ness in Chattanooga, operating under the Industrial Loan & Thrift Act, to recover alleged usury and overcharges.

The Chancellor, in a well-written and comprehensive opinion, awarded and the defendant a judgment in the amount of $114.36 for usury and overcharges and $500.00 punitive damages.

The original loan in question was made on April 23, 1960, with the complainant receiving $38.98 and signing a note in the amount of $48.00 and giving a chattel mortgage on a General Electric television set. On this transaction he was charged $1.00 for life insurance, $2.50 for fire insurance, $2.88 for accident and health insurance, $1.92 for investigation fee, and 72 cents interest. From the date of the original note until February 1, 1964, this note was renewed or "flipped" eighteen different times [see attached chart]. On each occasion complainant was charged similar fees as on the first note. On various of these transactions, as shown by the chart, he was given refunds on insurance and interest. A computation of all the transactions shows the complainant has received $442.98 from the loans and has paid a total of $653.00 which includes $19.00 life insurance, $61.78 fire insurance, $95.22 accident and health insurance, $63.68 investigation fees, $31.36 interest and has received a total in refunds of $21.82.

Of the above mentioned charges, the Chancellor found the defendant was justified in charging the first investigation fee of $1.92 but the remaining investigation fees of $61.76 bore no reasonable relation to the expenses and services of the lender. He further found the borrower had made no request for life insurance, accident and health insurance and such insurance was purchased by the defendant without complainant's knowledge.

After giving credit for the refunds on the life and accident and health insurance, the Chancellor found there was an overcharging of $108.80 of insurance premiums. This amount plus the $61.76 overcharge on investigation fees totals $170.56. After deducting $56.20, the amount owed by complainant on the last note, a judgment of $114.36 for usury and overcharges was entered plus $500.00 for punitive damages.

Defendants in this appeal insist the Industrial Loan & Thrift Act does not vest a right of action in a borrower but is regulatory in nature and only vests police powers in the Department of Insurance and Banking.

This question is not raised by any of the pleadings and it appears it was not called to the attention or decided by the Chancellor. Hence, this Court could ignore the issue.

Since this appears to be the first time this question has been raised in the appellate courts, in an effort to avoid future controversy, we deem it proper for us to respond.

In other cases involving this same act, this Court has assumed the borrower had a cause of action for charges in excess of those provided by the act. We are of the opinion this position is sound and now do so hold.

The legal intent and purpose of the Industrial Loan & Thrift Act and the Small Loan Act are the same. It is true both acts are regulatory in nature but neither precludes a borrower from bringing a suit for charges of fees, interest and insurance premium which are in excess of those provided for in the act.

Our Supreme Court, in discussing the purpose and intent of the Small Loan Act in the case of Family Loan Co. v. Hickerson, 73 S.W. 2d 694, at page 697, said:

"As held in Personal Finance Co. v. Hammack, 163 Tenn. 645, 45 S.W. 2d 528, the act is regulatory. The purpose was to impose restraint on those engaged in dealing with impecunious borrowers, by regulating the maximum that could be charged and by providing penalties and forfeitures for exceeding the maximum. By the adoption of this regulatory statute the Legislature conferred no right upon lenders operating under it to exact more as compensation for the use of money than others are permitted to receive and collect. Whether the contract between the borrower and lender was designed to evade laws that forbid usury is always a question of fact determinable by inquiry into the particular transaction. Extraneous charges and expenses cannot be added. It is the rule repeatedly expressed in the actions involving claims for usury that the courts disregard form and look to the substance. McWhite v. State, 143 Tenn. 222, 226 S.W. 542."

We think the court's reasoning in the Hickerson case is applicable to the Industrial Loan & Thrift Act. If the Legislature had intended to preclude actions by the borrower for overcharges, it would have said so in the act.