

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

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1987

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## CHAPTER 127

H.P. 1033 — L.D. 1391

## AN ACT to Regulate the Location of Vending Machines Containing Cigarettes.

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

22 MRSA c. 265-B is enacted to read:

## CHAPTER 265-B

## VENDING MACHINE SALES OF CIGARETTES

§1628. Vending machine sales of cigarettes limited to supervised areas

1. Definition. For purposes of this chapter, "vending machine" means any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes.

2. Violation. It is unlawful for any person, firm or corporation to knowingly distribute or sell cigarettes by the use of a vending machine in a location other than a location that is generally supervised by an adult during the hours the machine is accessible.

3. Penalty. Any person, firm or corporation, in control of a facility in which a vending machine is located, who violates this section commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged or for which the person, firm or corporation may be prohibited, for a period of not more than 6 months, from having a cigarette vending machine located on the premises, or both.

This section does not apply to any vending machine located in an area where minors are not allowed by law or by policy of the owner of the premises.

Effective September 29, 1987.

## CHAPTER 128

S.P. 102 — L.D. 275

## AN ACT Relating to the Sales Tax on Construction Equipment and Livestock Trailers.

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

Sec. 1. 36 MRSA §1752, sub-§14-B is enacted to read:

14-B. Special mobile equipment. "Special mobile equipment" means any self-propelled vehicle not de-

signed or used primarily for the transportation of persons or property which may be only incidentally operated or moved over the highways, including, but not limited to, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well drillers and wood sawing equipment.

Sec. 2. 36 MRSA §1764, as amended by PL 1975, c. 317, §2, is further amended to read:

§1764. Tax against certain isolated sales

The tax imposed by chapters 211 to 225 shall be levied upon all isolated transactions involving the sale of motor vehicles, special mobile equipment, livestock trailers or aircraft excepting those sold for resale, and excepting an isolated transaction involving the sale of motor vehicles, special mobile equipment, livestock trailers or aircraft to a corporation when the seller is the owner of a majority of the common stock of such the corporation.

Sec. 3. 36 MRSA §1765, as enacted by PL 1985, c. 519, is amended to read:

§1765. Trade-in credit

When one or more of the following items of tangible personal property are traded in toward the sale price of another of the same kind of the following items, the tax imposed by this Part shall be levied only upon the difference between the sale price of the purchased property and the ~~sale price~~ trade-in allowance of the property taken in trade, except for transactions between dealers involving exchange of the property from inventory:

1. Motor vehicles. Motor vehicles;

2. Farm tractors. Farm tractors;

3. Boats. Boats;

4. Aircraft. Aircraft;

5. Lumber harvesting vehicles. Self-propelled vehicles used to harvest lumber; or

6. Chain saws. Chain saws;

7. Special mobile equipment. Special mobile equipment to the extent of 20% of the trade-in allowance for the property taken in trade; or

8. Livestock trailers. Livestock trailers, including horse trailers.

Effective September 29, 1987.

## CHAPTER 129

S.P. 177 — L.D. 503

## AN ACT to Clarify and Simplify the Maine Consumer Credit Code.

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

**Sec. 1.** 9-A MRSA §1-107, sub-§4, as enacted by PL 1973, c. 762, §1, is amended to read:

4. A settlement in which the consumer waives or agrees to forego rights or benefits under this Act is invalid if the court, as a matter of law, finds the settlement to have been unconscionable at the time it was made. The competence of the consumer, any deception or coercion practiced upon him, the nature and extent of the legal advice received by him and the value of the consideration are relevant to the issue of unconscionability. Any claim of unconscionability must be raised in a judicial action within the earlier of:

A. Six years after the date of settlement; or

B. The limitation period applicable to the original claim which was the subject of the settlement.

**Sec. 2.** 9-A MRSA §1-110, sub-§1, as repealed and replaced by PL 1983, c. 720, §1, is amended to read:

1. Consumer credit transactions involving mobile homes manufactured housing as defined in section 1-301, subsection ~~24-A~~ 23-A;

**Sec. 3.** 9-A MRSA §1-111, as enacted by PL 1985, c. 336, §1, is amended to read:

§1-111. Record retention

Every person subject to this Act shall maintain records of all consumer credit transactions ~~entered into~~ in conformity with generally accepted accounting principles and practices or in a manner that will enable the administrator to determine whether that person or his assignee is complying with the provisions of this Act. The records need not be kept in the place of business where the transaction was entered into, if the administrator is given free access to the records, wherever located. All records pertaining to consumer credit transactions shall be retained for at least 2 years after making the final entry on the account involved, except that in the case of open-end credit, the 2 years shall be measured from the date of each account entry.

**Sec. 4.** 9-A MRSA §1-201, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. Except as otherwise provided in this section, this Act applies to consumer credit transactions and open-end credit plans made or entered into in this State. For purposes of this Act, a consumer credit transaction or open-end credit plan is made or entered into in this State if:

A. A signed writing evidencing the obligation or offer of the consumer is received by the creditor in this State; or

B. The creditor, wherever located, induces the consumer who is a resident of this State to enter into the transaction or open-end credit plan by face-to-face, mail or telephone solicitation in this State.

**Sec. 5.** 9-A MRSA §1-201, sub-§2, as amended by PL 1975, c. 658, is repealed.

**Sec. 6.** 9-A MRSA §1-201, sub-§3, as enacted by PL 1973, c. 762, §1, is amended to read:

3. The Part on Limitations on Creditors' Remedies, Part 1, of the Article on Remedies and Penalties, Article 5, applies to actions ~~or~~, other proceedings ~~brought and nonjudicial collection activity conducted~~ in this State to enforce rights arising from consumer credit sales, consumer leases, or consumer loans, or extortionate extensions of credit, wherever made.

**Sec. 7.** 9-A MRSA §1-201, sub-§6, as enacted by PL 1973, c. 762, sub-§1, is amended to read:

6. For the purposes of this Act, the residence of a consumer is the address given by him as his residence in any writing signed by him in connection with a credit transaction or open-end credit plan. Until he notifies the creditor of a new or different address in a writing for that purpose, the given address is presumed to be unchanged.

**Sec. 8.** 9-A MRSA §1-202, sub-§1, as enacted by PL 1973, c. 762, §1, is repealed and the following enacted in its place:

1. Extensions of credit primarily for business, commercial, agricultural purposes or to governments or governmental agencies, instrumentalities or organizations;

**Sec. 9.** 9-A MRSA §1-202, sub-§3, as amended by PL 1979, c. 127, §51, is repealed and the following enacted in its place:

3. An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, radio or similar transmission, including extensions of these facilities, if the charges for service, delayed payments or any discounts for prompt payment are filed with or regulated by any subdivision or agency of this State or of the United States. This exemption does not apply to financing of goods or home improvements by a public utility;

**Sec. 10.** 9-A MRSA §1-202, sub-§7, as repealed and replaced by PL 1983, c. 641, §1, is amended to read:

7. A loan or consumer credit sale made exclusively for the purpose of deferring or financing educational expenses and on which the finance charge does not exceed that rate per year on the unpaid balances of the amount financed, as shall be established by federal law, or, for loans or consumer credit sales for which federal law does

not establish a rate, the highest rate established for educational loans under any federal program and which is insured, guaranteed, subsidized or made directly by the Federal Government, a state, a nonprofit private loan guaranty or organization, by the educational institution itself or through an endowment or trust fund affiliated with such an institution; or

Sec. 11. 9-A MRSA §1-202, sub-§8, as amended by PL 1985, c. 336, §2, is repealed and the following enacted in its place:

8. A loan made by a supervised lender to finance or refinance the acquisition of real estate or the initial construction of a dwelling, or a loan made by a supervised lender secured by a first mortgage on real estate, if the security interest in real estate is not made for the purpose of circumventing or evading this Act, provided that:

A. With respect to advances of additional funds on the loan made more than 30 days after the initial advance, this exclusion shall apply only to advances made:

- (1) Pursuant to the terms of a construction loan agreement;
- (2) To protect the security or to perform the covenants of the consumer;
- (3) As negative amortization of principal under the terms of the loan agreement; or
- (4) From funds withheld at consummation pending the resolution of matters which otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards;

B. The exemption provided by this subsection does not apply to the requirements on servicing of assigned supervised loans, section 2-310; and

C. With respect to a supervised lender other than a supervised financial organization, the exemption provided by this subsection shall apply to the following provisions and no others: Maximum finance charge limitations, sections 2-308 and 2-401; limitations on security interest, section 2-307; delinquency charges, sections 2-502 and 3-402; limitations on attorneys fees, section 2-507; right to prepay, section 2-509; rebate upon prepayment, section 2-510; notice to consumer, section 3-202; and notice of right to cure default, sections 5-110 and 5-111.

Sec. 12. 9-A MRSA §1-202, sub-§8-A, as repealed and replaced by PL 1981, c. 243, §§1 and 26, is repealed.

Sec. 13. 9-A MRSA §1-301, sub-§2-A is enacted to read:

2-A. "Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a

consumer credit transaction.

Sec. 14. 9-A MRSA §1-301, sub-§5-A, as enacted by PL 1979, c. 660, §4, is repealed and the following enacted in its place:

5-A. "Arranger of credit" means a person who regularly provides or offers to provide consumer credit or a lease which is or will be extended by another person under a business or other relationship pursuant to which the person arranging the credit or lease:

- A. Receives or will receive a fee, compensation or other consideration for the service; or
- B. Has knowledge of the credit or lease terms and participates in the preparation of the contract documents required in connection with the extension of credit or the lease.

The term does not include a person who honors a credit card or similar device when no finance charge is imposed at the time of that transaction nor does it include insurance agents who act in the capacity of an arranger in which insurance premium finance agreements are involved.

A person regularly arranges for the extension of consumer credit only if he arranged credit more than 25 times or more than 5 times for transactions secured by a dwelling in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

Sec. 15. 9-A MRSA §1-301, sub-§6, as enacted by PL 1973, c. 762, §1, is repealed and the following enacted in its place:

6. "Billing cycle" or "cycle" means the interval between days or dates of regular periodic statements. These intervals shall be equal and no longer than a quarter of a year. An interval shall be considered equal if the number of days in the cycle does not vary more than 4 days from the regular day or date of the periodic statement.

Sec. 16. 9-A MRSA §1-301, sub-§§6-A, 6-B and 6-C are enacted to read:

6-A. "Business day" means a day on which a creditor's offices are open to the public for carrying on substantially all of its business functions. For purposes of rescission, the term means all calendar days, except Sundays and the holidays established by Title 9-B, section 141, subsection 1.

6-B. "Cardholder" means the same as defined in section 8-103.

6-C. "Card issuer" means the same as defined in section 8-103.

Sec. 17. 9-A MRSA §1-301, sub-§8, as amended by PL 1981, c. 235, §1, is further amended to read:

8. "Closing costs," provided they are bona fide, reasonable in amount and not for the purpose of circumvention or evasion of this Act, with respect to a debt or open-end credit plan secured by an interest in land or a ~~loan for~~ consumer credit transaction involving manufactured housing ~~as that term is defined in Title 10, section 9002, subsection 7,~~ include:

- A. Fees or premiums for title examination, abstract of title, title insurance or similar purposes and for required related property surveys;
- B. Fees for preparation of deeds, settlement statements or other documents;
- C. Amounts required to be placed or paid into an escrow or trustee account for future payments of ~~taxes, insurance and water, sewer and land rents~~ if the amounts would not otherwise be included in the finance charge;
- D. Fees for notarizing deeds and other documents;
- E. Appraisal fees; and
- F. Credit reports.

Sec. 18. 9-A MRSA §1-301, sub-§10, as amended by PL 1981, c. 243, §5, is repealed and the following enacted in its place:

10. "Consumer" means a cardholder or a natural person to whom consumer credit is offered or extended and includes a cosigner. The term includes a natural person who enters into a consumer lease. For purposes of rescission, the term includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

Sec. 19. 9-A MRSA §1-301, sub-§11, ¶B, as amended by PL 1981, c. 243, §7, is repealed and the following enacted in its place:

B. A "consumer credit sale" does not include, except for the purposes of Article VIII, or unless the sale is made subject to this Act by agreement, section 1-109, a sale of an interest in land if the finance charge does not exceed 12 1/4% a year calculated according to the actuarial method on the unpaid balances of the amount financed on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.

Sec. 20. 9-A MRSA §1-301, sub-§13, as amended by PL 1981, c. 243, §8, is repealed and the following enacted in its place:

13. A "consumer lease" is a lease of goods:

A. Which a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family or household purpose;

B. In which the amount payable under the lease does not exceed \$25,000;

C. Which is for a term exceeding 4 months; and

D. Which is not made pursuant to a lender credit card.

A person is regularly engaged in the business of leasing if he enters into consumer leases more than 25 times in the preceding calendar year. If a person did not meet this numerical test in the preceding calendar year, the numerical standard shall be applied to the current calendar year.

Sec. 21. 9-A MRSA §1-301, sub-§14-A is enacted to read:

14-A. "Cosigner" means a natural person who assumes personal liability for the obligation of a consumer without receiving goods, services or money in return for the obligation or, in the case of an open-end credit obligation, without receiving the contractual right to obtain extensions of credit under the account. The term includes any person whose signature is requested as a condition to granting credit to a consumer or as a condition of forbearance on collection of a consumer's obligation that is in default. The term does not include a spouse whose signature is required on a credit obligation to perfect a security interest pursuant to state law. A person who meets the definition of this subsection is a cosigner whether or not the person is designated as such on the credit obligation. The term does not include a person who becomes liable in a transaction to finance or refinance the acquisition or initial construction of real property.

Sec. 22. 9-A MRSA §1-301, sub-§16, as repealed and replaced by PL 1981, c. 243, §11, is repealed and the following enacted in its place:

16. "Credit card" means any card, plate, coupon book or other single credit device that may be used from time to time to obtain credit.

Sec. 23. 9-A MRSA §1-301, sub-§17, as repealed and replaced by PL 1981, c. 243, §12, is amended to read:

17. "Creditor" means a person who both:

A. Regularly extends credit in consumer credit transactions; and

B. Is the person to whom the debt arising from the consumer credit transactions is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly

arranges for the extension of consumer credit from persons who are not creditors is a creditor and in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors.

For the purposes of the requirements imposed under section 8-205, subsection 1, paragraphs E, F, G, and subsection 2, paragraphs A, B, C, D, I, K, and Article VIII, Parts 3 and 4, the term "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4 installments or the payment of a finance charge is or may be required, and the administrator shall, by regulation, apply these requirements to those card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.

A person regularly extends consumer credit only if he extended credit more than 25 times, or more than 5 times for transactions secured by a dwelling, in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

Sec. 24. 9-A MRSA §1-301, sub-§19, as amended by PL 1983, c. 720, §4, is repealed and the following enacted in its place:

19. "Finance charge" means the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

A. Except for charges specifically excluded by paragraph B, the term includes:

- (1) Interest, time price differential and any amount payable under an add-on or discount system of additional charges;
- (2) Service, transaction, activity and carrying charges and early withdrawal penalties on time deposit accounts, including any charge imposed on a checking or other deposit account to the extent that the charge exceeds the charge for a similar account without a credit feature;
- (3) Points, loan fees, assumption fees, finder's fees and similar charges;
- (4) Appraisal, investigation and credit report fees;
- (5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss;

(6) Charges imposed on a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charges in cash, as an addition to the obligation or as a deduction from the proceeds of the obligation;

(7) Premiums or other charges for credit life, accident, health or loss-of-income insurance or insurance against loss of or damage to property or against liability arising out of the ownership or use of property, written in connection with a credit transaction, unless the applicable requirements of section 2-501 and section 8-105, subsections 2 and 3 are met; and

(8) Discounts for the purpose of inducing payment by a means other than the use of credit.

B. The term does not include:

(1) Application fees charged to all applicants for credit, whether or not credit is actually extended;

(2) Charges as a result of default, additional charges, delinquency charges or deferral charges to the extent permitted by section 2-501, 2-502 or 2-503;

(3) Charges for actual unanticipated late payment in a transaction that is not otherwise subject to a finance charge or payable in installments;

(4) Charges imposed by a financial institution for paying or returning an item that overdraws an account, except where the charge is imposed pursuant to a written agreement to extend credit to fund overdrafts;

(5) Fees permitted by section 2-501 to be charged for participation in a credit plan, whether assessed on an annual or other periodic basis;

(6) Seller's points;

(7) Closing costs as defined in subsection 8;

(8) The discount, when a creditor purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation;

(9) Any discount offered by a creditor or seller for the purpose of inducing payment by cash, check or other means to be made at the time of sale not involving the use of a credit card, if that discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously; and

(10) Official fees as defined in subsection 25, if they are itemized and disclosed.

Sec. 25. 9-A MRSA §1-301, sub-§21, as enacted by PL 1973, c. 762, §1, is repealed.



Sec. 26. 9-A MRSA §1-301, sub-§22, as enacted by PL 1973, c. 762, §1, is repealed and the following enacted in its place:

22. "Lender credit card" means a credit card issued by a supervised lender. The term does not include any device to the extent that it accesses a bona fide asset account, notwithstanding any overdraft or other line of credit agreement which may be accessed as a result of a debit to that asset account.

Sec. 27. 9-A MRSA §1-301, sub-§23, ¶B, as enacted by PL 1973, c. 762, §1, is amended to read:

B. A "loan" does not include the payment or agreement to pay money to a third party for the account of a debtor if the debt of the debtor arises from a sale or lease and results from use of either a credit card issued by a person primarily in the business of selling or leasing goods or services ~~or any other credit card which may be used for the purchase of goods or services and which is not a lender credit card.~~

Sec. 28. 9-A MRSA §1-301, sub-§23-A is enacted to read:

23-A. "Manufactured housing" means manufactured housing as defined in Title 10, section 9002, subsection 7.

Sec. 29. 9-A MRSA §1-301, sub-§24-A, as enacted by PL 1981, c. 618, §2, is repealed.

Sec. 30. 9-A MRSA §1-301, sub-§§32 and 36, as enacted by PL 1973, c. 762, §1, are repealed.

Sec. 31. 9-A MRSA §2-201, sub-§9, as amended by PL 1981, c. 470, Pt. A, §17, is further amended to read:

9. Notwithstanding any other provision, the finance charge on a ~~transaction involving the financing of a consumer credit sale of a motor vehicle as defined in this subsection may not exceed the following:~~

A. On any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, 18% per year on the unpaid balances of the amount financed;

B. On any new motor vehicle not included in paragraph A and on any used motor vehicle designated by the manufacturer by a year model of the same or not more than 3 years prior to the year in which the sale is made, 20% per year on the unpaid balances of the amount financed;

C. On any used motor vehicle not included in paragraph B, 23.5% per year on the unpaid balances of the amount financed; or

D. Notwithstanding paragraph A, on any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is

made, 18% per year on the unpaid balances of the amount financed until June 1, 1981. This paragraph shall be repealed on June 1, 1981.

"Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, except agricultural machinery and any other devices which do not constitute consumer goods, as defined in Title 11, section 9-109, subsection 1.

Sec. 32. 9-A MRSA §2-201, sub-§10, as repealed and replaced by PL 1983, c. 87, §1, is amended to read:

10. Notwithstanding any other subsection, the finance charge on a ~~mobile home~~ transaction to finance or refinance the acquisition of, or secured by, manufactured housing, not involving a security interest in real estate, may not exceed the greater of the following:

A. A rate 2% greater than the maximum rate established by federal regulations pursuant to the United States Code, Title 12, Section 1709-1, National Housing Act, as amended, or the United States Code, Title 38, Section 1819(f), Veterans Housing Act of 1970, as amended, and published from time to time in the Federal Register, ~~24 Code of Federal Regulations, Part 201 or 38 Code of Federal Regulations, Part 36, respectively. In the event of a difference between these rates, the higher rate established for a transaction involving a mobile home without land shall form the basis for computing this rate; or~~

B. 18% per year.

In the event no specific maximum rate is established by federal regulation in accordance with this subsection, this subsection shall not apply.

Sec. 33. 9-A MRSA §2-301, sub-§2, as amended by PL 1983, c. 212, §4, is further amended to read:

2. Taking assignments of and undertaking direct collection of payments from or enforcement of rights from an office in this State against debtors arising from supervised loans.

Sec. 34. 9-A MRSA §2-302, sub-§2, ¶A, as amended by PL 1983, c. 212, §5, is further amended to read:

A. Every applicant shall also, at the time of filing such application, file with the administrator, if he so requires, a bond satisfactory to the administrator in an amount not to exceed \$25,000. The bond shall run to the State for the use of the State and of any person or persons who may have a cause of action against the licensee under this Act. The bond shall be conditional that the licensee will faithfully conform to and abide by the provisions of this Act and to all rules and regulations lawfully made by the administrator hereunder and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or

persons from the licensee under and by virtue of this Act during the calendar year period for which the bond is given;

Sec. 35. 9-A MRSA §2-302, sub-§5, as enacted by PL 1973, c. 762, §1, is amended to read:

5. A licensee may conduct the business of making supervised loans only at or from any place of business for which he holds a license and not under any other name than that in the license. For purposes of this subsection, the closing of a supervised loan, secured by an interest in real estate, made by the licensee, at the office of an attorney or land title company, shall not be considered the making of a supervised loan at the place of business other than the licensee's licensed location. Loans made pursuant to a lender credit card do not violate this subsection.

Sec. 36. 9-A MRSA §2-305, as amended by PL 1981, c. 235, §2, is repealed.

Sec. 37. 9-A MRSA §2-310, as enacted by PL 1983, c. 720, §10, is amended to read:

§2-310. Servicing requirements of assigned supervised loans

No supervised loan secured by a mortgage on real estate may be assigned under this Article unless:

1. The supervised lender making the loan retains servicing of the loan and either maintains a place of business in this State or maintains a toll-free telephone number or other free means of oral communication that is disclosed to mortgagors and staffed in the manner described in subsection 2; or

2. The assignee or servicing agent retained to collect the loan maintains a toll-free telephone number, or other free means of oral communication, that is disclosed to mortgagors in each coupon book or on each periodic billing notice or statement of account and that is staffed during normal business hours for mortgagors to use to communicate with the assignee or servicing agent concerning the supervised loan.

Sec. 38. 9-A MRSA §2-401, sub-§1, as enacted by PL 1973, c. 762, §1, is repealed.

Sec. 39. 9-A MRSA §2-401, sub-§2, as amended by PL 1985, c. 763, Pt. A, §3, is repealed and the following enacted in its place:

2. With respect to a consumer loan, other than a loan pursuant to open-end credit, a lender may contract for and receive a finance charge calculated according to the actuarial method, not exceeding the equivalent of the greater of either of the following:

A. The total of:

(i) 30% per year on that part of the unpaid balances of the amount financed which is \$700 or less;

(ii) 21% per year on that part of the unpaid balances of the amount financed which is more than \$700 but does not exceed \$2,000; and

(iii) 15% per year on that part of the unpaid balances of the amount financed which is more than \$2,000; or

B. 18% per year on the unpaid balances of the amount financed.

Sec. 40. 9-A MRSA §2-401, sub-§3, ¶C, as enacted by PL 1973, c. 762, §1, is repealed.

Sec. 41. 9-A MRSA §2-401, sub-§3, ¶C, as enacted by PL 1973, c. 762, §1 and as repealed, is reenacted to read:

C. If the finance charges for closed-end supervised loans are not precomputed and part or all of the principal amount of the loan contract is the unpaid principal balance of a prior loan, only such unpaid finance charge for use of money or such prior loan which has accrued within 60 days before the making of such loan contract may be incorporated as interest-bearing principal in the principal amount of such loan contract.

Sec. 42. Effective date. Section 41 of this Act shall take effect October 1, 1989.

Sec. 43. 9-A MRSA §2-401, sub-§8, as repealed and replaced by PL 1983, c. 87, §2, is amended to read:

8. Notwithstanding any other subsection, the finance charge on a mobile home transaction to finance or refinance the acquisition of, or secured by, manufactured housing, not involving a security interest in real estate, may not exceed the greater of the following:

A. A rate 2% greater than the maximum rate established by federal regulations pursuant to the United States Code, Title 12, Section 1709-1, National Housing Act, as amended, or the United States Code, Title 38, Section 1819(f), Veterans Housing Act of 1970, as amended, and published from time to time in the Federal Register, 24 Code of Federal Regulations, Part 201 or 38 Code of Federal Regulations, Part 36, respectively. ~~In the event of a difference between these rates, the higher rate established for a transaction involving a mobile home without land shall form the basis for computing this rate; or~~

B. 18% per year.

In the event that no specific maximum rate is established by federal regulation in accordance with this subsection, this subsection shall not apply.

Sec. 44. 9-A MRSA §2-402, as amended by PL 1977,

c. 421, §§3 and 4, is further amended to read:

§2-402. Finance charge for loans on open-end credit

1. ~~With respect to purchases or leases of goods or services loans made on open-end credit pursuant to a lender credit card,~~ a creditor may contract for and receive a finance charge not in excess of that permitted in this section.

2. A charge may be ~~made~~ earned in each billing cycle which is a percentage of an amount not exceeding the greatest of:

A. ~~The average daily balance in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle, divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to the balance, if any, unpaid as of the beginning of that day all advances and other debits and cash advances, but excluding all purchases or leases of goods and services made on that day and deducting all payments and other credits made or received as of that day, provided that loans made pursuant to a lender credit card to finance the purchase or lease of goods and services shall not be included in the amount unpaid if a finance charge on these amounts is prohibited under subsection 4; or~~

B. ~~The unpaid balance at the beginning of the first day of the billing cycle after all payments on account, returns and other credits made or given during the first 25 days of the billing cycle, if the billing cycle is monthly, shall have been first deducted; provided that returns and other credits may be deducted only to the extent that the purchase to which the credit or return relates has been reflected in the previous balance. If the billing cycle is not monthly, such deduction shall be made for payments on account, returns and other credits made or given during that part of the billing cycle that bears the same relation to the billing cycle that 25 does to 30.~~

3. ~~The charge earned in each billing cycle shall not exceed the greater of the product of the average daily balance times the number of days in the billing cycle times .049315% or if, if the billing cycle is monthly, the charge may not exceed 1 1/2% of the amount pursuant to subsection 2. If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to 30. A billing cycle is monthly if the closing date of the cycle is the same date each month or does not vary by more than 5 4 days from the regular date.~~

4. ~~Except~~ With respect to loans made pursuant to a lender credit card, except for cash advances, no finance charge shall may be imposed on purchases or leases of goods or services purchased during the billing cycle, provided that they are paid for not later than 25 days after the closing date of the billing cycle in which the

purchase or lease occurred.

Sec. 45. 9-A MRSA §2-501, sub-§1, as amended by PL 1983, c. 384, §§1 and 2, is further amended to read:

1. In addition to the finance charge permitted by the Parts of this Article on maximum finance charges for consumer credit sales and consumer loans, Parts 2 and 4, a creditor may contract for and receive the following additional charges in connection with a consumer credit transaction or an open-end credit plan:

A. Official fees and taxes;

B. Charges for insurance as described in subsection 2;

C. Annual charges, payable in advance, for the privilege of using a credit card, other than a lender credit card, which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card, under an arrangement pursuant to which the debts resulting from the purchases are payable to the issuer;:

D. "Closing costs" as defined in section 1-301, subsection 8; ~~and~~

E. An annual charge, not to exceed \$12 on each account, for the privilege of using a lender credit card; ~~and A charge assessed pursuant to this paragraph may be assessed only on the renewal date of the lender credit card or on the anniversary thereof. No charge may be assessed pursuant to this paragraph before January 1, 1984.~~

F. Charges authorized as permissible additional charges by rule adopted by the administrator, for other benefits conferred on the consumer, if the benefits are of value to him and if the charges are reasonable in relation to the benefits or of a type that is not for credit.

Sec. 46. 9-A MRSA §2-501, sub-§3 is enacted to read:

3. Charges permitted under this section and any other charges specifically excluded from the definition of "finance charge" in section 1-301, subsection 19, are permissible charges in addition to, and excluded from the calculation of, maximum finance charges set forth in Parts 2 and 4. Unless otherwise expressly prohibited by this Act, a creditor may contract for and receive additional charges not authorized by this section or by section 1-301, subsection 19, if such additional charges, together with all other finance charges applicable to a consumer credit transaction, do not exceed the applicable maximum finance charge under this Act.

Sec. 47. 9-A MRSA §2-502, sub-§4, as enacted by PL 1979, c. 762, §1, is amended to read:

4. If two instalments or parts thereof of a precomputed consumer loan are in default for 15 days or more,

the lender may elect to convert the loan from a precomputed loan to one in which the finance charge is based on unpaid balances. In this event he shall make a rebate pursuant to the provisions on rebate upon prepayment, section 2-510, as of the maturity date of the first delinquent instalment, and thereafter may make a finance charge as authorized by the provisions on loan finance charge for consumer loans, ~~subsection 1 of section 2-401, or the provisions on finance charge for supervised loans, (subsection 2 of section 2-401), whichever is appropriate.~~ The amount of the rebate shall not be reduced by the amount of any permitted minimum charge, section 2-510. If the creditor proceeds under this subsection, any delinquency or deferral charges made with respect to instalments due at or after the maturity date of the first delinquent instalment shall be rebated, and no further delinquency or deferral charges shall be made.

Sec. 48. 9-A MRSa §2-504, as amended by PL 1985, c. 819, Pt. A, §12, is repealed and the following enacted in its place:

§2-504. Finance charge on refinancing

With respect to a consumer credit transaction, except a consumer lease, the creditor by agreement with the consumer may refinance the unpaid balance and contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on finance charge for consumer credit sales other than open-end credit, section 2-201, if a consumer credit sale is refinanced, or for consumer loans, section 2-401, if a consumer loan is refinanced. For the purpose of determining the finance charge permitted, the amount financed resulting from the refinancing is composed of the following:

1. An amount equal to:

A. If the transaction was not precomputed, the total of the unpaid balance and the accrued charges, with the exception of any minimum charge, on the date of the refinancing; or

B. If the transaction was precomputed, the amount which the consumer would have been required to pay upon prepayment pursuant to the provision on rebate upon prepayment, section 2-510, on the date of refinancing, but for the purpose of computing this amount no minimum charge is permitted; and

2. Appropriate additional charges, section 2-501, payment of which is deferred.

Sec. 49. 9-A MRSa §2-504, first ¶, as amended by PL 1985, c. 819, Pt. A, §12, and as repealed and replaced, is repealed and the following enacted in its place:

Subject to section 2-308, with respect to a consumer credit transaction, the creditor may, by agreement with the consumer, refinance the unpaid balance and may con-

tract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding by 1% per year the rate charged in the original agreement and stated to the consumer pursuant to the provisions on disclosure. This section shall not apply to consumer loans in which the principal of the loans is payable in a single payment on demand or at a specified time and the finance charge, calculated according to the actuarial method, does not exceed 12 1/4% per year, or to consumer loans which, at the time of refinancing, are secured by a savings or time deposit, provided that the difference between the rate of interest charged on the loan secured by the deposit does not exceed the difference between the rate of interest earned on the savings or time deposit and the rate of interest charged on the loan secured by that deposit for the loan that is being refinanced or upon voluntarily providing different collateral other than that securing the original loan, provided that the consumer has not been in default on the loan with the creditor within the 12-month period preceding the refinancing of the loan. This section does not apply to consumer loans in which the principal is payable in a single payment on demand or at a specified time and the debt is secured by an interest in securities, bonds, debentures or other corporate obligations. For the purpose of determining the finance charge permitted, the amount financed resulting from the refinancing comprises the following:

Sec. 50. Effective date. Section 49 of this Act shall take effect October 1, 1989.

Sec. 51. 9-A MRSa §2-505, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. If the debts consolidated arise exclusively from consumer credit sales, the transaction is a consolidation with respect to a consumer credit sale and the amount of the finance charge is governed by the provisions on finance charge for consumer credit sales other than open-end credit, section 2-201. If the debts consolidated include a debt arising from a consumer loan, the transaction is a consolidation with respect to a consumer loan and the amount of the finance charge is governed by the provisions on finance charge for consumer loans, ~~subsections 1 or 2 of section 2-401, as appropriate.~~

Sec. 52. 9-A MRSa §2-506, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. If the agreement with respect to a consumer credit transaction contains covenants by the consumer to perform certain duties pertaining to insuring or preserving collateral and the creditor pursuant to the agreement pays for performance of the duties on behalf of the consumer, he may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the ~~buyer~~ consumer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the consumer performed by the creditor pertain to insurance, a brief description of the insurance paid for by

the creditor including the type and amount of coverages. No further information need be given.

**Sec. 53.** 9-A MRSA §2-506, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. A finance charge may be made for sums advanced pursuant to subsection 1 at a rate not exceeding the rate stated to the consumer pursuant to law in a disclosure statement, except that with respect to open-end credit the amount of the advance may be added to the unpaid balance of the debt and the creditor may make a finance charge not exceeding that permitted by the appropriate provisions on finance charge for consumer credit sales pursuant to open-end credit, section 2-202, or for consumer loans, ~~subsections 1 or 2 of section 2-401~~ 2-402, whichever is appropriate.

**Sec. 54.** 9-A MRSA §3-201, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. No creditor ~~shall~~ may engage in this State in false or misleading advertising concerning the terms or conditions of credit with respect to a consumer credit transaction or an open-end credit plan.

**Sec. 55.** 9-A MRSA §3-201, sub-§2, as amended by PL 1985, c. 819, Pt. A, §13, is further amended to read:

2. Without limiting the generality of subsection 1 and without requiring a statement of rate of finance charge if the finance charge is not more than \$5 when the amount financed does not exceed \$75, or \$7.50 when the amount financed exceeds \$75, an advertisement with respect to a consumer credit transaction ~~made by the posting of a public sign, or by catalog, magazine, newspaper, radio, television or similar mass media, or an open-end credit plan~~ is misleading if:

A. It states the rate of finance charge and the rate is not stated in the form required by the provisions on disclosure; or

B. It states the dollar amounts of the finance charge or instalment payments, and does not also state the rate of any finance charge and the number and amount of the installment payments.

**Sec. 56.** 9-A MRSA §3-206, sub-§1, as amended by PL 1981, c. 638, §§2 and 3, is further amended to read:

1. Notice required. A consumer is not obligated as a cosigner, ~~comaker, guarantor, endorser, surety or similar party~~ as that term is defined in section 1-301, subsection 14-A, with respect to a consumer credit transaction, unless, before or contemporaneously with signing any separate agreement; or any writing setting forth the terms of the debtor's agreement or in the case of an open-end account or plan prior to the first extension of credit pursuant to the plan, the consumer receives a written notice conforming to the requirements of subsection 2 and the following notices required to be given

to the debtor as applicable:

A. Notice of the right to cure default under Article V;

B. The material disclosures required under Article VIII;

C. Notices required under Title 11, Article 9; and

D. Notices required under Title 14, chapter 713.

**Sec. 57.** 9-A MRSA §3-206, sub-§6, as repealed and replaced by PL 1985, c. 134, §1, is repealed.

**Sec. 58.** 9-A MRSA §3-206, sub-§7, as enacted by PL 1981, c. 638, §8, is amended to read:

7. Application. This section ~~shall apply~~ applies to all consumer credit transactions and open-end credit plans entered into after October 1, 1982.

**Sec. 59.** 9-A MRSA §3-206, sub-§8, as enacted by PL 1985, c. 134, §2, is amended to read:

8. Notice not required where cosigners given notice in conformance with certain federal regulations. The notice described in subsection 2 ~~shall~~ is not be required in any consumer credit transaction or open-end credit plan in which the creditor gives a notice to cosigners in the form set forth in regulations promulgated by the Federal Trade Commission, the Federal Reserve Board or the Federal Home Loan Bank Board.

**Sec. 60.** 9-A MRSA §3-302, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. If the seller contracts for a security interest in other property pursuant to this section, the rate of credit service finance charge thereafter on the aggregate unpaid balances so secured may not exceed that permitted if the balances so secured were consolidated pursuant to the provisions on consolidation involving a refinancing, ~~subsection 1 of section 2-505, subsection 1.~~ The seller has a reasonable time after so contracting to make any adjustments required by this section. "Seller" in this section does not include an assignee not related to the original seller.

**Sec. 61.** 9-A MRSA §3-310, sub-§1, ~~¶B~~, as enacted by PL 1981, c. 138, is amended to read:

B. The length of time, if any, between written notification of the consumer of any increase in the annual percentage rate and the effective date of the increase;

**Sec. 62.** 9-A MRSA §3-506, as amended by PL 1981, c. 698, §19, is further amended to read:

**§3-506. Limitation**

This Part shall not apply to any transaction covered by section 8-204, nor shall it apply to any sale, by any

dealer or agent or salesman of a registered dealer, registered pursuant to Title 32, chapter ~~43~~ 105, of stocks, bonds, debentures or securities representing stocks, bonds or debentures registered pursuant to Title 32, chapter ~~43~~ 105 or expressly exempt from registration thereof.

Sec. 63. 9-A MRSA §4-303, as enacted by PL 1973, c. 762, §1, is amended to read:

§4-303. Liability insurance

A creditor may not contract for or receive a separate charge for insurance against liability unless the insurance covers a substantial risk of liability arising out of the ownership or use of property related to the credit transaction, ~~and the transaction does not involve a home repair contract as defined in Title 9, chapter 360.~~

Sec. 64. 9-A MRSA §5-109, sub-§3, as amended by PL 1975, c. 250, is further amended to read:

3. The following without limitation shall constitute a significant impairment of the prospect of payment, performance or realization of collateral:

A. Death, insolvency, assignment for the benefit of creditors, the commencement of any proceeding under any bankruptcy or insolvency laws by or against debtors;

B. Loss, theft, substantial damage to or destruction of the collateral not covered by insurance;

C. Sale or prior encumbrance of the collateral; ~~and~~

D. Failure to renew insurance on the collateral; or termination of insurance on the collateral when substitute insurance is not obtained before the insurance coverage terminates; and

E. Discovery by the creditor of a misstatement of a material fact in any document signed by the consumer which forms part of the basis for extending credit.

Sec. 65. 9-A MRSA §5-201, sub-§4, as enacted by PL 1973, c. 762, §1, is amended to read:

4. If a creditor has contracted for or received a charge in excess of that allowed by this Act, or if a debtor is entitled to a refund and a person liable to the debtor refuses to make a refund within a reasonable time after demand, the debtor may recover from the creditor or the person liable an amount determined by the court not less than \$250 ~~or~~ nor more than \$1,000. With respect to excess charges arising from open-end credit, no action pursuant to this subsection may be brought more than 2 years after the time the excess charge was made. With respect to excess charges arising from other consumer credit transactions, no action pursuant to this subsection may be brought more than one year after the due date of the last scheduled payment of the agreement pursuant

to which the charge was made, or the date the agreement was paid in full, whichever was earlier.

Sec. 66. 9-A MRSA §6-105, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. With respect to supervised financial organizations, all powers of the administrator under this Act may be exercised by him. The powers of examination and investigation, section ~~2-305 and~~ 6-106, and administrative enforcement, section 6-108, may also be exercised by the official or agency to whose supervision the organization is subject.

Sec. 67. 9-A MRSA §6-106, as amended by PL 1981, c. 235, §4, is repealed and the following enacted in its place:

§6-106. Examinations and investigations

1. The administrator may, at any time, but not more frequently than once every 3 months, conduct an examination or make an investigation of any person he believes has engaged in conduct governed by this Act. For these purposes, the administrator shall have free and reasonable access to the offices, places of business and records of the person and may make and procure copies of those records, books, documents or other tangible things without employing the subpoena powers provided by subsection 2.

2. For the purposes of this section, the administrator may administer oaths or affirmations and, upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence and require the production of any matter which is relevant to an examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

3. If the person's records are located outside this State, that person, at the administrator's option, either shall make the records available to the administrator at a convenient location within the State or allow the administrator or his representatives to examine them at the place where they are maintained. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the administrator's behalf.

4. If the administrator finds a violation of this Act, he may notify any party to the transaction involved.

5. If any individual without lawful excuse fails to obey a subpoena or to give testimony when directed to do so by the administrator or obstructs the proceedings by any means, whether or not in the presence of the administrator, that individual is guilty of contempt. The adminis-

trator, through the Attorney General, may file a complaint in the Superior Court setting forth the facts constituting the contempt and requesting an order returnable in not less than 2 days nor more than 5 days, directing the alleged contemner to show cause before the court why he should not be punished for contempt. If the court determines that the respondent has committed any alleged contempt, the court shall punish the offender for contempt.

6. The expenses of the administrator necessarily incurred in the examination or investigation of any person engaged in conduct governed by this Act shall be chargeable to that person. That person shall be assessed for the actual expenses incurred by the administrator, including, but not necessarily limited to, travel expenses and the proportionate part of the salaries and expenses of examiners engaged in the examination or investigation. Notice of the assessment of those costs shall be given to the person by the administrator as soon as feasible after the close of the examination or investigation and the person shall have the time specified by the administrator to pay the assessment, which may not be less than 30 days.

Sec. 68. 9-A MRSA §6-203, sub-§4, as enacted by PL 1973, c. 762, §1, is repealed.

Sec. 69. 9-A MRSA §6-204, sub-§1, as amended by PL 1983, c. 720, §21, is further amended to read:

1. The administrator may impose a penalty of \$5 per day on any person failing to comply with the requirements of sections 6-106, subsection 6; 6-202 and 6-203.

Sec. 70. 9-A MRSA §6-204, sub-§§2 and 3, as amended by PL 1985, c. 763, Pt. A, §52, are further amended to read:

2. No penalty may be imposed if the fees required by section 6-203, subsections 1 to 3, are paid not more than 30 days after the date established in section 6-202, subsection 1, or if the expenses of examination or investigation incurred by the administrator pursuant to section ~~6-203, subsection 4~~ 6-106, subsection 6, are paid within the time period prescribed by the administrator which shall not be less than 30 days of receipt of notice by the examinee of their assessment.

3. If a licensee fails to pay the fees required by section 6-203, subsections 1 to 3 on or before February 20th of any year, or if the licensee fails to pay the expenses of examination or investigation of the administrator within the time period prescribed by the administrator which shall not be less than 30 days of receipt of the notice of assessment, the failure may be treated by the administrator as grounds for revocation of the license.

Sec. 71. 9-A MRSA §8-105, sub-§2, ¶B, as enacted by PL 1981, c. 243, §25, is amended to read:

B. In order to obtain the insurance in connection with

the extension of credit, the person to whom the credit is extended shall give specific affirmative written indication of his desire to do so after written disclosure to him of the cost thereof. ~~The cost disclosed shall be the total cost of the insurance over the term of the credit transaction if the term of the transaction is 10 years or less.~~

Sec. 72. 9-A MRSA §8-105, sub-§3, as enacted by PL 1981, c. 243, §25, is amended to read:

3. Charges or premiums for insurance, written in connection with any consumer credit transaction, against loss of or damage to property or against liability arising out of the ownership or use of property, shall be included in the finance charge unless a clear and specific statement in writing is furnished by the creditor to the person to whom the credit is extended, setting forth the total cost of the insurance if obtained from or through the creditor, and stating that the person to whom the credit is extended may choose the person through which the insurance is to be obtained.

Sec. 73. 9-A MRSA §8-201, sub-§1, as enacted by PL 1981, c. 243, §25, is amended to read:

1. Subject to subsection 2, a creditor shall disclose to the person who is obligated on a consumer credit transaction the information required under this ~~Article~~ article. A person who regularly extends credit that is payable in installments, or is subject to a finance charge, to consumers for personal, family or household purposes, when such extensions are secured by personal property, real property or both and such property is used or expected to be used as the consumer's principal dwelling, shall also disclose the information required under this article. In a transaction involving more than one obligor, a creditor, except in a transaction under section 8-204, need not disclose to more than one of such obligors if the obligor given disclosure is a primary obligor.

Sec. 74. 9-A MRSA §8-204, sub-§5, ¶D, as amended by PL 1983, c. 720, §22, is further amended to read:

D. Advances under a preexisting open-end credit plan if a security interest has already been retained or acquired in conformance with this section and such advances are in accordance with a previously established credit limit for such plan adopted in conformance with this section. ~~This paragraph shall cease to be effective on whatever day the United States Code, Title 15, Section 1635, subsection e, paragraph 1, subparagraph D, is made ineffective under federal law.~~

Sec. 75. 9-A MRSA §8-209, sub-§1, as enacted by PL 1981, c. 243, §25, is amended to read:

1. Except as otherwise specifically provided in this Article, any civil action for a violation of this Article or proceeding under section 8-108 which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such

action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to:

A. A disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned; or

B. A disclosure which does not use the terms required to be used by this Article.

Effective September 29, 1987, unless otherwise indicated.

## CHAPTER 130

H.P. 670 — L.D. 903

### AN ACT to Clarify Definition Language under the Site Location of Development Laws.

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

38 MRSA §482, sub-§2, as amended by PL 1985, c. 162, §7, is repealed and the following enacted in its place:

2. Development which may substantially affect the environment. "Development which may substantially affect the environment," in this article called "development," means any state, municipal, quasi-municipal, educational, charitable, commercial or industrial development, including any subdivision:

A. Which occupies a land or water area in excess of 20 acres;

B. Which contemplates drilling for or excavating natural resources on land or under water where the area affected is in excess of 60,000 square feet;

C. Which is a mining activity as defined in this section;

D. Which is a hazardous activity as defined in this section; or

E. Which is a structure as defined in this section.

The term does not include state highways, state aid highways, borrow pits for sand, fill or gravel of less than 5 acres, or when regulated by the Department of Transportation, and such borrow pits entirely within the jurisdiction of the Maine Land Use Regulation Commission under Title 12, chapter 206-A, and those activities regulated by the Department of Marine Resources under Title 12, section 6072.

No person may construct or cause to be constructed or operate or cause to be operated, or in the case of a sub-

division, sell, offer for sale or cause to be sold, any development requiring approval under section 483, without first having obtained approval for such construction, operation or sale from the Board of Environmental Protection.

Effective September 29, 1987.

## CHAPTER 131

H.P. 779 — L.D. 1051

### AN ACT to Amend the Definition of Seasonal Under the Employment Security Law.

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

26 MRSA §1251, sub-§3, ¶A, as amended by PL 1983, c. 750, §2, is further amended to read:

A. Any hotel, motel, inn, variety store, trading post, sporting camp or other lodging facility, including camps operated for boys and girls, restaurants and other eating establishments, which customarily conducts its operations which are primarily related to the production of its characteristic goods or services for a regularly recurring period or periods of less than 26 weeks in any one year shall be deemed seasonal.

Effective September 29, 1987.

## CHAPTER 132

H.P. 813 — L.D. 1087

### AN ACT to Restructure the Method of Appointment of Members of the Maine Land Use Regulation Commission.

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

12 MRSA §683, as amended by PL 1985, c. 345, is amended to read:

§683. Creation of Maine Land Use Regulation Commission

The Maine Land Use Regulation Commission, as established by Title 5, section 12004, subsection 5, to carry out the purposes stated in section 681, is created within the Department of Conservation, and in this chapter called the "commission." The commission is charged with implementing this chapter in all of the unorganized and deorganized areas of the State. The commission shall consist of 7 public members, none of whom shall be state employees, who shall be appointed by the Governor, subject to review by the ~~Joint Standing Committee on~~