

HOUSE No. 758

By Mr. Cahill of Braintree (by request), petition of Joseph E. Warner for certain amendments of the law regulating the conduct of collection agencies. Legal Affairs.

The Commonwealth of Massachusetts

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

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 amended,
4 are hereby repealed.

1 SECTION 2. Chapter ninety-three of the General
2 Laws is hereby amended by adding after section
3 twenty-three thereof the following new sections:—
4 *Section 24.* No person, partnership, association or
5 corporation, not being an attorney at law duly au-
6 thorized to practice in the commonwealth, a national
7 bank or a bank or trust company incorporated in the
8 commonwealth, shall conduct a collection agency,
9 collection bureau or collection office, nor engage in
10 the commonwealth in the business of collecting or
11 receiving payment for others of any account, bill or

12 other indebtedness, or engage in the commonwealth
13 in soliciting the right to collect or receive payment
14 for another of any account, bill or indebtedness, or
15 advertise for, or solicit in print the right to collect
16 or receive payment for another of any account, bill
17 or other indebtedness, unless such person, partner-
18 ship, association or corporation, or the person, part-
19 nership, association or corporation for which he or it
20 may be acting as agent, has received a license from
21 the state treasurer.

22 *Section 25.* The application for such license shall
23 be in writing and shall contain the trade name, if
24 any, under which the applicant does such collection
25 business, and if owned or operated by an individual
26 the full name and address, both of residence and
27 place of business of the applicant, and, if the appli-
28 cant is a co-partnership, of every member thereof,
29 or if a corporation, of each officer thereof; also of
30 the city or town, with street and number, if any,
31 where the business is to be conducted. Each such
32 applicant at the time of making such application
33 shall pay to the state treasurer the sum of one hun-
34 dred dollars as an annual license fee. If the license
35 is issued for a period of less than twelve months the
36 license fee shall be prorated according to the num-
37 ber of months that said license shall run; provided,
38 however, that the minimum fee for license shall be
39 twenty-five dollars. All fees received under the
40 provisions of this section shall be turned over to
41 the general treasury for the use of the common-
42 wealth.

43 *Section 26.* The applicant shall also, at the same
44 time, file with the state treasurer a good and suf-
45 ficient bond. Said bond shall run to the state

46 treasurer and shall cover an indeterminate period
47 but it may be cancelled at any time as hereinafter
48 provided. It shall be in the sum of five thousand
49 dollars and shall provide that the person, partner-
50 ship, association or corporation giving the same shall,
51 upon written demand, pay and turn over to and for
52 the person, partnership, association or corporation
53 from which any account, bill or other indebtedness
54 is taken for collection the proceeds of such collection
55 in accordance with the terms of the agreement upon
56 which it was received for collection, and shall further
57 provide that the principal shall conform to and
58 abide by every provision of sections twenty-four to
59 twenty-eight F, inclusive, and the regulations made
60 under the authority of said section twenty-eight F.
61 Said bond shall be in such form and shall contain
62 such further provisions and notations as the state
63 treasurer, with the advice and consent of the gov-
64 ernor and council, deems necessary or proper. Said
65 bond shall be executed by said person, partnership,
66 association or corporation, as principal, with a surety
67 company as surety; or cash or securities approved
68 by the said state treasurer may be accepted in lieu of
69 a surety company. The bond shall not be accepted
70 unless it is approved by the state treasurer after
71 having been examined and approved by the com-
72 missioner of banks. Upon its approval by the
73 treasurer, it shall be filed in his office. Said bond
74 may be cancelled at any time by the principal, by
75 the surety company, or by the state treasurer upon
76 written notice by registered mail given by the prin-
77 cipal, the surety company or the state treasurer to
78 each of the others, said notice to state the effective
79 date of the cancellation, which shall not be sooner

80 than within thirty days of the date of the mailing
81 of such notice.

82 *Section 27.* Upon filing of such application and
83 bond and payment of said fee the state treasurer
84 shall issue a license to the applicant to engage in the
85 business of bill collecting according to the provisions
86 of sections twenty-four to twenty-eight F, inclusive,
87 for a period which shall expire the thirty-first day of
88 December next following its issuance. Not more
89 than one place of business shall be maintained under
90 the same license, but said state treasurer shall issue
91 more than one license to the same licensee upon the
92 payment of an additional license fee of twenty-five
93 dollars and the filing of an additional bond for each
94 license. The license shall be kept conspicuously
95 posted in the place of business of the licensee and
96 shall not be assignable. Whenever the licensee shall
97 change his place of business, he shall at once give
98 written notice thereof to the said state treasurer,
99 who shall attach to the license his approval in writ-
100 ing of the change.

101 *Section 28.* Each licensee shall keep such books
102 and records and give such receipts and like papers
103 to those with whom he does such business as, in the
104 opinion of the state treasurer, will enable said state
105 treasurer and creditors or debtors with whom said
106 licensee deals to determine the exact state of every
107 debt given to said licensee to collect.

108 *Section 28A.* Each licensee shall, on written de-
109 mand, render a true and complete account to the
110 person, partnership, association or corporation from
111 which any account, bill or indebtedness was taken
112 for collection and shall turn over to or for such
113 person, partnership, association or corporation the

114 proceeds of such collection within thirty days after
115 such written demand.

116 *Section 28B.* Any person conducting a business
117 under the provisions of sections twenty-four to
118 twenty-eight F, inclusive, or any member of a part-
119 nership or officer of an association or corporation
120 doing such business, who fails to comply with any
121 of the provisions of said sections twenty-four to
122 twenty-eight F, inclusive, or of the regulations en-
123 acted under the authority of said section twenty-
124 eight F shall be punished by a fine of not more than
125 five hundred dollars or by imprisonment for not more
126 than three months or both.

127 *Section 28C.* Whenever the state treasurer, after
128 notice to a licensee and giving him an opportunity
129 to be heard, shall determine that such licensee has
130 violated any of the provisions of sections twenty-four
131 to twenty-eight F, inclusive, or of the regulations
132 enacted under the authority of said section twenty-
133 eight F, the state treasurer may suspend the license
134 of such licensee so violating for thirty days and for
135 any subsequent violation he shall suspend for a like
136 or longer period or revoke such license. Whenever
137 said state treasurer, after notice to licensee and after
138 giving him an opportunity, to be heard, is satisfied
139 that such licensee is employing an attorney at law
140 to issue writs for a nominal fee where the propriety
141 of bringing suit, the kind of process, and/or the de-
142 tails of settlement of such suit are not determined
143 by such attorney at law but by such licensee, or that
144 a constable is the owner or part owner of such li-
145 censee's business or is employed by such licensee in
146 collecting bills, soliciting business, or in any capacity
147 other than as an officer of the law, or that any other

148 illegal practice is indulged in by such licensee, or
149 that such licensee has been guilty of oppressive con-
150 duct through unnecessary arrest, excessive attach-
151 ment, the use of papers or documents falsely de-
152 signed to create the impression in the mind of the
153 recipient thereof that said papers or documents have
154 been issued pursuant to the authority of a court,
155 magistrate or other tribunal of this commonwealth,
156 or otherwise, the state treasurer may suspend the
157 license of such licensee until satisfied that such em-
158 ployment, ownership, illegal practice or oppressive
159 conduct has ceased and will not be resumed.

160 *Section 28D.* Any person, partnership, association
161 or corporation against which charges are filed shall
162 be notified of the hearing thereof, and may appear
163 with witnesses and be heard by counsel. The state
164 treasurer shall have the same powers to summon wit-
165 nesses to attend such hearings and to swear them as
166 are conferred upon city councils and other bodies by
167 section eight of chapter two hundred and thirty-
168 three, and sections nine and ten of said chapter shall
169 apply to witnesses summoned as aforesaid. The
170 state treasurer may make such rules and regulations
171 as he may deem proper for the filing of charges and
172 the conduct of hearings.

173 *Section 28E.* The superior court, upon petition
174 of a person, partnership, association or corporation,
175 whose license has been suspended or revoked, may
176 enter a decree revising or reversing the decision of
177 the state treasurer, if it appears that the decision
178 was clearly wrong; but prior to the entry of such
179 decree no order shall be made or entered by the court
180 to stay or supersede any suspension or revocation of
181 such license.

182 *Section 28F.* The state treasurer, subject to the
183 approval of the governor and council, shall from
184 time to time establish regulations respecting the
185 granting of licenses and the business carried on by
186 the licensees. He may, whenever he deems it
187 necessary, investigate the affairs of such licensees
188 and for that purpose shall have free access to the
189 vaults, books and papers of said licensee, and may
190 ascertain the condition of such business and whether
191 it has been transacted in compliance with the pro-
192 visions of sections twenty-four to twenty-eight F,
193 inclusive, and the regulations made under the pro-
194 visions of this section.

1 SECTION 3. Chapter ten of the General Laws is
2 hereby amended by adding after section seventeen
3 the following new section:—

4 *Section 17A.* The state treasurer may, with the
5 approval of the governor and council, appoint and
6 remove a deputy as supervisor of collection agencies,
7 who shall give bond in the sum of five thousand
8 dollars, with sufficient sureties, payable to and ap-
9 proved by the state treasurer, and, subject to the
10 approval of the governor and council, may fix his
11 compensation. Said deputy may exercise all the
12 powers and duties conferred upon the state treasurer
13 by sections twenty-four to twenty-eight F, inclusive,
14 of chapter ninety-three of the General Laws under
15 the direction of the said state treasurer.

