

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 733

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S. P. 241

In Senate, March 8, 1977

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Merrill of Cumberland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT** Relating to the Jurisdiction of the Administrative Court.

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

**Sec. 1.** 5 MRSA § 2301, sub-§ 1, as last amended by PL 1975, c. 760, §§ 1 and 2, is further amended by adding after the 20th paragraph the following:

**Bureau of Consumer Protection**

**Sec. 2.** 9-A MRSA § 2-303, as last amended by PL 1975, c. 135, §§ 1 and 2, is repealed and the following enacted in its place:

§ 2-303. Revocation and suspension of license

1. The administrator may file a complaint with the Administrative Court against any licensee with respect to one or more specific places of business complaining that that person's license should be suspended or revoked. After hearing, the Administrative Court may revoke or suspend the license if it finds that:

A. The licensee has violated this Act or any rule or order made pursuant to this Act; or

B. Facts or conditions exist which would clearly have justified the administrator in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.

2. The proceedings, including any appeal from the Administrative Court decision, shall be governed by the Administrative Code, Title 5, Part 6.

3. No revocation or suspension of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

4. The administrator may reinstate a license, terminate a suspension or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which would have justified the administrator in refusing to grant a license.

Sec. 3. 9-A MRSA § 6-108, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in its place:

§ 6-108. Administrative enforcement orders

1. The administrator may file a complaint with the Administrative Court against any person to cease and desist from engaging in violations of this Act or any lawful regulation issued by the administrator. The proceedings, including any appeal from an Administrative Court decision shall be governed by the Administrative Code, Title 5, Part 6.

2. With respect to unconscionable agreements of fraudulent or unconscionable conduct by the respondent, the administrator may not file a complaint pursuant to this section, but through the Attorney General may bring a civil action for an injunction as provided for under section 6-111.

Sec. 4. 9-A MRSA § 6-109, 1st sentence, as enacted by PL 1973, c. 762, § 1, is repealed and the following enacted in its place:

If it is claimed that a person has engaged in conduct which could be subject to a complaint by the administrator under section 6-108, or subject to an order by a court under sections 6-110 to 6-112, the administrator may accept an assurance in writing that the person will not engage in the same or similar conduct in the future.

### STATEMENT OF FACT

Under the Consumer Credit Code the Administrator of the Bureau of Consumer Protection acts as investigator, prosecutor and judge of all license revocation hearings and administrative enforcement cease and desist orders. If this bill is enacted, the Administrator of the Bureau of Consumer Protection will continue to have the same powers to investigate and prosecute violations of the Consumer Protection Code by licensees. However, the administrator will not act as judge of its own investigations and prosecutions as that fact finding and judicial authority would be transferred to the Administrative Court established pursuant to the provisions of Title 5, Part 6. The purpose of the bill is to assure an opportunity for a fair hearing to all licensees before an independent fact finder.