

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-871)
109TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1784, L.D. 1903, Bill,
"AN ACT to Include Arrangers of Credit under the Maine Consumer
Credit Code and to Amend the Law Concerning Agricultural Loans,
Residences, Security and Fines.

Amend the Bill by inserting after the title the following:

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

Whereas, climbing interest rates and economic uncertainty
require adjustments in the regulation of consumer credit to
assure continued availability of credit to farmers and certain
other borrowers; 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,

Further

/ Amend the Bill by striking out all of section 2 and in-
serting in its place the following:

'Sec. 2. 9-A MRS §1-202, sub-§8-A is enacted to read:

8-A. Consumer credit transactions, other than transactions
pursuant to open-end credit, entered into primarily for an

agricultural purpose in which the amount financed exceeds \$10,000. Consumer credit transactions, other than transactions pursuant to open-end credit, entered into primarily for an agricultural purpose under a line of credit which exceeds \$10,000; and Consumer credit transactions pursuant to open-end credit entered into primarily for an agricultural purpose under a line of credit which exceeds \$10,000. For the purposes of this subsection, a line of credit shall be evidenced in writing prior to the transactions.'

Further amend the Bill by inserting after section 2 a new section to read:

'Sec. 3. 9-A MRSA §1-202, last ¶, as enacted by PL 1979, c. 541, Pt. A., §88, is amended to read:

The exclusions set forth in subsections 2, 4, 5, 7 and, 8 and 8-A shall not apply to the Maine Consumer Credit Code, Truth-in-lending, Article VII.'

Further amend the Bill by striking out all of sections 4 and 5 and inserting in their place the following:

'Sec. 4. 9-A MRSA §1-301, sub-§38, ¶¶A-B, as enacted by PL 1973, c. 762, §1, are amended to read:

A. Organized, chartered or holding an authorization certificate under the laws of ~~this-State~~ a state / or of the United States which authorize the person both to make loans and to receive deposits, including a savings, share, certificate or deposit account; and

B. Subject to supervision by an official or agency of ~~this-State~~ a state or of the United States.

Sec. 5. 9-A MRSA §2-307, sub-§2 is enacted to read:

2. With respect to a supervised loan in which the amount financed is \$1,000 or less, a lender may not take a security interest in the principal residence of the consumer. This subsection does not apply when the lender holds a first mortgage on the residence at the time the loan is made.'

Further amend the Bill by inserting after section 5 a new section to read:

'Sec. 6. 9-A MRSA §2-504, 2nd sentence, as enacted by PL 1975, c. 173, §2, is amended to read:

This section shall not apply to consumer loans in which the principal thereof is payable in a single payment on demand or at a specified time and the finance charge, calculated according to the actuarial method, does not exceed 12 1/4% per year, or to consumer loans which, at the time of refinancing, are subject to the provisions of federal laws or regulations governing interest on deposits, provided that the difference between the rate of interest earned on the savings or time deposit and the rate of interest charged on the loan secured by that deposit does not exceed the difference between the rate of interest earned on the savings or time deposit and the rate of interest charged on the loan secured by that deposit for the loan that is being refinanced.'

Further amend the Bill in section 8, in that part designated '§6-201.' in the 3rd line (2nd line in LD) by inserting between the underlined words "or" and "arranging for the extension of" the following: ', for the purposes of section 6-202 only,'

Further amend the Bill by striking out all of section 9 and inserting in its place the following:

'Sec. 9. 9-A MRSA §6-204 is enacted to read:

§6-204. Civil Penalty

1. The administrator may impose a civil penalty of \$5 per day on any person failing to comply with the notification and fee requirements of this Part.

2. No civil penalty may be imposed if the fee required by section 6-203 is paid not more than 30 days after the date established in section 6-202, subsection 1.

3. If a licensee fails to pay the fee required by section 6-203 on or before February 20th of any year, the failure may be treated by the administrator as grounds for revocation of the license.

4. The administrator shall comply with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, in seeking compliance with this section. The administrator may seek enforcement of any order issued under this section in a court of competent jurisdiction.'

Further amend the Bill ^{by} renumbering the sections to read consecutively.

Further amend the Bill by inserting before the statement of fact the following:

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

Statement of Fact

The purposes of this amendment are to:

1. Clarify the types of agricultural credit transactions which are exempted from the Code;
2. Ensure that exempt agricultural credit transactions are still subject to truth-in-lending requirements;
3. Permit a first mortgage holder who lends less than \$1,000 to take a 2nd mortgage;
4. Permit loans secured by a deposit to be refinanced at a rate that reflects the difference between the rate originally earned on the deposit and the rate charged for the original loan;
5. Limit jurisdiction over "arrangers of credit" to the notification requirements;
6. Ensure that the superintendent complies with the Maine Administrative Procedure Act when imposing penalties for failure to comply with notification and fee requirements;
7. Removes 2 flaws in present law concerning annual fees for lender credit cards; and
8. Adds an emergency preamble and an emergency clause to the bill.

Reported by the Committee on Business Legislation
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