

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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**Legislative Document**

**No. 1728**

H. P. 1215

House of Representatives, June 15, 1967

Reported by Minority of the Committee on Business Legislation. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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**AN ACT Relating to Truth-in-Lending and Disclosure of Interest and Finance  
Charges in Retail Sales.**

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

**Sec. 1. R. S., T. 9, part 11, additional.** Title 9 of the Revised Statutes is amended by adding a new part 11, to read as follows:

**PART 11**

**TRUTH-IN-LENDING**

**CHAPTER 371**

**DISCLOSURE OF INTEREST AND FINANCE CHARGES IN  
RETAIL SALES**

§ 3851. Definitions

In this chapter unless the context or subject matter otherwise requires:

1. **Cash sale price.** "Cash sale price" means the price stated in a retail installment sale agreement or in a sales slip used under a revolving credit agreement for which the seller would have sold to the buyer and the buyer would have bought from the seller, the goods or services which are the subject matter of the sale agreement, if such sale had been a sale for cash. The cash sale price may include charges, if itemized, for taxes, delivery, installation, servicing or alterations, if any.

2. **Commissioner.** "Commissioner" means the Bank Commissioner.

3. **Down payment.** "Down payment" means all amounts paid, in cash, credits, or the agreed value of goods, by or for the installment buyer to or for the benefit of the installment seller at or before the time of the execution of the retail installment sale agreement or at the time of sale pursuant to revolving credit agreement.

4. **Finance charge.** "Finance charge" means that part of the entire amount agreed to be paid for the goods or services which exceeds the aggregate of:

A. The cash sale price thereof; and

B. The amounts, if any, included for insurance and official fees.

5. **Goods.** "Goods" means all things movable purchased primarily for personal, family or household purposes, and includes goods which are or are to become fixtures or which are to become incorporated into a structure, and merchandise certificates or coupons issued by a seller, not redeemable in cash but to be used in their face amount in lieu of cash in exchange for goods or services supplied by the seller. "Goods" does not include money or choses in action.

6. **Holder.** "Holder" means a person entitled to enforce a retail installment sale agreement or revolving credit agreement against an installment buyer.

7. **Installment buyer.** "Installment buyer" or "buyer" means a person who buys or agrees to buy goods or who obtains services or agrees to have services furnished or rendered under a retail installment sale agreement, or revolving credit agreement, or any legal successor in interest to such person, notwithstanding that he may have entered into one or more extension, refinancing or consolidation agreements.

8. **Installment seller.** "Installment seller" or "seller" means a person who sells or agrees to sell goods or services or both pursuant to a retail installment sale agreement, or revolving credit agreement.

9. **Official fees.** "Official fees" means the fees and charges prescribed by law for filing, recording or otherwise perfecting or releasing or satisfying a security interest in property related to a retail installment sale agreement or revolving credit agreement which will actually be paid to public officials.

10. **Person.** "Person" means any natural person, partnership, joint venture, corporation, association, or any group however organized, and does not mean any government or governmental agency or instrumentality.

11. **Principal balance.** "Principal balance" means the total of the cash sale price, the charge for any insurance and the amount of official fees, if any, reduced by the down payment.

12. **Retail installment sale agreement.** "Retail installment sale agreement" means an agreement, other than a revolving credit agreement or an agreement reflecting a sale made pursuant thereto, involving a finance charge and providing for the sale of goods or the rendering of services or both for a specified amount which the buyer undertakes to pay in more than one payment subsequent to the making of the agreement. A retail installment sale agreement shall not

include an agreement which provides for the payment of the time sale price in not more than 6 monthly installments or a finance charge not in excess of \$10.

13. Revolving credit agreement. "Revolving credit agreement" means an agreement, other than a retail installment sale agreement, pursuant to which the buyer may purchase at retail goods or services on credit from time to time and under the terms of which a finance charge is to be computed in relation to the buyer's balance from time to time.

14. Security interest. "Security interest" means property right or title in goods which are the subject of a retail installment sale agreement or revolving credit agreement taken or retained to secure performance of any obligation of the buyer under the agreement, and any renewal or extension thereof, notwithstanding shipment or delivery to the buyer.

15. Services. "Services" means any work or labor, purchased primarily for personal, family or household purposes, furnished or agreed to be furnished in the delivery, installment, repair or improvement of goods, including but not limited to alterations or improvements upon or in connection with real property, but excluding insurance of all types.

16. Time balance. "Time balance" means the total of the cash sale price, the charge for any insurance, the amount of official fees, if any, and the finance charge.

17. True interest rate. "True interest rate" means the simple annual interest on the declining balance of a retail installment sale agreement. "True interest rate" means either the simple monthly or the simply annual interest on the outstanding balance of a revolving credit agreement.

Where applicable, interest rate disclosure which uses the following methods of computation shall be deemed to disclose in terms of a true interest rate:

A. In a retail installment sale agreement where all scheduled installments are equal and payable at equal intervals, the rate of simple annual interest on the declining balance is expressed by the formula:

$$R = \frac{2PC}{A(N + 1)}$$

R equals the percentage rate. P equals the number of payment periods in one year, always 12 if monthly payments, 4 if quarterly payments and 52 if weekly payments. C equals the finance charge. A equals the principal balance. N equals the number of installments. In disclosure of rates, a variance tolerance of 1% per year in the percentage rate is authorized in computation under this formula.

B. In a retail installment sale agreement where all scheduled payments are of substantially equal amount, but not payable at equal intervals, the rate of simple annual interest on the declining balance is expressed by the formula:

$$R = \frac{2PC}{AN}$$

R, P, C, A and N have the same definitions as in paragraph A. In disclosure of rates, a variance tolerance of 1% per year in the percentage rate is authorized in computation under this formula.

C. In a revolving credit agreement, either the simple monthly rate or a simple annual rate may be disclosed. If a monthly rate is disclosed, the disclosure statement must contain the words "interest will be charged at a rate of (number) per cent per month," and the words "per month" must be in bold-face type of the same or larger size as the remainder of the disclosure statement. If an annual rate is disclosed, the rate shall be computed either by multiplying the periodic rate or charge by the number of payment periods in a year or by an annual rate formula approved by the commissioner upon application by a seller.

#### § 3852. Disclosure

Except as provided in subsection 2:

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

- A. The cash price of the property or service to be acquired;
- B. The amount to be credited as down payment;
- C. The difference between paragraph A and paragraph B;
- D. The insurance charges, individually itemized, which are paid or to be paid by the installment buyer, with a description of the type or types of coverage in simple terms;
- E. The amount of official fees, individually itemized;
- F. The principal balance owed, which is the sum of paragraphs C, D, E.
- G. The finance charge expressed in terms of dollars and cents;
- H. The percentage that the finance charge bears to the principal balance, expressed upon the basis of a true interest rate;
- I. The time balance, which is the sum of paragraphs F and G, the number and amount of installment payments, and the period between payments; and
- J. The time sale price.

2. Revolving credit agreement. Any installment seller, agreeing to extend credit to any person pursuant to a revolving credit agreement shall, in lieu of the information described in subsection 1:

- A. Furnish to such person, prior to agreeing to extend credit under such agreement, a clear statement in writing conspicuously setting forth the true interest rate or rates at which a finance charge will be imposed on the outstanding balance at the end of each period on which a payment is required in

the case of any agreement in existence on the effective date of this Act. The true interest rate disclosure required as to agreements by this subsection may be made in a separate notice mailed or delivered to the buyer.

B. Furnish to such person, at the end of each period on which a payment is required or at the end of 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 period;
- (2) The amount of each extension of credit to such person, including the cash 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 account of such person at the end of such period; and
- (6) The true interest rate or rates at which the finance charge is imposed on the outstanding balance at the end of such period.

#### § 3853. Sale without personal solicitation

Any sale otherwise subject to this chapter which has been negotiated or entered into by mail or telephone without personal solicitation by a salesman or other representative of the seller, where the seller's cash and deferred payment prices and other terms are clearly set forth in a catalog or other printed solicitation of business which is generally available to the public, shall not be subject to the requirements of this chapter; provided, that the seller delivers to the buyer, before the date for the payment of the first installment, a memorandum of the purchase containing all of the essential elements of the agreement.

#### § 3854. Retail installment sale agreement consolidation

1. If, in a retail installment transaction, a buyer makes any subsequent purchases of goods or services from a seller from whom he has previously purchased goods or services under one or more retail installment sale agreements and the amounts under such previous agreements have not been fully paid, the subsequent purchases may, by agreement of the parties, be included in and consolidated with one or more of the previous agreements. Each subsequent purchase shall be a separate retail installment sale agreement under this chapter, notwithstanding that the same may be included in and consolidated with one or more of such previous agreements. All the provisions of this chapter with respect to retail installment sale agreements shall be applicable to such subsequent purchase except as hereinafter stated in this section.

2. Any installment seller shall furnish to any person to whom credit is extended under a retail installment sale agreement consolidation a statement in

writing conspicuously setting forth, to the extent applicable and in accordance with the requirements of this chapter, the following information:

- A. The cash sale price of the goods or services;
- B. The amount of the buyer's down payment, identifying the amounts paid in money and allowed for goods traded in;
- C. The difference between paragraphs A and B;
- D. The aggregate amount, if any, included for insurance, if a separate identified charge is made therefor, specifying the type or types of insurance and the term or terms of coverage;
- E. The aggregate amount of official fees;
- F. The principal balance, which is the sum of paragraphs C, D and E;
- G. The amount of the finance charge;
- H. The percentage that the finance charge bears to the principal balance, expressed upon the basis of a true interest rate;
- I. The amount of the time balance owed by the buyer to the seller, which is the sum of paragraphs F and G;
- J. The outstanding balance of the previous agreement or agreements;
- K. The consolidated time balance, which is the sum of paragraphs I and J;
- L. The revised installments applicable to the consolidated time balance, if any.

#### § 3855. Advertising

No seller shall in any advertisement, publication, display, broadcast, solicitation or representation make any false, misleading or deceptive statements concerning any finance, delinquency or extension charge, or rate, or the security interest, collateral, terms or conditions upon which it will make any credit agreement or finance the same. Any advertisement, publication, display, solicitation or representation containing a statement of a rate or rates of a finance charge or a table showing amount of a time balance and number and amount of payments with respect to transactions subject to this chapter, shall be expressed in terms of a true interest rate.

#### § 3856. Implementation

Upon the effective date of this Act, the 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 3852, 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 transactions compliance with the disclosure requirements of this chapter is being achieved under any other Act of the Legislature.

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.

### § 3857. Penalties

1. Failure to disclose; action. Any seller who in connection with any transaction subject to this chapter 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 \$50, or in an amount equal to twice the finance charge required by such seller in connection with such transaction, whichever is greater, except that such liability shall not exceed \$1,000 on any 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 3852, subsection 1, paragraph H or section 3852, subsection 2, 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 or the percentage disclosed was not in error by greater than 1% annually computed on the basis of the true interest rate. In any action under this subsection in which any person is entitled to a recovery, the seller 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 or repeatedly violates any provision of section 3855 shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both.

Sec. 2. Effective date. This Act shall take effect on January 1, 1968.