

1 2 3	(New Draft of S.P. 225, L.D. 588) FIRST REGULAR SESSION
4 5	ONE HUNDRED AND TWELFTH LEGISLATURE
6 7	Legislative Document No. 1301
8	S.P. 482 In Senate, April 11, 1985
9 10	Reported by Senator Bustin of Kennebec from the Committee on Business and Commerce and printed under Joint Rule 2. Original bill sponsored by Senator Bustin of Kennebec.
11	JOY J. O'BRIEN, Secretary of the Senate
12 13	STATE OF MAINE
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15 16 17	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-FIVE
18 19 20	AN ACT to Amend the Maine Consumer Credit Code.
21 22	Be it enacted by the People of the State of Maine as follows:
23 24 25	Sec. 1. 9-A MRSA §2-307, sub-§2, as amended by PL 1981, c. 470, Pt. A, §18, is further amended to read:
26 27 28 29 30	2. With respect to a supervised loan in which the amount financed is \$1,000 or less, a lender may not take a security interest in the principal resi- dence of the consumer. This subsection does not apply when the lender holds a first mortgage on the resi-
31 32 33 34 35 36	dence at the time the loan is made or when the loan is made pursuant to an open-end credit plan involving a commitment to advance amounts in excess of \$1,000. Notwithstanding Title 14, no judgment of foreclosure of a mortgage upon the principal residence of a con- sumer may be entered on account of the consumer's

failure to repay supervised loans under an open-end credit plan, unless the consumer's outstanding balance described in section 8-205, subsection 2, paragraph I, has at some time exceeded \$1,000 and the consumer has not paid the account in full subsequent to the date of the last periodic statement showing an outstanding balance in excess of \$1,000.

8 Sec. 2. 9-A MRSA §2-307, sub-§3 is enacted to 9 read:

10 3. The amount of \$1,000 in subsection 2 is sub-11 ject to change pursuant to the provisions on adjust-12 ment of dollar amounts, section 1-106.

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STATEMENT OF FACT

The Maine Revised Statutes, Title 9-A, section 14 15 2-307, subsection 2, is intended to prohibit lenders 16 from taking a security interest in the principal residence of a consumer in the case of a small loan of 17 18 \$1,000 or less. This subsection could be construed to 19 require that open-end lines of credit which are secured by 2nd mortgages must require the consumer to 20 21 take advances in amounts of \$1,000 or more every time 22 the consumer wants any amount on the line of credit.

23 Since the loan arrangements involved are typically substantial lines of credit of \$5,000 or more, 24 they are not "small loans" which should be subject to 25 26 the \$1,000 minimum. In addition, separate advances under a single line of credit should not be treated as individual "small loans" subject to a provision 27 28 29 intended to address one-time small loan transactions. 30 This new draft exempts substantial lines of credit from the prohibition against mortgage security, but 31 32 requires that the lender actually have made advances 33 in excess of \$1,000 in order to be able to obtain foreclosure on default. 34

35 In addition, if the consumer pays off the account 36 in full, the lender must again advance more than 37 \$1,000 before there may be a foreclosure. 1 The Maine Revised Statutes, Title 9-A, section 2 2-307, subsection 3, causes the minimum dollar size 3 of 2nd mortgage loans and lines of credit to increase 4 with inflation.

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