

MAINE STATE LEGISLATURE

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SECOND SPECIAL SESSION

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1859

H. P. 1316

House of Representatives, January 9, 1968

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Robertson of Brewer.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-EIGHT

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

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

Sec. 1. R. S., T. 9, § 3402, sub-§ 13, additional. Section 3402 of Title 9 of the Revised Statutes, as amended by section 2 of chapter 306 of the public laws of 1965, is further amended by adding a new subsection 13, to read as follows:

13. True interest rate. "True interest rate" means the simple annual interest on the scheduled declining time balance of a retail installment contract. Where such true interest rate is to be disclosed, it shall be disclosed in the same manner as is required by section 3851, subsection 17.

Sec. 2. R. S., T. 9, § 3481, sub-§ 1, ¶ E, additional. Subsection 1 of section 3481 of Title 9 of the Revised Statutes is amended by adding a new paragraph E, to read as follows:

E. The printed material explaining the interest rate disclosure required by subsection 2, paragraph I shall be printed in at least 12 point bold-face type.

Sec. 3. R. S., T. 9, § 3481, sub-§ 2, ¶ I, additional. Subsection 2 of section 3481 of Title 9 of the Revised Statutes is amended by adding a new paragraph I, to read as follows:

I. The percentage that the finance charge bears to the principal balance, expressed upon the basis of a true interest rate.

Sec. 4. R. S., T. 9, § 3722, sub-§ 15, additional. Section 3722 of Title 9 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1965 and amended by section 8 of chapter 494 of the public laws of 1967, is further amended by adding a new subsection 15, to read as follows:

15. True interest rate. "True interest rate" means the simple annual interest on the scheduled declining time balance of a retail installment contract. Where such true interest rate is to be disclosed, it shall be disclosed in the same manner as is required by section 3851, subsection 17.

Sec. 5. R. S., T. 9, § 3727, sub-§ 9, additional. Section 3727 of Title 9 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1965, is amended by adding a new subsection 9, to read as follows:

9. Percentage. The percentage that the credit service charge bears to the principal balance, expressed upon the basis of a true interest rate.

Sec. 6. R. S., T. 9, § 3727, amended. Section 3727 of Title 9 of the Revised Statutes, as enacted by section 1 of chapter 501 of the public laws of 1965, is amended by adding at the end a new paragraph to read as follows:

The printed material explaining the interest rate disclosure required by subsection 9 shall be printed in at least 12 point bold-face type.

Sec. 7. R. S., T. 9, § 3801, sub-§ 3, amended. The 2nd sentence of subsection 3 of section 3801 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

The term does not include ~~home~~ **real estate** mortgage or other credits in which the finance charge is not precomputed and stated as a dollar amount but is determined by the periodic application of a rate of finance charge to outstanding balances of the credit.

Sec. 8. R. S., T. 9, § 3801, sub-§ 12, amended. The first sentence of subsection 12 of section 3801 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

"Permitted charges" means charges for services, expenses or the like related to a credit transaction, not in excess of amounts permitted by applicable law, if any, which are requested, agreed to or approved by the debtor for official fees or taxes; for insurance; for delinquency or collection or which otherwise arise by reason of action or default of the debtor; in ~~home~~ **real estate** mortgage credits, customary brokers' fees and reasonable charges incurred for appraisal of the property, examination of title and the marketability of security, drafting of security instruments or documents and other ~~customary~~ closing costs **which are customary for the type of real estate mortgage credit being extended; in real estate mortgage credits insured or guaranteed by a governmental agency, an origination fee not to exceed 1% of the credit extended;** or which are of value to the debtor separate and apart from the granting of credit, are reasonable in relation to benefits to the debtor and constitute a type of charge or actual charges which have been filed with the commissioner and as to which the commissioner has failed to notify the creditor in writing of objection within 60 days after the filing.

Sec. 9. R. S., T. 9, § 3803, amended. Section 3803 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

§ 3803. Transactions not included

Notwithstanding section 3802, this chapter shall not apply to credit transactions with respect to which the ~~debt is secured by collateral consisting of accounts receivable, business equipment or inventory and the value of the collateral is equal to a substantial part of the amount of the debt secured~~ **proceeds of the loan are intended to be used primarily in the business or profession of the debtor.**

Sec. 10. R. S., T. 9, § 3805, sub-§ 3, ¶ C, amended. Paragraph C of subsection 3 of section 3805 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

C. The revised installment payment dates, if any, and the revised amount, if any, of each **revised** installment.

Sec. 11. R. S., T. 9, § 3807, amended. The first sentence of section 3807 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

If a credit transaction subject to this chapter is neither a closed end nor a revolving credit transaction, the creditor shall furnish to the debtor prior to or as a part of the consummation of the transaction a statement of disclosure of the finance charge rate in terms of a simple annual interest rate in 12-point boldface type, **or, if the finance charge consists of a single charge of \$10 or less, a statement of disclosure of the amount of finance charge in 12-point boldface type.**

Sec. 12. R. S., T. 9, § 3810, sub-§ 1, amended. The 3rd sentence of subsection 1 of section 3810 of Title 9 of the Revised Statutes, as enacted by chapter 472 of the public laws of 1967, is amended to read as follows:

In any such action, no person shall be entitled to recover such penalty ~~solely~~ as the result of ~~erroneous computation~~ **misstatement** of any percentage required by this chapter, if the percentage disclosed was in fact greater than the percentage required to be disclosed by this chapter, or if **solely as the result of erroneous computation**, the percentage disclosed was in fact less than the percentage required to be disclosed, but the difference between the rate disclosed and the rate required is not greater than 1% annually computed on the basis of the true interest rate.

Sec. 13. R. S., T. 9, § 3851, sub-§§ 16-17, repealed and replaced. Subsections 16 and 17 of section 3851 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, are repealed and the following enacted in place thereof:

16. **Statement in writing.** "Statement in writing" means either a separate written statement or a written statement set forth in a retail installment sale agreement, revolving credit agreement, or agreement for the consolidation of retail installment sale agreements.

17. 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, reduced by the amount of any down payment.

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

19. True interest rate. "True interest rate" means the simple annual interest on the scheduled declining time balance of a retail installment sale agreement. "True interest rate" means either the monthly or simple annual rate 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, where payments are scheduled at equal intervals, 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 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 a simple 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.

Sec. 14. R. S., T. 9, § 3852, sub-§ 1, amended. The first paragraph of subsection 1 of section 3852 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, is amended to read as follows:

Any installment seller shall furnish to ~~each person to whom credit is extended~~ **the installment buyer, or if there is more than one installment buyer to one of them**, either prior to or at the time of the consummation of ~~the~~ any 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:

Sec. 15. R. S., T. 9, § 3852, sub-§ 1, ¶¶ A & E, amended. Paragraphs A and E of subsection 1 of section 3852 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, are amended to read as follows:

A. The cash sale price of the ~~property goods~~ or service to be acquired;

E. The amount of official fees ~~individually itemized~~;

Sec. 16. R. S., T. 9, § 3852, sub-§ 2, ¶ A, amended. The first sentence of paragraph A of subsection 2 of section 3852 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, is amended to read as follows:

Furnish to such person, prior to ~~or at the time of~~ 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 ~~on the outstanding balance~~.

Sec. 17. R. S., T. 9, § 3852, sub-§ 2, ¶ B, sub-¶ (6), amended. Subparagraph (6) of paragraph B of subsection 2 of section 3852 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, is amended to read as follows:

(6) The true interest rate or rates at which the finance charge is imposed ~~at the end of such period~~ on the outstanding balance ~~at the end of such period~~.

Sec. 18. R. S., T. 9, § 3855, amended. Section 3855 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, is amended by adding at the end the following new sentence:

A statement in any advertisement of a rate greater than the true interest rate shall be deemed a compliance with this section.

Sec. 19. R. S., T. 9, § 3857, sub-§ 1, amended. The 3rd sentence of subsection 1 of section 3857 of Title 9 of the Revised Statutes, as enacted by chapter 471 of the public laws of 1967, is amended to read as follows:

In any such action, no person shall be entitled to recover such penalty ~~solely~~ as the result of ~~erroneous computation~~ **misstatement** 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 **if, solely as the result of erroneous computation**, the percentage disclosed was not in error by greater than 1% annually computed on the basis of the true interest rate.

Sec. 20. R. S., T. 9, § 3858, additional. Title 9 of the Revised Statutes is amended by adding a new section 3858 to read as follows:

§ 3858. Excluded transactions

This chapter shall not apply to any transaction which is subject to chapters 321 to 327, the Motor Vehicles Sales Finance Act or to chapter 360, the Home Repair Financing Act.

Sec. 21. Effective date. Sections 1, 2, 3, 4, 5, 6 and 20 of this Act shall become effective February 15, 1968.