

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 849

6
7 H.P. 666

House of Representatives, February 23, 1983

8 Submitted by the Department of Business Regulation pursuant to Joint
9 Rule 24.

10 Referred to the Committee on Business Legislation. Sent up for
concurrency and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative Brannigan of Portland.

11 Cosponsors: Representative Tuttle of Sanford, Representative Telow of
Lewiston and Representative Hobbins of Saco.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Strengthen the Enforcement of
18 the Collection Agency Law.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 Sec. 1. 32 MRSA §573, sub-§2, as amended by PL
23 1971, c. 81, §2, is further amended to read:

24 2. Penalty. Any person who shall carry on busi-
25 ness as a collection agency without first having
26 obtained a license pursuant to this section, or who
27 shall carry on such business after the revocation,
28 suspension or expiration of any license, or who shall
29 perform duties relating to the conduct of a collec-
30 tion agency on behalf of another person as an offi-
31 cer, director, employee, agent or in any other capac-
32 ity unless the other person has first obtained a li-
33 cense which has not expired nor been revoked or sus-
34 pended shall be guilty of a ~~misdemeanor~~ and punished

1 by a fine not exceeding \$500 or by imprisonment not
2 exceeding 6 months, or by both Class E crime.

3 Sec. 2. 32 MRSA §573, sub-§6 is enacted to
4 read:

5 6. Change in ownership. A change in ownership
6 of a corporation, or a change in the identity of a
7 majority of the partners in a partnership, shall re-
8 quire a new application under this section.

9 Sec. 3. 32 MRSA §576-A is enacted to read:

10 §576-A. Civil penalty

11 The superintendent may, through the Attorney
12 General, bring a civil action for a penalty not to
13 exceed \$5,000 against any person who violates the
14 provisions of this chapter. No civil penalty pur-
15 suant to this section may be imposed for violations
16 of this chapter occurring more than 2 years before
17 the civil action is brought.

18 Sec. 4. 32 MRSA §580, sub-§2, as amended by PL
19 1973, c. 585, §11, is further amended to read:

20 2. Books and records. Each licensee shall main-
21 tain a place of business in this State, and the
22 superintendent shall require the licensee to keep
23 such books and records in his place of business in
24 this State as will enable the superintendent to
25 determine whether the provisions of this chapter are
26 being complied with. At the superintendent's option,
27 a licensee may keep the books and records in a loca-
28 tion outside this State, provided that the licensee
29 agrees to produce the books and records in this State
30 upon demand. Every such licensee shall preserve the
31 records of final entry used in such business for a
32 period of 6 2 years after final remittance is made on
33 any account placed with the licensee for collection
34 or after any account has been returned to the claim-
35 ant on which one or more payments have been made.

1 STATEMENT OF FACT

2 Section 1 of the bill classifies the punishment
3 for operating a collection agency without a license
4 as a Class E crime.

5 Section 2 clarifies that a reapplication is re-
6 quired when a change of ownership occurs. This is
7 necessary in order to make sure the financial respon-
8 sibility and integrity of the original licensee is
9 maintained.

10 Section 3 adds a new provision to the bill so as
11 to allow the Superintendent of the Bureau of Consumer
12 Credit to sue and seek a civil penalty for viola-
13 tions. This enforcement option is necessary to
14 supplement the existing authority to seek a license
15 revocation before the Administrative Court.

16 Section 4 strikes the requirement that a collec-
17 tion agency maintain a place of business in this
18 State and reduces the record-keeping requirement from
19 6 years to 2 years after final entry on the account.
20 This change is necessary in order to avoid a poten-
21 tial constitutional challenge to the law and
22 strengthen the Bureau of Consumer Credit's ability to
23 regulate out-of-state debt collection agencies.

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