

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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**Legislative Document**

**No. 1143**

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H. P. 781

House of Representatives, February 28, 1967

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Robertson of Brewer.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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**AN ACT Providing for a Truth-in-Lending Act.**

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

**Sec. 1. R. S., T. 9, part 10, additional.** Title 9 of the Revised Statutes is amended by adding a new part 10, to read as follows:

**PART 10**

**TRUTH-IN-LENDING**

**CHAPTER 370**

**TRUTH-IN-LENDING**

**§ 3801. Definitions**

As used in this chapter:

1. **Credit.** "Credit" means any loan, mortgage, deed of trust, advance or discount; any conditional sales contract; any contract to sell, or sale, or contract of sale of property or services, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase agreement; any contract or arrangement for hire, bailment or leasing of property; any option, demand, lien, pledge or other claim against, or for the delivery of, property or money; any purchase, or other acquisition of, or any credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

2. **Creditor.** "Creditor" means any person engaged in the business of extending credit, including any person who as a regular business practice makes

loans or sells or rents property or services on a time, credit or installment basis, either as principal or as agent, who requires, as an incident to the extension of credit, the payment of a finance charge.

3. Finance charge. "Finance charge" means the sum of all the charges, including but not limited to interest, fees, service charges and discounts, which any person to whom credit is extended incurs in connection with, and as an incident to, the extension of such credit.

4. Person. "Person" means any individual, corporation, partnership, association, or other organized group of persons, or the legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of the foregoing.

5. Simple annual interest rate formula. The simple annual interest rate formula is the method for converting a dollar finance charge into a percentage rate. The formula assumes that all scheduled installments of a credit transaction are equal, payable at equal intervals, and fall on due dates which are the same day of each month or other payment period as that on which the agreement is entered into, and the debtor, makes all payments at the times and in the amounts scheduled. Based upon these assumptions the simple annual interest rate formula is  $R = \frac{2 PC}{A(N + 1)}$ .

$$\text{formula is } R = \frac{2 PC}{A(N + 1)}.$$

## § 3802. Disclosure

Except as provided in the following subsection 2:

1. Statement in writing. Any creditor shall furnish to each person to whom credit is extended, prior to the consummation of the transaction, a clear statement in writing setting forth, to the extent applicable and in accordance with the requirements of this chapter, the following information:

- A. The cash or delivered price of the property or service to be acquired;
- B. The amount to be credited as down payment or trade-in;
- C. The difference between paragraph A and paragraph B;
- D. The charges, individually itemized, which are paid or to be paid by such person in connection with the transaction;
- E. The total amount to be financed, consisting of the sum of the foregoing;
- F. The finance charge expressed in terms of dollars and cents; and
- G. The percentage that the finance charge bears to the total amount to be financed expressed as a simple annual rate on the average outstanding unpaid balance of the obligation; rate to be computed as outlined in section 3801, subsection 5.

2. Revolving or open-end credit plan. Any creditor, agreeing to extend credit to any person pursuant to a revolving or open-end credit plan shall, in

accordance with rules and regulations prescribed by the board and in lieu of the information described in subsection 1:

A. Furnish to such person, prior to agreeing to extend credit under such plan, a clear statement in writing setting forth the simple annual percentage rate or rates at which a finance charge will be imposed on the outstanding balance at the end of each monthly period; and

B. Furnish to such person, at the end of each monthly period, which need not be a calendar month, following the entering into of any such agreement, a clear statement in writing setting forth;

(1) The outstanding balance in the account of such person as of the beginning of such monthly period;

(2) The amount of each extension of credit to such person, including the cash price or delivered price of any property or service acquired by such person, during such period, together with the date thereof and a brief identification of any property or services so acquired;

(3) The total amount received from, or credited to the account of, such person during such period;

(4) The finance charge required for such period stated in dollars and cents;

(5) The outstanding balance in the amount of such person at the end of such monthly period; and

(6) The simple annual percentage rate or rates at which the finance charge is imposed on the outstanding balance at the end of such monthly period.

As used in this subsection, the phrase "revolving or open-end credit plan" means a credit plan under which the total amount of credit to be utilized, the dollar amount of the finance charge to be assessed, and the amounts and times of repayment are not specified at the time an agreement to extend credit pursuant to such plan is entered into.

### § 3803. Implementation

Upon the effective date of this Act, the Bank Commissioner shall assume the responsibility for the implementation of this chapter. The commissioner shall prescribe such rules and regulations as may be necessary or proper in carrying out this chapter. These rules and regulations shall include a description of the size of type or lettering which shall be used in setting forth information required by section 3802, and require that such information be set forth with sufficient prominence to insure that it will not be overlooked by the person to whom credit is extended. Any rule or regulation prescribed may contain such classifications and differentiations, and may provide for such adjustments and exceptions as in the judgment of the commissioner are necessary or proper to effectuate the purposes of this chapter or to prevent circumvention or evasion, or to facilitate the enforcement of this chapter or any rule or regulation issued thereunder. In prescribing any exceptions, with respect to any particular type of credit transaction, the commissioner shall consider whether in such trans-

actions compliance with the disclosure requirements of this chapter is being achieved under any other Act of the Legislature. The commissioner shall exempt those credit transactions involving extensions of credit to business firms, governments or governmental agencies or instrumentalities if it determines that adherence to the disclosure requirements of this chapter is not necessary to carry out the purpose of the chapter.

In the exercise of his powers under this section, the commissioner may request the views of other state agencies exercising regulatory functions with respect to creditors, or any class of creditors, which are subject to this chapter, and such agencies shall furnish such views upon request of the commissioner.

#### § 3804. Penalties

1. Failure to disclose; action. Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this chapter or any regulation issued thereunder shall be liable to such person in the amount of \$100, or in an amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed \$2,000 on any credit transaction. Action to recover such penalty may be brought by such person within one year from the date of the occurrence of the violation, in any court of competent jurisdiction. In any such action, no person shall be entitled to recover such penalty solely as the result of erroneous computation of any percentage required by section 3802, subsection 1, paragraph G or section 3802, subsection 2, paragraph B, subparagraph (6) to be disclosed to such person, if the percentage disclosed to such person pursuant to the chapter was in fact greater than the percentage required by such section to be disclosed. In any action under this subsection in which any person is entitled to a recovery, the creditor shall be liable for reasonable attorneys' fees and court costs as determined by the court. As used in this subsection, the term "court of competent jurisdiction" means any court of the State of Maine of competent jurisdiction regardless of the amount in controversy.

2. Validity. Except as specified in subsection 1, nothing contained in this chapter or any regulation thereunder shall affect the validity or enforceability of any contract or transaction.

3. Penalty. Any person who willfully violates any provision of this chapter or any regulation issued thereunder shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or by both.