

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 849

H.P. 626

House of Representatives, March 21, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative CURRAN of Westbrook.

Cosponsored by Senator THERIAULT of Aroostook, Senator DILLENBACK of Cumberland and Representative ALLEN of Washington.

STATE OF MAINE

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

An Act to Harmonize the Adjustable Rate Transaction Requirements of the Maine Consumer Credit Code with the Federal Truth-in-Lending Act and to Repeal Sunrise Provisions.



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

3 **Sec. 1. 9-A MRSA §2-401, sub-§3, ¶C,** as reenacted by PL 1987,
5 c. 129, §§41 and 42, is repealed.

7 **Sec. 2. 9-A MRSA §2-504, first ¶,** as repealed and replaced by PL
9 1987, c. 129, §§48, 49 and 50, is repealed and the following
enacted in its place:

11 With respect to a consumer credit transaction, except a
13 consumer lease, the creditor by agreement with the consumer may
15 refinance the unpaid balance and contract for and receive a
17 finance charge based on the amount financed resulting from the
19 refinancing at a rate not exceeding that permitted by the
21 provisions on finance charge for consumer credit sales other than
open-end credit, section 2-201, if a consumer credit sale is
refinanced, or for consumer loans, section 2-401, if a consumer
loan is refinanced. For the purpose of determining the finance
charge permitted, the amount financed resulting from the
refinancing is composed of the following:

23 **Sec. 3. 9-A MRSA §3-310, sub-§1,** as amended by PL 1987, c.
25 129, §61, is repealed and the following enacted in its place:

27 1. In connection with a consumer credit transaction in
29 which the interest rate may vary during the term of the
31 transaction, the creditor shall make the following disclosures in
33 writing.

35 A. With respect to a closed-end transaction secured by the
37 consumer's principal dwelling with a term greater than one
39 year, the information required under 12 Code of Federal
41 Regulations, Section 226.19(b) shall be disclosed at the
43 time an application form is provided or before the consumer
45 pays a nonrefundable fee, whichever is earlier.

47 B. With respect to an open-end credit plan secured by the
49 consumer's principal dwelling or by any 2nd or vacation home
51 of the consumer, the information required by 12 Code of
Federal Regulations, Section 226.5b(d) shall be disclosed at
the time provided in 12 Code of Federal Regulations Section
226.5 b (b).

C. With respect to a closed-end transaction other than one
described in paragraph A, the information required by 12
Code of Federal Regulations Section 226.18(f) shall be
disclosed before consummation of the transaction.

D. With respect to an open-end credit plan other than one
described in paragraph B, the information required by 12
Code of Federal Regulations, Section 226.6(a)(2) shall be
disclosed before the first transaction under the plan. The

1 creditor shall disclose the amount of the increase in the
3 finance charge that would apply if the interest rate
5 applicable to the plan, as applied to a balance of \$1,000
for one month, were to increase by the lesser of 5% per year
or the maximum amount allowed under the plan.

7 **Sec. 4. 9-A MRSA §3-310, sub-§1-A**, as enacted by PL 1983, c.
9 720, §18, is amended to read:

11 1-A. In connection with a consumer credit transaction in
13 which the ~~annual--percentage~~ interest rate may vary during the
15 term of the transaction, the creditor may only use an index or
other method that is beyond its control for determining any
increase or decrease in the ~~annual--percentage~~ interest rate.

17 **Sec. 5. 9-A MRSA §3-310, sub-§2**, as enacted by PL 1981, c.
138, is amended to read:

19 2. A variation in the ~~annual--percentage~~ interest rate in
21 accordance with the disclosures required by subsection 1 shall
not be considered a refinancing under section 2-504 or a change
in terms under section 3-204.

23 **Sec. 6. 9-A MRSA §3-310, sub-§3**, as amended by PL 1985, c.
25 336, §5, is further amended to read:

27 3. A variation in the ~~annual--percentage~~ interest rate not
in accordance with the disclosures ~~required by~~ of limits on
29 interest rate changes and examples of the effects of a change
made in accordance with subsection 1, ~~paragraph C or H, or any~~
31 ~~rule adopted under this section,~~ shall be considered a charge in
excess of that allowed by this Code under section 5-201,
33 subsections 3 and 4.

35 **Sec. 7. 9-A MRSA §3-310, sub-§4**, as amended by PL 1985, c.
763, Pt. A, §38, is further amended to read:

37 4. ~~This section~~ Subsection 1-A does not apply to a consumer
39 loan secured by a savings or time deposit if the difference
between the rate of interest on the savings or time deposit and
41 the ~~annual--percentage~~ interest rate on the loan at no time
exceeds the difference between the 2 when the loan was made.

43 **Sec. 8. PL 1987, c. 129, §§42 and 50** are repealed.

45 **Sec. 9. Effective date.** This Act shall take effect October 1,
47 1989.

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STATEMENT OF FACT

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5 In 1987, 2 provisions of the Maine Consumer Credit Code were
7 repealed on a trial basis but scheduled to come back into effect
9 in 1989 unless prevented by further legislative action. Repeal
11 of these 2 provisions, one which allowed only 60 days interest to
be included in a rewritten loan and the 2nd which limited to 1%
an increase in interest rate for a rewritten loan has not
resulted in any pattern of abuse by creditors. Sections 1, 2 and
8 of this bill eliminate these provisions.

13 Section 3 of this bill revises the disclosure rules for
15 variable rate transactions. When the Maine Revised Statutes,
17 Title 9-A, section 3-310 of the Consumer Credit Code was first
19 enacted, Maine led the nation in requiring complete disclosure of
21 information regarding variable rate loans. Since that time,
23 federal truth-in-lending laws have been amended several times to
25 provide equal or greater disclosure of variable rate terms. Many
27 of these federal rules already have been adopted as part of the
29 Maine truth-in-lending laws under the Bureau of Consumer Credit
31 Protection, Rule Z-2. Rulemaking is now planned to adopt the
balance of the federal truth-in-lending disclosures as Maine law
pursuant to the bureau's rulemaking authority under article 8 of
the Code. The changes contained in section 3 of this bill
eliminate duplicative and sometimes inconsistent disclosures,
avoiding an "information overload" when consumers are handed
numerous, largely duplicative forms. Section 3 also retains the
requirement of an indication of the effect of a rate increase for
open-end credit other than home equity credit, such as credit
card credit.

33 Sections 4 to 7 of this bill change the reference to "annual
35 percentage rate" to read "interest rate" because there are many
37 transactions in which the rate that varies involves only the
39 simple interest component of financial charges and not other
41 fixed charge components that are included in the annual
percentage rate. Section 6 also repeals a reference to
rulemaking authority under section 3-310. That authority was
moved to section 9-302 of the Code when article 9 of the Code was
enacted in 1988.