

MAINE STATE LEGISLATURE

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STATE OF MAINE
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON
CONSUMER CREDIT CODE
to the
First Special Session
of the
ONE HUNDRED AND FOURTH LEGISLATURE

JANUARY, 1970
Legislative Research Committee
Publication 104-23

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January, 1970

To the Members of the First Special Session of
 the 104th Legislature:

The Legislative Research Committee hereby
 has the pleasure of submitting to you a report
 on the Consumer Credit Code.

Although this report, designated as Com-
 mittee Publication 104-23, is restricted to the
 Committee's preliminary findings and recommenda-
 tions, which fall short of the ultimate conclusion,
 a basic foundation has been laid and appropriate
 vehicle ascertained to more properly establish a
 Consumer Credit Code for the State of Maine.

It is the hope of the Committee that the
 information contained in this report will prove
 of value to the members of the Legislature and
 the people of the State of Maine.

Respectfully submitted

William E. Dennett, Chairman
 Legislative Research Committee

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CONSUMER CREDIT CODE

ORDERED, the House concurring, that the Legislative Research Committee is directed to study the desirability and feasibility of establishing a Consumer Credit Code for the State of Maine; and be it further

ORDERED, that the State Department of Banks and Banking is directed to provide the Committee with such technical and other assistance as the Committee deems necessary or desirable to carry out the purposes of this Order; and be it further

ORDERED, that the Committee present the proposed Code at the next regular session of the Legislature.

SP 536	In Senate Chamber	House of Representatives
Logan	Read and Passed	Read and Passed
York	July 1, 1969	July 1, 1969
	Sent down for concurrence	In concurrence

Preliminary analysis by the subcommittee studying the feasibility and desirability of establishing a uniform consumer credit code for the State of Maine pursuant to legislative order (SP 536) reveals that extensive drafting would first be necessary in order to place the Uniform Code within the framework of Maine law. To substantiate this finding, the subcommittee requested and received the chairman's approval during the course of study to send two persons knowledgeable on consumer affairs and law to the Chicago office of the National Commissioners of Uniform State Laws, the framers of the Uniform Act, to ascertain necessary repealers, amendments and modifications of existing state law to accomplish the subcommittee's purpose.

As a result of that conference and the deliberations which followed the subcommittee is now able to outline the problem areas and to report with some certainty that the following list of acts be totally or substantially amended or repealed at the time the Uniform Consumer Credit Code is enacted:

Small loan acts, personal loan acts, consumer loan acts and acts licensing personal loan lenders, sales financing companies and consumer finance companies;

Installment loan laws;

Retail installment sales acts, motor vehicle installment sales acts;

Truth-in-lending acts;
Home solicitation sales acts; and
Home improvement sales and loan acts.

In addition to these, the Commissioners of Uniform Laws recommend that all general usury statutes and all other provisions in acts permitting maximum charges for loans, forbearance or the extension of credit should be repealed (except provisions relating to maximum charges by pawnbrokers).

The National Conference of Commissioners also recommends that Section 9-203 (2) of the Uniform Commercial Code be amended to include a reference to the Uniform Consumer Credit Code in lieu of references to present statutes that are being repealed.

In light of the above, it would appear that the following actions would be called for with regard to present Maine law. The actions listed are not intended to be all inclusive but are intended, on the contrary, to point out areas where a conflict would in all probability exist in the event that the Uniform Consumer Credit Code were enacted.

It would appear that the present Maine Small Loan Law, 9 M.R.S.A., chapters 281 through 289, should be repealed. Chapter 301 of the same Title should receive the same treatment. Since chapter 301 presently provides for the formation of corporations to engage in the business of making loans, it

would be necessary to amend Title 13 to provide for the formation of corporations in Maine to engage in such business. Consideration should also be given as to whether or not foreign corporations would be allowed to engage in the loan business in Maine and how they would register and be regulated.

It would also seem necessary to repeal those sections of the Industrial Loan Law that deal with the setting of interest rates and charges. Specifically, Title 9 M.R.S.A., section 2345 would be involved.

It is also evident that the Motor Vehicle Financing Act, 9 M.R.S.A., chapters 321 through 327, and the Home Repair Financing Act, 9 M.R.S.A., chapter 360, should be repealed.

The Maine Consumer Credit Cost Disclosure Act (truth-in-lending act) that is contained in 9 M.R.S.A., chapter 372 would have to be repealed.

The newly enacted Home Solicitation Sales Act, 32 M.R.S.A., sections 4661 through 4668, would have to be amended.

It further appears that the law relating to the maximum rate of interest on personal loans in excess of \$2,000, 9 M.R.S.A., section 229, would have to be repealed. It is felt that the Uniform Commercial Code would not have to be amended other than as recommended by the National Conference of Commissioners on Uniform State Laws.

Last, care should also be taken to insure that Article 4 of the Uniform Consumer Credit Code, entitled "Insurance" is

not inconsistent with the newly enacted Maine Insurance Code which is located in Title 24-A.

In view of the extensiveness of these findings and others that will probably come to light with regard to present law, and recognizing the limitations of this subcommittee, its staff services, and available funds, to carry out a massive revision of a highly technical and detailed nature without jeopardizing our advanced position due to unique provisions that are already incorporated in Maine law, the subcommittee concludes that such study should more properly be performed by a commission created by Act of the Legislature, similar to that employed in the recent revision of the Insurance Code.

Accordingly, the Legislative Research Committee sees merit in utilization of an effective and proven procedure for revision of this type and unanimously follows the subcommittee's recommendation by submitting the following legislative proposal, "AN ACT to Create a Commission to Prepare a Consumer Credit Code", with its recommendation that it be adopted at the First Special Session of the One Hundred and Fourth Legislature.

AN ACT to Create a Commission to Prepare a Consumer Credit Code.

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

Sec. 1. Commission; duties. A special commission shall be constituted and appointed to supervise the preparation, in final legislative draft form, of a proposed Consumer Credit Code for the State of Maine, such proposed Code to be presented to the regular session of the 105th Maine Legislature. Such proposed Consumer Credit Code may, without limitation, incorporate such necessary repealers, amendments and modifications of existing laws as, in the judgment of such commission, are necessary and appropriate to accomplish such purposes. Such proposed Consumer Credit Code may include such new or modified provisions as, in the judgment of the commission, will best serve the interests of the people of the State. Such commission shall employ consultants to perform the necessary research and drafting of such Code. Such commission shall hold such public hearings as may be deemed necessary to acquaint persons interested with its proposals and recommendations.

Sec. 2. Membership. The membership of the commission shall be constituted and appointed as follows: Two members shall be members of the Senate in the 104th Maine Legislature, to be appointed by the President of the Senate; 3 members shall be members of the House of Representatives in the 104th Maine Legislature, to be appointed by the Speaker of the House and 4 additional members to be appointed by the Governor, with the advice and consent of the Executive Council.

The Bank Commissioner shall serve on the commission in an advisory capacity only. Each member shall serve until the

commission shall have completed its work, or until his prior death or resignation. In the event of the death or resignation of any member, his place shall be filled, upon written notice thereof from the commission, by the then President of the Senate, Speaker of the House or Governor, as the case may be, in the same manner as with respect to the original appointment.

Sec. 3. Meetings. The said commission shall be appointed promptly upon enactment hereof, and the Governor shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chairman, vice-chairman and secretary-treasurer, adopt rules as to the administration of the commission and its affairs which rules shall require a minimum of 30 days' notice of any public hearing to consider one or more aspects of the laws or prospective laws to be considered by the commission and which rules shall require that all proposals shall be transmitted to each person who shall have recorded his desire to receive and willingness to pay for the costs of printing and mailing same, and thereafter shall meet as often as necessary until its work is completed. In all matters as to which there is disagreement, a majority vote shall prevail, and a quorum shall consist of at least 5 members. The commission shall maintain minutes of its meetings and such financial records as may be required by the State Auditor.

Sec. 4. Chief counsel. The commission shall contract for the services of consultants, who need not be residents of this State, who shall have the responsibility for legal research and drafting required in connection with the preparation of the pro-

posed Consumer Credit Code, under the direction and supervision of the commission. No person shall be employed as a consultant who shall not, by virtue of prior training, experience, ability and reputation, have clearly demonstrated the ability to perform the tasks to be assigned to him by the commission.

Sec. 5. Reimbursement of expenses. The members of the commission shall serve without compensation, but may be reimbursed for their reasonable expenses in attending meetings, procuring supplies, correspondence and other related and necessary expenditures.

Sec. 6. Appropriation. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$15,000 for the fiscal year ending June 30, 1970, to carry out the purposes of this Act. Any unexpended balances shall not lapse but shall remain a continuing carrying account until June 30, 1971.