

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

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Legislative Document

No. 1391

H.P. 1002

House of Representatives, April 27, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative REED of Falmouth.
Cosponsored by Senator THERIAULT of Aroostook.

STATE OF MAINE

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

**An Act to Amend the Maine Consumer Credit Code to Add Provisions
Relating to Credit and Charge Card Disclosures.**



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

3 **Sec. 1. 9-A MRSA §8-202**, as enacted by PL 1981, c. 243, §25,
5 is amended to read:

7 **§8-202. Form of disclosure; additional information; tabular
9 format required for certain credit and charge card
disclosures**

11 1. Information required by this Article shall be disclosed
12 clearly and conspicuously, in accordance with regulations of the
13 administrator. The terms "annual percentage rate" and "finance
14 charge" shall be disclosed more conspicuously than other terms,
15 data or information provided in connection with a transaction,
16 except information relating to the identity of the creditor.
17 Regulations Except as provided in subsection 3, regulations
18 of the administrator need not require that disclosures pursuant to
19 this Article be made in the order set forth in this Article and,
20 except as otherwise provided, may permit the use of terminology
21 different from that employed in this Article if it conveys
22 substantially the same meaning.

23 2. Any creditor may supply additional information or
24 explanation with any disclosures required under this Article,
25 except as provided in section 8-206, subsection 2.

27 3. Tabular format shall be required for certain disclosures
28 under section 8-205, subsection 3.

29 A. The information described in section 8-205, subsection
30 3, paragraph A, subparagraph (i); section 8-205, subsection
31 3, paragraph C, subparagraph (ii), division (a), subdivision
32 (1); section 8-205, subsection 3, paragraph D, subparagraph
33 (i) and subparagraph (iii), division (a), subdivision (1)
34 shall be:

35 (i) Disclosed in the form and manner which the
36 administrator shall prescribe by regulations; and

37 (ii) Placed in a conspicuous and prominent location on
38 or with any written application, solicitation or other
39 document or paper with respect to which that disclosure
40 is required.

41 B. Tabular format shall be as follows:

42 (i) In the regulations prescribed under paragraph A,
43 subparagraph (i), the administrator shall require that
44 the disclosure of the information shall, to the extent
45 the administrator determines to be practicable and
46 appropriate, be in the form of a table which:

1 (a) Contains clear and concise headings for each
3 item of the information; and

5 (b) Provides a clear and concise form for stating
7 each item of information required to be disclosed
 under each heading.

9 (ii) In prescribing the form under subparagraph (i),
 the administrator may:

11 (a) List the items required to be included in the
13 table in a different order than the order in which
15 those items are set forth in section 8-205,
 subsection 3, paragraph A, subparagraph (i) or
 paragraph D, subparagraph (i); and

17 (b) Subject to subparagraph (iii), employ
19 terminology which is different from the
21 terminology which is employed in section 8-205,
 subsection 3, if that terminology conveys
 substantially the same meaning.

23 (iii) Either the heading or the statement under the
25 heading which relates to the time period referred to in
27 section 8-205, subsection 3, paragraph A, subparagraph
 (i), division (c) shall contain the term "grace period."

29 **Sec. 2. 9-A MRSA §8-205, sub-§§3 to 7 are enacted to read:**

31 3. Disclosure in credit and charge card applications and
 solicitations shall be as follows.

33 A. Direct mail applications and solicitations shall be
35 governed by this paragraph.

37 (i) Any application to open a credit card account for
39 any person under an open-end consumer credit plan, or a
41 solicitation to open such an account without requiring
43 an application, that is mailed to consumers, shall
 disclose in tabular format the following information,
 pursuant to subsection 5 and section 8-202, subsection
 3:

45 (a) Annual percentage rates:

47 (1) Each annual percentage rate applicable
 to extensions of credit under the credit plan;

49 (2) When an extension of credit is subject
51 to a variable rate, the fact that the rate is
 variable, the annual percentage rate in

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effect at the time of the mailing and how the rate is determined; and

(3) When more than one rate applies, the range of balances to which each rate applies;

(b) Annual and other fees:

(1) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle;

(2) Any minimum finance charge imposed for each period during which any extension of credit which is subject to a finance charge is outstanding; and

(3) Any transaction charge imposed in connection with use of the card to purchase goods or services;

(c) Grace period:

(1) The date by which, or the period within which, any credit extended under the credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge and, if no such grace period is offered, that fact shall be clearly stated; and

(2) If the length of the grace period varies, the card issuer may disclose the range of days, the minimum number of days or the average number of days in the grace period, if the disclosure is identified as such; and

(d) Balance calculation method:

(1) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the administrator, or a detailed explanation of the balance calculation method used if the method has not been so defined; and

(2) In prescribing regulations to carry out this subsection, the administrator shall

1 define and name not more than the 5 balance
3 calculation methods determined by the
5 administrator to be the most commonly used
7 methods.

9 (ii) In addition to the information required to be
11 disclosed under subparagraph (i), each application or
13 solicitation to which that subparagraph applies shall
15 disclose clearly and conspicuously the following
17 information, subject to subsections 5 and 6:

19 (a) Any cash advance fee which is any fee imposed
21 for an extension of credit in the form of cash;

23 (b) Any late fee which is any fee imposed for a
25 late payment; and

27 (c) Any over-the-limit fee which is any fee
29 imposed in connection with an extension of credit
31 in excess of the amount of credit authorized to be
33 extended with respect to that account.

35 B. Telephone solicitations shall be governed by this
37 paragraph.

39 (i) In any telephone solicitation to open a credit
41 card account for any person under an open-end consumer
43 credit plan, the person making the solicitation shall
45 orally disclose the information described in paragraph
47 A, subparagraph (i).

49 (ii) Subparagraph (i) shall not apply to any telephone
51 solicitation if:

(a) The credit card issuer:

(1) Does not impose any fee described in
subsection 3, paragraph A, subparagraph (i),
division (b), subdivision (1); or

(2) Does not impose any fee in connection
with telephone solicitations unless the
consumer signifies acceptance by using the
card;

(b) The card issuer discloses clearly and
conspicuously in writing the information described
in paragraph A within 30 days after the consumer
requests the card, but in no event later than the
date of delivery of the card; and

1 (c) The card issuer discloses clearly and
3 conspicuously that the consumer is not obligated
5 to accept the card or account and the consumer
7 will not be obligated to pay any of the fees or
 charges disclosed unless the consumer elects to
 accept the card or account by using the card.

9 C. Applications and solicitations by other means shall be
 governed by this paragraph.

11 (i) Any application to open a credit card account for
13 any person under an open-end consumer credit plan, or
15 any solicitation to open such an account without
17 requiring an application, that is made available to the
 public or contained in catalogs, magazines, or other
 publications, shall meet the disclosure requirements of
 subparagraph (ii), (iii) or (iv).

19 (ii) An application or solicitation described in
21 subparagraph (i) meets the requirement of this
 subparagraph if that application or solicitation
 contains:

23 (a) The information:

25 (1) Described in paragraph A, subparagraph
27 (i) in the form required under section 8-202,
29 subsection 3, subject to subsection 5 of this
 section; and

31 (2) Described in paragraph A, subparagraph
33 (ii) in a clear and conspicuous form, subject
 to subsections 5 and 6;

35 (b) A statement, in a conspicuous and prominent
37 location on the application or solicitation, that:

39 (1) The information is accurate as of the
41 date the application or solicitation was
 printed;

43 (2) The information contained in the
45 application or solicitation is subject to
 change after that date; and

47 (3) The applicant should contact the
49 creditor for information on any change in the
 information contained in the application or
 solicitation since it was printed;

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(c) A clear and conspicuous disclosure of the date the application or solicitation was printed; and

(d) A disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll-free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

(iii) An application or solicitation described in subparagraph (i) meets the requirement of this subparagraph if that application or solicitation:

(a) Contains a statement, in a conspicuous and prominent location on the application or solicitation, that:

(1) There are costs associated with the use of credit cards; and

(2) The applicant may contact the creditor to request disclosure of specific information of those costs by calling a toll-free telephone number or by writing to an address, specified in the application;

(b) Contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll-free telephone number and a mailing address at which the applicant may contact the creditor to obtain that information; and

(c) Does not contain any of the items described in paragraph A.

(iv) An application or solicitation meets the requirements of this subparagraph if it contains, or is accompanied by:

(a) The disclosures required by subsection 1, paragraphs A through F;

(b) The disclosures required by paragraph A, subparagraphs (i) and (ii), included clearly and conspicuously, except that the provisions of section 8-202, subsection 3, shall not apply; and

1 (c) A toll-free telephone number or a mailing
3 address at which the applicant may contact the
 creditor to obtain any change in the information
 provided.

5 (v) Upon receipt of a request for any information
7 referred to in subparagraph 2, 3 or 4, the card issuer
 or the agent of that issuer shall promptly disclose all
9 other information described in paragraph A.

11 D. Charge card applications and solicitation shall be
 governed by this paragraph.

13 (i) Any application or solicitation to open a charge
15 card account shall disclose clearly and conspicuously
 the following information in the form required by
17 section 8-202, subsection 3, subject to subsection 5:

19 (a) Any annual fee, other periodic fee or
 membership fee imposed for the issuance or
21 availability of the charge card, including any
 account maintenance fee or other charge imposed
23 based on activity or inactivity for the account
 during the billing cycle;

25 (b) Any transaction charge imposed in connection
27 with use of the card to purchase goods or
 services; and

29 (c) A statement that charges incurred by use of
31 the charge card are due and payable upon receipt
 of a periodic statement rendered for that charge
33 card account.

35 (ii) In addition to the information required to be
 disclosed under subparagraph (i), each written
37 application or solicitation to which that subparagraph
 applies shall disclose clearly and conspicuously the
39 following information, subject to subsections 5 and 6,
 provided those fees or charges are not prohibited under
41 section 2-501 or 2-502:

43 (a) Any cash advance fee which is any fee imposed
 for an extension of credit in the form of cash;

45 (b) Any late fee which is any fee imposed for a
47 late payment; and

49 (c) Any over-the-limit fee which is any fee
 imposed in connection with an extension of credit
51 in excess of the amount of credit authorized to be
 extended with respect to that account.

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3 (iii) Any application to open a charge card account,
5 or any solicitation to open such an account without
7 requiring an application, that is made available to the
9 public or contained in catalogs, magazines, or other
11 publications, shall contain:

13 (a) The information:

15 (1) Described in subparagraph (i) in the
17 form required under section 8-202, subsection
19 3, subject to subsection 5; and

21 (2) Described in subparagraph (ii) in a
23 clear and conspicuous form, subject to
25 subsections 5 and 6;

27 (b) A statement, in a conspicuous and prominent
29 location on the application or solicitation, that:

31 (1) The information is accurate as of the
33 date the application or solicitation was
35 printed;

37 (2) The information contained in the
39 application or solicitation is subject to
41 change after that date; and

43 (3) The applicant should contact the
45 creditor for information on any change in the
47 information contained in the application or
49 solicitation since it was printed;

51 (c) A clear and conspicuous disclosure of the
date the application or solicitation was printed;
and

(d) A disclosure, in a conspicuous and prominent
location on the application or solicitation, of a
toll-free telephone number or a mailing address at
which the applicant may contact the creditor to
obtain any change in the information provided in
the application or solicitation since it was
printed.

(iv) If a charge card permits the card holder to
receive an extension of credit under an open-end
consumer credit plan, which is not maintained by the
charge card issuer, the charge card issuer may provide
the information described in subparagraphs (i) and (ii)
in the form required by those subparagraphs in lieu of
the information required under paragraph A, B or C with

1 respect to any credit extended under that plan, if the
3 charge card issuer discloses clearly and conspicuously
to the consumer in the application or solicitation that:

5 (a) The charge card issuer will make an
7 independent decision as to whether to issue the
card;

9 (b) The charge card may arrive before the
11 decision is made with respect to an extension of
credit under an open-end consumer credit plan; and

13 (c) Approval by the charge card issuer does not
15 constitute approval by the issuer of the extension
of credit.

17 The information required to be disclosed under
19 paragraph A shall be provided to the charge card holder
by the creditor which maintains the open-end consumer
21 credit plan before the first extension of credit under
that plan.

23 (v) For the purposes of this subsection, the term
25 "charge card" means a card, plate or other single
credit device that may be used from time to time to
27 obtain credit which is not subject to a finance charge.

E. The administrator may, by regulation, require the
29 disclosure of information in addition to that required by
this subsection or subsection 4, and modify any disclosure
31 of information required by those subsections, in any
application to open a credit card account for any person
33 under an open-end consumer credit plan or any application to
open a charge card account for any person, or a solicitation
35 to open any such account without requiring an application,
if the administrator determines that the action is necessary
37 to carry out the purposes of, or prevent evasions of, this
subsection.

39 4. Disclosure prior to renewal shall be as follows:

41 A. Except as provided in paragraph B, a card issuer that
43 imposes any fee described in subsection 3, paragraph A,
subparagraph (i), division (b), subdivision (1) or
45 subsection 3, paragraph D, subparagraph (i), division (a),
shall transmit to the consumer at least 30 days prior to the
47 scheduled renewal date of the consumer's credit or charge
card account a clear and conspicuous disclosure of:

49 (i) The date, the month, or the billing period at the
51 close of which the account will expire if not renewed;

1 (ii) The information described in subsection 3,
3 paragraph A, subparagraph (i), or subsection 3,
 paragraph D, subparagraph (i), that would apply if the
 account were renewed, subject to subsection 5; and

5 (iii) The method by which the consumer may terminate
7 continued credit availability under the account.

9 B. Special rule for certain disclosures shall be governed
 by this paragraph.

11 (i) The disclosures required by this subsection may be
13 provided:

15 (a) Prior to posting a fee described in
17 subsection 3, paragraph A, subparagraph (i),
 division (b), subdivision (1) or subsection 3,
19 paragraph D, subparagraph (i), division (a), to
 the account; or

21 (b) With the first periodic billing statement
23 that reflects the posting of the fee to the
 account.

25 (ii) Disclosures may be provided under subparagraph
27 (i) only if:

29 (a) The consumer is given a 30-day period to
31 avoid payment of the fee or to have the fee
33 recredited to the account in any case when the
 consumer does not wish to continue the
 availability of the credit; and

35 (b) The consumer is permitted to use the card
37 during that period without incurring an obligation
 to pay the fee.

39 C. The administrator may, by regulation, provide for fewer
41 disclosures than are required by paragraph A in the case of
 an account which is renewable for a period of less than 6
 months.

43 5. Other rules for disclosures under subsections 3 and 4
45 shall be as follows.

47 A. If the amount of any fee required to be disclosed under
49 subsection 3 or 4 is determined on the basis of a percentage
51 of another amount, the percentage used in making that
 determination and the identification of the amount against
 which that percentage is applied shall be disclosed in lieu
 of the amount of that fee.

1 B. If a credit or charge card issuer does not impose any
3 fee required to be disclosed under any provision of
 subsection 3 or 4, this provision shall not apply with
 respect to that issuer.

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6. If the amount of any fee required to be disclosed by a
7 credit or charge card issuer under subsection 3, paragraph A,
9 subparagraph (ii); subsection 3, paragraph C, subparagraph (ii),
11 division (a), subdivision (2); subsection 3, paragraph D,
13 subparagraph (ii); or subsection 3, paragraph D, subparagraph
15 (iii), division (a), subdivision (2), varies from state to state,
 the card issuer may disclose the range of those fees for purposes
 of subsection 3 in lieu of the amount for each applicable state,
 if that disclosure includes a statement that the amount of the
 fee varies from state to state.

17 7. Insurance in connection with certain open-end credit
19 card plans shall be as follows:

21 A. Whenever a card issuer that offers any guarantee or
23 insurance for repayment of all or part of the outstanding
25 balance of an open-end credit card plan proposes to change
27 the provider of that guarantee or insurance, the card issuer
29 shall send each insured consumer written notice of the
31 proposed change not less than 30 days prior to the change,
 including notice of any increase in the rate or substantial
 decrease in coverage or service which will result from that
 change. The notice may be included on or with the monthly
 statement provided to the consumer prior to the month in
 which the proposed change would take effect.

33 B. In any case in which a proposed change described in
35 paragraph A occurs, the insured consumer shall be given the
37 name and address of the new guarantor or insurer and a copy
 of the policy or group certificate containing the basic
 terms and conditions, including the premium rate to be
 charged.

39 C. The notices required under paragraphs A and B shall each
41 include a statement that the consumer has the option to
 discontinue the insurance or guarantee.

43 D. The administrator shall define in regulations what
45 constitutes a "substantial decrease in coverage or service"
 for purposes of paragraph A.

47 Sec. 3. 9-A MRSA §8-208, sub-§8, as amended by PL 1981, c.
49 698, §23, is further amended to read:

51 8. With respect to disclosure under sections 8-205 and
 8-206, a creditor is liable under subsection 1, paragraph

1 paragraphs B or D, only for the failure to comply with certain
disclosure requirements.

3
4 A. In connection with the disclosures of section 8-205,
5 subsections 1 and 2 of a creditor's only liability under
6 subsection 1, paragraph paragraphs B or D, is for failing to
7 comply with the requirements of section 8-204, section
8-205, subsection 1 or subsection 2, paragraphs paragraph D,
9 E, F, G, H, I or J.

11 B. In connection with the disclosures of section 8-206, a
creditor's only liability determined under subsection 1,
13 paragraph paragraphs B or D, is for failing to comply with
the requirements of section 8-204, or section 8-206,
15 subsection 1, paragraphs paragraph B, C, D, E, F or I.

17 C. With respect to any failure to make disclosures required
by this Article, liability shall be imposed only upon the
19 creditor required to make disclosures, except as provided in
section 8-209.

21 **Sec. 4. 9-A MRSA §§8-208, sub-§9** is enacted to read:

23
24 9. In connection with the disclosures referred to in
25 section 8-205, subsections 3 or 4, a card issuer shall have a
26 liability under this section only to a card holder who uses a
27 credit or charge card or pays a fee described in section 8-205,
28 subsection 3, paragraph A, subparagraph (i), division (b),
29 subdivision (1) or section 8-205, subsection 3, paragraph D,
30 subparagraph (i), division (a).

33 STATEMENT OF FACT

35
36 In the past, issuers of credit and charge cards have not
37 been required to disclose credit and charge card agreement terms,
such as annual percentage rates and other charges, until
39 consumers received the cards.

41 Under a federal law recently passed by Congress, issuers
will now have to provide those disclosures as part of their
43 advertisements and solicitations, so that consumers will be able
to compare terms prior to requesting the cards.

45
46 The United States Fair Credit and Charge Card Disclosure Act
47 of 1988 amends a section of the federal Truth-in-Lending Act from
which Maine has historically been exempt, since Maine has
49 maintained provisions in the Maine Revised Statutes, Maine
Consumer Credit Code, Title 9-A, which are the equivalent of
51 their federal counterparts.

1 This bill incorporates the new federal language into Maine
2 law, allowing enforcement on a state level, protecting Maine's
3 exemption from the federal Truth-in-Lending Act and providing a
4 basis for incorporation of related provisions through state
5 rule-making procedures.