

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 615**

S. P. 228

In Senate, February 4, 1981

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator C. Sewall of Lincoln.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT Relating to Interest Rates upon Refinancing of Loans under the Maine Consumer Credit Code and Making other Clarifications of the Maine Consumer Credit Code.**

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

**Sec. 1. 9-A MRSA § 1-301, sub-§ 8, first sentence**, as repealed and replaced by PL 1975, c. 324, § 1, is amended to read:

“Closing costs,” provided they are bona fide, reasonable in amount and not for the purpose of circumvention or evasion of this Act, with respect to a debt secured by an interest in land or a loan for manufactured housing as that term is defined in Title 10, section 9002, subsection 7, include:

**Sec. 2. 9-A MRSA § 2-305, sub-§ 1, 3rd sentence**, as enacted by PL 1973, c. 762, § 1, is amended to read:

For these purposes, he shall have free and reasonable access to the offices, places of business and records of the lender and may make and procure copies of the records without the necessity of employing the subpoena powers provided by section 6-106.

**Sec. 3. 9-A MRSA § 2-504, first sentence** as enacted by PL 1973, c. 762, § 1, is amended to read:

Subject to section 2.308, with respect to a consumer credit transaction, the

creditor may by agreement with the consumer, refinance the unpaid balance and may contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding ~~by 1/4% per year the rate charged in the original agreement and stated to the consumer pursuant to the provisions on disclosure~~ the current market rate being charged to other borrowers of similar credit worthiness on the date of refinancing.

Sec. 4. 9-A MRSA § 6-106, sub-§ 1, 3rd sentence, as enacted by PL 1973, c. 762, § 1, is amended to read:

During any investigation, the administrator may administer oaths or affirmations, and, upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of person having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence, **and may make and procure copies of any such books, documents or other tangible things without the necessity of employing the subpoena powers provided by this section.**

#### STATEMENT OF FACT

The purpose of this bill is to make the following changes in Maine's Consumer Credit Code:

1. To allow the superintendent of the Bureau of Consumer Protection to obtain copies of records relating to consumer credit transactions without the necessity of issuing a subpoena. The present law is ambiguous on whether a subpoena is necessary and adding the language in this bill to the code will protect creditors from releasing the records without a subpoena;
2. To include in the definition of "Closing Costs" certain costs involved in the processing of mobile home loans. The existing law presently allows these costs in loans involving transfer of real estate; and
3. To allow loans to be refinanced at an interest rate at the level at which a new loan is being written under existing law. Loans with an interest rate of over 12 1/4% can only be refinanced with an increase in the interest rate of 1/4%. In these volatile economic times, interest rates are many times 2 or 3% higher than the time of the writing of the original loan at the time the consumer and the lender agreed to refinance. Without this change in the law, some consumers may be forced to make payments or to default on a loan because a lender would be unwilling to refinance the loan if it is unable to assess the current interest rate.