

# MAINE STATE LEGISLATURE

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# NINETY-SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1493**

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House of Representatives, April 26, 1955.  
Filed for reproduction or printing by Mr. Brown of Bangor.  
HARVEY R. PEASE, Clerk.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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### HOUSE AMENDMENT "A" to H. P. 1157, L. D. 1375, Bill, "An Act Defining and Regulating the Collection Agency Business and the Budget Planning Business."

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Amend said Bill by striking out all after the enacting clause and inserting in place thereof the following:

"R. S., c. 59, §§ 249-263, additional. Chapter 59 of the revised statutes is hereby amended by adding thereto 15 new sections, to be numbered 249 to 263, inclusive, to read as follows:

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

Sec. 249. Definition. "Collection agency" means and includes all persons engaging, directly or indirectly and as a primary or secondary object, business or pursuit, in soliciting claims for collection or in the collection of claims owed or due or asserted to be owed or due to another. Any person, when engaged in collecting claims for another, where the employment is for one or more persons, is conducting a collection agency within the meaning of this chapter.

Any house, agency, firm, person, corporation or voluntary association, using any name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency within the meaning of this chapter.

Any person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under this chapter, any system of collection letters, demand forms or other printed matter where the name of any person, other than a creditor, shall appear in such manner as to indicate that a request or demand is being made by another person other than the creditor for the payment of any sum due, or asserted to be due, is considered to be in the collection business within the meaning of this chapter.

“Person” includes firms, corporations and voluntary associations.

“Commissioner” means the Bank Commissioner.

“Budget planning” means the making of a contract with a particular debtor, whereby the debtor agrees to pay a certain amount periodically to the person engaged in the budget planning, who shall distribute the same among certain specified creditors in accordance with a plan agreed upon.

Sec. 250. License. No person shall engage in the business of a collection agency and or the business of budget planning without first obtaining from the Commissioner a license to carry on said business. The annual fee for such license shall be \$25 for each office operated by the licensee within the State and shall be for a period of 1 year from September 1st.

Sec. 251. Application for license. Application for a license or renewal thereof shall be in writing and under oath to the Commissioner in such form as may be required by him. Such application shall state the full name and residence of the applicant and the business name and address, and in case of a partnership, the full name and residence of each partner, and, in case of a corporation, the full name and residence of each of its officers and directors. If any change occurs in the name or address of a licensee, or in the place where the licensed business is carried on, or in the membership of any partnership, corporation or voluntary association licensed under sections 249 to 263, inclusive, 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.

Sec. 252. Bond. No license shall be issued under the provisions of sections 249 to 263, inclusive, until the applicant files with the Commissioner a bond in which the applicant shall be the obligor, in the sum of \$2,000 with one or more sureties to be approved by said Commissioner; which bond shall run to the Commissioner for the use of the State and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of sections 249 to 263, inclusive, and shall be conditioned that said obligor will conform to and abide by each and every provision of said sections and will pay to the State and to any such person or persons, any and all moneys that may become due or owing to the State and to such person or persons from said obligor, under and by virtue of the provisions of sections 249 to 263, inclusive.

Sec. 253. Qualifications of applicants for license. Licenses issued under sections 249 to 263, inclusive, shall be granted only to persons who are citizens of the United States, residents of this State for more than 1 year prior to the date of application, over 21 years of age and who are trustworthy and competent to transact the business of a collection agency and or the budget planning business.

Sec. 254. Manner in which records and funds shall be kept by licensee.

I. Every licensee shall make a permanent record of all sums collected by him and of all disbursements made by him. No persons shall intentionally make any false entry in any such agency record, or intentionally mutilate, destroy or otherwise dispose of any such record.

**II.** A licensee shall not commingle the money of his customers with his own, but shall maintain a separate trust account for his customers' funds.

Sec. 255. Reports and payments by licensee. Every such licensee shall, within 30 days after the close of every calendar month, report and pay to his customers the net proceeds of all collections made during that calendar month.

Sec. 256. Fees; budget planning. In carrying on such budget planning business, no person shall charge for his services an amount greater than 15% of the amount actually paid in by the person for whom the budget plan was prepared. 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. 257. Fees; collection agency. In carrying on said collection agency business, the licensee must file with the Commissioner a schedule of his rates and any charges, which shall be the same schedule of rates and charges furnished to customers or prospective customers of the licensee. He shall be bound by these rates, but may change them at any time, provided the licensee notifies the Commissioner in writing at least 30 days prior to the date said changes are to become effective.

Sec. 258. Excessive fees. Any charges made by a licensee in excess of the limitations contained in sections 256 and 257 shall be void.

Sec. 259. Examination of business. The Commissioner may personally, or by such assistants as he may designate, investigate the affairs of any licensee upon receipt of any complaint pertaining to a violation of the provisions of sections 249 to 263, inclusive, and for that purpose shall have free access to the vaults, books and papers thereof.

Sec. 260. Revocation of license. The Commissioner may, in his discretion, upon notice to the licensee and opportunity to be heard, revoke his license if satisfied that the licensee has violated any provision of law. The issuance of another license after revocation shall be at the discretion of the Commissioner.

Sec. 261. Penalty. Whoever, either individually or as the officer or employee of any corporation or association, violates any of the provisions of sections 249 to 263, inclusive, 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. 262. Attorney conducting collection agency. Any attorney at law who directly or indirectly, by the use of agents, representatives, fictitious names or otherwise, solicits claims or accounts for collection, by advertising through any regular advertising medium, including direct mail and telephone, or by direct personal solicitation through representatives of such attorney, shall be deemed to be conducting a collection agency and shall be subject to the provisions of sections 249 to 263, inclusive, as to commercial claims.

Sec. 263. Exceptions. Except as provided in section 262, nothing in the provisions of sections 249 to 262, inclusive, shall apply to the practice of law by duly licensed attorneys. Nothing in the provisions of sections 249 to 262, in-

**clusive, shall authorize any collection agency to engage in the practice of law. The provisions of sections 249 to 262, inclusive, shall not apply to any public service corporation or any agent thereof.'”**