

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Third Legislature

OF THE

STATE OF MAINE

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE  
**One Hundred and Third Legislature**  
**1967**

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and regulations with respect to any particular type of credit transaction, the commissioner shall consider whether in such transactions compliance with the disclosure requirements of this chapter is being achieved under any other law. Any creditor who violates the rules and regulations of the commissioner shall be subject to the penalties provided in section 3810.

### § 3810. Penalties

1. Failure to disclose; action. Any creditor who in connection with any transaction subject to this chapter fails to disclose to any person any information in violation of this chapter or any regulation issued thereunder shall be liable to such person in the amount of \$50, or in an amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed \$1,000 on any transaction. Action to recover such penalty may be brought by such person within one year from the date of the occurrence of the violation, in any court of competent jurisdiction. In any such action, no person shall be entitled to recover such penalty solely as the result of erroneous computation of any percentage required by this chapter, if the percentage disclosed was in fact greater than the percentage required to be disclosed by this chapter, or if the percentage disclosed was in fact less than the percentage required to be disclosed, but the difference between the rate disclosed and the rate required is not greater than 1% annually computed on the basis of the true interest rate. In any action under this subsection in which any person is entitled to a recovery, the creditor shall be liable for reasonable attorneys' fees and court costs as determined by the court. As used in this subsection, the term "court of competent jurisdiction" means any court of the State of Maine of competent jurisdiction regardless of the amount in controversy.

2. Validity. Except as specified in subsection 1, nothing contained in this chapter or any regulation thereunder shall affect the validity or enforceability of any contract or transaction.

3. Penalty. Any person who willfully or repeatedly violates any provision of section 3808 shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

Effective October 7, 1967

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## Chapter 473

### AN ACT Revising Laws Relating to Licensed Small Loan Agencies.

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

Sec. 1. R. S., T. 9, § 3003, amended. The last sentence of section 3003 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

If a licensee wishes to change the location of his place of business to another municipality, he shall at once give written notice thereof and return his license to the commissioner, who may amend the license and return it to the licensee or he may refuse to amend the license because public convenience and advantage of

the community in which the business is to be conducted will not be thereby promoted.

**Sec. 2. R. S., T. 9, § 3042, amended.** The first sentence of the 4th paragraph of section 3042 of Title 9 of the Revised Statutes, as repealed and replaced by chapter 209 of the public laws of 1965, is amended to read as follows:

Each license shall remain in full force and effect until it is surrendered, suspended, revoked or has expired.

**Sec. 3. R. S., T. 9, § 3043, repealed and replaced.** Section 3043 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

**§ 3043. Revocation or suspension of license**

Upon receiving evidence of a violation of any of the provisions of chapters 281 to 289 by a licensee, the commissioner, after notice and hearing thereon, may suspend or revoke a license. The commissioner shall give the licensee at least 10 days' written notice of the time and place of such hearing by registered mail addressed to the place of business of the licensee. The notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the commissioner and shall be effective at a date stated in the commissioner's decree but not less than 10 days after such decree is forwarded by registered mail to the licensee at his place of business. Any appeal from such order may be taken in accordance with section 7. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful loan contract. The suspension or revocation of a license shall include the suspension or revocation of the privilege to make loans subject to chapters 281 to 289. If the commissioner should find a violation of sections 3081 or 3082, he shall so notify the lender and the borrower of his findings.

**Sec. 4. R. S., T. 9, § 3082, amended.** The last 2 sentences of section 3082 of Title 9 of the Revised Statutes are amended to read as follows:

In addition to the interest provided for, no further or other charge or amount whatsoever for any examination, service, brokerage, commission or other thing, or otherwise, shall be directly or indirectly charged, contracted for or received, except insurance premiums for group life insurance and group accident and health insurance and any gain or return to the licensee therefrom, and lawful fees, if any, actually and necessarily paid out by the licensee to any public officer for filing or recording in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. No accident and health insurance shall be sold unless there is a waiting period of 30 days or more, a minimum payment of \$40 per month and the loan must be for at least 18 months. If interest or charges in excess of those permitted by this section and section 3081, including insurance premiums and filing fees, shall be charged, contracted for or received, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest or charges whatsoever. Upon a finding by the District or Superior Court that interest or charges in excess of those permitted by this section and section 3081 have been charged, contracted for or received, the licensee shall forfeit to the borrower the amount of all payments made as principal and interest payments, and he shall mark and return the note and other papers as provided in section 3083, subsection 3. Reasonable

attorneys' fees and costs shall be awarded to the borrower if he is the prevailing party in such action. Each licensee shall annually report to the Commissioner of Banks and Banking the amount of insurance sold, premiums charged therefor, and claims paid on a form prescribed by the commissioner and a summary of these reports will be included in the annual report of the commissioner.

**Sec. 5. R. S., T. 9, § 3083, sub-§ 3, repealed and replaced.** Subsection 3 of section 3083 of Title 9 of the Revised Statutes is repealed and the following enacted in place thereof:

3. **Payment of loan in full.** Upon payment of a loan in full by cash, renewal or a new loan, mark plainly every note signed by the borrower with the words "Paid in Full" or "Cancelled" and return to the borrower, and restore any pledge, cancel any assignment and release or provide the borrower evidence to release any mortgage or security instrument no longer securing any indebtedness to the licensee, and properly record said discharge or release of any mortgage or security interest, the borrower to pay the statutory fee for the same.

**Sec. 6. R. S., T. 9, § 3121, amended.** The first paragraph of section 3121 of Title 9 of the Revised Statutes is amended to read as follows:

The commissioner ~~for the purpose of discovering violations of any of the provisions of chapters 281 to 289, as he deems necessary,~~ may either personally, or by any person designated by him, at any time and as often as he may desire, ~~investigate~~ examine the loans and business of every licensee thereunder and of every person, copartnership and corporation by whom or by which any such loan shall be made, whether such person, copartnership or corporation shall act, or claim to act, as principal, agent or broker, or under, or without the authority of chapters 281 to 289. ~~For that purpose he~~ He shall have free access to the books, papers, records and vaults of all such persons, copartnerships and corporations. He shall have authority to examine, under oath, all persons whose testimony he may require relative to such loans or business. **In connection with such investigations and examinations he, and any person designated by him, shall examine the loans, business and records of all such persons, copartnerships and corporations to determine whether the laws with reference to credit life and credit accident and health insurance are being complied with and upon discovery of any violation or supposed violations thereof shall forthwith report the same to the Insurance Commissioner and any other appropriate enforcement agency for prosecution.**

**Sec. 7. R. S., T. 9, § 3122, amended.** The last paragraph of section 3122 of Title 9 of the Revised Statutes is amended to read as follows:

Each licensee shall keep such books and records as may be prescribed by the commissioner and shall preserve books and records used in such business for a period of at least ~~2~~ 4 years after making the final entry of, or relative to any loan recorded therein.

**Sec. 8. Appropriation.** There is appropriated from the General Fund to the Department of Banks and Banking the sum of \$17,884 for the fiscal year ending June 30, 1968 and the sum of \$17,108 for the fiscal year ending June 30, 1969 to carry out the purposes of this Act. The breakdown shall be as follows:

	1967-68	1968-69
BANKS AND BANKING, DEPARTMENT OF		
Personal Services	(2) \$12,792	(2) \$13,441
All Other	3,667	3,667
Capital Expenditures	1,425	—
	<hr/> \$17,884	<hr/> \$17,108

Effective October 7, 1967

## Chapter 474

### AN ACT Reducing Maximum Amount and Duration of Small Loans and Establishing Equitable Rates for Small Loan Agencies.

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

**Sec. 1. R. S., T. 9, § 3001, amended.** Section 3001 of Title 9 of the Revised Statutes is amended to read as follows:

#### § 3001. Compliance required

No loan of the amount of ~~\$2,500~~ \$2,000 or less, for which a greater rate of interest, consideration or charges than is permitted by chapters 281 to 289, has been charged, contracted for or received, wherever made, shall be enforced in this State. Every person in anywise participating therein in this State shall be subject to chapters 281 to 289. The foregoing shall not apply to loans legally made in any state to a person who is at that time a resident of that state, which has in effect a regulatory small loan law similar in principle to chapters 281 to 289. **Any mail order loan made to a person residing in this State shall be governed by chapters 281 to 289.**

**Sec. 2. R. S., T. 9, § 3002, amended.** The first sentence of section 3002 of Title 9 of the Revised Statutes is amended to read as follows:

No person, corporation or partnership shall engage within this State in the business of acting as the agent or attorney of nonresident borrowers of money in sums of ~~\$2,500~~ \$2,000 or less, with intent to evade the usury laws in force in the foreign state or territory in which the actual borrower has his residence when such loan, or any contract in connection therewith, is made.

**Sec. 3. R. S., T. 9, § 3004, amended.** Section 3004 of Title 9 of the Revised Statutes is amended to read as follows:

#### § 3004. False statements

In the soliciting of loans in any manner or advertising the business in any manner, no person, copartnership or corporation licensed under section 3042 shall print, publish, broadcast, telecast or cause to be printed, published, broadcast, telecast or distributed in any manner whatsoever, any written or printed statement with regard to the rates, terms or conditions for the lending of money, credit, goods or choses in action, in amounts of ~~\$2,500~~ \$2,000 or less, which is false, misleading or deceptive.