

MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

HOUSE

NO. 361

House of Representatives, Feb. 20, 1917.

Referred to Committee on Legal Affairs and fifteen hundred copies ordered printed. Sent up for concurrence.

W. R. ROIX, Clerk.

Presented by Mr. Garcelon of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVENTEEN

AN ACT to license and regulate the business of making loans in sums of three hundred dollars or less, at a greater rate of interest than twelve per centum per annum, and regulating the assignment of wages or salaries given as security therefor.

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

Section 1. No person, copartnership or corporation shall
2 engage in the business of making any loan of money, credit,
3 goods or choses in action in the amount or to the value of
4 three hundred dollars, or less, whether secured or unsecured,

5 and charge, contract for or receive a greater rate of interest
6 than twelve per centum per annum therefor, without first ob-
7 taining a license from the state bank commissioner. Appli-
8 cation for such license shall be in writing and shall contain
9 the full name and address, both of the residence and place of
10 business, of the applicant, and if the applicant is a copart-
11 nership, of every member thereof, or if a corporation, of
12 every officer thereof; also the county and municipality, with
13 street and number, if any, where the business is to be con-
14 ducted. Every such applicant, at the time of making such
15 application, shall pay to the bank commissioner the sum of
16 fifty dollars as an annual license fee and in full payment of
17 all expenses of examinations under and administration of
18 this act. The applicant shall also, at the same time, file with
19 the bank commissioner a bond in which the applicant shall
20 be the obligor, in the sum of one thousand dollars with one
21 or more sureties to be approved by said bank commissioner;
22 which bond shall run to the bank commissioner of the state
23 of Maine for the use of the state and of any person or per-
24 sons who may have a cause of action against the obligor of
25 said bond under the provisions of this act, and shall be con-
26 ditioned that said obligor will conform to and abide by each
27 and every provision of this act and will pay to the state and
28 to any such person or persons, any and all moneys that may
29 become due or owing to the state and to such person or per-
30 sons from said obligor, under and by virtue of the provisions
31 of this act. If in the opinion of the bank commissioner the

32 bond shall at any time appear to be insecure or exhausted, or
33 otherwise doubtful, an additional bond in the sum of not
34 more than one thousand dollars satisfactory to the bank com-
35 missioner shall be filed, and upon failure of the obligor to
36 file such additional bond, the license shall be revoked by the
37 bank commissioner.

Sect. 2. Upon the filing of such application and the ap-
2 proval of said bond and the payment of said fee, the bank
3 commissioner shall issue a license to the applicant to make
4 loans in accordance with the provisions of this act for a
5 period which shall expire the first day of January next fol-
6 lowing the date of its issuance; provided, that if the license
7 is issued for a period of less than six months the license fee
8 shall be twenty-five dollars. Such license shall not be assign-
9 able, and shall be kept conspicuously posted in the place of
10 business of the licensee.

Sect. 3. The bank commissioner may, in his discretion,
2 upon notice to the licensee and opportunity to be heard, re-
3 voke such license if satisfied that the licensee has violated
4 any provision of this act. The issuance of another license
5 after a revocation shall be at the discretion of the bank com-
6 missioner. In case the licensee shall be convicted a second
7 time of a violation of sections eight and nine of this act the
8 bank commissioner shall revoke such license; provided, that
9 the second offense shall have occurred after a prior convic-
10 tion.

Sect. 4. No person, copartnership or corporation so

2 licensed shall make any loan or transact any business pro-
3 vided for by this act, under any other name or at any other
4 place of business than that named in the license. Not more
5 than one office or place of business shall be maintained
6 under the same license, but the bank commissioner may issue
7 more than one license to the same person upon the payment
8 of an additional license fee and the filing of an additional
9 bond for each license. In case of the removal of a licensee,
10 he shall at once give written notice thereof to the bank com-
11 missioner, who shall attach to the license his consent in writ-
12 ing to the removal.

Sect. 5. The bank commissioner for the purpose of dis-
2 covering violations of this act may either personally, or by
3 any person designated by him, at any time and as often as
4 he may desire, investigate the loans and business of every
5 licensee and of every person, copartnership and corporation
6 by whom or which any such loan shall be made, whether
7 such person, copartnership or corporation shall act, or claim
8 to act, as principal, agent or broker, or under, or without
9 the authority of this act; and for that purpose he shall have
10 free access to the books, papers, records and vaults of all
11 such persons, copartnerships and corporations; he shall also
12 have authority to examine, under oath, all persons whomso-
13 ever whose testimony he may require, relative to such loans
14 or business.

Sect. 6. The licensee shall keep such books and records as
2 in the opinion of the bank commissioner will enable the com-
3 missioner to determine whether the provisions of this act are

4 being observed. Every such licensee shall preserve the rec-
5 ords of final entry used in such business, including cards
6 used in the card system, if any, for a period of at least two
7 years after the making of any loan recorded therein.

Sect. 7. No licensee or other person or corporation shall
2 print, publish or distribute or cause to be printed, published
3 or distributed in any manner whatsoever, any written or
4 printed statement with regard to the rates, terms or con-
5 ditions for the lending of money, credit, goods or choses in
6 action, in amounts of three hundred dollars or less, which
7 is false or calculated to deceive.

Sect. 8. Every person, copartnership and corporation
2 licensed hereunder may loan any sum of money, goods or
3 choses in action not exceeding in amount or value the sum
4 of three hundred dollars, and may charge, contract for and
5 receive thereon interest at a rate not to exceed three and one-
6 half per centum per month. No person shall owe any licensee
7 at any time more than three hundred dollars for principal.

Sect. 9. Interest shall not be payable in advance or com-
2 pounded, and shall be computed on unpaid balances. In ad-
3 dition to the interest herein provided for, no further or other
4 charge or amount whatsoever for any examination, service,
5 brokerage, commission or other thing, or otherwise, shall be
6 directly or indirectly charged, contracted for or received,
7 except the lawful fees, if any, actually and necessarily paid
8 out by the licensee to any public officer for filing or record-
9 ing in any public office any instrument securing the loan,

10 which fees may be collected when the loan is made, or at any
11 time thereafter. If interest or charges in excess of those
12 permitted by this act shall be charged, contracted for, or re-
13 ceived, the contract of loan shall be void, and the licensee
14 shall have no right to collect or receive any principal, in-
15 terest or charges whatsoever.

Sect. 10. Every licensee shall:

Deliver to the borrower, at the time a loan is made, a
2 statement in the English language showing in clear and dis-
3 tinct terms the amount and date of the loan and of its
4 maturity, the nature of the security, if any, for the loan, the
5 name and address of the borrower and of the licensee, and
6 the rate of interest charged. Upon such statement there shall
7 be printed in English a copy of sections eight and nine of
8 this act;

Give to the borrower a plain and complete receipt for all
2 payments made on account of any such loan at the time
3 such payments are made;

Upon repayment of the loan in full, mark indelibly every
2 paper signed by the borrower with the word "paid" or "can-
3 celled," and discharge any mortgage, restore any pledge,
4 return any note and cancel any assignment given by the bor-
5 rower as security.

Sect. 11. No licensee shall take any confession of judg-
2 ment or any power of attorney. Nor shall he take any note,
3 promise to pay, or security that does not state the actual
4 amount of the loan, the time for which it is made and the

5 rate of interest charged, nor any instrument in which blanks
6 are left to be filled after execution.

Sect. 12. No assignment of any salary or wages, earned or
2 to be earned, given to secure a loan, shall be valid unless in
3 writing signed in person by the borrower; nor, if the bor-
4 rower is married, unless it shall be signed in person by both
5 husband and wife; nor shall such assignment be valid unless
6 given to secure a debt contracted simultaneously with its
7 execution. All such assignments shall be subject to the pro-
8 visions of section nine of chapter one hundred and fourteen
9 of the revised statutes.

Sect. 13. No person, copartnership or corporation except
2 as authorized by this act shall, directly or indirectly, charge,
3 contract for, or receive any interest or consideration greater
4 than twelve per centum per annum upon the loan, use or for-
5 bearance of money, goods or choses in action, or upon the
6 loan, use or sale of credit, of the amount or value of three
7 hundred dollars or less. The foregoing prohibition shall
8 apply to any person who, as security for any such loan, use
9 or forbearance of money, goods or choses in action, or for
10 any such loan, use or sale of credit, makes a pretended pur-
11 chase of property from any person and permits the owner or
12 pledgor to retain the possession thereof, or who, by any
13 device or pretense of charging for his services, or other-
14 wise, seeks to obtain a greater compensation than is author-
15 ized by this act.

Sect. 14. Any person, and the several officers and em-

2 ployees of any corporation, who shall violate any of the fore-
3 going prohibitions shall be guilty of a misdemeanor, and
4 upon conviction thereof shall be punishable by a fine of not
5 more than five hundred dollars or by imprisonment of not
6 more than six months, or by both such fine and imprisonment
7 in the discretion of the court.

Any licensee and any officer or employee of a licensee who
2 shall violate any of the provisions of sections eight and nine
3 of this act shall be guilty of a misdemeanor, and upon con-
4 viction thereof shall be punishable by a fine of not more than
5 five hundred dollars or by imprisonment of not more than six
6 months, or by both such fine and imprisonment in the discre-
7 tion of the court.

Sect. 15. No loan for which a greater rate of interest or
2 charge than is allowed by this act has been contracted for or
3 received, whenever made, shall be enforced in this state, and
4 any person in any wise participating therein in this state shall
5 be subject to the provisions of this act.

Sect. 16. This act shall not apply to any person, copart-
2 nership or corporation doing business under any law of this
3 state or of the United States relating to banks, trust com-
4 panies, or building and loan associations.

Sect. 17. The invalidity of any portion of this act shall
2 not affect the validity of any other portions thereof which
3 may be given effect without such invalid portion.

Sect. 18. Section forty-two of chapter forty of the revised
2 statutes, and all other acts and parts of acts inconsistent
3 with the provisions of this act are hereby repealed.