

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
103rd LEGISLATURE

HOUSE AMENDMENT "A" to H.P. 964, L.D. 1465, Bill, "An Act Providing for Disclosure of Interest and Finance Charges on Loans."

Amend said Bill in that part designated "§3801." of section 1 by inserting at the end of subsection 8, a blocked paragraph of subsection 8, to read as follows:

'For purposes of disclosure, the finance charge does not include any charges which are contingent upon the default of the buyer, such as delinquency charges or the costs of repossession or reselling collateral.'

Further amend said Bill by adding at the end of that part designated "§3808." of section 1 the following underlined sentence:

'A statement in any advertisement of a rate greater than the simple annual interest rate shall be deemed a compliance with this section.'

Further amend said Bill by striking out all of those sections designated "§3809.", "§3810." and "§3811." of section 1 and inserting in place thereof the following:

'§3809. Rules and regulations

The commissioner may prescribe from time to time such rules and regulations as may be necessary or proper in carrying out this chapter. In prescribing rules and regulations with respect to any particular type of credit transaction, the commissioner shall consider whether in such transactions compliance with the disclosure requirements of this chapter is being achieved under any other law. Any creditor who violates the rules and regulations of the commissioner shall be subject to the penalties provided in section 3810.

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(Filing No. H-446)

§3810. Penalties

1. Failure to disclose; action. Any creditor who in connection with any transaction subject to this chapter fails to disclose to any person any information in violation of this chapter or any regulation issued thereunder shall be liable to such person in the amount of \$50, or in an amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed \$1,000 on any transaction. Action to recover such penalty may be brought by such person within one year from the date of the occurrence of the violation, in any court of competent jurisdiction. In any such action, no person shall be entitled to recover such penalty solely as the result of erroneous computation of any percentage required by this chapter, if the percentage disclosed was in fact greater than the percentage required to be disclosed by this chapter, or if the percentage disclosed was in fact less than the percentage required to be disclosed, but the difference between the rate disclosed and the rate required is not greater than 1% annually computed on the basis of the true interest rate. In any action under this subsection in which any person is entitled to a recovery, the creditor shall be liable for reasonable attorneys' fees and court costs as determined by the court. As used in this subsection, the term "court of competent jurisdiction" means any court of the State of Maine of competent jurisdiction regardless of the amount in controversy.

2. Validity. Except as specified in subsection 1, nothing contained in this chapter or any regulation thereunder shall affect the validity or enforceability of any contract or transaction.

3. Penalty. Any person who willfully or repeatedly violates any provision of section 3808 shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.'

Filed by Mr. Scribner of Portland.

Reproduced and distributed under the direction of the Clerk of the House.

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