

# 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 scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

(EMERGENCY)

---

---

ONE HUNDRED AND SEVENTH LEGISLATURE

---

---

**Legislative Document**

**No. 366**

---

---

H. P. 303 House of Representatives, January 28, 1975  
Referred to Committee on Business Legislation. Sent up for concurrence  
and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Martin of Eagle Lake.  
Cosponsor: Mr. Rideout of Mapleton.

---

---

**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

---

---

**AN ACT to Clarify the Maine Consumer Credit Code as it Applies to  
Consumer Credit Sales Pursuant to which no Finance Charge is Made.**

---

---

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Consumer Credit Code, Title 9-A of the Revised Statutes, presently may include jurisdiction over consumer credit sales where payment of the sale takes more than 4 payments even though no finance charge is made on the sale; and

Whereas, many merchants and doctors in the State have historically engaged in such informal agreements without the imposition of a finance charge; and

Whereas, the following legislation is necessary to insure the continuation of such informal agreements; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**9-A MRSA, § 1.301, sub-§ 28**, as enacted by PL 1973, c. 762, § 1, is amended by adding at the end the following new sentence:

Transactions which might otherwise be considered consumer credit sales pursuant to which no finance charge is made shall not be considered "payable in installments," as defined in this subsection, unless the obligations of the parties are specifically set forth in a written agreement.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

### STATEMENT OF FACT

A number of merchants, doctors and others, have historically extended a form of informal credit to Maine consumers without the imposition of a finance charge. The federal truth-in-lending law imposes a disclosure requirement on all creditors extending credit to consumers where the debt by agreement may be repaid in 4 or more instalments even though there is no finance charge imposed. This rule, which was upheld in a 1973 decision by the United States Supreme Court, **Mourning v. Family Publications Service, Inc.**, is intended to discourage evasion of the truth-in-lending law by creditors who would "bury" the finance charge in the cash price and thus avoid disclosure of the finance charge. This rule in turn was adopted by the drafters of both the uniform Consumer Credit Code and the Maine Consumer Credit Code in order to achieve consistency between truth-in-lending and the Consumer Credit Code.

This bill will limit the coverage of the Maine Consumer Credit Code to those agreements without a finance charge where the agreement is in writing and specifically permits or requires the consumer to repay the obligation in 4 or more instalments. In other words, the typical 30 or 60-day informal agreement which does not include a finance charge will not be subject to the Maine Consumer Credit Code regardless of the number of payments necessary to pay the account. In addition, the bill, in this form, should not impair the consistency between the Consumer Credit Code and truth-in-lending.