

MAINE STATE LEGISLATURE

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(New Draft of S.P. 146, L.D. 413)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document No. 1605

S.P. 612 In Senate, May 24, 1985

Reported by Senator Danton of York from the Committee on Business and Commerce and printed under Joint Rule 2. Original bill presented by Senator Bustin of Kennebec.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT Relating to Collateral and Terms of
Credit Transactions Under the Maine
Consumer Credit Code.

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

Sec. 1. 9-A MRSA §2-504, first ¶, as amended by PL 1983, c. 77, is further 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% per year the rate charged in the original agreement and stated to the consumer pursuant to the provisions on disclosure. This section shall not apply to consumer loans in which the principle thereof is payable in a single

1 payment on demand or at a specified time and the fi-
2 nance charge, calculated according to the actuarial
3 method, does not exceed 12 1/4% per year, or to con-
4 sumer loans which, at the time of refinancing, are
5 subject to the provisions of federal laws or regula-
6 tions governing interest on deposits, provided that
7 the difference between the rate of interest earned on
8 the savings or time deposit and the rate of interest
9 charged on the loan secured by that deposit does not
10 exceed the difference between the rate of interest
11 earned on the savings or time deposit and the rate of
12 interest charged on the loan secured by that deposit
13 for the loan that is being refinanced or upon volun-
14 tarily providing different collateral than that se-
15 curing the original loan, provided that the consumer
16 has not been in default on the loan with the creditor
17 within the 12-month period preceding the refinancing
18 of the loan. This section also does not apply to
19 consumer loans in which the principal is payable in a
20 single payment on demand or at a specified time and
21 the debt is secured by an interest in securities,
22 bonds, debentures or other corporate obligations.
23 For the purpose of determining the finance charge
24 permitted, the amount financed resulting from the re-
25 financing comprises the following:

26 Sec. 2. 9-A MRSA §3-301, sub-§1, as amended by
27 PL 1981, c. 243, §§15 and 26, is further amended to
28 read:

29 1. With respect to a consumer credit sale, a
30 seller may take a security interest in the property
31 sold. In addition, a seller may take a security in-
32 terest in goods upon which services are performed or
33 in which goods sold are installed or to which they
34 are annexed, or in land to which the goods are af-
35 fixed or which is maintained, repaired or improved as
36 a result of the sale of the goods or services, if in
37 the case of a security interest in land the debt se-
38 cured is \$1,000 or more, and, where there is an ex-
39 isting home, the transaction is subject to Title 9,
40 chapter 360, or, in the case of a security interest
41 in goods, the debt secured is \$300 or more. Except
42 as provided with respect to cross-collateral, section
43 3-302, a seller may not otherwise take a security in-
44 terest in property of the buyer to secure the debt
45 arising from a consumer credit sale.

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STATEMENT OF FACT

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Section 1 of this new draft is to permit the consumer with the financial institution's approval to substitute different collateral on a loan without being subject to certain penalties under the Maine Consumer Credit Code. The collateral can only be substituted if the consumer voluntarily agrees and is not in default on the loan at that financial institution.

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Section 2 of the new draft clarifies the provisions of the Maine Revised Statutes, Title 9-A, section 3-301, regarding the Home Repair Financing Act. As currently written, the Maine Revised Statutes, Title 9-A, section 3-301, subsection 1 allows a seller of goods to take a security interest in land when the debt secured is \$1,000 or more and the transaction is subject to the Maine Revised Statutes, Title 9, chapter 360, the Home Repair Financing Act. While this covers situations where improvements costing at least \$1,000 are made to an existing home, such as adding aluminum siding to a home, it could be interpreted to mean that no security interest is allowed in cases where a large debt is incurred but the transaction is not subject to the Home Repair Financing Act, such as sale of a kit house or log cabin. This new draft makes it clear that the 2nd requirement applies only when there is an existing home.

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