

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 188

6  
7 H.P. 154

House of Representatives, January 29, 1985

8 Reference to the Committee on Business and Commerce suggested and  
9 ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Amend the Maine Consumer Credit  
18 Code.  
19

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

22 Sec. 1. 9-A MRSA §3-206, sub-§6, as enacted by  
23 PL 1981, c. 638, §7, is repealed and the following  
24 enacted in its place:

25 6. Definitions. As used in this section, unless  
26 the context indicates otherwise, the following terms  
27 have the following meanings.

28 A. "Consumer credit transaction" means, with re-  
29 spect to open-end credit, an open-end credit plan  
30 or open-end credit account and the notices re-  
31 quired by subsection 1, paragraph B and the no-  
32 tice described in subsection 2 shall be given be-  
33 fore the first extension of credit pursuant to  
34 the open-end account.

1        B. "Cosigner, comaker, guarantor, endorser,  
2        surety or other similar party" means a natural  
3        person who renders himself liable for the obliga-  
4        tion or another person without compensation. The  
5        terms include any person whose signature is re-  
6        quested as a condition to granting credit to an-  
7        other person, or as a condition forebearance on  
8        collection of another person's obligation that is  
9        in default. The term does not include a spouse  
10       whose signature is required on a credit obliga-  
11       tion to perfect a security interest pursuant to  
12       state law. A person who does not receive goods,  
13       services or money in return for credit obligation  
14       does not receive compensation within the meaning  
15       of this definition. A person is a cosigner  
16       within the meaning of this definition whether or  
17       not he is designated as such on a credit obliga-  
18       tion.

19       Sec. 2. 9-A MRSA §3-206, sub-§8 is enacted to  
20 read:

21       8. Notice not required where cosigners given no-  
22       tice in conformance with certain federal regulations.  
23       The notice described in subsection 2 shall not be re-  
24       quired in any consumer credit transaction in which  
25       the creditor gives a notice to cosigners in the form  
26       set forth in regulations promulgated by the Federal  
27       Trade Commission or the Federal Reserve Board.

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STATEMENT OF FACT

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Maine was one of the first states to provide special protection to cosigners and similar parties by giving them warning before they entered into consumer credit transactions.

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The Federal Trade Commission has now followed suit by providing nationwide protection to cosigners under a federal regulation that goes into effect March 1, 1985, 16 Code of Federal Regulations, Section 444. The federal regulation provides a specific notice to cosigners that is similar to but different from the form presently required under the Maine Revised Statutes, Title 9-A, section 3-206. The federal regulation does not provide an exemption where state law has similar but different protections. Maine and federal law will require 2 separate notices serving the same purpose unless the Maine Consumer Credit Code is corrected to harmonize with federal regulations.

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The purpose of this bill is to harmonize state and federal requirements by: (1) Incorporating the federal definition of "cosigner" into the Maine Consumer Credit Code; and (2) establishing that the Maine form of notice need not be given if the creditor actually gives the federal form of notice in a consumer credit transaction.

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