

Chap. 727 AN ACT TO REGULATE THE BUSINESS OF MAKING SMALL LOANS.*Be it enacted, etc., as follows:*

Supervisor of
loan agencies,
appointment,
etc.

SECTION 1. There is hereby established the office of supervisor of loan agencies. The term of the office shall be for three years, and the supervisor shall be appointed by the governor, with the advice and consent of the council. His salary shall be twenty-five hundred dollars a year. He shall be furnished with an office in the state house, or elsewhere, and shall be allowed such sums for necessary expenses and for clerical assistance as may be approved by the governor and council. He shall annually on or before the first Wednesday of January transmit to the secretary of the commonwealth a report to the general court of his doings, with such recommendations and suggestions as he may deem necessary.

Duties of
district police,
etc.

SECTION 2. It shall be the duty of the district police and of the police of the cities and towns of the commonwealth to carry out the directions of the supervisor in enforcing the provisions of this act, and of any regulations made hereunder by him.

The supervisor
to have
supervision of
the business of
making small
loans.

SECTION 3. No person, partnership, corporation, or association shall directly or indirectly engage in the business of making loans of three hundred dollars or less, if the amount to be paid on any such loan, for interest and expenses, exceeds in the aggregate an amount equivalent to twelve per cent per annum upon the sum loaned, without first obtaining from the supervisor of loan agencies a license to carry on the said business in the city or town in which the business is to be transacted.

Regulations
regarding
the granting
of licenses.

SECTION 4. The supervisor shall, from time to time, establish regulations respecting the granting of licenses and the business carried on by the licensees, and by loan companies and associations established by special charter. 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 provisions of law and the regulations made hereunder. The supervisor may, if he deems it expedient, 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, corporation or association whose books are so examined.

SECTION 5. All persons, corporations and associations under his supervision shall annually, on the first day of November, make a return to the supervisor in the form of a trial balance of their books at the close of business on the thirtieth day of September preceding, and shall specify the different kinds of liabilities and the different kinds of assets, together with such other information as may be called for by the supervisor in accordance with a blank form to be furnished by him. A copy of such returns, or so much thereof as the supervisor may deem necessary, shall be forwarded with his annual report to the general court.

Returns to be made to the supervisor, etc.

SECTION 6. The supervisor may summon said licensees, companies or associations, 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 supervisor or his representatives in the performance of their duties, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

Examination of licensees, etc.

SECTION 7. The supervisor shall establish the rate of interest to be collected, and in fixing said rate shall have due regard to the amount of the loan and the nature of the security and the time for which the loan is made; but the rate shall, in no case, exceed three per cent a month; and no licensee or company or association to which this act applies, shall charge or receive upon any loan a greater rate of interest than that fixed by the supervisor.

Rate of interest, etc.

SECTION 8. Licenses granted by the supervisor shall be for a period of one year from the first day of October: *provided, however*, that licenses granted between August first and September thirtieth of the current year shall expire on the thirtieth day of September, nineteen hundred and twelve. Each license shall plainly state the name of the licensee, and the city or town, with the name of the street, and the number, if there be any, of the place in which the business is to be carried on, and shall be posted in a conspicuous place in the office where the business is transacted.

Period of licenses. Proviso.

Fee for
license, etc.

SECTION 9. The fee for all licenses granted under this act shall be not less than one hundred dollars. If the licensee desires to carry on business at more than one place he shall procure a license for each place where the business is to be conducted.

Penalty for
violations of
law.

SECTION 10. Any person, partnership, corporation or association violating any provision of this act or any regulation made hereunder shall be subject to a fine of not more than five hundred dollars, and the license may be suspended or revoked by the supervisor. Any loan upon which a greater rate of interest or expense is charged or received, than is allowed by this act and the regulations made hereunder, may be declared void by the supreme judicial court or the superior court in equity upon petition by the person to whom the loan was made.

Conditions
under which
licenses shall
be granted,
etc.

SECTION 11. A license hereunder shall not be granted until the applicant has filed with the supervisor of loan agencies a statement under 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 city or 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 supervisor of loan agencies, files with said supervisor a power of attorney, appointing a person, satisfactory to the supervisor, to be his or its attorney, upon whom all lawful process may be served, in any action or proceeding arising under the provisions of this act, 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 hereunder, a true and full statement of such change, sworn to in the manner required above in the case of the original statement, shall forthwith be filed with the supervisor of loan agencies, who may at any time, after a hearing, revoke the license.

Bond to be
given by
licensee, etc.

SECTION 12. No license shall be issued hereunder until the licensee gives to the treasurer and receiver general of the commonwealth a bond in the penal sum of five thousand dollars, executed by the licensee and by a surety company

approved by the supervisor, 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 any one of the licensees may be liable under the provisions of this act, but no suit at law or in equity shall be begun against the sureties on such a bond within thirty days after judgment against the licensee. If in any case at law or in equity against the licensee under the provisions of this act 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. In such a suit like proceedings shall be had as in a suit by a creditor on an administration bond. The supervisor 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.

Bond to be given by licensee, etc.

SECTION 13. If a greater rate of interest or amount for expenses than is allowed under the provisions of this act has been paid on any loan to which this act applies, the person who paid it may, by an action of contract, or suit in equity, recover back the amount of the unlawful interest or expenses, with twice the legal costs and no more, if such action or suit is brought within two years after the time of payment.

Certain payments of interest may be recovered back, etc.

SECTION 14. If a loan to which the provisions of this act apply is secured by a mortgage or pledge of personal property, or by an assignment of wages, the mortgage shall be discharged, the pledge restored or the assignment released, upon payment or tender of the amount legally due under the provisions of this act; and such payment or tender may be

Mortgage or pledge, etc., to be restored upon payment of loan, etc.

made by the debtor, by any person duly authorized by him, or by any person having an interest in the property mortgaged or pledged, or in the wages assigned. Whoever refuses or neglects upon request to discharge a mortgage, release an assignment or restore a pledge to the party entitled to receive the same, after payment of the debt secured thereby or the tender of the amount due thereon as aforesaid, shall be liable in an action of tort to the borrower for all damages thereby sustained by him.

SECTION 15. A mortgage or pledge of personal property or an assignment of or order for, wages or salary to which the provisions of this act apply, shall not be valid unless it states with substantial accuracy the actual amount of the loan, the time for which the loan is made, the rate of interest to be paid, and the expense of making and securing the loan, if any; nor unless it contains a provision that the debtor shall be notified, in the manner provided in section five of chapter one hundred and ninety-eight of the Revised Laws, of the time and place of any sale to be made in foreclosure proceedings at least seven days before such sale. A notice of intention to foreclose under the provisions of section five or section eight of chapter one hundred and ninety-eight of the Revised Laws shall not be valid in such a case unless it expressly states where such notice is to be recorded, and that the right of redemption will be foreclosed sixty days after such recording. At any time after twenty days from the date of any such mortgage, if the same has not been recorded, the holder thereof shall forthwith on demand and payment or tender of one dollar give to the mortgagor or any person interested in the mortgaged property, a copy of the mortgage, and of the note or other obligation secured thereby, which such holder or holders shall certify to be a true copy thereof.

SECTION 16. If a payment is made on account of a loan to which the provisions of this act apply, the person who receives the payment, or his principal, shall, when the payment is taken, give to the person paying a receipt setting forth the amount then paid and the amount previously paid, and identifying the loan, note, mortgage or assignment to which it is to be applied.

SECTION 17. Whoever not being duly licensed as provided in this act, on his own account or on account of any other person, partnership, corporation or association not so licensed, engages in or carries on, directly or indirectly,

Validity of mortgage or pledge, etc.

Receipt to be given on payment of loan, etc.

Penalty for acting without a license, etc.

either separately or in connection with or as a part of any other business, the business of making loans to which the provisions of this act apply, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment.

SECTION 18. The provisions of this act shall not affect so much of section three of chapter seventy-three of the Revised Laws as provides that, if there is no agreement for a different rate, the interest on money shall be at the rate of six dollars upon each one hundred dollars for a year.

Certain provisions of law not affected, etc.

SECTION 19. Loan companies, and loan associations established by special charter are hereby placed under the supervision of the supervisor of loan agencies, but shall be exempt from procuring a license; and all parts of any such charter inconsistent herewith are hereby repealed.

Certain companies and associations exempt from procuring a license.

SECTION 20. Upon the passage of this act the supervisor of loan agencies shall exercise all the powers in respect to the licensing and control of persons engaged in the business to which this act applies now conferred by statute upon the bank commissioner, the police commissioner of the city of Boston, the mayor and aldermen or corresponding body in other cities, and the selectmen in towns. All licenses granted by the police commissioner of the city of Boston, by the mayor and aldermen or corresponding body in other cities, by the selectmen in towns, for the conduct of the business to which this act applies shall terminate on the first day of August, nineteen hundred and eleven; but the supervisor of loan agencies, upon the payment of a fee of one hundred dollars, shall issue to the holders of licenses so terminated a license to continue the business.

Powers and duties of the supervisor, etc.

SECTION 21. Section forty-one of chapter one hundred and two of the Revised Laws is hereby amended by inserting after the word "regulations", in the second line, the words: — to the satisfaction of the supervisor of loan agencies, — so as to read as follows: — *Section 41.* The board which grants licenses to pawnbrokers shall from time to time establish regulations to the satisfaction of the supervisor of loan agencies, relative to the business carried on and the rate of interest to be charged by them; and a pawnbroker shall not charge or receive upon any loan a greater rate of interest than that fixed by the licensing board.

R. L. 102, § 41, amended.

Regulations, etc.

SECTION 22. No assignment of or order for wages or salary to be earned in the future to secure a loan of less

Assignment of wages to be accepted by employer, etc.

than three hundred dollars shall be valid against an employer of the person making such assignment or order until the assignment or order is accepted in writing by the employer, nor until the assignment or order and the acceptance of the same have been filed and recorded with the clerk of the city or town where the person making the assignment or order resides, if he is a resident of the commonwealth, or in which he is employed if he is not a resident of the commonwealth. No such assignment or order shall be recorded by the clerk of a city or town unless it states on its face that the sum of ten dollars per week, as earned, of the wages or salary so assigned is exempt from such assignment or order. No such assignment or order shall be valid when made by a married man unless the written consent of his wife to the making thereof is attached thereto. No such assignment or order shall be valid for a period exceeding one year from the making thereof.

Repeal of
certain special
acts.

SECTION 23. All parts of the charters of the Collateral Loan Company, Workingmens Loan Association, Worcester Collateral Loan Association and Chattel Loan Company inconsistent herewith are hereby repealed.

Repeal of
certain general
laws.

SECTION 24. Section sixty of chapter one hundred and two of the Revised Laws is hereby repealed, the repeal to take effect upon the thirty-first day of December, nineteen hundred and eleven. Sections fifty-seven, fifty-eight, fifty-nine, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven and sixty-eight of chapter one hundred and two of the Revised Laws, and chapter six hundred and five of the acts of the year nineteen hundred and eight, as amended by chapter three hundred and seventeen of the acts of the year nineteen hundred and nine, are hereby repealed.

Time of taking
effect.

SECTION 25. Except as is otherwise provided herein this act shall take effect upon its passage; and all acts or parts of acts inconsistent herewith are hereby repealed.

Approved July 19, 1911.

Chap. 728 AN ACT RELATIVE TO LEGISLATIVE COUNSEL AND AGENTS.
Be it enacted, etc., as follows:

R. L. 3,
amended.
Certain terms
construed.

SECTION 1. Chapter three of the Revised Laws is hereby amended by adding thereto the following: — *Section 33.* The term “legislative counsel” as used in this chapter shall be construed to mean any person who for compensation