

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-219)
110TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 448, L.D. 495, Bill, "AN ACT to Provide Notice to Cosigners and others Similarly Situated in Consumer Credit Transactions."

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

'Sec. 1. 9-A MRSA §3-206 is enacted to read:

§3-206. Notice to cosigners and similar parties

1. Notice required. A natural person is not obligated as a cosigner, comaker, guarantor, endorser, surety or similar party with respect to a consumer credit transaction, unless before or contemporaneously with signing any separate agreement of obligation, or any writing setting forth the terms of the debtor's agreement, the person receives a written notice conforming to the requirements of subsection 2 and the following notices required to be given to the debtor as applicable:

- A. Notice of the right to cure default under Article V;
- B. The disclosures required under Article VII;
- C. Notices required under Title 11, Article 9; and
- D. Notices required under Title 14, chapter 713.

2. Form of notice. The notice required by subsection 1 shall be clear and conspicuous and shall contain the following information:

A. An identification of the creditor, \leftarrow debtor and date of transaction;

B. A description of the nature and extent of the person's obligation in connection with the transaction;

C. The total of payments and, if applicable, the fact that delinquency charges and other costs may also be assessed;

D. The fact that the creditor can take legal action against the person even though he has not received any personal benefit in connection with the transaction; and

E. A statement informing the person of his right to a copy of the agreement of obligation that creates his obligation.

3. Exception. The notice required by this section need not be given to a seller, lessor or lender who is obligated to an assignee of his rights.

4. Copy of agreement. A person entitled to notice under this section shall \leftarrow be given a copy of any writing setting forth the terms of the debtor's agreement and \leftarrow any separate agreement of obligation signed by the person entitled to the notice.

5. Priority for collection. A creditor may not begin a legal action against a person entitled to notice under this section until he has exercised due diligence to collect the debt from the debtor. This subsection does not apply if the person is jointly and severally liable with respect to the transaction.

Sec. 2. Effective date. This Act shall apply to all consumer credit transactions entered into after April 1, 1982.'

Statement of Fact

The purposes of this amendment are to:

1. Permit creditors to draft their own disclosure notices concerning a cosigner's liability;
2. Specify the other notices that must be given a cosigner;
3. Preclude legal action against a cosigner until the creditor has used reasonable efforts to collect from the principal debtor; and
4. Make the Act applicable only to credit transactions entered into after April 1, 1982, when federal law requires new consumer credit forms to be issued in any event.

Reported by the Committee on Business Legislation.
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