

No. 299, S.]

[Published August 1, 1947.]

CHAPTER 462.

AN ACT to repeal 115.07 (4) and (4a) and 115.09 (1); to renumber 115.07 (3a) to be 115.07 (4) and 115.09 (2), (3), (4), (5) and (7) to be 115.09 (1), (2), (3), (4) and (5); to amend 115.07 (3), 115.07 (4) (as renumbered), 115.09 (1), (2), (3), (4) and (5) (as renumbered) and 115.09 (8), (9) and (11); to repeal and recreate 115.09 (12) and (13), and to create 115.09 (7), (14) and (15) of the statutes, relating to interest and charges, the regulation of loan associations and charges for instalment loans, providing for a board of review and the licensing of persons holding permits under and subject to certain conditions, and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 115.07 (3) of the statutes is amended to read:
 115.07 (3) (a) * * * When the payment of * * * money loaned shall be secured, or purport to be secured * * * by * * * mortgage, bill of sale, pledge, receipt or other evidence of debt upon * * * goods or property, or by assignment of wages, or by power of attorney to execute any such instrument on behalf of the borrower, whether any such instrument or the power given to execute the same, shall be valid or not, or whether any such instrument or power shall be fully executed or executed partly in blank, any person * * *, *association, copartnership, or corporation licensed under subsection (4) may take, accept * * * and charge, in addition to the interest aforesaid, * * * a service fee in an amount equal to * * * 4 per cent per annum of the * * * loan for the time of such loan, * * * disregarding part payments and the dates thereof, but not to be computed for a period exceeding one year in any event, in * * * lieu of all charges for examinations, views, fees, appraisals, commissions * * * and charges of any kind or description whatsoever in the procuring, making and transacting of the business connected with such loan * * **

(b) *The full amount of the service fee shall be fully earned at the time the contract is made without regard to the services performed and shall not be deemed interest, but if the same permittee makes a subsequent contract with the same borrower within 12 months of a prior contract for which the permittee*

has charged a service fee, the permittee shall not charge a service fee on any portion of the subsequent contract which is used to pay any portion of the prior contract, unless the permittee shall refund to the borrower a prorata portion of the service fee for each full month remaining on the contract for which a service fee has been charged, calculated in the same manner in which interest is refunded as hereinafter provided in this section.

(c) No loan made under this section shall be refinanced or renewed in whole or in part under section 115.09 or chapter 214.

(d) No permittee shall permit any person to be indebted to such permittee under this section, directly or indirectly, at any time, while such person is indebted to such permittee or an affiliate, employe or agent of such permittee under section 115.09.

(e) The amount of interest may be predetermined at the time the loan is made on the basis of the agreed rate of interest and the principal balances agreed to be outstanding and stated in the note or loan contract as an addition to the principal; provided that if any agreed balance of principal or principal and interest combined or any instalment of principal or principal and interest combined is prepaid one month or more by cash, renewal or refinancing, the unearned interest for each full month which is applicable to such agreed balance or instalment prepaid shall be refunded.

(f) Any instalment of principal or of principal and interest combined which has been delinquent more than 10 days may bear interest at the rate provided in the note or loan contract but not to exceed 10 per cent per annum.

*(g) Any person, association, copartnership or corporation who, as principal or as agent for another, shall wilfully violate any provisions of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than * * * \$100 nor more than * * * \$1,000, or by imprisonment not more than 6 months, or by both such fine and imprisonment * * *.*

SECTION 2. 115.07 (3a) of the statutes is renumbered 115.07 (4) and amended to read:

115.07 (4) Before any person, or any association, copartnership * * * or corporation, heretofore or hereafter created, shall do business under the provisions of section 115.07 (3) * * *, such person, association, copartnership * * * or corporation shall first obtain a permit from the banking commission, which

is hereby invested with the supervision of * * * such organizations. Such permit upon application shall be issued to any licensee under section 115.09 for the location specified in the license of such licensee and such permit shall remain in effect as long as said license shall continue in force. The provisions of section 115.09 (1), (2), (3), (4), (5), (6), (7f), (8), (9) and (11) shall apply to any person, association, copartnership or corporation making loans under section 115.07 (3), but a licensee under section 115.09 shall not be required to pay an additional investigation fee or an annual license fee for a permit under this subsection at the same location licensed under section 115.09.

SECTION 3. 115.07 (4) and (4a) of the statutes are repealed.

SECTION 4. 115.09 (1) of the statutes is repealed.

SECTION 5. 115.09 (2), (3), (4), (5) and (7) of the statutes are renumbered, respectively, 115.09 (1), (2), (3), (4) and (5) and amended to read:

115.09 (1) Before any person * * *, association, copartnership or corporation heretofore or hereafter created shall do business under the provisions of this section or charge the discount and fee authorized by subsection * * * (7) (a), (b) and (c), such person, association, copartnership or corporation shall first obtain a license from the banking commission. Applications for such license shall be in writing and upon forms provided for this purpose by the banking commission. Every such applicant at the time of making such application shall pay to the banking commission a fee of \$100 for investigating the application unless the applicant be licensed hereunder at some other location and the sum of \$50 as an annual license fee * * * for the period terminating on the last day of the current calendar year. In event the cost of the investigation shall exceed \$100, the applicant shall upon demand of the banking commission pay to the banking commission, the amount by which the cost of the investigation shall exceed the \$100 fee.

(2) The banking commission may also require the applicant * * * to file with the banking commission, and to maintain in force, a bond in which the applicant shall be the obligor, in * * * a sum * * * not to exceed \$5,000 with one or more corporate sureties licensed to do business in Wisconsin, whose liability as such sureties shall not exceed the sum of * * * \$5,000 in the aggregate, to be approved by the banking commission, and

* * * *such* bond shall run to the state of Wisconsin for the use of the state and of any person or persons who may have a cause of action against the * * * obligor of * * * *the* bond under the provisions of this section. Such bonds shall be conditioned that * * * *the* obligor will conform to and abide by each and every provision of this section, and will pay to the state or to any person or persons any and all moneys that may become due or owing to the state or to such person or persons from * * * *the* obligor under and by virtue of the provisions of this chapter.

(3) (a) Upon the filing of such application and the payment of * * * *such* fee, the banking commission * * * shall investigate the relevant facts, and if it shall find that the character and general fitness and the financial responsibility of the applicant * * *, and the members thereof if the applicant is a partnership or association, and the officers and directors thereof if the applicant is a corporation, warrant the belief that the business will be operated in compliance with this section the banking commission shall thereupon issue a license to said applicant to make loans in accordance with the provisions of this section * * *. If the banking commission shall not so find, it shall deny such application.

(b) Every license shall remain in force and effect until the same shall have been suspended or revoked in accordance with the provisions of this section or surrendered by the licensee, and every license shall, on or before each December 10, pay to the banking commission the annual license fee for the next succeeding calendar year; provided that the license fee for the period from the effective date (1947) of this section to December 31, 1947 shall be \$25.

(c) Such license shall not be assignable and shall permit operation under it * * * only at or from the location specified in the license at which location all loans shall be consummated, but this provision shall not prevent the licensee from making loans under this section at an auction sale conducted or clerked by a licensee.

(d) A separate license shall be required for each place of business maintained by the licensee. Whenever a licensee shall change the address of its place of business to another location within the same city, village or town the licensee shall at once give written notice thereof to the banking commission, which shall replace the original license with an amended license show-

ing the new address, provided the location meets with the requirements of paragraph (e). No change in the place of business of a licensee to a different city, village or town shall be permitted under the same license.

(e) A licensee may conduct, and permit others to conduct, at the location specified in its license hereunder, any one or more of the following businesses: A loan, finance or discount business under section 115.07 (4), or under section 218.01, or under chapter 214, or an insurance business, or a currency exchange under section 218.05; but merchandise shall not be sold at such location; and no other business shall be conducted at such location unless written authorization is granted the licensee by the banking commission. The foregoing provisions shall not bar licensees under 115.09 or permit holders under 115.07 (4) (formerly section 115.07 (3a)) who operated under such licenses or permits on January 1, 1947, from continuing their operation at the same location.

(f) Every licensee shall make an annual report to the banking commission for each calendar year on or before * * * March 15 of the following year. Such report shall cover business transacted by * * * the licensee under the provisions of this section and shall * * * give such reasonable and relevant information as the banking commission may require.

* * *

Such reports shall be made upon blanks furnished by the * * * banking commission and shall be signed and verified by the oath or affirmation of the licensee if an individual, one of the copartners if a copartnership, or by an officer of the corporation or association if a corporation or association. Any licensee operating under the provisions of this section shall keep the records affecting loans made pursuant to the provisions of this section separate and distinct from the records of any other business of * * * such licensee.

(4) The banking commission for the purpose of discovering violations of this chapter may cause an investigation to be made of the business of the licensee transacted under the provisions of * * * this section, and shall cause an investigation to be made of convictions reported to it by any district attorney for violation by a licensee of any of the provisions of this chapter. * * * The place of business, books of account, papers, records, safes and vaults of said licensee shall be open to inspection and

examination by the banking commission or its representative for the purpose of such investigation and * * * the commission shall have authority to examine under oath all persons whose testimony it may require relative to said investigation. The * * * commission may, upon notice to the licensee and reasonable opportunity to be heard, *suspend or revoke such license after such hearing, (a) if the licensee has violated any provision of this chapter and if it shall determine such violation justifies the suspension or revocation of * * * the license * * *; (b) if any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the commission in refusing to issue such license; and (c), if the licensee has failed to pay the annual license fee or to maintain in effect the bond, if any, required under subsection (2). Any licensee and any other person, association, copartnership or corporation aggrieved by any order of the banking commission shall have the right to appeal to the board of review under this section, provided a written notice of appeal is served upon the banking commission and upon the chairman or secretary of the board of review under this section within 10 days from the date of the banking commission order. Upon service of a written notice of appeal as herein provided the board of review shall hold a hearing within a reasonable time thereafter. The board of review shall give the parties a written notice of the time and place said hearing will be held. The cost of any investigation or examination or hearing, including witness fees or any other expenses, conducted by the banking commission or the board of review shall be paid by the licensee so examined or by the appellant within 30 days after demand therefor by the commission, and the state may maintain an action for the recovery of such costs and expenses in any court of competent jurisdiction, except that no cost shall be charged an appellant by the board of review unless the board shall sustain the banking commission.*

(5) No licensee or other person, association, copartnership or corporation subject to this section or section 115.07 shall print, display, publish, * * * distribute * * * or broadcast, or cause to be printed, displayed, published, * * * distributed or broadcast in any manner whatsoever any * * * statement with regard to the rates, terms or conditions for the lending of money, credit, goods or things in action * * * which is false or calculated to

deceive. In any advertisement which states or indicates the amount of a loan, the amount of an instalment, or the amount of the charge:

(a) The amount of loan shall be the net proceeds to the borrower after deducting the discount and service fee; if such discount and service fee are not deducted, it shall be the face of the loan;

(b) The statement of the amount of an instalment shall also indicate the number of instalments required to pay the loan contract and the interval between each instalment; and

(c) The amount of the charge shall be the total of the discount and service fee for repayment of the loan contract according to its terms. Any advertisement which states or gives the amount of the charge or the amount of an instalment shall also state and give the amount of the charge in terms of percentage per annum of simple interest.

SECTION 6. 115.09 (8), (9) and (11) of the statutes are amended to read:

115.09 (8) Every licensee shall:

(a) Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount and date of the * * * note and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, * * * the amounts of discount and service fee, stated separately, the proceeds of the loan after deducting such discount and service fee, a description of the payment schedule and the default charge. The statement shall also indicate that the borrower may prepay his loan in whole or in part and that if the loan is prepaid in full the borrower will receive a refund of discount as provided by this section. The statement shall also indicate the percentage per annum of interest charged in the transaction.

(b) Give to the borrower a plain and complete receipt for all cash payments made on account of any such loan at the time such payments are made.

(c) Permit payments of the loan in whole or in part prior to its maturity * * *.

(d) Upon repayment of the loan in full mark indelibly every paper signed by the borrower with the word "Paid" or "Cancelled" and execute and deliver a written release of any mortgage, which has been recorded, restore any pledge, cancel and

return any note, mortgage, * * * assignment or other document given by the borrower as security or as evidence of indebtedness.

(e) Take no note, promise to pay, security nor any instrument in which blanks are left to be filled in after the loan has been made except that a detailed description or inventory of the security may, with the written consent of the borrower within 10 days thereafter.

(9) (a) No person, association, copartnership or corporation, except as authorized by this section * * * or other statutes of this state, shall directly or indirectly charge, contract for or receive any interest or consideration greater than 10 per cent per annum upon the loan; use or forbearance of money, goods or things in action, or upon the loan, use or sale of credit. The foregoing prohibition shall apply to any person who as security for any such loan, use or forbearance of money, goods or things in action, or for any such loan, use or sale of credit, makes a pretended purchase of property from any person and permits the owner or pledger to retain the possession thereof, or who by any device or pretense of charging for his services or otherwise seeks to obtain a greater compensation than is authorized by this section.

(b) No loan made under this section, or section 115.07 (3) in an amount of \$2,000 or less excluding charges for which a greater rate or amount of interest, discount, service fee or other charge, than is allowed by * * * the section under which the loan is made, has been contracted for or received, wherever made, shall be enforced in this state, and every person, association, copartnership or corporation in any wise participating therein in this state shall be subject to the provisions of this section; provided, that if a licensee makes an excessive charge as the result of an unintentional mistake, but upon demand makes correction of such mistake, the loan shall be enforceable and treated as if no violation occurred.

(11) (a) The banking commission shall have power to employ necessary examiners or clerks from time to time and fix their compensation.

(b) The banking commission shall appoint a board of review composed of 5 members, at least 3 of which shall be chosen from the licensees under this section, or the members of a licensed copartnership, or the officers, directors or employes of a licensed Wisconsin corporation, and have had at least 5 years active ex-

perience in licensed consumer credit lending. But if a consumer credit board of review is established by enactment of another statute, such other statute shall be deemed to supersede paragraphs (b) to (e).

(c) The original board of review shall be appointed, one member for a one year term, one for a 2 year term, one for a 3 year term, one for a 4 year term and one for a 5 year term, and thereafter each member shall be appointed for a 5 year term. Vacancies shall be filled by the banking commission.

(d) Each new board of review shall meet promptly after appointment on call by the banking commission, shall elect a chairman and secretary, formulate rules of procedure and keep minutes of its meetings. The board shall hear and determine all appeals and make its decisions in writing. All minutes, rules, decisions and other records of the board shall be filed with the banking commission.

(e) The board shall meet on call of the banking commission or on call of any 3 of its members to advise with the banking commission on matters in reference to this section or section 115.07 (3) and (4). The members of the board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses which shall be audited, paid and charged to the appropriation of the commission for the administration of this section.

(f) Any decision of the board of review shall be subject to judicial review as provided in chapter 227 notwithstanding any contrary provision in section 227.15.

SECTION 7. 115.09 (7) of the statutes is created to read:

115.09 (7) (a) It shall be lawful for any person, association, copartnership, or corporation licensed under this section to deduct the discount and service fee authorized by paragraphs (b) and (c) from a loan which is repayable in substantially equal instalments at approximately equal intervals of time over a period not exceeding 30-1/2 months; provided that the total indebtedness under this section of any person, as borrower, endorser, guarantor or comaker, to the same licensee shall not exceed \$2,000 after excluding such charges. When a loan contract provides for instalments payable at monthly intervals, a first interval of not more than 45 days and not less than 15 days may be treated as a monthly interval.

(b) The discount may be any sum not exceeding 8 per cent

a year for the first \$300 and 7 per cent a year for any additional amount, computed on the original face amount of the contract for the full period of the contract; provided that if the contract is prepaid in full by cash, renewal or refinancing, the portion of the discount shall be refunded which is applicable to the full instalment periods (or the full months if the instalment period exceeds one month) originally scheduled to follow the date of prepayment. The amount of such refund shall be as great a proportion of the original discount as the sum of the balances scheduled to be outstanding during the full instalment periods following the date of prepayment bears to the sum of the balances scheduled to be outstanding for all instalment periods in the loan contracts; provided that when the instalment periods exceed one month, the proportion shall be determined according to the balances scheduled to be outstanding during consecutive monthly periods.

(c) The service fee shall not exceed 2 per cent of the original face amount of the contract or \$20, whichever sum is smaller, and shall be in lieu of all fees, charges and expenses in connection with procuring, making or servicing the loan except as provided by paragraphs (d) and (f). The full amount of the service fee shall be fully earned at the time the contract is made, without regard to the services performed and shall not be deemed interest, but if the same licensee makes a subsequent contract with the same borrower within 4 months of a prior contract for which the licensee has charged a service fee, the licensee shall not charge a service fee on any portion of the subsequent contract which is used to pay any portion of the prior contract. No licensee shall split up or divide a loan into 2 or more contracts or make any additional loan to the same borrower within a period of 30 days, for the purpose of obtaining a greater amount of service fee than would otherwise be permitted. No licensee or an affiliate, employe or agent of such licensee shall make a loan, under section 115.07 (3), to renew or refinance a loan made by such licensee under this section, unless the resulting loan under section 115.07 (3) exceeds \$2,000.

(d) In case of default lasting more than 10 days, the licensee may charge one per cent of the amount in default, and if the default lasts more than 20 days the licensee may charge an additional one per cent for each succeeding period of 20 days or fraction thereof. No default charge may be made after ac-

celeration of maturity, unless the licensee gives the same refund of discount which would be required if the contract had been prepaid in full on the date of such acceleration of maturity.

(e) In addition to the discount, service fee, and default charge provided for in paragraphs (a), (b), (c) and (d), no further or other amount whatsoever shall be directly or indirectly charged, contracted for, deducted, or received, except as provided by paragraph (f). In lieu of deducting the discount and service fee and charging the default charge authorized in paragraphs (b), (c) and (d), a licensee may contract for and receive a rate of charge not exceeding that rate which, computed on scheduled unpaid balances of the proceeds of the loan contract, would produce an amount of charge equal to the total of the discount and service fee which could be deducted from such loan contract, and such rate of charge may be computed on actual unpaid principal balances from time to time outstanding until the loan is fully paid. When such rate of charge is made in lieu of other charges, the provisions of paragraphs (b), (c) and (d) relating to refunds, the service fee on subsequent contracts or additional loans, and the default charge, shall not apply to such loans; the amount or rate of such charge shall be used in lieu of the amount of discount and service fee under subsection (5); and such rate of charge shall be shown in lieu of the discount, service fee, default charge and refund of discount in the statement to the borrower required under subsection (8) (a).

(f) A licensee may require the borrower to provide insurance on property other than household goods, given as security for any loan made under this section, provided that the amount and term of such insurance and the risks covered thereby shall be related to and commensurate with the amount and term of the loan and the type and value of such property. The licensee may accept, but shall not require, term insurance on the life of the principal borrower in amounts not exceeding the declining unpaid balances of the loan, and insurance against liability arising out of the ownership or maintenance of any motor vehicle given as security for the loan. Any insurance permitted hereunder shall be effected at standard and lawful premiums through any licensed insurance agent or company selected by the borrower. The purchase of such insurance through the licensee or an agent or broker designated by the licensee shall

not be a condition precedent to the granting of the loan. If a borrower procures insurance through the licensee or an officer or employe or an affiliate of the licensee, the licensee shall deliver to the borrower within 20 days after the making of the loan, an executed copy of the insurance policy or certificate of insurance, and the cost of such insurance shall be shown in the statement delivered to the borrower required under subsection (8) (a). The premiums on such insurance and any commissions thereon may be received by the licensee in addition to the charges otherwise authorized under this section. The provisions of this paragraph shall not be deemed to alter or amend the statutes of this state relating to insurance or to affect the power of the commissioner of insurance to grant, revoke, or deny licenses.

SECTION 8. 115.09 (12) and (13) of the statutes are repealed and recreated to read:

115.09 (12) No person, association, copartnership or corporation doing business under the authority of any law of this state or of the United States relating to banks, savings banks, trust companies, savings or building and loan associations, or credit unions shall be eligible to become a permit holder or licensee under this section or section 115.07 (4).

(13) Any person, association, copartnership or corporation who or which has held a permit under section 115.07 (3a) for one year prior to the effective date of this act shall upon application to the banking commission, made within 6 months from the effective date hereof, and upon the payment of a \$100 investigation fee, be granted a license hereunder at the location specified in such permit; provided that the banking commission shall not grant such license if it shall find that the applicant by reason of character, general fitness, financial responsibility or otherwise, as provided in section 115.09 (2), (3), (4) and (5), is not qualified to receive or to hold or to operate under such license. If this subsection shall become effective July 1, 1947, any person holding a license under this section at the time of such effective date shall, upon payment to the commission prior to July 1, 1947 of the \$25 license fee for the period from such effective date to December 31, 1947; be granted a license under subsection (3) (a). If this subsection shall not become effective until after July 1, 1947, any licensee under this section whose license shall have been renewed for the period from

July 1, 1947 to June 30, 1948, on payment of the annual license fee of \$50, shall be granted a license under subsection (3) (a), and the \$50 shall be applied on the license fees due from said licensee under subsection (3) (b).

SECTION 9. 115.09 (14) and (15) of the statutes are created to read:

115.09 (14) The changes made in section 115.07 and this section on the effective date hereof (1947) shall not be construed so as to impair or affect the obligation of any loan contract lawfully made prior to such effective date.

(15) The legislature intends that the provisions contained in the several sections of this chapter shall be independent of each other and that the invalidity, for any reason, of any provision shall not affect the validity of any other provision.

SECTION 10. This act, if passed and published prior to July 1, 1947, shall become effective July 1, 1947; and if passed and published on or subsequent to July 1, 1947 shall become effective 10 days after publication.

Approved July 30, 1947.

No. 53, S.]

[Published August 2, 1947.

CHAPTER 463.

AN ACT to amend 42.20 ("Required deposit"), 42.40, 42.41 (1), 42.42 (1), 42.45 (1), 42.49 (3) and (4) and to create 42.49 (8) of the statutes, relating to the state retirement system.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 42.20 (paragraph entitled "Required deposit") of the statutes is amended to read:

42.20 (paragraph entitled "Required deposit") "Required deposit" means the deduction * * * *in accordance with sections 42.40 and 42.42 (1)* from the compensation received by a senior teacher deposited in the retirement fund.

SECTION 1a. 42.40 of the statutes is amended to read:

42.40 Each senior teacher shall make a deposit in the retirement deposit fund equal to * * * 6 per cent of all compensation received for teaching service performed by such teacher.