

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 188

7 S.P. 77

In Senate, January 17, 1983

8 Received by the Secretary of the Senate on January 17, 1983. Referred to
9 the Committee on Business Legislation, and ordered printed pursuant to Joint
Rule 14.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Charette of Androscoggin.

Cosponsors: Senator Sewall of Lincoln, Representative Telow of Lewiston
and Representative Cote of Auburn.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Increase the Supervised Loan
18 Threshold and to Conform Maine Consumer
19 Credit Laws to Federal Laws.
20

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

23 Sec. 1. 9-A MRSA §1-301, sub-§11, ¶B, as amended
24 by PL 1981, c. 243, §7, is further amended to read:

25 B. A "consumer credit sale" does not include:

26 (i) a sale in which the seller allows the
27 buyer to purchase goods or services pursuant
28 to a lender credit card; or

29 (ii) except for the purposes of Article
30 VIII, or unless the sale is made subject to
31 this Act by agreement, section 1-109, a sale
32 of an interest in land if the finance charge

1 does not exceed ~~12 1/4%~~ 16 1/2% per year
2 calculated according to the actuarial method
3 on the unpaid balances of the amount
4 financed on the assumption that the debt
5 will be paid according to the agreed terms
6 and will not be paid before the end of the
7 agreed term; and

8 Sec. 2. 9-A MRSA §1-301, sub-§14, ¶B, as amended
9 by PL 1981, c. 243, §10, is further amended to read:

10 B. A "consumer loan" does not include:

11 (i) a sale or lease in which the seller or
12 lessor allows the buyer or lessee to pur-
13 chase or lease pursuant to a credit card
14 other than a lender credit card; or

15 (ii) except for the purposes of Article
16 VIII, or unless the loan is made subject to
17 this Act by agreement, section 1-109, a loan
18 secured by an interest in land if the secur-
19 ity interest is bona fide and not for the
20 purpose of circumvention or evasion of this
21 Act and the finance charge does not exceed
22 ~~12 1/4%~~ 16 1/2% per year calculated accord-
23 ing to the actuarial method on the unpaid
24 balances of the amount financed on the
25 assumption that the debt will be paid ac-
26 cording to the agreed terms and not be paid
27 before the end of the agreed term; and

28 Sec. 3. 9-A MRSA §1-301, sub-§40, as enacted by
29 PL 1973, c. 762, §1, is amended to read:

30 40. "Supervised loan" means a consumer loan,
31 including a loan made pursuant to open end credit, in
32 which the rate of the finance charge, calculated ac-
33 cording to the actuarial method, exceeds ~~12 1/4%~~ 16
34 1/2% per year.

35 Sec. 4. 9-A MRSA §2-202, sub-§2, as amended by
36 PL 1977, c. 421, §1, is repealed and the following
37 enacted in its place:

38 2. A charge may be made in each billing cycle
39 which is a percentage of the amount of the account

1 balance, provided that the method of determining the
2 balance upon which the finance charge will be imposed
3 is disclosed and is a generally accepted method.

4 Sec. 5. 9-A MRSA §2-308, sub-§1, ¶A, as enacted
5 by PL 1973, c. 762, §1, is amended to read:

6 A. Over a period of not more than 37 61 months
7 if the amount financed is more than \$300; or

8 Sec. 6. 9-A MRSA §2-308, sub-§3, as enacted by
9 PL 1973, c. 762, §1, is amended to read:

10 3. No consumer loan on which the annual percent-
11 age rate disclosed is greater than 18% may provide
12 for a greater rate than 8% 12% per year on the unpaid
13 balances of the principal remaining unpaid at the
14 expiration of 37 months on the original loan, includ-
15 ing any additional amounts borrowed, any deferral,
16 renewal, refinancing, consolidation or extension of
17 the contract made within the 37 61 months; and there-
18 after the unpaid principal balance shall not be
19 directly or indirectly renewed or refinanced by the
20 lender who made the loan, nor shall that lender grant
21 any additional loan to the consumer until the unpaid
22 balance has been paid in full.

23 Sec. 7. 9-A MRSA §2-402, sub-§2, as amended by
24 PL 1977, c. 421, §3, is repealed and the following
25 enacted in its place:

26 2. A charge may be made in each billing cycle
27 which is a percentage of the amount of the account
28 balance, provided that the method of determining the
29 balance upon which the finance charge will be imposed
30 is disclosed and is a generally accepted method.

31 Sec. 8. 9-A MRSA §3-204, sub-§2, as amended by
32 PL 1975, c. 178, is repealed and the following
33 enacted in its place:

34 2. A creditor may change the terms of an open-
35 end credit account whether or not the change is
36 authorized by prior agreement. Whenever the creditor
37 proposes to change any term required to be disclosed
38 under section 8-205, subsection 1, or whenever the
39 required minimum periodic payment is increased, the

1 creditor shall mail or deliver written notice of the
2 change to each consumer who may be affected. The
3 notice shall be mailed or delivered at least 15 days
4 prior to the effective date of the change. The
5 15-day timing requirement does not apply if the
6 change has been agreed to by the consumer, or if a
7 periodic rate or other finance charge is increased
8 because of the consumer's delinquency or default.
9 The notice shall be given before the effective date
10 of the change. No notice under this subsection is
11 required when the change involves late-payment
12 charges, charges for documentary evidence, or
13 over-the-limit charges; a reduction of any component
14 of a finance charge or other charge; suspension of
15 future credit privileges or termination of an account
16 or plan; or when the change results from an agree-
17 ment involving a court proceeding, or from the con-
18 sumer's default or delinquency, other than an
19 increase in the periodic rate or other finance
20 charge.

21 Sec. 9. 9-A MRSA §3-204, sub-§3, as enacted by
22 PL 1973, c. 762, §1, is repealed.

23 Sec. 10. 9-A MRSA §8-105, sub-§2, ¶B, as enacted
24 by PL 1981, c. 243, §25, is amended to read:

25 B. In order to obtain the insurance in connec-
26 tion with the extension of credit, the person to
27 whom the credit is extended shall give specific
28 affirmative written indication of his desire to
29 do so after written disclosure to him of the cost
30 thereof. The cost disclosed shall be the ~~total~~
31 ~~cost of the insurance over the term of the credit~~
32 ~~transaction if the term of the transaction is 10~~
33 ~~years or less premium for the initial term of the~~
34 ~~insurance.~~

35 Sec. 11. 9-A MRSA §8-105, sub-§3, as enacted by
36 PL 1981, c. 243, §25, is amended to read:

37 3. Charges or premiums for insurance, written in
38 connection with any consumer credit transaction,
39 against loss of or damage to property or against lia-
40 bility arising out of the ownership or use of prop-
41 erty, shall be included in the finance charge unless
42 a clear and specific statement in writing is fur-

1 nished by the creditor to the person to whom the
2 credit is extended, setting forth the ~~total cost~~ pre-
3 mium for the initial term of the insurance if
4 obtained from or through the creditor, and stating
5 that the person to whom the credit is extended may
6 choose the person through which the insurance is to
7 be obtained.

8 **Sec. 12. 9-A MRSA §8-108, sub-§3, as enacted by**
9 **PL 1981, c. 243, §25, is amended to read:**

10 3. Reimbursement. The administrator shall have
11 the authority to adopt, by rule, a reimbursement pro-
12 gram such that creditors subject to an administrative
13 order under section 6-108 may be ordered to make
14 whatever adjustments are necessary to insure that any
15 person will not be required to pay a finance charge
16 in excess of the finance charge actually disclosed or
17 the dollar equivalent of the annual percentage rate
18 actually disclosed, whichever is lower. In determin-
19 ing any readjustment, the administrator shall apply,
20 with respect to the annual percentage rate, a toler-
21 ance allowed under section 8-106 and, with respect to
22 the finance charge, a corresponding numerical toler-
23 ance as generated by the tolerance allowed by section
24 8-106 for the annual percentage rate. In promul-
25 gating regulations regarding reimbursement and in
26 enforcing those rules, the administrator shall be
27 guided by the federal rules governing reimbursement
28 as set forth in the federal Truth-in-Lending Act and
29 regulations pursuant thereto.

30 **Sec. 13. 10 MRSA §1320, sub-§1, ¶A, as amended**
31 **by PL 1981, c. 610, §10, is further amended to read:**

32 A. Disclose in writing to the consumer against
33 whom such adverse action has been taken:

34 (1) A statement that its action was based
35 in whole or in part on such a consumer
36 report; and

37 (2) The name, address and telephone number
38 for the nearest unit designated to handle
39 inquiries of the consumer reporting agency
40 issuing the report; and.

1 (3) A statement informing the consumer of
2 the right to inspect and receive a copy of
3 that report by contacting the credit report-
4 ing agency.

5 STATEMENT OF FACT

6 Sections 1 to 3 and section 6 change the defini-
7 tion of consumer credit sale, consumer loan and
8 supervised loan by raising the threshold interest
9 rate from 12 1/4% to 16 1/2% and make other changes
10 to increase the maximum loan term for certain small
11 loans. Since the Consumer Credit Code was enacted in
12 1974, the Consumer Price Index has risen 120% and
13 consumer loan rates have increased from between 9%
14 and 12% to between 13% and 18%. The threshold of 12
15 1/4% has never been increased. In 1974, most real
16 estate loans and many consumer loans were not
17 treated as "supervised loans" because their interest
18 rates were less than the threshold of 12 1/4%. This
19 threshold rate was set to include only those loans
20 which were above prevailing market interest rates.
21 The threshold should be increased as prevailing rates
22 increase so that only loans that are higher than the
23 prevailing market rate are "supervised." Under this
24 change, real estate loans with a finance charge not
25 exceeding 16 1/2% are not subject to the Code, except
26 for Truth-in-Lending disclosures, and other consumer
27 loans below 16 1/2% are subject to most Code restric-
28 tions, but are not supervised. Under these changes
29 banks would be more willing to make small, relatively
30 low interest loans.

31 Sections 5 and 6 increase the maximum loan term
32 for loans of less than \$2,200 from 37 months to 61
33 months. Increasing the loan term results in lower
34 monthly payments to the consumer. For example, using
35 the maximum rate of 18% against a \$2,200 loan, the
36 payments over 36 months are \$79.53. Over 60 months
37 payments would be reduced to \$55.85. This allows a
38 borrower with a high mortgage payment to obtain a
39 home improvement or other type loan at a lower pay-
40 ment.

41 Section 4 and sections 7 to 13 make numerous
42 changes to conform Maine law to federal consumer

1 credit regulations. When the Code was originally
2 enacted, it was to provide for separate state
3 enforcement of consumer credit laws but it was
4 intended that the substantive requirements of federal
5 and state law remain the same.

6 Federal law provides for the use of at least 4
7 different methods of computing the account balance on
8 which a finance charge will be imposed. Under exist-
9 ing Maine law, only 2 methods are allowed. Sections
10 4 and 7 allow banks to use any generally accepted
11 method as long as the method is properly described.

12 Under federal law, a creditor may change the
13 terms of an open-end credit account after giving 15
14 days prior notice. Under existing Maine law, 3
15 notices must be given starting 90 days in advance of
16 the change. Section 8 adopts the language of the
17 federal regulation regarding notice of changes.

18 Under federal law, the premium for credit and
19 property insurance must be disclosed by giving the
20 premium for the initial term of the insurance, usu-
21 ally one year. Under existing Maine law for certain
22 transactions, the creditor must disclose the premium
23 for the entire term of the loan, even though continu-
24 ation of the insurance for the entire term is not re-
25 quired. Sections 10 and 11 conform to federal rules
26 for disclosure of the cost of credit and property
27 insurance.

28 Federal law sets forth standards for reimburse-
29 ment to consumers when there has been a disclosure
30 error. Those federal standards are designed to pro-
31 tect the consumer but relieve the creditor of the
32 need to reimburse where an error was technical and
33 not intentional. The existing Maine regulation is
34 more restrictive than the federal regulation and
35 makes no provision for the unintentional,
36 nonmisleading technical error. Section 12 requires
37 the administrator to follow the federal rules.

38 Section 13 conforms the Maine Fair Credit Report-
39 ing Act requirements for users of consumer reports to
40 the federal requirements.

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