

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 742

H. P. 599

House of Representatives, February 21, 1975

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

EDWIN H. PERT, Clerk

Presented by Mrs. Clark of Freeport.

Cosponsor: Mr. Bowie of Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Clarify the Consumer Credit Code.

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

Whereas, several errors and inconsistencies are in existence in the Consumer Credit Code created by apparent drafting errors when the code was enacted; and

Whereas, immediate correction of these errors and inconsistencies is vital to carry out the legislative intent behind enactment of the Consumer Credit Code; 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:

Sec. 1. 9-A MRSA § 3-503, sub-§ 2, ¶ B, as enacted by PL 1973, c. 762, § 1, is amended to read:

B. Read as follows: "If this agreement was solicited at your residence and you do not want the goods or services, you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the goods or services and must be mailed before midnight of ~~stated date~~

..... when cancellation right lapses. The notice must
 (Stated date)
 be mailed to:
 (Insert name and mailing address of seller)
 If you cancel by this date, the seller may not keep any of your cash down
 payment."

Sec. 2. 9-A MRSA § 5-201, first sentence, as enacted by PL 1973, c. 762,
 § 1, is amended to read:

If a creditor has violated the provisions of this Act applying to collection of
 excess charges or enforcement of rights, ~~subsection 5 of section 1-201~~ **section**
1-201, subsection 5, waiver clauses, section 1-107, use of multiple agreements,
 section 3-304, certain negotiable instruments, section 3-307, assignee subject
 to defenses, sections 3-403 and 3-404, restrictions on liability in consumer
 leases, section 3-401, balloon payment, section 3-308, security in sales or
 leases, section 3-301, cross-collateral, sections 3-302 and 3-303, assignments of
 earnings, section 3-305, attorney's fees, section 2-507, limitations on default
 charges, section 3-402, authorizations to confess judgment, section 3-306, re-
 strictions on interests in land as security, section 2-307, limitations on the
 schedule of payments or loan term for regulated loans, section 2-308, for
 credit insurance, section 4-104, separate charges for excess charge for prop-
 erty insurance, section 4-301, restrictions on deficiency judgments, section
 5-103, garnishment before judgment, section 5-104, or limitations on garnish-
 ment, section 5-105, misrepresentation, section 5-115, illegal, fraudulent or
 unconscionable conduct in an attempted collection of debts, section 5-116, any
 aggrieved consumer has a right to recover actual damages from a person vio-
 lating this Act, or in lieu thereof any consumer named as a plaintiff in the
 complaint as originally filed has a right to recover from a person violating
 this Act an amount determined by the court not less than \$250 nor more than
 \$1,000.

Sec. 3. 9-A MRSA § 6-110, first sentence, as enacted by PL 1973, c. 762,
 § 1, is amended to read:

The administrator, through the Attorney General, ~~shall~~ **may** bring a civil
 action to restrain any person from violating this Act.

Sec. 4. 10 MRSA § 8001, 2nd sentence, as last repealed and replaced by
 PL 1973, c. 788, § 43, is amended to read:

The administrative head of said department shall be the Commissioner of
 Business Regulation, who shall be appointed by the Governor with the ad-
 vice and consent of the Council to serve a term coterminous with that of the
 Governor, subject to removal for cause by the Governor and Council and said
 department shall be composed of the following bureaus, commissions and
 board, as heretofore created and established: The Bureau of Banks and Bank-
 ing, formerly the Department of Banks and Banking; **the Bureau of Consum-
 er Protection**; the Bureau of Insurance, formerly the Department of Insur-
 ance, except the Fire Prevention Division thereof; the Real Estate Commis-
 sion; **the Boxing Commission**; the Running Horse Racing Commission and
 the Land Damage Board.

Sec. 5. ~~to~~ **MRSA § 8002, last ¶**, as enacted by PL 1973, c. 585, § 4, is amended to read:

The commissioner shall not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority shall be exclusively within the specific bureau, commission or board: The Bureau of Banks and Banking, formerly the Department of Banks and Banking; **the Bureau of Consumer Protection**; the Bureau of Insurance, formerly the Department of Insurance; the Real Estate Commission; the Boxing Commission; the Running Horse Racing Commission and the Land Damage Board.

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

STATEMENT OF FACT

The purpose of this bill is to clarify the Consumer Credit Code.