

MAINE STATE LEGISLATURE

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New Draft of: H. P. 483, L. D. 631
FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1634

H. P. 1427

House of Representatives, May 23, 1979

Reported by Miss Brown from the Committee on Business Legislation. Printed
Under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Requiring Certain Consumer Agreements to be Written so that they are
Readable and Understandable.**

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

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 have the following meanings.

1. Agreement. "Agreement" means any writing which is substantially prepared in advance of a consumer loan and which a supervised financial organization 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 financial organization 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 financial organization. "Supervised financial organization" means "supervised financial organization" as defined in Title 9-A, section 1-301, subsection 38.

§ 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 this State between a consumer who is a resident of this State at the time of the transaction and a supervised financial organization.

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 a governmental instrumentality as a condition of the assignability of the agreement.

§ 1124. Requirements for agreements

After July 1, 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 financial organization's failure to comply with the requirements of section 1124 shall constitute a practice which is injurious to the public interest under Title 9-B, section 231.

§ 1126. Certification of compliance

A supervised financial organization may submit any form of agreement to the Bureau of Banking. If, after notice and opportunity for hearing in accordance with Title 5, chapter 375, subchapter IV, the bureau determines that the form complies with the requirements of section 1124, it shall certify that determination in writing

to the supervised financial organization. If the bureau does not make a determination within 45 days of a form's submission, the form shall be considered certified under this section. A certification of compliance under this section shall be an absolute bar to any legal proceeding for failure to comply with the requirements of section 1124.

STATEMENT OF FACT

The purpose of this new draft is to narrow the scope of the original bill to financial institutions making consumer loans, to eliminate the separate civil penalty provision and to provide for certification of loan forms for compliance by the Bureau of Banking.