

HOUSE No. 618

By Mr. Barnet of New Bedford, petition of Joseph E. Warner for amendment of the law regulating the conduct of collection agencies. Mercantile Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Four.

An Act regulating Collection Agencies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Sections twenty-four, twenty-five,
2 twenty-six, twenty-seven and twenty-eight of chap-
3 ter ninety-three of the General Laws, as appearing
4 in the Tercentenary edition thereof, are hereby
5 repealed.

1 SECTION 2. Chapter one hundred and forty-
2 seven of the General Laws, as appearing in the
3 Tercentenary edition thereof, is hereby amended
4 by adding after section fifty-one thereof under the
5 caption "Collection Agencies" the following new
6 sections:—

7 *Section 52.* No person, partnership, association
8 or corporation, not being an attorney at law duly
9 authorized to practice in the commonwealth, a
10 national bank or a bank or trust company incor-

11 porated in the commonwealth, shall conduct a col-
12 lection agency, collection bureau or collection office,
13 nor engage in the commonwealth in the business of
14 collecting or receiving pay ment for others of any
15 account, bill or other indebtedness, nor engage in
16 the commonwealth in soliciting the right to collect
17 or receive payment for another of any account, bill
18 or indebtedness, nor advertise for or solicit in print
19 the right to collect or receive payment for another
20 of any account, bill or other indebtedness, unless
21 such person, partnership, association or corporation,
22 or the person, partnership, association or corporation
23 for whom he or it may be acting as agent, has re-
24 ceived a license from the commissioner of public
25 safety; provided, however, that the provisions of
26 this section shall not apply to a collection agency
27 established by a public utility for the sole purpose
28 of receiving payment of its bills.

29 *Section 53.* The application for such license shall
30 be in writing and shall contain the trade name, if
31 any, under which the applicant does such collection
32 business and if owned or operated by an individual
33 the full name and address, both of residence and
34 place of business of the applicant, and if the appli-
35 cant is a co-partnership, of every member thereof,
36 or if a corporation, of each officer thereof; also the
37 city or town, with street and number, if any, where
38 the business is to be conducted; also such further
39 information concerning the applicant and his busi-
40 ness as the commissioner may require. Each such
41 applicant at the time of making such application
42 shall pay to the commissioner the sum of fifty dollars
43 as an annual license fee. If the license is issued
44 for a period of less than twelve months the license

45 fee shall be prorated according to the number of
46 months that said license shall run; provided, how-
47 ever, that the minimum fee for license shall be
48 twenty-five dollars. All fees received under the
49 provisions of this section and section fifty-five shall
50 be turned over to the general treasury for the use
51 of the commonwealth.

52 *Section 54.* The applicant shall also, at the same
53 time, file with the state treasurer a good and suf-
54 ficient bond. Said bond shall run to the state
55 treasurer and shall cover an indeterminate period
56 but it may be cancelled at any time as hereinafter
57 provided. It shall be in the sum of five thousand
58 dollars and shall provide that the person, partner-
59 ship, association or corporation, giving the same,
60 shall, upon written demand, pay and turn over to
61 and for the person, partnership, association or cor-
62 poration from whom any account, bill or other in-
63 debtedness is taken for collection the proceeds of
64 such collection in accordance with the terms of the
65 agreement upon which it was received for collection,
66 and shall further provide that the principal shall
67 conform to and abide by every provision of sections
68 fifty-two to sixty-two, inclusive, and the regulations
69 made under the authority of section sixty-two.
70 Said bond shall be in such form and shall contain
71 such further provisions and notations as the com-
72 missioner, with the advice and consent of the gov-
73 ernor and council, deems necessary or proper. Said
74 bond shall be executed by said person, partnership,
75 association or corporation as principal, with a surety
76 company as surety; or cash or securities approved
77 by the commissioner may be accepted in lieu of a
78 surety company. The bond shall not be accepted

79 unless it is approved by the commissioner. Upon
80 its approval by the commissioner, it shall be filed
81 in the office of the state treasurer. Said bond may
82 be cancelled at any time by the principal, the surety
83 company, or the state treasurer upon written notice
84 by registered mail given by the principal, the surety
85 company or the state treasurer to each of the others,
86 said notice to state the effective date of the can-
87 cellation, which shall not be sooner than within
88 thirty days of the date of the mailing of such notice.

89 *Section 55.* Upon the filing of such application
90 and bond and payment of said fee the commissioner
91 shall issue a license to the applicant to engage in
92 the business of bill collecting according to the pro-
93 visions of sections fifty-two to sixty-two, inclusive,
94 for a period which shall expire the thirty-first day
95 of December next following its issuance. Not more
96 than one place of business shall be maintained
97 under the same license, but the commissioner shall
98 issue more than one license to the same licensee
99 upon the payment of an additional license fee of
100 twenty-five dollars and the filing of an additional
101 bond for each license. Licenses may be renewed
102 annually upon the payment of a fee of twenty-five
103 dollars, and additional licenses may be renewed
104 annually upon the payment of a fee of twelve dollars
105 and fifty cents. The license shall be kept con-
106 spicuously posted in the place of business of the
107 licensee and shall not be assignable. Whenever
108 the licensee shall change his place of business, he
109 shall at once give written notice thereof to the
110 commissioner, who shall attach to the license his
111 approval in writing of the change.

112 *Section 56.* Each licensee shall keep such books

113 and records and give such receipts and like papers
114 to those with whom he does such business as, in
115 the opinion of the commissioner, will enable said
116 commissioner and creditors or debtors with whom
117 said licensee deals to determine the exact state of
118 every debt given to said licensee to collect.

119 *Section 57.* Each licensee shall, on written de-
120 mand, render a true and complete account to the
121 person, partnership, association or corporation from
122 whom any account, bill or indebtedness was taken
123 for collection and shall turn over to or for such
124 person, partnership, association or corporation the
125 proceeds of such collection within thirty days after
126 such written demand.

127 *Section 58.* Any person or any member of a part-
128 nership or officer of an association or corporation
129 who fails to comply with any of the provisions of
130 sections fifty-two to sixty-two, inclusive, or of the
131 regulations enacted under the authority of section
132 sixty-two, shall be punished by a fine of not more
133 than five hundred dollars or by imprisonment for
134 not more than three months or both.

135 *Section 59.* Whenever the commissioner, after
136 notice to a licensee and after giving him an opportu-
137 nity to be heard, shall determine that such licensee
138 has violated any of the provisions of sections fifty-two
139 to sixty-two, inclusive, or of the regulations enacted
140 under the authority of section sixty-two, he may
141 suspend the license of such licensee so violating for
142 thirty days, and for any subsequent violation he
143 shall suspend for a like or longer period or revoke
144 such license. Whenever the commissioner, after
145 notice to a licensee and after giving him an oppor-
146 tunity to be heard, is satisfied that such licensee is

147 employing an attorney at law to issue writs for a
148 nominal fee where the propriety of bringing suit,
149 the kind of process, and the details of settlement of
150 such suit are not determined by such attorney at
151 law but by such licensee, or that a constable is the
152 owner or part owner of such licensee's business or is
153 employed by such licensee in collecting bills, solicit-
154 ing business, or in any capacity other than as an
155 officer of the law, or that any illegal practice is in-
156 dulged in by such licensee, or that such licensee has
157 been guilty of oppressive conduct through unneces-
158 sary arrest, excessive attachment, the use of any
159 form of demand, notice or other document falsely
160 designed to create the impression in the mind of the
161 recipient thereof that said form of demand, notice
162 or other document has been issued pursuant to the
163 authority of a court, magistrate or other tribunal
164 of this commonwealth, or otherwise, he may sus-
165 pend the license of such licensee until satisfied that
166 such employment, ownership, illegal practice or
167 oppressive conduct has ceased and will not be re-
168 sumed, or he may revoke the license of said licensee.

169 *Section 60.* Any person, partnership, association
170 or corporation against whom charges are filed shall
171 be notified of the hearing thereof, and may appear
172 with witnesses and be represented by counsel. The
173 commissioner shall have the same powers to sum-
174 mon witnesses to attend such hearings and to swear
175 them as are conferred upon city councils and other
176 bodies by section eight of chapter two hundred and
177 thirty-three, and sections nine and ten of said chap-
178 ter shall apply to witnesses summoned as aforesaid.
179 The commissioner may make such rules and regu-

180 lations as he may deem proper for the filing of
181 charges and the conduct of hearings.

182 *Section 61.* The superior court, upon petition of
183 a person, partnership, association or corporation
184 whose license has been suspended or revoked, may
185 enter a decree revising or reversing the decision of
186 the state treasurer, if it appears that the decision
187 was clearly wrong; but prior to the entry of such
188 decree no order shall be made or entered by the
189 court to stay or supersede any suspension or revo-
190 cation of such license.

191 *Section 62.* The commissioner, subject to the
192 approval of the governor and council, shall from
193 time to time establish regulations respecting the
194 granting of licenses and the business carried on by
195 the licensees. He may, whenever he deems it neces-
196 sary, investigate the affairs of such licensees and
197 for that purpose shall have free access to the vaults,
198 books and papers of said licensee, and may ascer-
199 tain the condition of such business and whether it
200 has been transacted in compliance with the pro-
201 visions of sections fifty-two to sixty-two, inclusive,
202 and the regulations made under the provisions of
203 this section.

