

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
109TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-612)

HOUSE AMENDMENT ^A to H.P. 1427, L.D. 1634, Bill, "AN ACT Requiring Certain Consumer Agreements to be Written so that they are Readable and Understandable."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'10 MRSA c. 202 is enacted to read:

CHAPTER 202
CONSUMER LOAN AGREEMENTS

§1121. Purpose

The purpose of this chapter is to enable the average consumer, who makes a reasonable effort under ordinary circumstances, to read and understand the terms of loan documents without having to obtain the assistance of a professional.

§1122. Definitions

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the following meanings.

1. Agreement. "Agreement" means any writing which is substantially prepared in advance of a consumer loan and which a supervised lender furnishes to a consumer for the consumer to sign in connection with that loan.

2. Amount financed. "Amount financed" means "amount financed" as defined by Title 9-A, section 1-301, subsection 5.

3. Consumer. "Consumer" means an individual to whom a consumer loan is made.

4. Consumer loan. "Consumer loan" means a loan made to a consumer by a supervised lender ~~←~~ for personal, family or household purposes, if the debt is payable in installments or a finance charge is made, including a loan made pursuant to a lender credit card.

5. Supervised lender. "Supervised lender" means "supervised ^{lender} ~~as defined~~ under Title 9-A, section 1-301, subsection 39.

§1123. Scope

1. Application. Except as provided in subsection 2, this chapter applies to any agreement signed in connection with a consumer loan entered into in this State between a consumer who is a resident of this State at the time of the loan ~~and~~ and a supervised lender.

2. Exclusions. This chapter does not apply:

- A. To consumer loans in which the amount financed exceeds \$100,000; and
- B. To language or arrangement which is specifically required by federal or state law, regulation or official agency interpretation; or to agreements, the form or any part of which is required by any governmental instrumentality as a condition of the assignability of the agreement.

§1124. Requirements for agreements

After July 4, 1981, every agreement shall be:

1. Plain language. Written in a clear and coherent manner using words with common and everyday meanings; and

2. Meaningful arrangement. Appropriately divided and captioned by its various sections.

§1125. Enforcement

A supervised lender's failure to comply with the requirements of section 1124 shall constitute a violation of Title 9-A which shall be enforceable under/section 6-108.

§1126. Certification of compliance

1. Certification. A supervised lender, or any trade organization or association acting on behalf of supervised lenders, may submit any proposed form of agreement to the Bureau of Consumer Protection. Before July 4, 1981, within 60 days, and after July 4, 1981, within 45 days, the bureau shall either certify the form as complying with the requirements of section 1124, or refuse to certify the form as complying, setting forth written reasons for its refusal. Failure by the bureau to act under this section within 45 days or 60 days, as the case may be, shall be considered a certification of the form's compliance. A certification of compliance under this section shall be an absolute bar to any legal proceeding by the superintendent for failure to comply with the requirements of section 1124.

2. Fees. Any form of agreement submitted to the bureau under this section shall be accompanied by a fee of \$25. The period within which the bureau must act under this section shall commence upon receipt of the fee. The fees received under this section are to be used by the superintendent for the purposes

of this chapter. The balance of any fees so received shall not lapse.'

Statement of Fact

This amendment expands the scope of the bill to include consumer loans made by finance companies as well as financial institutions. The bill will still not apply to ^{sales made by}retailers.

The amendment also transfers enforcement authority to the Bureau of Consumer Protection, which is a more appropriate agency to administer the legislation.