

# MAINE STATE LEGISLATURE

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D. OF R.

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L.D. 1817

(Filing No. S-408)

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STATE OF MAINE  
SENATE  
110TH LEGISLATURE  
SECOND REGULAR SESSION

6 COMMITTEE AMENDMENT "A" to S.P. 759, L.D. 1817, Bill,  
7 "AN ACT to Amend the Maine Consumer Credit Code Regarding  
8 Second Mortgages and Mobile Homes."

9 Amend the bill by striking out all of the title and  
10 inserting in its place the following:

11 'AN ACT to Amend the Maine Consumer Credit Code Regarding  
12 First Mortgages and Mobile Homes.'

13 Further amend the bill by inserting before the enacting  
14 clause the following:

15 Emergency preamble. Whereas, Acts of the Legislature  
16 do not become effective until 90 days after adjournment  
17 unless enacted as emergencies; and

18 Whereas, there is a serious housing shortage in Maine;  
19 and

20 Whereas, Maine citizens do not enjoy full access to  
21 much needed alternative sources of home financing because,  
22 unlike traditional sources, these alternatives remain sub-  
23 ject to various restrictions under state law; and

24 Whereas, although mobile homes have become a desirable  
25 form of housing for many Maine citizens, mobile home loans  
26 and credit sales are subject to interest rate ceilings  
27 which, under current conditions, restrict the availability  
28 of financing; and

29 Whereas, in the judgment of the Legislature, these  
30 facts create an emergency within the meaning of the Consti-  
31 tution of Maine and require the following legislation as  
32 immediately necessary for the preservation of the public  
33 peace, health and safety; now, therefore,'

34 Further amend the bill by striking out everything after  
35 the enacting clause and inserting in its place the follow-

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2 ing:

3 'Sec. 1. 9-A MRSA §1-202, sub-§8, as last amended by  
4 PL 1979, c. 541, Pt. A, §86 and c. 660, §1, is repealed and  
5 the following enacted in its place:

6 8. A loan made by a supervised lender when the loan is  
7 secured by a first mortgage on real estate and the security  
8 interest in real estate is not made for the purpose of  
9 circumventing or evading this Act. With respect to a super-  
10 vised lender other than a supervised financial organiza-  
11 tion, the exemption provided by this subsection shall be  
12 limited to residential mortgage transactions as defined in  
13 section 8-103, subsection 1, paragraph H and shall apply to  
14 the following provisions and no others: Maximum finance  
15 charge limitations, sections 2-308 and 2-401; limitations on  
16 security interest, section 2-307; delinquency charges,  
17 section 2-502; limitations on attorney's fees, section  
18 2-507; notice to consumer, section 3-202; and notice of  
19 right to cure default, sections 5-110 and 5-111.

20 Sec. 2. 9-A MRSA §1-301, sub-§24-A is enacted to read:

21 24-A. "Mobile home" means a structure, transportable  
22 in one or more sections, which is 8 body feet or more in  
23 width and is 32 body feet or more in length, and which is  
24 built on a permanent chassis and designed to be used as a  
25 dwelling with or without permanent foundation when connected  
26 to the required utilities, and includes the plumbing, heat-  
27 ing, air conditioning and electrical systems contained  
28 therein.

29 Sec. 3. 9-A §2-201, sub-§10 is enacted to read:

30 10. Notwithstanding any other subsection, the finance  
31 charge on a mobile home transaction may not exceed the maxi-  
32 imum rate established by federal regulations pursuant to the  
33 National Housing Act, 12 United States Code, Section 1709-1,  
34 as amended, or the Veterans Housing Act of 1970, 38 United  
35 States Code, Section 1819 (f), as amended, and published  
36 from time to time in the Federal Register, 24 Code of Fed-  
37 eral Regulations, Part 201 or 38 Code of Federal Regula-  
38 tions, Part 36, respectively. In the event of a difference  
39 between these rates, the highest rate established for a  
40 transaction involving a mobile home without land shall pre-

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2 vail. In the event that no specific maximum rate is estab-  
3 lished by federal regulation in accordance with this subsec-  
4 tion, this subsection shall not apply.

5 Sec. 4. 9-A MRSA §2-401, sub-§8 is enacted to read:

6 8. Notwithstanding any other subsection, the finance  
7 charge on a mobile home transaction may not exceed the maxi-  
8 um rate established by federal regulations pursuant to the  
9 National Housing Act, 12 United States Code, Section 1709-1,  
10 as amended, or the Veterans Housing Act of 1970, 38 United  
11 States Code, Section 1819 (f), as amended, and published  
12 from time to time in the Federal Register, 24 Code of Fed-  
13 eral Regulations, Part 201 or 38 Code of Federal Regula-  
14 tions, Part 36, respectively. In the event of a difference  
15 between these rates, the highest rate established for a  
16 transaction involving a mobile home without land shall pre-  
17 vail. In the event that no specific maximum rate is estab-  
18 lished by federal regulation in accordance with this sub-  
19 section, this subsection shall not apply.

20 Sec. 5. 9-A MRSA §2-502, sub-§6, as enacted by PL  
21 1981, c. 281, §1, is repealed.

22 Sec. 6. 9-A MRSA §2-507, sub-§3, as enacted by PL  
23 1981, c. 281, §2, is repealed;

24 Sec. 7. 9-A MRSA §3-202, as amended by PL 1981, c.  
25 293, §3 and c. 281, §3, is repealed and the following  
26 enacted in its place:

27 §3-202. Notice to consumer

28 A written agreement which requires or provides for the  
29 signature of the consumer and which evidences a consumer  
30 credit transaction other than one pursuant to open-end  
31 credit shall contain a clear, conspicuous and printed notice  
32 to the consumer that he should not sign the agreement before  
33 reading it, and that he is entitled to a copy of the agree-  
34 ment. The following notice, if clearly and conspicuously  
35 printed, complies with this section:

36 NOTICE TO CONSUMER: 1. Do not sign this agreement  
37 before you read it. 2. You are entitled to a copy of  
38 this agreement.

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2 Sec. 8. 9-A MRSA §5-110, sub-§5, as enacted by PL  
3 1981, c. 281, §4, is repealed.

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

6 Further amend the bill by inserting before the state-  
7 ment of fact the following:

8 'Emergency clause. In view of the emergency cited in  
9 the preamble, this Act shall take effect when approved.'

10

#### STATEMENT OF FACT

11 A loan made by a financial institution and secured by a  
12 first mortgage on real estate is presently exempt from the  
13 Maine Consumer Credit Code, provided that the loan doesn't  
14 involve a mobile home. This amendment eliminates this dis-  
15 tinction between first mortgage loans that involve mobile  
16 homes and those that don't. The amendment also extends an  
17 exemption from certain parts of the code to mortgage loan  
18 companies where the first mortgage loan is made to enable  
19 the consumer to buy or build his home. Finally, the amend-  
20 ment lifts the code's interest rate ceiling on credit sales  
21 of or consumer loans for mobile homes and substitutes the  
22 maximum rate fixed by the Federal Government for mobile home  
23 loans guaranteed by the Veterans Administration or Farmers  
24 Home Administration. If no specific maximum rate is fixed  
25 by the Federal Government for such loans, then the code's  
26 rate ceiling is reimposed.

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Reported by the Committee on Business Legislation.

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