

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1375**

H. P. 1157

House of Representatives, March 23, 1955

Referred to the Committee on Business Legislation, sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Browne of Bangor.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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**AN ACT Defining and Regulating the Collection Agency Business and the  
Budget Planning Business.**

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

**R. S., c. 59, §§ 246 - 256, additional.** Chapter 59 of the revised statutes is hereby amended by adding thereto 11 new sections to be numbered 246 to 256, inclusive, to read as follows:

**'Collection Agency and Budget Planning Business.**

**Sec. 246. License.** No person shall directly or indirectly engage in the business of a collection agency for the collection of accounts receivable, debts or claims of any kind for any person, corporation, partnership or association or any other creditor or in the business of budget planning or in making a contract with a particular debtor whereby the debtor agrees to pay a certain amount, based upon his budgetary requirements, periodically to the person engaged in the business of budget planning who shall distribute the same proportionately among certain agreed creditors of said debtor, or in any similar business, without first obtaining from the Bank Commissioner a license to carry on said business in the town where the business is to be transacted. The fee for such license shall be \$100. If the licensee desires to carry on business at more than one place he shall procure a license for each such place where the business is to be conducted. The license granted by the Commissioner shall be for a period of one year from January 1st. Each license shall plainly state the name of the licensee, and the municipality, with the name of the street and the number, if any, of the place where the business is to be carried on, and shall be posted in a conspicuous place in the office where the business is transacted.

**Sec. 247. Examination of business.** The Commissioner shall from time to time establish rules and regulations respecting the granting of licenses and the business carried on by the licensees. He shall either personally or by such assistants as he may designate, at least once a year and oftener if he deems it necessary, investigate the affairs of such licensees, companies and associations, and for that purpose shall have free access to the vaults, books and papers thereof, and shall ascertain the condition of the business and whether it has been transacted in compliance with the law and the regulations made hereunder. The Commissioner may cause an examination of the said books and business to be made by an accountant whom he may select, and the cost of any such examination shall be paid by the person whose books are so examined.

**Sec. 248. Returns.** All persons required by sections 246 to 256, inclusive, to be under the supervision of the Commissioner shall annually on February 1st make a return to him in the form of a trial balance of their books at the close of business on December 31st preceding, and shall specify the different kinds of liabilities and the different kinds of assets, with such other information as may be called for by the Commissioner in accordance with a blank form to be furnished by him. The Commissioner shall make an annual report and shall forward therewith a copy of such returns or so much thereof as he may deem necessary.

**Sec. 249. Licensees summoned.** The Commissioner may summon said licensees, or any of their agents or employees, and such other witnesses as he deems necessary, and examine them relative to their transactions and to the condition of their business, and for that purpose may administer oaths. Whoever without justifiable cause refuses to appear and testify when so required, or obstructs the Commissioner or his representatives in the performance of their duties, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment.

**Sec. 250. Budget planning.** In carrying on said budget planning business, as defined in section 246, no person shall charge for his services an amount greater than 2% of the amount of indebtedness of the person for whom the budget plan was prepared which the person engaged in the budget planning business reduces by paying off the various creditors from moneys furnished by the debtor. No charge, bonus, fee, expense or demand, except as herein provided, shall be made by a person engaged in such business, nor shall any charge be made for consultation with a debtor seeking planned budget assistance.

**Sec. 251. Collection agency.** In carrying on said collection agency business, as defined in section 246, no person shall charge for his services an amount greater than 40% of the amount collected on such accounts and claims of creditors. No charge, bonus, fee, expense or demand, except as herein provided, shall be made by a person engaged in such collection agency business, nor shall any charge be made for consultation with any creditor seeking assistance in the collection of his accounts and claims.

**Sec. 252. Application for license.** A license under section 246 shall not be granted until the applicant has filed with the Commissioner a statement on oath, which in the case of a corporation or association may be made by the president or agent thereof in charge of the business, stating the place in the town where

the business is to be carried on, the name and the private and business address of the applicant, and in the case of a corporation the state under the laws of which it is organized, and the name and private address of the clerk or secretary and of the agent or other officer having charge of its proposed business, nor until the applicant, unless excused by the Commissioner, files with him a power of attorney, appointing a person satisfactory to the Commissioner to be his attorney, upon whom all lawful process may be served in any action or proceeding arising under sections 246 to 256, inclusive, with the same effect as if served upon the licensee. If any change occurs in the name or address of a licensee or of the clerk, secretary or agent aforesaid of any licensed corporation, or in the place where the licensed business is carried on, or in the membership of any partnership licensed under said sections, a true and full statement of such change, sworn to in the manner required by this section in the case of the original statement, shall forthwith be filed with the Commissioner, who may after a hearing revoke the license.

Sec. 253. Bond. No license shall be issued under section 246 until the licensee gives to the Treasurer of State a bond in the sum of \$5,000, executed by the licensee and by a surety company approved by the Commissioner, conditioned upon the faithful performance by the licensee of the duties and obligations pertaining to the business so licensed and the prompt payment of any judgment recovered against him or for which he may be liable under sections 246 to 256, inclusive, but no suit at law or in equity shall be begun against the sureties on such a bond within 30 days after judgment against the licensee. If in any case at law or equity against the licensee under sections 246 to 256, inclusive, it appears that the plaintiff is entitled to judgment or decree, except for proceedings in bankruptcy or insolvency or the discharge therein of the licensee, the court may at any time, on motion, enter a special judgment or decree for the plaintiff for the amount of his debt, damages and costs, or for such other relief as he may be entitled to; and the said bond shall be conditioned upon the payment of any such special judgment and upon compliance with any such decree. Whoever is aggrieved by a breach of the condition of such a bond may sue thereon at his own expense and in his own behalf, but in the name of the obligee; and if judgment shall be entered for the defendant for costs, execution therefor shall issue against the person for whose benefit the suit is brought, as if he were the plaintiff of record, but not against the obligee. If such a suit, like proceedings shall be had as in a suit by a creditor on an administration bond. The Commissioner may at any time require the licensee to file an additional bond of like nature and with like effect, and to give full information as to all judgments recovered or suits pending on his bond. Upon failure to file any bond so required, the license shall be revoked.

Sec. 254. Penalty. Any person violating any provision of sections 246 to 253, inclusive, or any regulation made thereunder, or any rule or order made by the Commissioner, shall be subject to a fine of not more than \$500, and the license may be suspended or revoked by the Commissioner. Any budget planning service, or collection agency as defined in section 246, for which a greater charge is imposed than is allowed under sections 250 or 251 may be declared void by the Superior Court in equity upon petition of the person for whom the budget plan was prepared.

**Sec. 255. Enforcement.** The state police and the police of municipalities shall carry out the directions of the Bank Commissioner in enforcing sections 246 to 253, inclusive, and any regulations made by him.

**Sec. 256. Limitation.** Nothing in sections 246 to 256, inclusive, shall be deemed to prohibit the publication, sale or distribution of budget plans; provided, that the person publishing, selling or distributing such plans does not receive any moneys from a person for whom a budget plan was prepared for the purpose of paying off his creditors in compliance with the provisions of a budget plan. Nothing in sections 246 to 256, inclusive, shall be deemed to apply to or affect in any manner the conduct of a duly licensed attorney employed by an individual, firm, partnership, corporation or any other creditor or agent of any creditor for the purpose of collection of delinquent accounts.'