

Small loans companies

21.2.2

Small loans companies and money-lenders are subject to the Small Loans Act (RSC 1970, c.S-11). This act, first passed in 1939, sets maximum charges on personal cash loans not in excess of \$1,500 and is administered by the federal department of insurance. Lenders not licensed under the act may not charge more than 1.0% a month. Those wishing to make small loans at higher rates must be licensed each year by the minister of finance under the Small Loans Act. The act allows maximum rates, including charges of every kind, of 2.0% a month on unpaid balances not exceeding

Strong demand for mortgage money led to steady expansion of trust and mortgage companies in Canada since World War II. At the end of 1979, total assets of trust and mortgage companies together amounted to over \$45.7 billion, compared to nearly \$38.2 billion in 1978.

\$300, 1.0% a month on the portion of unpaid balances exceeding \$300 but not exceeding \$1,000 and one-half of 1.0% on any remainder of the balance exceeding \$1,000. Loans in excess of \$1,500 are not regulated and lenders operating entirely above this limit and the larger loans of licensed lenders are exempt from the act; nor does the act regulate charges for the instalment financing of sales. Prior to January 1, 1957, the act applied only to loans of \$500 or less and the maximum interest charge allowed was 2.0% a month.

At the end of 1978, there were four small loans companies and 33 money-lenders licensed under the act (31 in 1977). Small loans companies are incorporated federally; money-lenders include provincially incorporated companies. Many small loans companies and money-lenders are affiliated with other financial institutions, principally Canadian sales finance companies and US finance or loan companies. These affiliations reflect the close relationship between instalment financing and the consumer loan business.

Statistics Canada publishes quarterly balance sheets for sales finance and consumer loan companies as a whole and does not attempt to distinguish the two groups within the industry (see *Financial institutions*, Statistics Canada Catalogue 61-006).

Annual figures of assets and liabilities given in Table 21.22 are from the department of insurance report. More complete data on the business of licensed lenders are given in the report on small loans companies and money-lenders, published annually by the superintendent of insurance.

Insolvency

21.3

The term "insolvency" refers to the state or condition of a person (or of a company engaged in business) when he is no longer able to pay his debts as they normally become due for payment.

Bankruptcy may be defined as a legal process which stays all legal actions pertaining to a debtor's debts and which, in general, involves a summary and immediate seizure of all debtor property as assets by a trustee, distribution of these assets among the estate creditors, and discharge of the debtor from future liability for most of the debts which existed at the moment of bankruptcy.

While involving essentially the same administrative principles and processes under the Bankruptcy Act, a distinction is made between a consumer bankruptcy and a commercial bankruptcy because of different conceptual objectives and the impact of provincial legislation respecting the property of an individual which is exempt from seizure in a bankruptcy. A consumer bankruptcy is viewed primarily as a mechanism for providing relief to a financially overburdened debtor from creditor harassment and legal actions such as the seizure of goods and the imposition of wage garnishments. A commercial bankruptcy is more complex and it is primarily a mechanism for the orderly and equitable distribution of assets of an insolvent company to free them for eventual reintegration into the economy.