

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 851

H. P. 719

House of Representatives, February 13, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

STATE OF MAINE

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

AN ACT to Amend the Maine Consumer Credit Code to Increase the Availability of First Mortgage Residential Loan Funds.

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

Whereas, a shortage of first mortgage residential loan funds exists and is expected to continue prior to the expiration of the 90-day period following adjournment; and

Whereas, the Legislature has determined that it is necessary and appropriate to effectuate certain modifications in the Maine Consumer Credit Code to increase the availability of first mortgage residential loan funds; 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 § 2-502, sub-§ 6 is enacted to read:

6. This section shall not apply to a loan secured by a first mortgage on real

estate, other than a mobile home loan, and the security interest is granted for the purpose of purchasing or constructing a residence of 4 units or less.

Sec. 2. 9-A MRSA § 2-507, sub-§ 3 is enacted to read:

3. Notwithstanding subsection 1, a supervised loan secured by a first mortgage on real estate, other than a mobile home loan, granted for the purpose of purchasing or constructing a residence of 4 units or less may provide for the payment by the debtor of reasonable attorney's fees after default and referral to an attorney not a salaried employee of the creditor.

Sec. 3. 9-A MRSA § 3-202, first sentence, as enacted by PL 1973, c. 762, § 1, is amended to read:

A written agreement which requires or provides for the signature of the consumer and which evidences a consumer credit transaction other than one pursuant to open-end credit or pursuant to a loan secured by a first mortgage on real estate, other than a mobile home loan, shall contain a clear, conspicuous and printed notice to the consumer that he should not sign the agreement before reading it, and that he is entitled to a copy of the agreement and to prepay the unpaid balance at any time without penalty, except for minimum charges as permitted by law.

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

STATEMENT OF FACT

First mortgage real estate loans made by supervised financial organizations, commercial banks, savings banks and savings and loan associations, are exempt from the provisions of the Maine Consumer Credit Code. First mortgage real estate loans made by mortgage loan companies are not exempt.

This bill exempts residential first mortgage loans from 3 provisions of the Maine Consumer Credit Code relating to delinquency charges, attorney's fees in the event of default and notices to consumers. These subjects are already covered by federal mortgage requirements and this bill eliminates conflicts between state and federal requirements without lessening consumer protection and disclosure.

Maine is faced with a shortage of residential mortgage loan funds. Mortgage loan companies which are writing Veterans Administration and Federal Housing Administration insured mortgage loans for sale in the secondary mortgage market frequently provide the only mortgage financing opportunity for lower and middle income families.

This bill helps meet the emergency cited in the preamble.