

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

Sec. 4. 30-A MRSA §5724, sub-§1, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Public schools and libraries. Provide for public schools and libraries, ~~including construction, extensions, enlargements, repairs, improvements or maintenance to buildings for which a municipality has a contract, lease or agreement with the Maine School Building Authority under Title 20-A, sections 15701 to 15718;~~

See title page for effective date.

CHAPTER 495

S.P. 610 - L.D. 1708

An Act to Protect Consumers in Loan Broker Transactions

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

Sec. 1. 9-A MRSA §10-102, sub-§1, ¶B, as amended by PL 1991, c. 824, Pt. A, §10, is further amended to read:

B. "Credit services organization" does not include:

- (1) A supervised financial organization as defined in section 1-301, subsection 38;
- (2) A supervised lender as defined in section 1-301, subsection 39;
- (3) A person licensed by the Real Estate Commission to the extent that the person is engaged in activities regulated by that commission;
- (4) A person currently admitted to the practice of law in this State;
- (5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) to the extent that the organization's activities are consistent with those set forth in its application for tax exemption to the Internal Revenue Service; or
- (6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.

Sec. 2. 9-A MRSA §10-201, first ¶, as enacted by PL 1989, c. 70, §3, is amended to read:

A person desiring to engage or continue in business in this State as a credit services organization shall apply to the administrator for registration under this article on or before January 31st of each year. The application ~~shall~~ **must** be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. A registration may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and where applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this Title.

Sec. 3. 9-A MRSA §10-301, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-301. Escrow of funds

Each credit services organization shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow account ~~with a financial institution in this State,~~ separate from any operating accounts of the business, pending completion of services offered. With respect to credit services organizations offering to arrange for or obtain extensions of credit for consumers, or provide advice or assistance therefor, "completion of services offered" means procurement of credit under the terms agreed to by the parties.

Sec. 4. 9-A MRSA §10-302, sub-§1, as enacted by PL 1989, c. 70, §3, is amended to read:

1. A full and detailed description of the services to be performed for the consumer, including all guarantees and all promises of full or partial refund of fees paid, whether or not services are completed, and the ~~terms length of time~~ terms length of time for which the agreement ~~shall remain~~ remains in effect before return of the fees for nonperformance can be required by the consumer;

Sec. 5. 9-A MRSA §10-401, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-401. Effects of violations on rights of parties

Any credit services organization ~~which that~~ violates any provision of this ~~article~~ Title or any rule issued by the administrator, or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer, is subject to the following:

- 1.** After notice and hearing, a cease and desist order from the administrator;
- 2.** After notice and hearing, forfeiture of such portion of the required bond as proportionately may make aggrieved parties whole;

3. A civil action, by the administrator through the Attorney General, after which a court, ~~upon a finding of repeated or willful violations or of violation of an assurance of discontinuance,~~ may assess a civil penalty of not more than \$5,000; ~~and~~

4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the credit services organization in an amount determined by the court ~~to be not less than \$250, nor more than \$1,000,~~ plus costs of the action together with reasonable attorney's fees; ~~and~~

5. Revocation, suspension or nonrenewal of its registration pursuant to section 2-303.

See title page for effective date.

CHAPTER 496

S.P. 589 - L.D. 1649

An Act to Promote Equitable Penalties for Unlicensed Consumer Lending

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

Sec. 1. 9-A MRSA §5-201, sub-§2, as amended by PL 1985, c. 763, Pt. A, §46, is further amended to read:

2. If a creditor has violated the provisions of this Act applying to authority to make supervised loans, section 2-301, the debtor is not obligated to pay any application fee, prepaid finance charge or closing cost, nor the loan finance charge owed for the first 12 months of the loan. If ~~he~~ the debtor has paid any part of the application fee, prepaid finance charge, closing cost or loan finance charge owed for the first 12 months of the loan, ~~he~~ the debtor has a right to recover the payment from the person violating this Act or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. With respect to violations arising from loans made pursuant to open-end credit, no action pursuant to this subsection may be brought more than 2 years after the violation occurred. With respect to violations arising from other loans, 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 paid.

Sec. 2. 9-A MRSA §5-201, sub-§8, as enacted by PL 1973, c. 762, §1, is amended to read:

8. If the creditor establishes by a preponderance of evidence that a violation is unintentional ~~or~~ and the

result of a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, no liability is imposed under subsections 1, ~~2~~ and 3, the validity of the transaction is not affected, and no liability is imposed under subsection 4, except for refusal to make a refund.

Sec. 3. 9-A MRSA §6-108, sub-§7, as enacted by PL 1985, c. 763, Pt. A, §50, is amended to read:

7. No order may be issued under this section if the creditor establishes by a preponderance of evidence that a violation was unintentional ~~or~~ and the result of a bona fide error; notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error except that this subsection ~~shall~~ does not apply ~~where~~ if the violation had previously been brought to the attention of the creditor by way of examination, investigation or formal complaint through the administrator, or ~~where~~ if the violation involves the obligation to refund excess charges, as specified in section 5-201, subsections 2 and 3 or section 9-405, subsections 2 and 4.

Sec. 4. 9-A MRSA §9-405, sub-§§4 and 7, as enacted by PL 1987, c. 396, §12, are amended to read:

4. If a creditor has violated the provisions of this article applying to authority to make supervised loans, section 9-201, the debtor is not obligated to pay any application fee, prepaid finance charge or closing cost, nor the loan finance charge owed for the first 12 months of the loan. If ~~he~~ the debtor has paid any part of the application fee, prepaid finance charge, closing cost or loan finance charge owed for the first 12 months of the loan, ~~he~~ the debtor has a right to recover the payment from the person violating this article or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. 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 paid.

7. If the creditor establishes by a preponderance of evidence that a violation is unintentional ~~or~~ and the result of a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such violation or error, no liability is imposed under subsections 1; and 2 and 4, the validity of the transaction is not affected, and no liability is imposed under subsection 3, except for refusal to make a refund.

See title page for effective date.
