaring an emergency.

S. C. R. No. 13, By Spears: Granting Wm. E. Goets & Sons, Contractors, permission to sue the State.

S. B. No. 14, By Spears: Providing for the introduction of business records; and declaring an emergency.
S. B. No. 85, By Watson: Regulating the professions of funeral establishments; and declaring an emergency.

S. B. No. 92, By Richter: Authorizing Incentive Aid Payments to certain independent school districts; and declaring an emergency.

S. B. No. 121, By Parkhouse: Relating to fees payable to perpetual care cemeteries corporation; and declaring an emergency.

S. B. No. 318, By Kazen: Removing the Attorney General from certain boards; and declaring an emergency.

S. B. No. 374, By Moffett: Providing for protection of the flag, standard, color or ensign of the United States; and declaring an emergency.

S. B. No. 380, By Parkhouse: Relating to exemptions to the tax on stores and mercantile establishments; and declaring an emergency.

S. B. No. 383, By Herring: Providing for contracts in the conduct of research; and declaring an emergency.

S. B. No. 427, By Rogers: Authorizing the Texas Water Commission and the Red River Authority to study a conservation project on the Red River; and declaring an emergency.

S. B. No. 444, By Moore: Relating to Social Security coverage for policemen; and declaring an emergency.

S. B. No. 456, By Hazlewood: Authorizing the transfer of certain money to the Liquor Control Board; and declaring an emergency.

S. B. No. 473, By Dies: Clarifying the qualifications of voters at the election of Directors; and declaring an emergency.

Resolved, That the House of Representatives of the Fifty-eighth Legislature of the State of Texas extends best wishes and congratulations to Representative and Mrs. John Allen on this happy occasion.

The resolution was read and was unanimously adopted.

On the motion of Mr. Slider, the names of all Members of the House were added to the resolution as signers thereof.

TO CONGRATULATE THE HONORABLE BILL J. PARSLEY

Mr. Brown of Taylor offered the following resolution:

H. S. R. No. 431

Whereas, One of our colleagues stated yesterday, from the rostrum of this House, that he is "of such an age as to be harmless to ladies of all ages;" and

Whereas, Today the reason comes to light for that confession of deep gloom. The gentleman from Lubbock, Bill J. Parsley, has reached the doddering old age of thirty-five. He was born April 25, 1928, at Phantom Hill, in Jones County; and

Whereas, His family, including his charming wife, Alice, his sons, William Clint, eleven; Nash Clay, ten, and Matthew Jay, six, are undismayed by this seeming calamity. As a matter of fact, they are celebrating his birthday; now, therefore, be it

Resolved, That the House of Representatives of the Fifty-eighth Legislature of the State of Texas joins the Parsley family in extending felicitations to our worthy colleague, Bill J. Parsley, and adds the note of admonition that he is too young to despair.

Signed: Brown of Taylor, Quilliam and Adams.
The resolution was read and was unanimously adopted.

On the motion of Mr. Adams, the names of all members of the House were added to the resolution as signers thereof.

CONGRATULATORY RESOLUTION ADOPTED

H. S. R. No. 430, By Fletcher: Congratulating the San Marcos Chamber of Commerce, the Texas Buccaneer Commission, Mr. Frank G. Brown and others for their promotion of the Texas Water Safari.

VOTE RECORDED

By unanimous consent of the House, Mr. Haynes of Orange was granted permission to be recorded as voting Nay on the amendment by Mr. Brooks to H. B. No. 159, the vote being on April 19.

RECESS

Mr. Mann moved that the House recess until 1:30 o'clock p.m. today.

The motion prevailed.

In accordance with the motion to recess, the House, at 12:00 o'clock noon, took recess until 1:30 o'clock p.m. today.

AFTERNOON SESSION

The House met at 1:30 o'clock p.m. and was called to order by the Speaker.

SENATE BILL NO. 15 ON PASSAGE TO THIRD READING

The House resumed consideration of pending business, same being S. B. No. 15 on its passage to third reading, relative to classification and regulation of loans and lenders, etc.

The bill was read second time on this morning. Committee Amendment No. 1 is pending at this time.

Mr. Price offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to Senate Bill No. 15 by striking the clause on lines 12, 13 and 14, page 6 of the printed bill which reads: "and the applicant has available for the operation of such business assets of at least fifteen thousand dollars ($15,000)."

Mr. Garrison moved to table the amendment, and the motion to table prevailed.

COMMITTEE MEETINGS

Mr. Floyd asked unanimous consent of the House that the Committee on Common Carriers be permitted to meet at this time.

There was no objection offered.

Mr. Pipkin asked unanimous consent of the House that the Committee on Privileges, Suffrage and Elections be permitted to meet at this time.

There was no objection offered.

Leave of Absence Granted

Mr. Macatee was granted leave of absence for the remainder of the day on account of important business, on motion of Mr. Morgan.

Mr. Murray offered the following amendment to Committee Amendment No. 1:

Amend Committee Substitute to Senate Bill 16, Section 10, subsection "d" by striking out all of subsection "d" and inserting in lieu thereof the following:

"(d) Limitation of Offices. The Commissioner may issue more than one (1) license but not more than sixty (60) licenses to any one (1) person upon compliance with this Act as to each license. And it shall be unlawful for any person, after the effective date of this Act, directly or indirectly or through subsidiaries or holding companies, to hold or have an interest in more than sixty (60) licenses, the business thereof, or any interest in such licenses. Any person holding a license under this Act which shall violate any provision hereof shall be subject to forfeiture of its license, and if a corporation, its charter shall be subject to forfeiture, and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such forfeiture of charter and cancellation of the license in a District Court in Travis County, Texas."

A record vote was requested on the amendment.

The amendment offered by Mr.
April 25, 1963  HOUSE JOURNAL  1347

Murray was adopted by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>141</td>
<td></td>
</tr>
</tbody>
</table>

- Adams
- Alanis
- Allen
- Arledge
- Atwell
- Ball
- Banfield
- Barnes
- Bass of Bowie
- Bass of Harris
- Beckham
- Berry
- Birnkr
- Blaine
- Boysen
- Bridges
- Brooks
- Brown
- of Galveston
- Brown of Taylor
- Butler
- Cain
- Caldwell
- Canales
- Cannon
- Carrillo
- Cavness
- Chapman
- Cherry
- Clayton
- Cole
- Collins
- Cook
- Cory
- Cotten
- Coughran
- Cowden
- Cowles
- Craig
- Crews
- Davis
- Doke
- Duggan
- Duncan
- Dickard
- Edwards
- Engle
- Fairchild
- Floun
- Fletcher
- Floyd
- Fowden
- Foreman
- Garrison
- Gibbons
- Gladden
- Glenn
- Green
- Grover
- Satterwhite
- Schiller
- Scoggins
- Segrest
- Shannon
- Shipley
- Shutt
- Simpson
- Slade
- Smith of Jefferson
- Stewart
- Wilson
- Stollenwerck
- Woods

- Absent—Excused
- Ligarde

Mr. Murray moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Woods offered the following amendment to Committee Amendment No. 1:

- Amend Committee Amendment No. 1 to S. B. No. 15, Section 11, by striking therefrom all of subsection (b) which is printed on lines 34, 35, 36, 37 and 38 of page 6 of the printed version of the bill.

Mr. Garrison moved to table the amendment, and the motion to table was lost.

A record vote was requested on the amendment offered by Mr. Woods.

The amendment was adopted by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td></td>
</tr>
</tbody>
</table>

- Alanis
- Allen
- Arledge
- Atwell
- Ball
- Banfield
- Barnes
- Bass of Bowie
- Bass of Harris
- Beckham
- Berry
- Birnkr
- Blaine
- Boysen
- Bridges
- Brooks
- Brown
- of Galveston
- Brown of Taylor
- Butler
- Cain
- Caldwell
- Canales
- Cannon
- Carrillo
- Cavness
- Chapman
- Cherry
- Clayton
- Cole
- Collins
- Cook
- Cory
- Cotten
- Coughran
- Cowden
- Cowles
- Craig
- Crews
- Davis
- Doke
- Duggan
- Duncan
- Dickard
- Edwards
- Engle
- Fairchild
- Floun
- Fletcher
- Floyd
- Fowden
- Foreman
- Garrison
- Gibbons
- Gladden
- Glenn
- Green
- Grover
- Satterwhite
- Schiller
- Scoggins
- Segrest
- Shannon
- Shipley
- Shutt
- Simpson
- Slade
- Smith of Jefferson
- Stewart
- Wilson
- Stollenwerck
- Woods
Mr. Bridges (present), who would vote Nay with Mr. de la Garza (absent) who would vote Yea.

Mr. Cannon (present), who would vote Nay with Mr. Macatee (absent) who would vote Yea.

(The above record vote was requested by Mr. Finney, Mr. Bridges and Mr. Stewart.)

Mr. Woods offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to Senate Bill 15 by striking all of Section 17(b) and inserting in lieu thereof the following:

"(b) On loans of One Hundred Dollars ($100) or less, a licensee may charge, in lieu of charges specified in Section 17(a) (1) of this Act, the following amounts:

(1) On any amount up to and including Nineteen Dollars ($19) a charge may be added at the ratio of One Dollar ($1) for each Five Dollars ($5) of cash or credit advanced to the borrower and such advance of cash or credit shall be for a period of Thirty (30) days only.

(2) On any cash advance in an amount in excess of Nineteen Dollars ($19) up to and including the amount of Thirty-five Dollars ($35) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10) of the amount of the cash advance. In addition thereto an installment account handling charge shall be allowed not to exceed Three Dollars ($3) per month and such advance of cash or credit shall be for a period of either one (1) or two (2) months.
“(3) On any cash advance of an amount in excess of Thirty-five Dollars ($35) but not more than Seventy Dollars ($70) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10) of the amount of the cash advance. In addition thereto an installment account handling charge shall be allowed not to exceed Three Dollars and Fifty Cents ($3.50) and such advance of cash or credit shall be for a period of not more than four (4) months.

“(4) On any cash advance of an amount in excess of Seventy Dollars ($70) but not in excess of One Hundred Dollars ($100) there shall be allowed an acquisition charge for making the advance not in excess of one-tenth (1/10) of the amount of the cash advance. In addition thereto an installment account handling charge shall be allowed not to exceed Four Dollars ($4) per month and such contract of loan shall not contain a maturity date of more than six (6) months.

On such loans under this subsection, no insurance premium charges or any other charges of any nature whatsoever shall be permitted.

Committee Meeting

Mr. Slider asked unanimous consent of the House that the Committee on Game and Fisheries be permitted to meet at this time.

There was no objection offered.

Mr. Jarvis offered the following substitute amendment for the amendment offered by Mr. Woods:

Substitute amendment for the Woods Amendment to Committee Amendment No. 1 to Senate Bill No. 15, by deleting all of Section 17 on page 3 beginning with line 38 of the printed bill and substituting the following:

Every licensee may contract for and receive on any loan made under this act a maximum rate of interest of 15% per annum up to and including $500. After a loan, including interest and the service charge hereinafter provided, reaches $500 the entire loan cannot receive a higher rate of interest than 10% per annum. It is the intention of this act that only a loan of $500 or less can receive a higher rate of interest than 10% per annum and that all loans in excess of $500 shall be entitled to a rate of maximum interest of 10% per annum. In addition to the interest hereinafter provided the licensee shall be entitled to charge an additional amount not to exceed $5 for all charges which he might actually incur. This service charge shall be for the purpose of credit reports, investigations, insurance, and recording fees. This service charge can only be charged when the licensee has incurred the above listed expenses.

Signed: Jarvis and Adams

Committee Meeting

Mr. Shipley asked unanimous consent of the House that the Committee on Commerce and Manufactures be permitted to meet at this time.

There was no objection offered.

Mr. Garrison moved to table the substitute amendment offered by Mr. Jarvis.

A record vote was requested on the motion to table.

The motion to table the substitute amendment offered by Mr. Jarvis prevailed by the following vote:

Yeas—105
Allen
Arlene
Atwell
Banfield
Barnes
Bass of Bowie
Bass of Harris
Berry
Birkner
Blaine
Boyken
Bridges
Brooks
Brown of Galveston
Caia
Caldwell
Canales
Cannon
Carriker
Cherry
Clayton
Cole
Collins
Cook

Signed: Jarvis and Adams
<table>
<thead>
<tr>
<th>Absent</th>
<th>Absent—Excused</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>Koeha</td>
</tr>
<tr>
<td>da la Garza</td>
<td>Macaque</td>
</tr>
<tr>
<td>Kilpatrick</td>
<td>Thurmond</td>
</tr>
</tbody>
</table>

(The above record vote was requested by Mr. Adams and Mr. Alaniz.)

Mr. McGregor offered the following substitute amendment for the amendment offered by Mr. Woods:

Amendment to Senate Bill 15 by striking all of Sub-section B of Section 17, said sub-section being lines 33 through 43 on Page 11 of the printed bill.

Mr. Woods moved to table the substitute amendment offered by Mr. McGregor.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. McGregor prevailed by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td>Glenn</td>
</tr>
<tr>
<td>Allen</td>
<td>Grover</td>
</tr>
<tr>
<td>Ariedge</td>
<td>Rains of Blanco</td>
</tr>
<tr>
<td>Atwell</td>
<td>Hallmark</td>
</tr>
<tr>
<td>Ball</td>
<td>Harris</td>
</tr>
<tr>
<td>Beanfield</td>
<td>Galveston</td>
</tr>
<tr>
<td>Barnes</td>
<td>Harris of Dallas</td>
</tr>
<tr>
<td>Bass of Bowie</td>
<td>Healy</td>
</tr>
<tr>
<td>Bass of Harris</td>
<td>Heflin</td>
</tr>
<tr>
<td>Beckham</td>
<td>Hendryx</td>
</tr>
<tr>
<td>Berry</td>
<td>Houston</td>
</tr>
<tr>
<td>Birkner</td>
<td>Haines</td>
</tr>
<tr>
<td>Blake</td>
<td>Hughes</td>
</tr>
<tr>
<td>Boyden</td>
<td>Jarrett</td>
</tr>
<tr>
<td>Bridges</td>
<td>Johnson of Dallas</td>
</tr>
<tr>
<td>Brooks</td>
<td>Klager</td>
</tr>
<tr>
<td>Brown of Taylor</td>
<td>Knapp</td>
</tr>
<tr>
<td>Builer</td>
<td>Keltman</td>
</tr>
<tr>
<td>Cain</td>
<td>Lack</td>
</tr>
<tr>
<td>Canales</td>
<td>Llagger</td>
</tr>
<tr>
<td>Cavanaugh</td>
<td>McClintion</td>
</tr>
<tr>
<td>Chamberl</td>
<td>McDonald</td>
</tr>
<tr>
<td>Coleman</td>
<td>McDonald of Hidalgo</td>
</tr>
<tr>
<td>Cook</td>
<td>McClain</td>
</tr>
<tr>
<td>Corr</td>
<td>McNutt</td>
</tr>
<tr>
<td>Cotten</td>
<td>Mann</td>
</tr>
<tr>
<td>Coughran</td>
<td>Miller</td>
</tr>
<tr>
<td>Cowden</td>
<td>Morgan</td>
</tr>
<tr>
<td>Crawls</td>
<td>Moyer</td>
</tr>
<tr>
<td>Crews</td>
<td>Murray</td>
</tr>
<tr>
<td>Deke</td>
<td>Mutscher</td>
</tr>
<tr>
<td>Duggan</td>
<td>Niemeyer</td>
</tr>
<tr>
<td>Dungan</td>
<td>Parker</td>
</tr>
<tr>
<td>Edwards</td>
<td>Parsley</td>
</tr>
<tr>
<td>Equivel</td>
<td>Pearl</td>
</tr>
<tr>
<td>Faischchild</td>
<td>Peeler</td>
</tr>
<tr>
<td>Fletcher</td>
<td>Pendleton</td>
</tr>
<tr>
<td>Floyd</td>
<td>Petty</td>
</tr>
<tr>
<td>Fondren</td>
<td>Pipkin</td>
</tr>
<tr>
<td>Foreman</td>
<td>Price</td>
</tr>
<tr>
<td>Garrison</td>
<td>Rapp</td>
</tr>
<tr>
<td>Gibbens</td>
<td>Richards</td>
</tr>
</tbody>
</table>
Mr. Butler asked unanimous consent of the House that the Committee on Labor be permitted to meet at this time.

There was no objection offered.

Mr. Garrison moved to table the amendment offered by Mr. Woods to Committee Amendment No. 1.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Woods was lost by the following vote:

Yeas—52
Adams  Hollowell
Alanis  Isacks
Arledge  Jamieson
Atwell  Johnson of Bexar
Barnes  Knapp
Boyson  McGregor
Bridges  McLaughlin
Cain  Markgraf
Caldwell  Moyer
Cannon  Nemessey
Carriker  Nugent
Cherry  Farmer
Clayton  Pearcy
Collins  Pendleton
Crews  Petty
Duck  Quilliam
Duncan  Richards
Edwards  Richardson
Finney  Roberts
Garrison  Rosson
Gibbons  Shannan
Gladden  Simpson
Glenn  Stewart
Green  Thompson
Hallmark  Townsend
Haring  Wilson

Nays—86
Allen  Guffey
Ball  Haines of Brazos
Banfield  Harris
Bass  of Galveston
Bass  of Harris
Beckham  Harris of Dallas
Berger  Harvey
Birker  Hendryx
Blaine  Hinson
Brooks  Houston
Brown  Hughes
Brown  of Galveston
Brown of Taylor
Butler  Klinger
Canales  Lack
Caviness  Ligarde
Chapman  McClinton
Cole  McDonald
Cook  of Hidalgo
Cory  McDonald of Rusk
Cotton  McLain
Coughran  McNutt
Cowden  Mann
Cowles  Miller
Crain  Morgan
Davis  Murray
Duggan  Mutcher
Eguinol  Parker
Fairchild  Parsley
Fletcher  Pester
Foyd  Pipkin
Fowden  Price
Foreman  Rapp
Grover  Ritter

(The above record vote was requested by Mr. Finney, Mr. Bridges and Mr. Stewart.)
Mr. Wells (present), who would vote Yea with Mr. Macatee (absent) who would vote Nay.

Mr. Johnson of Dallas (present), who would vote Yea with Mr. de la Garza (absent) who would vote Nay.

(The above record vote was requested by Mr. Haring, Mr. Parmer and Mr. Johnson of Bexar.)

A record vote was requested on the adoption of the amendment offered by Mr. Woods.

The amendment offered by Mr. Woods was adopted by the following vote:

Yeas—83


Goffey  Hallam of Brazos  Hallmark  Harris  Harris of Galveston  Harris of Dallas  Harness of Orange  Harvey  Heard  Hendryx  Hinson  Houston  Hughes  Jarvis  Hacker  Slack  Lack  Ligrade  Smith of Bexar  McDonald  McDonald of Hidalgo  McDonald of Rusk  McIlhany  McNutt  Mann  Miller  Morgan  Murray  McVey  McVay  McGreer  McLaughlin  Markgraf  Moyer  Niemeyer  Nugeez  Parmer  Perry  Perry  Pettit  Quilliam  Qualls  Redfield  Reid  Riggs  Roberts  Rogers  Shannon  Shutt  Simpson  Stewart  Townend  Ward  Wells  Wheeler  Wilson

Nays—54


Goffey  Hallam of Brazos  Hallmark  Harris  Harris of Galveston  Harris of Dallas  Harness of Orange  Harvey  Heard  Hendryx  Hinson  Houston  Hughes  Jarvis  Hacker  Slack  Lack  Ligrade  Smith of Bexar  McDonald  McDonald of Hidalgo  McDonald of Rusk  McIlhany  McNutt  Mann  Miller  Morgan  Murray  McVey  McVay  McGreer  McLaughlin  Markgraf  Moyer  Niemeyer  Nugeez  Parmer  Perry  Perry  Pettit  Quilliam  Qualls  Redfield  Reid  Riggs  Roberts  Rogers  Shannon  Shutt  Simpson  Stewart  Townend  Ward  Wells  Wheeler  Wilson

Present—Not Voting

Bickhardt  Eckhardt  Wells  Johnson of Dallas  Absent

Harding  Healy

Absent—Excused

Carpenter  Koliba  de la Garza  Macatee  Kilpatrick  Thurmond

Present—Not Voting

Cannon  Eckhardt  Wells  Johnson of Dallas  Absent

Harding  Healy
April 25, 1963  HOUSE JOURNAL 1353

Absent-Excused
Carpenter  de Ia Garza  Kilpatrick  Macatee  Thurmond

PAIRED
Mr. Johnson of Dallas (present), who would vote Nay with Mr. de la Garza (absent) who would vote Yeas.

Mr. Cannon (present), who would vote Nay with Mr. Macatee (absent) who would vote Yeas.

(The above record vote was requested by Mr. Carriker, Mr. Roberts and Mr. Haring.)

Mr. Woods moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Committee Meeting
Mr. Grover asked unanimous consent of the House that the Committee on Counties be permitted to meet at this time.

There was no objection offered.

Mr. McGregor offered the following amendment to Committee Amendment No. 1:

Amend Committee Substitute to Senate Bill 15 as follows:

Strike out the language in Sub-sub-section (1) of Sub-section (a) of Section 17 and substitute in lieu thereof the following: Nineteen Dollars ($19.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance not in excess of One Hundred Dollars ($100.00); Sixteen Dollars ($16.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of One Hundred Dollars ($100.00) but not in excess of Two Hundred Dollars ($200.00); Thirteen Dollars ($13.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of Two Hundred Dollars ($200.00) but not in excess of Three Hundred Dollars ($300.00); Eleven Dollars ($11.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of Three Hundred Dollars ($300.00) but not in excess of Five Hundred Dollars ($500.00); Nine Dollars ($9.00) per One Hundred Dollars ($100.00) on that part of the cash advance in excess of Five Hundred Dollars ($500.00) but not in excess of One Thousand Dollars ($1000.00); Seven Dollars ($7.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of One Thousand Dollars ($1000.00) but not in excess of Fifteen Hundred Dollars ($1500.00).

(Mr. Slider in the Chair)

The amendment offered by Mr. McGregor was lost.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to Senate Bill 15 by adding a new section on page 11 to be known as 9c.

If any amount in excess of the authorized charges permitted by this act is charged, contracted for, or received by licensees and the several members, officers, directors, agents, and employees thereof who shall have violated or participated in such violation shall be jointly and severally liable for reasonable attorney's fees incurred by the borrower in enforcing any of the provisions of this act.

The amendment was adopted without objection.

Mr. Alaniz moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. McGregor offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 by striking all of Sec. 18 and substituting the following:

Sec. 18. Insurance.

a. A licensee may require a borrower to purchase property insurance on the reasonable value of any property securing the loan, or credit insurance on the life or disability of
the borrower, without including the charges therefor in the interest covered by the maximum rate schedule herein, if, and only if, all the following conditions are met:

(1) The licensee obtains no compensation or benefit, and obtains no right to compensation or benefit, directly or indirectly from the insurance transaction except the insurance security for the loan. Among the types of facts (but not limited thereto) which shall establish a violation of this subsection are included the following, each of which shall be sufficient, of itself, to establish such a violation.

(a) Where the licensee owns an interest or has a management right in the insurer, insurance agent or insurance broker participating in the transaction.

(b) Where the insurer, insurance agent or insurance broker participating in the transaction has an interest or has a management right in the licensee.

(c) Where the licensee has entered a reinsurance agreement, a financing agreement, or any other agreement with the insurer within a period of four years before and four years after such purchase of insurance.

(d) In Section 17, a. (1), the words, "licensee," "insurer," "insurance agent," and "insurance broker," shall be deemed to include also each person, firm and corporation which owns any interest in the licensee, insurer, insurance agent or insurance broker, or in which the licensee, insurer, insurance agent or insurance broker holds any interest, or which is as much as ten per cent commonly owned with the licensee, insurer, insurance agent or insurance broker, by a third person, firm, corporation or group of persons acting in concert, and shall further be deemed to include each agent, employee, officer or director of either of the aforesaid and each dependent of either of the aforesaid, and each person related to either of the aforesaid by consanguinity in the first, second or third degree.

(2) The premium rates therefor are fixed and regulated by the State Board of Insurance of the State of Texas.

(3) The insurance is written only by a company authorized to conduct such business in this State.

(4) The licensee does not by any method, directly or indirectly encourage or require the purchase of such insurance from the insurer nor through any agent or other person, firm or corporation designated or indicated by the licensee.

(5) The licensee does not decline existing coverages or substantially similar benefits.

(6) Such security is insured against substantial risk or loss, damage or destruction for an amount not to exceed the amount of the loan and for a term and upon conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan contract.

(7) In the event of any violation of this section by a licensee, all charges made for insurance shall be deemed an interest. This provision is supplemental to and not exclusive of, all other remedies and penalties applicable.

b. If the Commissioner shall find, after a hearing, that the encouragement or requirement of insurance by a licensee in connection with loans tends to conceal or facilitate violation or evasion of this Act or that the expense to the borrower of the insurance thus provided does not bear a reasonable relation to the protection afforded thereby to lender and/or borrower, the Commissioner shall order such licensee to desist from the encouragement or requirement of the offending practice, and shall prepare and publish an order denying to all licensees such practice or the use of such policies.

c. When the licensee purchases the insurance, the licensee shall deliver, or cause to be delivered, to the borrower, within thirty (30) days from the date of the loan contract, a certificate or other memorandum showing the coverages and cost of such insurance.

(Speaker in the Chair)
Mr. Garrison moved to table the amendment offered by Mr. McGregor, and the motion to table prevailed.

Leave of Absence Granted

Mr. Harding was granted leave of absence for the remainder of the day on account of important business, on motion of Mr. Ward.

Mr. Ligarde offered the following amendment to Committee Amendment No. 1:

Amend Senate Bill No. 15 by striking “not to exceed the actual value of such property” on lines 39 and 40, p. 12, of the printed substitute bill and substituting therefor the following:

“Not to exceed the face amount of such loan.”

The amendment was adopted without objection.

Mr. Ligarde moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Quilliam moved to reconsider the vote by which the following amendment offered by Mr. McGregor to Committee Amendment No. 1 was lost:

Amend Committee Substitute to Senate Bill 15 as follows:

Strike out the language in Sub-sub-section (1) of Sub-section (a) of Section 17 and substitute in lieu thereof the following: Nineteen Dollars ($19.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of One Hundred Dollars ($100.00); Sixteen Dollars ($16.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of Two Hundred Dollars ($200.00); Thirteen Dollars ($13.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of Two Hundred Dollars ($200.00) but not in excess of Three Hundred Dollars ($300.00); Eleven Dollars ($11.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of Three Hundred Dollars ($300.00) but not in excess of Five Hundred Dollars ($500.00); Nine Dollars ($9.00) per One Hundred Dollars ($100.00) on that part of the cash advance in excess of Five Hundred Dollars ($500.00) but not in excess of One Thousand Dollars ($1000.00); Seven Dollars ($7.00) per One Hundred Dollars ($100.00) per annum on that part of the cash advance in excess of One Thousand Dollars ($1000.00) but not in excess of Fifteen Hundred Dollars ($1500.00).

Mr. Garrison moved to table the motion to reconsider the vote. A record vote was requested.

The motion, to table the motion to reconsider the vote by which the above amendment offered by Mr. McGregor failed of adoption, was lost by the following vote:

**Yea—43**

Ball  Houston
Barnes  Markgraf
Blaine  Morgan
Boyson  Murray
Bridges  Niemeyer
Brown of Taylor  Pipkin
Cain  Rapp
Cavness  Richardson
Chapman  Ritter
Collins  Roberts
Cowden  Satterwhite
Cowles  Sroggin
Doke  Shishley
Dungan  Slider
Fairchild  Smith of Jefferson
Fincher  Stewart
Fondren  Snowsmerek
Foreman  Walker
Garrison  Weldon
Glenn  Whitley
Hallmark  Wilson
Harris of Dallas  

**Nay—67**

Adams  Brown of Galveston
Allen  Butler
Allen  Caldwell
Aridge  Canales
Banfield  Cannon
Bass of Bowin  Carricker
Bass of Harris  Beckham
Berry  Cherry
Birkner  Clayton
Brooks  Cole
Cory  

April 25, 1963

HOUSE JOURNAL

1355
Mr. Johnson of Dallas (present), who would vote Nay with Mr. de la Garza (absent) who would vote Yeas.

(The above record vote was requested by Mr. Eckhardt, Mr. McDonald of Rusk and Mr. Haynes of Orange.)

The motion to reconsider the vote by which the amendment offered by Mr. McGregor was lost then prevailed.

The amendment offered by Mr. McGregor was then adopted.

Mr. Nugent offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to S. B. No. 15 by striking the word ""Not"" in lines 12 and 15 on page 13.

Mr. Klager offered the following substitute amendment for the amendment offered by Mr. Nugent:

Substitute Amendment

Amend Committee Amendment to Senate Bill No. 15 by striking all of lines 11 through 16 of Section 18, page 13 of the printed bill and inserting in lieu thereof the following:

"Any gain, advantage, or profit to the licensee, or any employee, officer, director, agent, general agent, affiliate or associate from such insurance or its provision or sale shall be considered as additional interest or further charge which is not permitted under Section 17, Sub-section 7 of this Act in connection with any loan made under this Act except as specifically provided herein; arranging for, and collecting an identifiable charge shall be deemed a sale of insurance."

Mr. Garrison moved to table the substitute amendment.

A record vote was requested on the motion to table.

The motion to table the substitute amendment offered by Mr. Klager was lost by the following vote:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>1</td>
</tr>
</tbody>
</table>

Mr. Johnson of Dallas (present), who would vote Nay with Mr. de la Garza (absent) who would vote Yeas.
The substitute amendment offered by Mr. Kla. ger was then adopted.

Mr. Kla. ger moved to reconsider the vote by which the substitute amendment offered by himself was adopted and to table the motion to reconsider.

The motion to table prevailed.

The amendment offered by Mr. Nugent, as substituted, was then adopted without objection.

Mr. McGregor offered the following amendment to Committee Amendment No. 1:

Floor Amendment to Committee Substitute for Senate Bill No. 15

Amend Committee Amendment No. 1 to Senate Bill No. 15 by adding a new subsection to Section 2 to be entitled (e).

(e) No licensee shall, in an attempt to collect an unpaid amount of loan, engage in practices which cause physical injury to any person
who owes said licensee said amount of loan, and such person who so owes, when such attempts are made, shall have a cause of action against any such licensee individually and severally to recover for such physical injury and this cause of action shall be cumulative of all other causes of action for such physical injury for such practices.

The amendment was adopted without objection.

Mr. Houston moved to reconsider the vote by which the above amendment offered by Mr. Stollenwerk was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment to Senate Bill 15 by adding after the word "defendant" on line 42 page 15 by the following, or in the County where such contract was entered into by the borrower.

The amendment was adopted without objection.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment to Senate Bill 15 by adding after the word "outside" on line 4 page 16 to read as follows:

Section 31. Loans Contracted Outside this State.

No loan made outside this state in the amount provided for in this Act or less for which a greater rate of interest, consideration, or charges than is permitted by this Act has been charged, contracted for, or received shall be enforced in this state and every person in anywise participating therein in this state shall be subject to the provisions of this Act.

The amendment was adopted without objection.

Mr. McDonald of Hidalgo offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to S. B. 15 by:

(1) inserting a period after the word "directions" and striking the remainder of the sentence in Section 4(a) line 30 of the printed bill.

(2) striking the last sentence of Section 4(a) (line 32 through 34, Page 2 of the printed bill.)

(3) striking the last sentence of Section 4(c) (line 59 through 62, Page 2 of the printed bill.)

(4) striking Section 23, (Page 14, lines 10 through 14 of the printed bill) and renumber the succeeding sections.

(5) striking the sentence beginning on Page 2, line 45 of the printed bill and through the words "expended and" on line 51.

(6) striking the last sentence in Section 4(d) (lines 7, 8 and 9, page 3 of the printed bill).

The motion to table prevailed.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment to Senate Bill 15 by adding a new section to be known as section 32 and number each section thereafter accordingly to be read as follows:

Section 31. Loans Contracted Outside this State.

No loan made outside this state in the amount provided for in this Act or less for which a greater rate of interest, consideration, or charges than is permitted by this Act has been charged, contracted for, or received shall be enforced in this state and every person in anywise participating therein in this state shall be subject to the provisions of this Act.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment to Senate Bill 15 by changing the word two (2) on line 14 page 16 to read four (4) and by adding after the word that on line 14 page 16, the usurious interest is discovered up to the word a on line 18 page 16.

The amendment was adopted without objection.

Mr. Alaniz offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment to Senate Bill 15 by changing the word "defendant" on line 42 page 15 by the following, or in the County where such contract was entered into by the borrower.

The amendment was adopted without objection.

Mr. Alaniz moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.
Mr. Pendleton offered the following amendment to Committee Amendment No. 1:

Amendment to S. B. No. 15

Amend Section 8 of Committee Amendment No. 1 to Senate Bill No. 15 by inserting the words "net" between the words "business" and "assets" on line 13, page 5 of the printed bill.

The amendment was adopted without objection.

Mr. Pendleton moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Esquirel offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to S. B. No. 15 by inserting the following section as Section 31 and renumbering all other sections accordingly, said Section 31 shall read as follows:

"A licensee may make loans in excess of $1500.00 but upon that part of such a loan which is in excess of $1500.00 he shall not contract for or receive any charge greater than he would be permitted by law to charge if he were not a licensee under this Act."

The amendment was adopted without objection.

Mr. Esquirel moved to reconsider the vote by which the above amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Esquirel offered the following amendment to Committee Amendment No. 1:

Amendment No. 1

Amend Committee Amendment No. 1 to S. B. No. 15 by adding thereto a new subsection (a) to read as follows:

"(a) No licensee shall harass a borrower, the family of a borrower, or the employer of a borrower."

Mr. Garrison moved to table the amendment offered by Mr. Haring.

A record vote was requested on the motion to table.

The motion to table the amend-
ment offered by Mr. Haring prevailed by the following vote:

<table>
<thead>
<tr>
<th>Name</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td>Yea</td>
</tr>
<tr>
<td>Allen</td>
<td>Yea</td>
</tr>
<tr>
<td>Arledge</td>
<td>Yea</td>
</tr>
<tr>
<td>Atwell</td>
<td>Yea</td>
</tr>
<tr>
<td>Ball</td>
<td>Yea</td>
</tr>
<tr>
<td>Hanifen</td>
<td>Yea</td>
</tr>
<tr>
<td>Base of Howie</td>
<td>Yea</td>
</tr>
<tr>
<td>Base of Harris</td>
<td>Yea</td>
</tr>
<tr>
<td>Beckham</td>
<td>Yea</td>
</tr>
<tr>
<td>Berry</td>
<td>Yea</td>
</tr>
<tr>
<td>Blaine</td>
<td>Yea</td>
</tr>
<tr>
<td>Boyseen</td>
<td>Yea</td>
</tr>
<tr>
<td>Bridges</td>
<td>Yea</td>
</tr>
<tr>
<td>Brooks</td>
<td>Yea</td>
</tr>
<tr>
<td>Brown of Taylor</td>
<td>Yea</td>
</tr>
<tr>
<td>Butler</td>
<td>Yea</td>
</tr>
<tr>
<td>Caln</td>
<td>Yea</td>
</tr>
<tr>
<td>Canale</td>
<td>Yea</td>
</tr>
<tr>
<td>Cavness</td>
<td>Yea</td>
</tr>
<tr>
<td>Chapman</td>
<td>Yea</td>
</tr>
<tr>
<td>Clayton</td>
<td>Yea</td>
</tr>
<tr>
<td>Cole</td>
<td>Yea</td>
</tr>
<tr>
<td>Collins</td>
<td>Yea</td>
</tr>
<tr>
<td>Cory</td>
<td>Yea</td>
</tr>
<tr>
<td>Cougerman</td>
<td>Yea</td>
</tr>
<tr>
<td>Cowden</td>
<td>Yea</td>
</tr>
<tr>
<td>Cowles</td>
<td>Yea</td>
</tr>
<tr>
<td>Crow</td>
<td>Yea</td>
</tr>
<tr>
<td>Doke</td>
<td>Yea</td>
</tr>
<tr>
<td>Dunn</td>
<td>Yea</td>
</tr>
<tr>
<td>Dunan</td>
<td>Yea</td>
</tr>
<tr>
<td>Edwards</td>
<td>Yea</td>
</tr>
<tr>
<td>Fairchild</td>
<td>Yea</td>
</tr>
<tr>
<td>Fletcher</td>
<td>Yea</td>
</tr>
<tr>
<td>Floyd</td>
<td>Yea</td>
</tr>
<tr>
<td>Fondren</td>
<td>Yea</td>
</tr>
<tr>
<td>Garrison</td>
<td>Yea</td>
</tr>
<tr>
<td>Gibbens</td>
<td>Yea</td>
</tr>
<tr>
<td>Glenn</td>
<td>Yea</td>
</tr>
<tr>
<td>Grover</td>
<td>Yea</td>
</tr>
<tr>
<td>Gufler</td>
<td>Yea</td>
</tr>
<tr>
<td>Hallmark</td>
<td>Yea</td>
</tr>
<tr>
<td>Harris of Dallas</td>
<td>Yea</td>
</tr>
<tr>
<td>Harris of Orange</td>
<td>Yea</td>
</tr>
<tr>
<td>Heatly</td>
<td>Yea</td>
</tr>
<tr>
<td>Hendryx</td>
<td>Yea</td>
</tr>
<tr>
<td>Hinson</td>
<td>Yea</td>
</tr>
<tr>
<td>Hollowell</td>
<td>Yea</td>
</tr>
<tr>
<td>Houston</td>
<td>Yea</td>
</tr>
<tr>
<td>Hughes</td>
<td>Yea</td>
</tr>
<tr>
<td>Jamison</td>
<td>Yea</td>
</tr>
<tr>
<td>Jarvis</td>
<td>Yea</td>
</tr>
<tr>
<td>Ainslie</td>
<td>Yea</td>
</tr>
<tr>
<td>Birkner</td>
<td>Yea</td>
</tr>
<tr>
<td>Brown of Galveston</td>
<td>Yea</td>
</tr>
<tr>
<td>Caldwell</td>
<td>Yea</td>
</tr>
</tbody>
</table>

Yea—103

Nay—34

The above record vote was requested by Mr. Cherry, Mr. Farmer and Mr. Haring.

REASON FOR VOTE

I voted against the Haring amendment to S. B. 16, because the term "harass" is too vague and indefinite. Although I agree with the intent of the amendment, I believe it would be somewhat confusing and not help the bill.

Jim Markgraf

COMMITTEE MEETING

Mr. Hinson asked unanimous consent of the House that the Committee on School Districts be permitted to meet at this time.

There was no objection offered.

Mr. Townsend offered the following substitute amendment for Committee Amendment No. 1:

Amend Committee Amendment to S. B. 15 by deleting all below the enacting clause and substituting in lieu thereof the following:

Section 1. Declaration of Legislative Intent.

The Legislature finds as facts and determines:

(a) Small loans such as installment loans, personal loans, and the
like, constitute an extremely important segment of the economic life of the State. There exists among citizens of the State a widespread demand for such loans, a demand which has been increasing progressively due to a number of social and economic factors.

(b) Due to the lack of adequate regulation in this field some unethical and unscrupulous lenders are presently engaged in the business of making small loans and are subjecting borrowers to a variety of vicious abuses.

(c) Because of this situation, the Texas Legislative Council was requested to study the field of small loans and report its findings and recommendations to the Legislature.

(d) The Legislative Council found that small loans make an important and useful contribution to our society in that they provide the only means by which many individuals and families can secure credit necessary to improve their standards of living and to meet unforeseen emergencies.

(e) The Legislative Council also found that small loan credit operations in Texas have been characterized by a number of abuses on the part of some lenders such as overcharging on loans, pyramidading of loans and entrapment of borrowers, and that these abuses stem from the lack of adequate regulation. To curb these abuses the Legislative Council recommended the adoption of legislation designed to eliminate unethical and unscrupulous lenders, regulate and control business practices, curb abuses of borrowers and provide fair and reasonable rates of charges for borrowers and lenders alike.

(f) These facts characterize and distinguish loans with cash advances of Eight Hundred Dollars ($800) or less and legislation to control loans of this type is necessary to protect the public interest.

(g) It is the intent of the Legislature in enacting this Statute to bring under public supervision those engaged in the business of making such loans; to eliminate the practices that result in the abuse of borrowers; to establish a system of regulation for the purpose of insuring honest and efficient loan service and of stimulating competition in such lending; to provide schedules of charges which are fair, just and equitable for borrowers and lenders alike.

Sec. 1a. Short Title

This Act shall be known and may be cited as the "Texas Small Loan Act."

Sec. 2. Definitions.

The following words and terms when used in this Act shall have the following meaning, unless the context clearly requires a different meaning. The meanings applied to the singular forms shall also apply to the plural.

(a) "Person" means an individual, co-partnership, association, trust, corporation and any other legal entity.

(b) "Licensee" means the authority to do business under this Act.

(c) "License" means any person to whom one (1) or more licenses have been issued.

(d) "Commissioner" shall mean the Small Loan Commissioner of Texas.

(e) "Finance Commission" means the Finance Commission of Texas created by the Texas Banking Code of 1945.

(f) "Cash advance" means the amount of cash or its equivalent the borrower actually receives and shall also include that paid out at his direction or request, on his behalf or for his benefit.

(g) "Interest" shall be that compensation allowed by this Act for the use or forbearance or detention of the cash advance. As used in this Act the term "interest" shall specifically include the total amount of "Authorized Charges" authorized by this Act. The maximum rate of interest that a licensee may charge for a cash advance made under this Act is the total of the Maximum Authorized Charges that are authorized and limited by Section 16 of this Act.

(h) "Authorized Charge" or "Authorized Charges" means the total amount of charges specifically authorized in Section 16 of this Act.
including interest, and those items specified in Section 16 (d) of this Act.

Sec. 3. Office of Small Loan Commissioner Created.

(a) There is hereby created the Office of Small Loan Commissioner of the State of Texas. The Commissioner shall be appointed by the Finance Commission and shall serve at the pleasure of the Finance Commission. The Commissioner shall be an employee of the Finance Commission, subject to its orders and directions, and shall receive such compensation as is fixed by the Finance Commission. The Commissioner is authorized to appoint and remove examiners and employees, and to prescribe the duties of each. The number of examiners and employees to be appointed and the compensation to be paid them shall be approved by the Finance Commission.

(b) The Commissioner shall, from time to time as directed by the Finance Commission, submit to the Finance Commission a full and complete report of the receipts and expenditures of the Office of Small Loan Commissioner and the Finance Commission may, from time to time, examine the financial records of the Office of the Small Loan Commissioner, or cause them to be examined, in addition to the Office of the Small Loan Commissioner shall be audited from time to time by the State Auditor in the same manner as State departments. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purpose and prescribe the amounts for which the fees and revenues of the Office of Small Loan and the Finance Commission shall as of December 31, 1942, and annually thereafter report to the Governor the receipts and disbursements of the Office of Small Loan Commissioner for each calendar year.

(c) All fees and revenues collected by the Office of Small Loan Commissioner from every source whatever shall be retained and held by said Office and shall be expended only for the administration and enforcement of this Act. No part of such fees and revenues shall ever be paid into the General Revenue Fund of the State; provided, however, that the Office of Small Loan Commissioner shall reimburse the Office of the State Auditor for the actual expenses of each audit of the Office of the Small Loan Commissioner, and in addition, the Office of the Attorney General shall be reimbursed for the actual expenses incurred by the Office of the Attorney General in legal actions relating to the administration and enforcement of this Act. All expenses incurred by the Office of Small Loan Commissioner shall be paid only from the fees and revenues of such Office and no such expense shall ever be a charge on the General Revenue Fund of the State.

(d) The Commissioner shall appoint a Deputy Commissioner, such examiners and assistant examiners as may be required to examine all licensees under this Act annually and such employees as may be necessary to maintain and operate the Office of Small Loan Commissioner and to enforce the laws of this State relative to licensees under this Act. The Deputy Commissioner, the examiners and assistant examiners and all such officers and employees shall receive such compensation as shall be fixed by the Finance Commission.

(e) The Commissioner, the Deputy Commissioner, the examiners and assistant examiners shall, before entering upon the duties of office, take the oath of office required of appointive officers and make a fidelity bond in the sum of Ten Thousand Dollars ($10,000) payable to the Finance Commission and its successors in office, in individual, schedule or blanket form, executed by a society according to the laws of the State of Texas, approved sureties acceptable to the Finance Commission. The bond shall be in a form approved by the Finance Commission. The premiums for all such bonds shall be paid out of the fees and revenues collected by the Commissioner.

(f) The Commissioner shall supervise and shall regulate as provided in this Act, all licensees and shall enforce the provisions of this Act in person or through the Deputy Commissioner or any examiner or assistant examiner. The Commissioner, the Deputy Commissioner, each examiner and assistant examiner and each employee under this Act shall not be personally liable for damages.
occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above mentioned officers or employees by reason of his official act or omission, whether or not at the time of the institution of the action the defendant has terminated his services with the Office of the Small Loan Commissioner.

Sec. 4. Scope.

(a) On and after ninety (90) days from the effective date of this Act, no person shall, without first obtaining a license from the Commissioner, engage in the business of making loans with cash advances of Eight Hundred Dollars ($800) or less, and contract for, charge or receive, directly or indirectly, on or in connection with any such loan, any charges, whether for interest, compensation, insurance, consideration or expense or other thing or otherwise, which in the aggregate are greater than such person would be permitted by law to charge if he were not a licensee under this Act. During such ninety (90) day period, any person who has applied for such license, or filed written notice of intention to apply for such license with the Commissioner, and who has not been denied, shall be subject to all the provisions of this Act and may contract for charge and receive authorized charges as if he were a licensee.

(b) The provisions of Section 4 (a) shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatsoever.

(c) Any person and the several members, officers, directors, agents and employees thereof, who shall wilfully violate or participate in the violation of Section 4 (a) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than One Hundred Dollars ($100) and not more than One Thousand Dollars ($1,000) or by confinement in the county jail for not more than six (6) months, or by both such fine and imprisonment. Any loan contract in the making or collection of which any act shall have been done which violates Section 4 (a) shall be void and the lender shall have no right to collect, receive or retain any principal, interest or charges.

Sec. 5. Exemptions.

(a) The provisions of this Act shall not apply to any of the following persons and the following transactions; nor shall any of such persons be eligible to receive a license under this Act:

(1) Any person doing business under the authority of and as permitted by the Texas Banking Code of 1943, as amended.

(2) Any person doing business under the authority of and as permitted by Articles 552 through 581, Revised Civil Statutes of Texas, 1925, and Chapter 61, Acts of the 41st Legislature, Second Called Session, 1929, as amended, relating to Building and Loan Associations.

(3) Any person doing business under the authority of and as permitted by Articles 2461 through 2484, Revised Civil Statutes of Texas, 1925, as amended, relating to Agriculture Finance Corporations.

(4) Any person doing business under the authority of and as permitted by Articles 1514 through 1519, Revised Civil Statutes of Texas, 1925, relating to Agricultural and Livestock Pools.

(5) Any person doing business under the authority of and as permitted by Articles 2500 through 2507, Revised Civil Statutes of Texas, 1925, as amended, relating to Cooperative Credit Associations.

(6) Any person doing business under the authority of and as permitted by Articles 2514 through 2524, Revised Civil Statutes of Texas, 1925, as amended, relating to Mutual Loan Corporations.
as, 1925, relating to Farmers Cooperative Societies.

(9) Any person doing business under the authority of and as permitted by Articles 6178 through 6181, Revised Civil Statutes of Texas, 1925, relating to Markets and Warehouse Corporations.

(10) Any person doing business as an insurance company under the authority of and as permitted by the Insurance Code of Texas, as amended.

(11) Any person doing business under the authority of and as permitted by any law of the United States relating to National Banks, Federal Credit Unions or other Federal Lending Agencies or Institutions.

(12) Any person doing business as a pawnbroker under the authority of and as permitted by Articles 6146 through 6161, Revised Civil Statutes of Texas, 1925, when such person does not require the personal liability of the borrower in a loan transaction.

(13) Any person doing business under the authority of and as permitted by Articles 6128, Revised Civil Statutes of Texas, 1925, when such person is not qualified to do business as surety, whose total liability in the aggregate shall not exceed the amount of such bond as fixed.

Sec. 6. Application for License; Appointment of Agent.

(a) Application for a license shall be in writing under oath, and in the form prescribed by the Commissioner; shall give the location from which the business is to be conducted, and shall contain such relevant information as the Commissioner may require, including identification of the principal parties in interest, and the names and addresses of the principal owners, officers and directors, to provide the basis for the findings necessary under Section 7. Upon making application, the applicant shall pay One Hundred Fifty Dollars ($150) to the Commissioner as an investigation fee, and One Hundred Fifty Dollars ($150) as the annual fee provided in Section 8 of this Act for the current calendar year, provided that if the license is granted after June 30th in any year such fee shall be Seventy Five Dollars ($75.00) for that year. No person convicted of a felony or a misdemeanor involving moral turpitude shall be eligible for a license hereunder.

(b) Every licensee shall maintain on file with the Commissioner a written appointment of a resident of this State as his agent for service of all judicial or other process or legal notice, unless the licensee has appointed a resident agent under another statute of this State.

(c) Every applicant shall also, at the time of filing such application, file with the Commissioner a bond satisfactory to him and in an amount not less than Ten Thousand Dollars ($10,000) with a surety company qualified to do business in this State as surety, whose total liability in the aggregate shall not exceed the amount of such bond as fixed. The amount of the bond shall be increased by Five Thousand Dollars ($5,000) for each additional office to be operated by the applicant within the State. The said bond shall run to the State for the use of the State and of any person or persons who may have cause of action against the obligor of said bond under the provisions of this Act. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this Act and of all rules and regulations lawfully made by the Commissioner hereunder, and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from said obligor under and by virtue of the provisions of this Act during the calendar year for which said bond is given.

Sec. 7. Issuance or Denial of License.

(a) Upon filing of such application, bond and payment of the required fees, the Commissioner shall investigate the facts and if he shall find the financial responsibility, experience, character and general fi-
April 25, 1963

HOUSE JOURNAL

1365

The applicant has available for command the confidence of the public and to warrant belief the business will be operated lawfully and fairly, within the purposes of this Act. No license shall be issued to a corporation unless the same be owned at all times by citizens of the State of Texas and who possess the qualifications required of other applicants for license; provided, however, that the restrictions contained in the preceding clause shall not apply to domestic corporations or to foreign corporations which were doing business in this State under charter or license prior to November 8, 1960. Partnerships, firms, and associations applying for licenses shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation holding a license under this Act which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its license and it shall be the duty of the Attorney General, when any such violation is called to his attention, to file suit for such cancellation in a district court in Travis County.

The Commissioner shall grant or deny each application for a license within thirty (30) days from its filing with the required fees, or from the hearing thereon, if any, unless the period is extended by written agreement between the applicant and the Commissioner.

A license shall state the address of the office from which the business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable.

(a) Each license shall state the address of the office from which the business is to be conducted and the name of the licensee. The license shall be displayed at the place of business named in the license. The license shall not be transferable or assignable.

(b) Each license shall remain in full force and effect until relinquished, suspended, revoked, or has expired. Every licensee shall on or before December 10th each year, pay the Commissioner One Hundred Fifty Dollars ($150.00) for each license held by him, as the annual fee for the succeeding calendar year. If the annual fee remains unpaid fifteen (15) days after written notice of delinquency has been given to the licensee by the Commissioner, the license shall thereupon expire, but not before December 31st of any year for which an annual fee has been paid.

(c) Every licensee shall maintain liquid assets of at least Fifteen Thousand Dollars ($15,000), either used or readily available for use in the conduct of the business of each licensed office.

A license shall be required for each office operated under this Act. The Commissioner may issue more than one (1) license but no more than sixty (60) licenses to any one (1) person upon compliance with this Act as to each license. And it shall be unlawful for any person after the effective date of this Act, directly or indirectly, to hold or have an interest in more than (60) licenses, the business thereof, or any interest in such licenses. Nothing contained herein, however, shall be construed to require a license for any place of business de-
Sec. 10. Revocation; Suspension; Surrender; Reinstatement of Licenses.

(a) The Commissioner shall, after notice and hearing, revoke any license if he finds that:

1. The licensee has failed to pay the annual license fee imposed by this Act, or an examination fee, investigation fee or other fee or charge imposed by the Commissioner under the authority of this Act; or that

2. The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or that

3. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for such license, clearly would have justified the Commissioner in refusing to issue such license.

(b) When a licensee wishes to move his office to another location in the same city or town in which the license was originally granted, he shall give thirty (30) days' written notice to the Commissioner who shall amend the license accordingly. In such event, the licensee shall also give fifteen (15) days' written notice of his intention to remove his office to each of the borrowers having a loan outstanding at such office.

(c) When a licensee wishes to move his office from a location in one (1) city or town to a location in another city or town, he shall make application to the Commissioner for permission to make such change. The Commissioner, if he finds that the interests of the city or town will be served thereby, shall indorse on the license a transfer to the new place of business with the date of such transfer, which indorsement shall be authority for the operation of the business under the license at the new location.

Sec. 11. Examination of Licensees; Access to Records; Investigation; Injunctions.

(a) At least once each year and at such other times as the Commissioner shall deem necessary, the Commissioner, or his duly authorized representative, shall make an examination of the place of business of each licensee and shall inquire into and examine the loans, transac-
the business described in Section 4 of this Act.

c) In the course of any examination or investigation or hearing looking to the enforcement or administration of any provision of this Act, the Commissioner may require by subpoena or summons, issued by the Commissioner addressed to any peace officer within this State, the attendance and testimony of witnesses, and the production of books, accounts, papers, correspondence, or records (excepting such as are absolutely necessary for the continued course of business) which such books, accounts, papers, correspondence, or records the Commissioner shall have the right to examine, or cause to be examined, at the office, or place of business, and to require copies of such portions thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of such concern or an officer of such concern, and shall, when certified by the Commissioner, be admissible in evidence in any investigation or hearing under this Act, or in any appeal to the District Court of Travis County, Texas, as provided by this Act and for this purpose the Commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena, or of the contempt of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the district court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, correspondence, records and other documents touching the matter in question. Upon the filing of such application to enforce such subpoena, which application shall be treated in the same manner as a motion in a civil suit pending in said court, the court shall forthwith set such application down for hearing and shall cause a notice of the filing of such application and of such hearing to be served upon the party to whom such subpoena is directed. Such notice may be served by any peace officer in the State of Texas.
Such application shall take precedence over all other matters of a different nature pending before such court. Any failure to obey such order of the court may be punished by such court as contempt thereof.

(d) In the course of any examination, investigation or hearing described in subsection (c) of this section, the Commissioner may appoint a hearing officer to conduct such examination, investigation or hearing and such hearing officer shall be vested for the purpose of such examination, investigation or hearing with the same power and authority as the Commissioner would have if he were personally conducting such examination, investigation or hearing, provided that such hearing officer shall not be authorized to make any order upon the subject matter of such examination, investigation or hearing; and provided further that the record of any examination, investigation or hearing conducted before the hearing officer may be considered by the Commissioner in the same manner and to the same extent as evidence that is added to before him personally in any examination, investigation or hearing.

(e) The fee for serving the subpoenas shall be the same as that paid a sheriff or constable for similar services. Each witness required to attend before the Commissioner shall receive for each day’s attendance, the sum of Two Dollars ($2) and shall receive in addition the sum of Ten Cents (10¢) for each mile traveled by such witness by the usual route going to or returning from the place where his presence is required, provided that such fees shall not become payable until the witness has actually appeared at such hearing. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for other expenses incident to the administration and enforcement of this Act.

(f) The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party in interest to the record or may be divided between any and all parties in interest to the record in such proportion as the Commissioner may determine.

(g) Whenever the Commissioner has reasonable cause to believe that any licensee or any other person is violating, or is threatening to violate any provision of this Act, he may in addition to all actions provided for in this Act and without prejudice thereto enter an order requiring such person to desist or to refrain from such violation; and an action may be brought in the District Court of Travis County, Texas, or in any district court of this State, on the relation of the Attorney General at the request of the Commissioner, to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound, and to appoint a receiver for the property and business of the defendant, including books, papers, documents and records pertaining thereto or so much thereof as the court may deem reasonably necessary to prevent violations of this Act through or by means of the use of said property and business. Such receiver, when appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as shall from time to time be conferred upon him by the court. This provision shall be cumulative of Article 2293 through 2319, inclusive, Revised Civil Statutes of Texas, 1925, as amended.

Sec. 12. Records; Annual Reports.

(a) Each licensee shall keep in this State such books and records as are necessary to enable the Commissioner to determine whether the licensee is complying with this Act. Such books and records shall be consistent with accepted accounting practices.

Each licensee shall preserve such books and records in this State for
April 25, 1963

HOUSE JOURNAL

1369

at least two (2) years after making I and may introduce evidence data Or 
the final entry -Of any 
loan 
recorded arguments or place the same on file. 
therein. Each licensee's system of After consideration of all relevant 
records shall. be accepted if it dis- matter presented, the Commissioner 
doses 
such mformation as may be shall promulgate every regulation in 
reasonably required under Section 
18 written form stating its effective 
of 
this Act. All obligations signed date and the date of 
promulgation. 
by borrowers shall be kept at an Each regulation shall 
-0ffice in this 
State 
designated by a permanent 
look 
which shall be a 
public record and be kept in the 
Commissioner's office. A copy of 
every regulation shall be mailed to 
each licensee and no regulation 
shall 
become effective until the expira- 
tion of at least twenty (20) days 
after such mailing. 

(b) Each licensee shall annually 
on or before the first day of April 
file a report with the Commissioner 
giving such relevant information as 
the Commissioner may reasonably 
require concerning the business and 
operations during the preceding cal- 
endar year for each licensed place 
of business conducted by such li- 
censee within the State. In addition 
to all other information reasonably 
required by the Commissioner such 
report shall show, among other 
things, a detailed breakdown of each 
expenditure for advertising, public 
relations, legal fees and consultant 
fees of any nature. Such breakdown 
shall show the amount of each such 
expenditure, the name and address 
of the person receiving such expendi- 
ture, and the purpose of such ex- 
penditure. Such report shall be made 
under oath 
and shall be in the form 
prescribed by the 
Commissioner, who shall make and publish annual- 
ly a consolidated analysis and re- 
capitulation of such reports. Failure 
to file a report within the time speci- 
ed, filing a report with omissions 
or filling a false report shall be suf- 
ficient grounds for the irrevocable 
revocation of a license. 

Sec. 13. Regulations; Copies; 
Public Record. 
(a) The Commissioner may make 
regulations necessary for the en- 
forcement of this Act and consistent 
with all of its provisions. Each such 
regulation shall include reference 
at least to the section or subsection to 
which it applies. Before making a 
regulation, the Commissioner shall 
give every licensee at least twenty 
(20) days written notice of a public 
hearing setting the time and place 
thereof and the terms or substance 
of the proposed regulation. At the 
hearing, any licensee may be heard 
and may introduce evidence data or 
arguments or place the same on file. 
After consideration of all relevant 
matter presented, the Commissioner 
shall promulgate every regulation in 
written form stating its effective 
and date and the date of promulgation. 

(b) On application of any person 
and payment of the costs therefor, 
the Commissioner shall furnish, un- 
der his seal and signed by him or 
his deputy, a certificate of good 
standing, a certified copy of any li- 
cense, regulation or order. 

(c) Any transcript of any hearing 
held by the Commissioner or find- 
ings by the Commissioner under 
this Act shall be a public record and 
open to inspection at all reasonable 
times. 


No licensee shall advertise or 
cause or permit to be advertised, in 
any manner whatever, any false, 
misleading or deceptive statement or 
representation with regard to the 
rates, terms or conditions for loans. 
If rates are stated in advertising, the 
Commissioner may require them to 
be stated fully and clearly. 

Sec. 15. More Than 
One Business 
in Single Office. 

(a) A licensee may conduct the 
business of making loans under this 
Act within any office, suite, room or 
place of business in which any other 
business is solicited or engaged in, 
or in association or conjunction with 
any other business, unless the Com- 
missioner shall find, after a hearing, 
that the conduct by the licensee of 
such other business in the particular

(a) Every licensee may contract for and receive on any loan of money not exceeding Eight Hundred Dollars ($800) the following maximum authorized charges:

(1) Three per cent (3%) per month on any part of the unpaid principal balance up to, but not in excess of One Hundred Dollars ($100).

(2) Two and one half per cent (2-1/2 %) per month on any part of the unpaid principal balance in excess of One Hundred Dollars ($100) up to, including, but not in excess of, Two Hundred Dollars ($200).

(3) Two per cent (2%) per month on any part of the unpaid principal balance in excess of Two Hundred Dollars ($200), up to, including, but not in excess of Three Hundred Dollars ($300).

(4) Five-sixths of one per cent (5/6 of 1%) per month of any part of the unpaid principal balance in excess of Three Hundred Dollars ($300) up to, including, but not in excess of Eight Hundred Dollars ($800).

(b) Every loan contract shall provide for repayment of principal and authorized charges in substantially equal consecutive monthly installments, except that installments may be deferred when necessary because of the seasonal nature of the borrower’s income.

(c) No licensee shall induce or permit any person, or husband and wife, to be obligated, directly or indirectly, under more than one (1) loan contract under this Act at the time for the purpose, or with the effect, of obtaining a higher authorized charge than would otherwise be permitted by this Act; but such limitation shall not apply to the acquisition by purchase of bona fide obligations of the borrower incurred for goods or services, and provided further, if a licensee purchases all or substantially all the loan contracts of another licensee hereunder and has at the time of purchase loan contracts with one (1) or more of the borrowers whose loans are purchased, the purchaser shall be entitled to collect principal and authorized charges thereon according to the terms of each loan contract.

(d) In addition to the authorized charges provided in this Act no further or other charge or amount whatsoever shall be directly, or indirectly, charged, contracted for, or received. This includes (but is not limited by) all charges such as fees, compensation, insurance except as authorized in Section 17, bonuses, commissions, brokerage, discount expenses and every other charge of any nature whatsoever, whether of the types listed herein or not. Without limitation of the foregoing such charges may be any form of costs or compensation whether contracted for or not, received by the licensee, or any other person, in connection with (1) the investigating, arranging, negotiating, procuring, guaranteeing, making, servicing, collecting, or enforcing of a loan; or (2) for the forbearance of money, credit, goods or things in action; or (3) for any other service or services performed or offered. However, the prohibition set out herein shall not apply to amounts actually incurred by a licensee as court costs; attorney fees assessed by a court; lawful fees for filing, recording, or releasing in any public office any instrument securing a loan; the reasonable cost actually expended for repossession, storing, or selling any security; or fees for noting a lien or transferring a certificate of title to a motor vehicle offered as security for a loan made under this Act.

(e) If any amount in excess of
the authorized charges permitted by this Act is charged, contracted for, or received, except as the result of an accidental and bona fide error of computation, the contract of loan shall be void as against public policy and the licensee shall forfeit to the borrower an amount equivalent to the amount of the loan, together with all charges. In addition, the licensee and the several members, officers, directors, agents and employees thereof who shall have violated or participated in such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars ($1,000) and not less than One Hundred Dollars ($100) or by confinement in the county jail for not more than six (6) months, or by both such fine and confinement.

In addition, the borrower shall be entitled to recover reasonable attorney fees incurred by him in any legal action brought to enforce any rights or penalties provided in this Act, when he prevails in such suit and such attorney fees shall be taxed as costs in such suit.

Sec. 17. Insurance.

A licensee may require a borrower to purchase property insurance on the reasonable value of any property securing the loan, without including the charges therefor in the interest covered by the maximum rate schedule herein, if, and only if, all the following conditions are met:

(1) The licensee and each person, firm or corporation which owns any interest in the licensee, or in which the licensee owns any interest or which is as much as ten per cent (10%) commonly owned with the licensee by a third person, firm or corporation, and (e) obtains no compensation or other benefit whatsoever, directly or indirectly, from the insurance transaction except the security for the loan.

(2) The premium rates therefor are fixed and regulated by the State Board of Insurance of the State of Texas.

(3) The insurance is written only by a company authorized to conduct such business in this State.

(4) The licensee does not by any method, directly or indirectly, encourage or require the purchase of such insurance from the insurer nor through any agent or other person, firm or corporation designated or indicated by the licensee.

(5) The licensee does not decline existing coverages or substantially similar benefits.

(6) Such security may only be insured against substantial risk or loss, damage or destruction for an amount not to exceed the amount of the loan and for a term and upon conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan contract.

(7) If the Commissioner shall find, after a hearing, that the encouragement or requirement of insurance by a licensee in connection with loans tends to conceal or facilitate violation or evasion of this Act or that the expense to the borrower of the insurance thus provided does not bear a reasonable relation to the protection afforded thereby to lender and/or borrower, the Commissioner shall order such licensee to desist from the encouragement or requirement of the offending practice, and shall prepare and publish an order denying to all licensees such practices or the use of such policies.

(8) When the licensee purchases the insurance, the licensee shall deliver, or cause to be delivered, to
the borrower, within thirty (30) days from the date of the loan contract, a certificate or other memorandum showing the coverages and the cost of such insurance.

Sec. 18. Licensee’s Duty to Borrower.

(a) When a loan is made, the licensee shall deliver to the borrower, or, if more than one (1), to one (1) of them, a signed copy of the note or loan contract in the English language showing the following information:

(1) The name and address of the borrower and of the licensee;
(2) The date and amount of the cash advance, the maturity date, and the agreed schedule of payments or a description of such payments;
(3) The nature of the security, if any;
(4) The rates of authorized charges contracted for as authorized by this Act, and the effective rate of interest.

(b) The licensee shall give a signed receipt to the person making a payment on any loan.

(c) At any time during regular business hours, the licensee shall permit any loan to be prepaid in full, or, if less than a prepayment in full, in an amount equal to one (1) or more full installments.

Sec. 19. Prohibited Practices.

(a) No licensee shall take a lien upon real estate as security for any loan made under this Act except such lien as is created by law upon the recording of an abstract of judgment.

(b) No licensee shall take a lien on personal property as security for any loan of less than Two Hundred Dollars ($200) made under this Act, except such lien as is created by law upon the recording of an abstract of judgment.

(c) No licensee shall take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for a borrower in a judicial proceeding.

(d) No licensee shall take any promise to pay or loan obligation that does not disclose the amount of the cash advance, the time for which it is made, the schedule of payments, the maturity date, and the amount of authorized charges.

(e) No licensee shall take any instrument in which blanks are left to be filled in after the loan is made.

Sec. 20. Limitation of Loan Period.

No licensee shall enter any contract of loan under this Act, under which the borrower agrees to make any scheduled payment of principal more than twenty-five (25) calendar months from the date of making such contract.

Sec. 21. Assignment of Future Wages.

No assignment of future wages shall be permitted under this Act.

Sec. 22. Harassment Prohibited.

No licensee shall engage in any form of written, oral or physical harassment which affects the mental or physical well being of the borrower. Any licensee who persists in any such form of harassment after a warning to cease and desist from the Commissioner shall be in violation of this Act and shall have his license revoked.

Sec. 23. Borrower Remedies.

Any loan contract which violates any provision of this Act shall be void and the lender shall have no right to collect, receive or retain any principal or authorized charges. In addition, the borrower shall be entitled to recover reasonable attorneys fees incurred by him in any legal action brought to enforce any rights or penalties provided by this Act when he prevails in such suit, and such attorneys fees shall be taxed as costs in such suit.

Sec. 24. Loans Under $50.

It is the specific legislative intent in enacting this Act that each licensee under this Act shall make at least five per cent (5%) of his loans to borrowers seeking loans of Fifty Dollars ($50) or less. No licensee shall refuse to make a loan of Fifty Dollars ($50) or less to any borrow-
No licensee shall induce or encourage any borrower seeking a loan of Fifty Dollars ($50) or less to borrow a greater sum of money. The Commissioner shall examine the loan records of each licensee to insure that the licensee is complying with the provision of this Section. If the Commissioner finds that any licensee is refusing to comply with the provisions of this Section, he shall forthwith revoke the license of such licensee.

Sec. 25. Disposition of Fees and Revenues.

All fees and other revenues received by the Commissioner under the provisions of this Act shall be used for the administration of this Act and shall be funded and disbursed in accordance with the provisions of the Banking Department Self-Support and Administration Act.


The Commissioner shall report to each Regular Session of the Legislature his findings and recommendations as to amendments to this Act which would provide more efficient and effective licensing, regulation and administration.

Sec. 27. Hearings and Review.

(a) At all hearings before the Commissioner under the provisions of this Act, parties in interest shall have the right to appear in person and by counsel, and to present oral and written evidence. If requested by a party in interest, a record shall be made of all evidence offered by such party and all other evidence considered by the Commissioner.

(b) Any party in interest aggrieved by any order, ruling or decision of the Commissioner may, within thirty (30) days after the date of entry, file in the District Court of Travis County, Texas, a petition against the Commissioner or the Court, alleging therein in brief detail the order, ruling or decision complained of and praying for a reversal or modification thereof. The Commissioner shall within twenty (20) days after the service upon him of such petition, certify to said District Court the record of the proceedings to which the petition refers, or such portion thereof as may be requested by the petitioner. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as a part of the costs in the case. Upon the filing of an answer by the Commissioner, the case before the District Court shall be at issue, without further pleadings, and upon application of either party shall be advanced and heard without further delay. The order of the Commissioner shall be sustained unless the hearing was conducted in a manner contrary to the rudiments of a fair hearing; or the order was based upon an error of law which affected petitioner's substantial rights; or was arbitrary, capricious or unreasonable; or the findings of fact were not reasonably supported by substantial evidence in the record, considered as a whole, adduced before the Commissioner. Provided, however, that any appeal to the District Court of Travis County, Texas, of an order, ruling or decision of the Commissioner, refusing to grant a license or licenses to an applicant or revoking the license or licenses of a licensee, such appeal shall be upon trial de novo as that term is used in appealing from justice of the peace court to county court.

(c) Upon a showing of good cause therefor by a party in interest, the Commissioner or the Court may enter an order staying, pending appeal, the effect of an order of the Commissioner from which the party in interest desires to appeal.

Sec. 28. Pre-Existing Contracts.

No modification, amendment, or repeal of this Act or any part thereof shall impair or affect the obligation of any pre-existing lawful contract.


Chapter 144, Acts of the 48th Legislature, Regular Session, 1943, compiled as Article 4646b, Vernon's Annotated Civil Statutes of Texas, is hereby amended to read as follows:

"Section 1. The State of Texas
Injunction after permitted and authorized by and necessary expense, now or hereof interest. law, and such shall not be considered lature, nor shall anything in this Act prevent charging any valid provision of Article 8 section, 1962, or other Acts fixing max­imum interest rates, then as to such transactions, the term 'usurious interest' means interest at a rate in excess of ten per centum, unless as to any particular rate of interest, and 'conventional interest' is that interest which is agreed upon and fixed by the parties to a written contract. The maximum rate of interest shall not exceed that specifically fixed by the Legislature as in the Texas Small Loan Act, Acts of the 57th Legis­lature, Third Called Session, 1962, or other legislation; provided, however, in the absence of such legislation fixing maximum rates of interest, a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious. 'Usury' is interest in excess of the amount allowed by law; all contracts for usury are con­tary to public policy and shall be void."

Sec. 2a. Nothing in this Act shall in any way modify, alter or change any valid provision of Article 6 of Chapter 5 of House Bill No. 79, Acts of the Regular Session, 48th Legis­lature, nor shall anything in this Act prevent charging of any actual and necessary expenses, now or hereafter permitted and authorised by law, and such shall not be considered interest.

In the trial of any application for injunction under this Act there shall exist a prima facie presumption that the actual and necessary expenses of making any such loan was One Dollar ($1) for each Fifty Dollars ($50), or fractional part thereof loaned, but this prima facie pre­sumption shall extend only to the first note or debt owing at the same time by an individual to any person, firm, corporation, partnership or as­sociation, and shall not apply to any renewal or extension thereof unless the original note or debt and all exten­sions thereof were for a period of not less than sixty (60) days.

Sec. 3. In any such suit venue shall lie in the county of the residence of a defendant, or in a county where such business of loaning money is being conducted by such defendant.

Sec. 4. If any section, sentence, phrase or part of this Act shall be held unconstitutional, such uncon­stitutionality shall not affect the validity of the remaining portions thereof.

Sec. 30. Amending Article 5669, Revised Civil Statutes of Texas, 1925.

Article 5669, Revised Civil Stat­utes of Texas, 1925, is hereby amend­ed to read as follows:

"Article 5669. Definitions.

'Interest' is the compensation al­lowed by law or fixed by the parties to a contract for the use or for­bearance or detention of money; 'legal interest' is that interest which is allowed by law when the parties to a contract have not agreed upon any particular rate of interest; and 'conventional interest' is that interest which is agreed upon and fixed by the parties to a written contract.

The maximum rate of interest shall not exceed that specifically fixed by the Legislature as in the Texas Small Loan Act, Acts of the 57th Legis­lature, Third Called Session, 1962, or other legislation; provided, however, in the absence of such legislation fixing maximum rates of interest, a greater rate of interest than ten per centum (10%) per annum shall be deemed usurious. 'Usury' is interest in excess of the amount allowed by law; all contracts for usury are con­trary to public policy and shall be void."
Sec. 31. Amending Article 5071, Revised Civil Statutes of Texas, 1925.

Chapter 144, Acts of the 48th Legislature, Regular Session, 1943, compiled as Article 4948a, Vernon's Annotated Civil Statutes, and Articles 5069, 5071, and 5073, Revised Civil Statutes of Texas, 1925, where inconsistent with this Act shall not apply to licensees under this Act.

Sec. 32. Amending Article 5073, Revised Civil Statutes of Texas, 1925.

Sec. 33. Certain Statutes Inapplicable.

Sec. 34. Statutes Repealed.

Chapter 472, Acts of the 52nd Legislature, Regular Session, 1953, compiled as Article 1524a-4, Vernon's Annotated Civil Statutes, and Chapter 17, Acts of the 46th Legislature, FirstCalled Session, 1927, as last amended by Chapter 196, Acts of the 49th Legislature, Regular Session, 1945, compiled as Article 4948. Vernon's Annotated Civil Statutes and Article 1129a, Vernon's Annotated Penal Code, and Subsections (1) and (4) of Article 19.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, are hereby repealed. All other laws or parts of laws inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency, except as otherwise provided in this Act, and except that nothing herein contained in this Act shall affect those laws quoted and excluded in Section 6 herein. Provided, further, that the amendment or repeal of any law of this State by this Act shall not affect any right accrued or established, or any liability or penalty incurred under the provisions of any of such other laws prior to the amendment or repeal thereof.

Sec. 35. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

Sec. 36. Emergency Clause.

The fact that the voters of Texas adopted by an overwhelming majority, a Constitutional Amendment on November 8, 1960, directing the Legislature to classify loans and lenders, license lenders, define interest and regulate lenders to prevent the charging of exorbitant rates of interest and to prevent other abuses, creates an emergency and an imperative public necessity that the
Legislature carry out this mandate of the people and creates a public necessity and emergency that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the same is hereby suspended, and this Act shall take effect and be in force from and after August 31, 1963, and it is so enacted.

PAGES EXCUSED

Mr. Nugent moved that the pages be excused at this time for the remainder of the day.

The motion prevailed.

Mr. Garrison moved to table the substitute amendment offered by Mr. Townsend for Committee Amendment No. 1.

A record vote was requested on the motion to table.

The motion to table the substitute amendment offered by Mr. Townsend prevailed by the following vote:

Yeas-106

Adams
Allen
Arlidge
Atwell
Barnes
Bass of Bowie
Bass of Harris
Buckham
Berry
Blaine
BoySEN
Bridges
Brown of Taylor
Butler
Cain
Canales
Cavness
Chapman
Clayton
Cole
Cook
Cory
Coughran
Cowden
Cowles
Craig
Crews
Davis
Doke
Duggan
Dungan
Edwards

Nays-34

Ball
Birkner
Brown
Caldwell
Carroll
Carr
Carver
Cherry
Collins
Cotten
Crockett
Donahue
Donovan
Duke
Dunn
Edwards

Mr. Haring offered the following amendment to Committee Amendment No. 1:

Mann
Segrest
Miller
Shannon
Morgan
Shipley
Moorer
Shutt
Murray
Simpson
Matcher
Slack
Niemeyer
Sider
Pareley
Smith of Bexar
Pearcy
Smith of Jefferson
Pegler
Stewart
Pipkin
Stollin
Price
Thompson
Rapp
Trager
Richards
Walker
Ritter
Weldon
Rodriguez
Whatley
Rosson
Wheeler
Satterwhite
Whitfield
Schiller
Whiting
Boogins
Woods

Present-Not Voting

Alanis
McNutt

Absent—Excused

Carpenter
Koib

Mr. Alanis (present), who would vote Nay with Mr. McNutt (absent) who would vote Yes.

(The above record vote was requested by Mr. Finney, Mr. Green and Mr. Richardson).

Mr. Haring offered the following amendment to Committee Amendment No. 1:
Amend Committee Amendment No. 1 of Senate Bill No. 15 by striking the semi-colon on Line 59 of page 11 and adding thereto the following:

"and the applicable rules, regulations and orders of the State Board of Insurance;"

Mr. Garrison moved to table the amendment, and the motion to table prevailed.

Committee Amendment No. 1, as amended, was adopted.

S. B. No. 15, as amended, was passed to third reading.

Mr. Garrison moved to reconsider the vote by which S. B. No. 16 was passed to third reading and to table the motion to reconsider.

The motion to table prevailed.

RECORD OF VOTES

Mr. Green requested to be recorded as voting Nay on the passage of S. B. No. 15 to third reading.

Mr. Richardson requested to be recorded as voting Nay on the passage of S. B. No. 15 to third reading.

Mr. Cannon requested to be recorded as voting Nay on the passage of S. B. No. 15 to third reading.

MESSAGE FROM THE SENATE

Austin, Texas, April 25, 1963

Hon. Byron Tunnell, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to S. B. No. 279 by viva voce vote.

I am directed by the Senate to inform the House that the Senate has passed the following:

H. B. No. 13, By Grover: Establishing ascession jurisdiction of cities and towns and declaring an emergency. (As amended).

H. B. No. 25, By Wells: Authorizing the Commissioners Courts of Castro, Hale and Swisher Coun-

The Speaker laid before the House on its second reading and passage to third reading,

S. B. No. 105, A bill to be entitled "An Act amending Chapter 498, Acts of the 55th Legislature, Regular Session, 1957, codified as Article 1725, Vernon's Texas Penal Code, by amending paragraph D of Section 5 fixing the date for payment of annual license fee."

The bill was read second time.

Mr. Atwell moved that further consideration of Senate Bill No. 105 be postponed until next Wednesday, May 1, at 10:00 o'clock a.m.

Mr. Cotten moved, as a substitute motion for the motion by Mr. Atwell, that further consideration of Senate Bill No. 105 be postponed until 10:00 o'clock p.m., May 27.

The substitute motion was lost.

A record vote was requested on the motion to postpone further consideration of S. B. No. 105 until 10:00 o'clock a.m. next Wednesday, May 1. The motion to postpone further consideration of S. B. No. 105 until 10:00 o'clock a.m. next Wednesday, May 1, prevailed by the following vote:

Yeas—103

Adams

Atwell

Ainslee

Arledge

Barnes
The above record vote was requested by Mr. Hollowell and Mr. Bridges.

SENATE BILL NO. 132 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S.B. No. 132, A bill to be entitled “An Act relating to registration of voters; amending the Election Code of the State of Texas to provide a general registration system for all voters in all elections conditioned upon the adoption of an amendment to the Constitution of the State of Texas abolishing payment of the poll tax as a prerequisite for voting and authorizing the enactment of a general registration law; providing that the county tax assessor-collector shall be the registrar of voters in each county, providing procedures for registration and for cancellation of registration, and making other provisions to effectuate the establishment of a general registration system for all voters; further amending the Election Code of the State of Texas to provide a temporary registration system for qualifying registrants to vote for federal offices without payment of the poll tax, conditioned upon the adoption of an amendment to the Constitution of the United States abolishing payment of a poll tax as a prerequisite for voting for federal offices prior to amendment of the Constitution of the State of Texas abolishing payment of the poll tax as a prerequisite for voting; repealing inconsistent and conflicting laws; stating the effect of
the Act on existing laws; providing effective dates; providing for severability; and declaring an emergency."

The bill was read second time.

Mr. Hefton moved that further consideration of Senate Bill No. 132 be postponed until 10:00 o'clock a.m. next Tuesday, April 30.

The motion prevailed without objection.

RECALLING S. B. NO. 315 FROM THE GOVERNOR

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 58
Whereas, Senate Bill No. 315 has been passed by both the House and the Senate and is now in the office of the Governor; and
Whereas, The bill requires correction to specify the particular sections of the statute being amended; now, therefore, be it

Resolved by the Senate of the State of Texas, the House of Representatives concurring, That the Governor be and is hereby requested to return Senate Bill No. 315 to the Senate and the Enrolling Clerk of the Senate be authorized and instructed to specify in Section 1 of the bill the sections of the statute being amended and to amend the caption to conform to the body of the bill; and, be it further

Resolved, That the action of the President of the Senate and the Speaker of the House of Representatives in signing Senate Bill No. 315 be declared null and void, and that the two (2) presiding officers be authorized to remove their signatures from the enrolled bill and that the Enrolling Clerk of the Senate be instructed to re-enroll said bill with the corrections in this Resolution.

The resolution was adopted without objection.

NOTICE GIVEN

Mr. Kothmann gave notice that he would, on the next Legislative Day, call S. B. No. 43 from the table.

MOTION TO CONSIDER H. B. NO. 13 WITH SENATE AMENDMENTS

Mr. Butler moved that all the necessary rules be suspended for the purpose of not concurring in the Senate Amendments to H. B. No. 13, and to request the appointment of a Conference Committee to adjust the differences between the two Houses on the bill.

The motion to suspend the rules was lost, not receiving the necessary two-thirds vote.

ADJOURNMENT

Mr. Cory moved that the House adjourn until 6:15 o'clock p.m. today.

Mr. Cotten moved that the House adjourn until 11:00 o'clock a.m. next Monday.

The motion to adjourn until 6:15 o'clock p.m. today prevailed.

In accordance with the motion to adjourn, the House, at 6:12 o'clock p.m. adjourned until 6:15 o'clock p.m. today.

APPENDIX

REPORT OF THE COMMITTEE ON ENROLLED BILLS

Austin, Texas, April 23, 1963
Hon. Byron M. Tunnell, Speaker of the House of Representatives.
Sir: Your Committee on Enrolled Bills to whom was referred
H. B. No. 29, An Act arranging the Statutes of this State affecting savings and loan associations and their operations in appropriate Chapters and Sections into a consistent whole and under a single Act; defining certain terms; providing a method of forming associations; stating the powers, duties and qualifications of directors, officers and members of such associations; fixing the corporate power thereof; regulating the loans, investments and ownership of real property by such associations; providing for savings accounts and fixing rights and obligations in regard thereto; providing for the computation of earnings, transfers to loss reserves, dividends
and surplus of such associations; providing for the supervision and regulation of such associations, their books and records, accounting practices, statements, reports, audits and examinations; providing for discontinuance of violations and receivalship; limiting the rights of foreign associations to do business as a savings and loan association in this State; providing for conversion into State associations; providing for conversion into State associations and reorganization, merger, consolidation and voluntary liquidation of such associations; exempting savings accounts from securities laws; authorizing acknowledgments to be taken before members and employees of associations who are parties public; providing for closing of places of business; permitting associations to act to avoid losses; providing for fees to be collected by savings and loan commissioner; requiring all associations authorized to conduct a savings and loan business to conform to this Act; providing that outstanding shares, stock, share accounts and investment certificates (except Permanent Reserve Fund Stock) shall be considered as savings accounts; prohibiting the issuance of stock or shares not authorized by this Act; providing for ad valorem taxation of the property of such associations; permitting rule making procedures to be instituted under certain conditions; providing hearing procedures; providing for judicial review; providing penalty for slander of an association, embarrassment, declaring greater dividends than earned, failing to comply with law, suppressing evidence and disclosures by examiners; repealing all laws in conflict herewith; providing for severability of the different Chapters or parts of this Act; providing for an effective date; and declaring an emergency.

Has carefully compared same and finds it correctly enrolled.

SHANNON, Chairman.