MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document **No. 2004**

S. P. 800 In Senate, March 12, 1980

Reported by Senator Chapman of Sagadahoc. From the Committee on Business Legislation and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Align Mortgage Loan Authority for Maine Thrift Institutions with Federal Regulation and to Adjust Interest Rate ceilings in Certain Consumer Credit Transactions.

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

Whereas, current economic conditions require an adjustment in interest rate ceilings to assure a continued adequate supply of credit for new car financing; and

Whereas, possible amendments to federal banking regulations will severely harm state chartered financial institutions unless they are allowed to make the same types of mortgage loans as federally chartered institutions; 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Sec. 1. 9-A MRSA § 2-201, sub-§ 9, as last amended by PL 1977, c. 161, §§ 1 and 2, is repealed and the following enacted in its place:

9. Notwithstanding any other provision, the finance charge on a transaction involving the financing of a sale of a motor vehicle as defined in this subsection may not exceed the following:

A. On any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, 13% per year on the unpaid balance of the amount financed;

B. On any new motor vehicle not included in paragraph A and on any used motor vehicle designated by the manufacturer by a year model of the same or not more than 3 years prior to the year in which the sale is made, 20% per year on the unpaid balance of the amount financed;

C. On any used motor vehicle not included in paragraph B, 23.5% per year on the unpaid balance of the amount financed; or

D. Notwithstanding paragraph A, on any new motor vehicle designated by the manufacturer by a year model not earlier than the year in which the sale is made, 18% per year on the unpaid balances of the amount financed until June 1, 1981. This paragraph shall be repealed on June 1, 1981.

"Motor vehicle" means any self-propelled vehicle not operated exclusively on tracks, except agricultural machinery and any other devises which do not constitute consumer goods, as defined in Title 11, section 9-109, subsection 1.

Sec. 2. **9-A MRSA § 2-510, sub-§§ 3, 4 and 5,** as repealed and replaced by PL 1975, c. 433, § 1, are repealed and the following enacted in their place:

3. The creditor shall recompute or redetermine the earned finance charge by applying, according to the actuarial method, the annual percentage rate of finance charge required to be disclosed to the consumer pursuant to law to the actual unpaid balances of the amount financed for the actual time that the unpaid balances were outstanding as of the date of prepayment, giving effect to each payment, including payments of any deferral and delinquency charges, as of the date of the payment. The administrator shall adopt rules to simplify the calculation of the unearned portion of the finance charge, including allowance of the use of tables or other methods derived by application of a percentage rate which deviates by not more than 1/2 of 1% from the rate of the finance charge required to be disclosed to the consumer pursuant to law, and based on the assumption that all payments were made as originally scheduled or as deferred.

Sec. 3. **9-A MRSA § 2-510, sub-§ 7,** as repealed and replaced by PL 1975, c. 433, § 1, is amended to read:

7. Except as otherwise provided in subsection ~~5~~ **3**, this section does not preclude the collection or retention by the creditor of delinquency charges, section 2-502.

Sec. 4. **9-B MRSA § 532, sub-§ 8** is enacted to read:

8. Loans made in conformity with federal regulations. Without regard to any

other law, a savings bank may make any loan secured by a first mortgage of real estate if that type of loan is authorized for financial institutions subject to regulations of the Federal Home Loan Bank Board, provided that the superintendent first determines that that type of loan complies with chapter 24.

Sec. 5. 9-B MRSA § 732, sub-§ 11 is enacted to read:

11. Loans made in conformity with federal regulations. Without regard to any other law, savings and loan associations may make any loan secured by a first mortgage of real estate if that type of loan is authorized for financial institutions subject to regulations of the Federal Home Loan Bank Board, provided that the superintendent first determines that that type of loan complies with chapter 24.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except that sections 2 and 3 shall take effect only with respect to transactions entered into after January 1, 1982.

STATEMENT OF FACT

The purposes of this new draft are to:

1. Temporarily increase the special interest rate ceiling on new motor vehicle financing to 18% until June 1, 1981, when the existing ceilings would again become effective unless amended by the 110th Legislature;

2. Redefine "motor vehicle" to exclude mobile homes from the special interest rate ceilings on motor vehicle financing;

3. Require universal use of the actuarial method of computing unearned finance charges; and

4. Permit savings banks and savings and loan associations to offer types of mortgage loans which their federally chartered counterparts are authorized to offer, although the Superintendent of Banking must first determine whether a particular type of loan is deceptive or anticompetitive under state banking laws. It happens that state banking laws presently permit state chartered institutions to make the same types of mortgage loans which federally chartered institutions may make under current regulations of the Federal Home Loan Bank Board. The board is expected to amend its regulations in the near future, however. The exact types of mortgage loans that will be permitted under the amended regulations are unknown. But if the amended regulations permit federally chartered institutions to make new types of mortgage loans which are not permitted under state banking laws, state chartered institutions will be at a clear competitive disadvantage and their ability to sell mortgage instruments in the secondary market (e.g., to federal mortgage support agencies) will be seriously impaired. Hence, it is vital that state banking laws anticipate and parallel any changes in federal regulations irrespective of other provisions in state law.