

AN ACT RELATIVE TO SMALL LOANS AND THE REDEMPTION OF THE SECURITY THEREFOR. *Chap. 577*

*Be it enacted, etc., as follows:*

SECTION 1. No person, corporation or copartnership engaged in the business of making loans shall make any loan secured by mortgage or pledge of household furniture or other personal property exempt from attachment, or by assignment of wages for personal service, for less than two hundred dollars and at a rate of interest greater than twelve per cent., without first having obtained a license for carrying on such business in the city or town in which such business is transacted. Such licenses may be granted by the board of police of the city of Boston in and for said city, by the mayor and aldermen of any other city in and for such city, and by the selectmen of any town in and for such town.

Small loans,  
etc.

SECTION 2. No such license shall be granted until the applicant or applicants therefor shall file with the board authorized to grant the same a statement verified by oath, which in case of a corporation may be the oath of the president thereof or the agent thereof in charge of such business, setting forth the place in the city or town where the business is to be carried on, the name or names, and the private and business address or addresses of the applicant or applicants, and, in case of a corporation, the state under the laws of which it is organized, and the name or names and private address or addresses of the clerk or secretary and the agent or other officer having charge of its proposed business, nor until the applicant or applicants shall, unless excused by the board authorized to grant the license, file with said board a power of attorney appointing some person satisfactory to the board to be his, their or its attorney, upon whom all lawful processes may be served in any action or proceeding arising under this act, with the same effect as if served upon such applicant or applicants appointing such attorney. If any change occurs in the name or address of any 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 copartnership licensed, 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

Sworn state-  
ment to be filed  
by applicant  
for license,  
etc.

Notice to be  
given of change  
in name or  
address of  
licensee, etc.

filed with the board granting the license. The board of officers granting any such license shall have full power to revoke the same for cause at any time after hearing.

Bond to be given.

SECTION 3. No license shall be issued unless or until the licensee or licensees named therein shall file with the treasurer of the city or town in which the business is to be carried on, a bond in a penal sum to be fixed by the licensing board, executed to said treasurer by said licensee or licensees, and by a surety or sureties, to be approved by the licensing board, which bond shall be conditioned for the faithful performance by the licensee or licensees, of the duties and obligations pertaining to the business so licensed, and the prompt payment of any final judgment recovered against the licensee or licensees, or for the payment of which any individual of the licensees may be legally bound under or by virtue of this act: *provided, however,* that no suit at law or in equity shall be commenced or prosecuted against said sureties or either of them on any such bond until after thirty days from the time final judgment<sup>e</sup> shall have been rendered against said licensee or licensees; but in any case at law or in equity under the provisions of this act against the licensee or licensees, when it shall be made to appear that the plaintiff is entitled to judgment or decree except for proceedings in bankruptcy or insolvency, or the discharge therein, of the licensee or licensees, 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 such bond shall be conditioned for the payment of such special judgment and compliance with such decree. Any person or persons aggrieved by a breach of the condition of such bond may sue and recover judgment upon such bond at his or their own expense and in his or their own behalf, but in the name of the obligee; and if any judgment for the defendant or defendants, for costs, shall be entered, execution therefor shall issue against the person or persons for whose benefit the suit is brought, as if he or they were the plaintiff or plaintiffs of record, but not against the obligee. In such suit like proceedings shall be had as in a suit by a creditor on an administration bond. The board issuing the license may at any time require the licensee or licensees to file one or more additional bonds of like nature and with

Proviso.

like effect, and to give full information as to all judgments recovered on, or suits pending on, his or their bonds, at any time. On failure to file any such bond required the license shall be revoked.

SECTION 4. In the case of any loan to which the provisions of this act apply, a sum not exceeding two dollars if the loan does not exceed twenty-five dollars, not exceeding ten dollars if the loan exceeds one hundred dollars, not exceeding three dollars if the loan exceeds twenty-five dollars but does not exceed fifty dollars, and not exceeding five dollars if the loan exceeds fifty dollars but does not exceed one hundred dollars, may, if both parties to the loan so agree, be paid by the borrower or borrowers or added to the debt, and taken by the lender as the expense of making and securing the loan, and such sum shall not be counted as part of the interest of such loan. No greater sum than as above-specified shall be taken for such purpose, and any sum paid, promised or taken in excess of such sum shall be deemed to be taken as interest and shall be so considered for the purposes of this act.

Limit in amount to be paid on account of loan, etc.

SECTION 5. The board of officers granting licenses in any city or town as provided in this act shall from time to time establish such rules and regulations with reference to the business carried on by the parties so licensed and the rate of interest to be charged by them as shall seem to said board to be necessary and proper. Said board in fixing said rate shall have due regard to the amount of the loan and the time for which it is made; and no person or party so licensed shall hereafter charge or receive upon any loan a greater rate of interest than that fixed by the board by which his license was issued.

Rules and regulations.

SECTION 6. When any greater rate of interest or amount for expenses than is allowed under the provisions of this act has been paid upon any loan to which the provisions of this act apply the party paying the same may either by an action of contract or suit in equity recover back the amount of the unlawful interest with twice the legal costs, and no more, provided that the action or suit for the recovery of unlawful interest or expenses shall be brought within two years from the time of payment.

Unlawful amount of interest collected may be recovered back.

SECTION 7. In case any loan to which the provisions of this act apply is secured by mortgage or pledge of

Mortgage or pledge discharged upon

payment or  
tender of sum  
due, etc.

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 sum legally due under the provisions of this act, and such payment or tender may be 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, after 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 or borrowers for all damages thereby resulting to him or them.

Mortgage or  
pledge not valid  
unless it states  
amount of  
loan, etc.

SECTION 8. No mortgage or pledge of personal property or assignment of wages to which the provisions of this act apply shall 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 for making and securing the loan; nor unless it contains a provision that the debtor shall be notified, in the manner provided in section seven of chapter one hundred and ninety-two of the Public Statutes, of the time and place of any sale to be made in foreclosure proceedings at least seven days before such sale. And no notice of intention to foreclose under sections seven or ten of said chapter shall be valid in such 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 note or obligation secured thereby, which such holder or holders shall certify to be a true copy thereof.

Copy of mort-  
gage to be fur-  
nished on  
demand, etc.

Receipt to be  
given for pay-  
ment on  
account.

SECTION 9. Whenever any payment is made on account of any loan to which the provisions of this act apply the person receiving the payment or his principal shall, when the payment is taken, give 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 10. Any person or persons not being duly licensed as provided in this act who, on his or their own account, or on account of any other person or persons, copartnership or corporation not so licensed, shall engage in or carry on, directly or indirectly, either separately or in connection with or as 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 three hundred dollars, or by imprisonment in the house of correction not more than sixty days, or by both such fine and imprisonment.

Penalty for doing business without license.

SECTION 11. Chapter three hundred and eighty-eight of the acts of the year eighteen hundred and eighty-eight and chapter four hundred and twenty-eight of the acts of the year eighteen hundred and ninety-two, shall not apply to any loan of less than two hundred dollars made by any person holding a license under this act, nor shall this act affect any right of action which has accrued under either of said acts prior to the passage of this act. Nothing in this act shall be construed to apply to licensed pawnbrokers, or to repeal or affect section thirty-four of chapter one hundred and two, or section six of chapter one hundred and ninety-two of the Public Statutes, chapter four hundred and ninety-seven of the acts of the year eighteen hundred and ninety-five, chapter one hundred and eighty-three of the acts of the year eighteen hundred and ninety-six, or so much of section three of chapter seventy-seven of the Public Statutes as provides that when there is no agreement for a different rate the interest of money shall be at the rate of six dollars upon each hundred dollars for a year.

Certain provisions of law not to apply, etc.

SECTION 12. This act shall take effect on the first day of September in the year eighteen hundred and ninety-eight.

When to take effect.

*Approved June 23, 1898.*

AN ACT RELATIVE TO STREET RAILWAYS.

*Chap. 578*

*Be it enacted, etc., as follows:*

SECTION 1. In the construction of this act, unless such meaning would be repugnant to the context, "street railways" and "railways" shall mean all railways, including tracks, poles, wires and other appliances and equipments connected therewith, which are constructed on, in, under or above the public highways or streets,

Certain terms defined.