

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1714

H. P. 1729 Office of the Clerk of the House
Submitted by the Department of Business Regulation pursuant to
Joint Rule 24. Reference to the Committee on Business Legislation
suggested and 1,400 ordered printed. Approved for introduction by the
Legislative Council pursuant to Joint Rule 26.

EDWIN H. PERT, Clerk
Presented by Representative Brannigan of Portland.
Cosponsor: Representative Pouliot of Lewiston.
Representative Perkins of Brooksville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-TWO

**AN ACT to Clarify the First Lien Mortgage Exemption
in the Maine Consumer Credit Code.**

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 9-A MRSA §1-202, sub-§8, as last amended by PL
1979, c. 660, §1 is repealed and the following enacted in
its place:**

8. A loan or credit sale secured by a first mortgage
on real estate, other than a mobile home transaction, and
for which the security interest is granted for the purpose
of purchasing or constructing a residence of 4 units or
less. For the purposes of this subsection, "mobile home"
means a structure, transportable in one or more sections,

1 which is 8 body feet or more in width and is 32 body feet or
2 more in length, and which is built on a permanent chassis
3 and designed to be used as a dwelling with or without perma-
4 nent foundation when connected to the required utilities,
5 and includes the plumbing, heating, air conditioning and
6 electrical systems contained in the structure. The exemption
7 provided by this subsection shall be applicable to a super-
8 vised lender other than a supervised financial organization
9 for the following provisions and no others: Maximum finance
10 charge limitations, sections 2-308 and 2-401; limitations on
11 security interest, section 2-307; deferral charges, section
12 2-502; limitations on attorneys' fees, section 2-507; notice
13 to consumer, section 3-202; and notice of right to cure de-
14 fault, sections 5-110 and 5-111.

15 Sec. 2. 9-A MRSA §2-502, sub-§6, as enacted by PL
16 1981, c. 281, §1, is repealed.

17 Sec. 3. 9-A MRSA §2-507, sub-§3, as enacted by PL
18 1981, c. 281, §2, is repealed.

19 Sec. 4. 9-A MRSA §3-202, first sentence, as amended by
20 PL 1981, c. 281, §3, and c. 293, §3, is repealed and the
21 following enacted in its place:

22 A written agreement which requires or provides for the
23 signature of the consumer and which evidences a consumer
24 credit transaction other than one pursuant to open-end
25 credit shall contain a clear, conspicuous and printed notice
26 to the consumer that he should not sign the agreement before
27 reading it, and that he is entitled to a copy of the agree-
28 ment.

29 Sec. 5. 9-A MRSA §5-110, sub-§5, as enacted by PL
30 1981, c. 281, §4, is repealed.

31 Sec. 6. 9-A MRSA §5-111, sub-§5, as enacted by PL
32 1981, c. 281, §5, is repealed.

33 Statement of Fact

34 The Maine Consumer Credit Code's exemption for certain
35 first lien mortgage loans secured by real estate has several
36 anomolous results: While a first lien mortgage loan made by
37 a financial institution, bank, savings and loan association,
38 is exempt, a first lien mortgage loan made by a licensed
39 lender is not; the current exemption for financial insti-
40 tutions is too broad in that it encompasses a first lien
41 loan made for debt consolidation purposes as well as the

1 conventional home mortgage loan made for the purpose of ac-
2 quisition or construction; and the current exemption encom-
3 passes loans but not credit sales which arise when the owner
4 or developer directly finances the sale of his own property.
5 Therefore, the purpose of this bill is to adopt a uniform
6 approach to the regulation (or deregulation) of credit
7 transactions involving a first lien on real estate. This
8 clarification is important in order to allow mortgage bank-
9 ers and other licensed lenders to compete on an equal foot-
10 ing with traditional home mortgage lenders, such as banks
11 and savings and loan associations. In addition, the pro-
12 posed bill will close a loophole in the current law which
13 exempts a first lien mortgage loan made by financial insti-
14 tutions for traditional consumer loan purposes.

15 This bill will deregulate the maximum interest rate
16 allowable for a first lien mortgage loan granted by any
17 creditor for the purpose of acquisition or construction of a
18 residence. Mortgage bankers or other nontraditional home
19 mortgage lenders would not be subjected to the 18% interest
20 rate cap of the Code. While this will expand the type of
21 transactions exempt from the Code, another result will be to
22 include transactions currently not regulated by the Code,
23 that is, a first lien home mortgage loan granted for other
24 than purchase or construction. The latter transaction
25 occurs when the creditor seeks a security interest in real
26 estate for debt consolidation or home improvement purposes,
27 for example.

28 Finally, the bill would exempt credit sales as well as
29 loans secured by a first lien in real estate if made for the
30 purpose of acquisition or construction.

31 The bill would conform to the Maine Consumer Credit
32 Code to the approach adopted in most other states who have
33 adopted a version of the Uniform Consumer Credit Code. The
34 intent is to focus on the purpose of the home mortgage loan
35 for the purposes of defining the exemption, and not, as is
36 currently the case, the type of creditor making the loan.