

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

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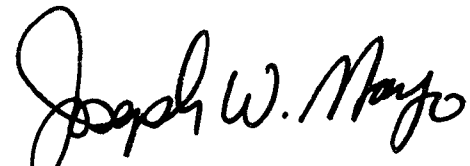
H.P. 1023

House of Representatives, February 23, 1999

**An Act to Make Minor Corrections to the Laws Governing Consumer
Credit and Collection.**

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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


JOSEPH W. MAYO, Clerk

Presented by Representative O'NEIL of Saco.

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

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Sec. 1. 9-A MRSA §2-202, sub-§7, as enacted by PL 1995, c. 84, §4, is amended to read:

7. With respect to consumer credit sales made pursuant to ~~an open-end~~ a credit agreement card, other than a lender credit card, a creditor may not impose a finance charge if it is in excess of that set forth in the agreement between the consumer and the creditor.

Sec. 2. 9-A MRSA §2-302, sub-§2, ¶A, as amended by PL 1997, c. 727, Pt. B, §5, is further amended to read:

A. Every applicant shall also, at the time of filing such application, file with the administrator, if the administrator so requires, a bond satisfactory to the administrator in an amount not to exceed ~~\$25,000~~ \$50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must run to the State for the use of the State and of any person or persons who may have a cause of action against the licensee under this Act. The bond must be conditional that the licensee will faithfully conform to and abide by the provisions of this Act and to all rules lawfully made by the administrator ~~hereunder~~ under this Act and will pay to the State and to any such person or persons any and all amounts of money that may become due or owing to the State or to such person or persons from the licensee under and by virtue of this Act during the period for which the bond is given;

Sec. 3. 10 MRSA §1312, sub-§3, ¶B, as repealed and replaced by PL 1997, c. 155, Pt. B, §2 and affected by §13, is amended by amending subparagraph (2) to read:

(2) Any communication of information exempt under subparagraph ~~(3)~~ (1) among persons related by common ownership or affiliated by corporate control;

Sec. 4. 10 MRSA §1320, sub-§2-B, as enacted by PL 1991, c. 453, §4 and affected by §10, is amended to read:

2-B. User request for consumer report. After ~~the effective date of this subsection~~ January 1, 1992, a person may not request a consumer report in connection with an application made for credit, employment or insurance, unless the applicant is first informed, in writing or in the same manner in which the application is made, that a consumer report may be requested in connection with the application and that the applicant, upon request, will be informed whether or not a consumer report was

2 requested, and if a report was requested, informed of the name
and address of the consumer reporting agency that furnished the
report.

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6 **Sec. 5. 32 MRSA §1102, sub-§6**, as amended by PL 1993, c. 126,
§1, is further amended to read:

8 **6. Debt collector.** "Debt collector" means any person
conducting business in this State, the principal purpose of which
10 is the collection of any debts, or who regularly collects or
attempts to collect, directly or indirectly, debts owed or due or
12 asserted to be owed or due another. ~~The term~~ "Debt collector"
includes persons who furnish collection systems carrying a name
14 that simulates the name of a debt collector and who supply forms
or form letters to be used by the creditor even though the forms
16 direct the debtor to make payments directly to the creditor.
Notwithstanding the exclusion provided by section ~~11004~~ 11003,
18 subsection 7, ~~the term~~ "debt collector" includes any creditor
who, in the process of collecting the creditor's own debts, uses
20 any name other than the creditor's that would indicate that a 3rd
person is collecting or attempting to collect these debts. For
22 purposes of subchapter II, ~~the term~~ "debt collector" includes any
attorney-at-law whose principal activities include collecting
24 debts as an attorney on behalf of and in the name of clients.
~~The term~~ "Debt collector" also includes any person regularly
26 engaged in the enforcement of security interests securing debts.
~~The term~~ "Debt collector" does not include any person who
28 retrieves collateral when a consumer has voluntarily surrendered
possession. A person is regularly engaged in the enforcement of
30 security interests if that person enforced security interests
more than 5 times in the previous calendar year. If a person
32 does not meet these numerical standards for the previous calendar
year, the numerical standards must be applied to the current
34 calendar year.

36 **Sec. 6. 32 MRSA §11031, sub-§2**, as enacted by PL 1985, c. 702,
§2, is amended to read:

38 **2. Licenses.** Licenses granted by the superintendent under
this section ~~shall be~~ are for a period of 2 years and shall
40 expire on July 31st or at such other times as the superintendent
may designate. Each license may be renewed biennially ~~so~~ as long
42 as the superintendent regards the business as responsible and
safe, but in all cases ~~to~~ terminate unless renewed by the
44 expiration date. Each license shall must plainly state the name
and business address of the licensee and shall be posted in a
46 conspicuous place in the office where the business is
transacted. The fee for each biennial license is \$400. When the
48 unexpired license term of an applicant is or will be less than
one year at a time of licensure, the license fee shall may not
50 exceed 1/2 the biennial license fee. If ~~the~~ a licensee desires

2 to carry on business in more than one place ~~within the State~~, he
3 the licensee shall procure a branch office license for each
4 additional place where the business is to be conducted. The fee
5 for each biennial branch office license is \$200.

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8 SUMMARY

10 This bill makes various technical corrections and amendments
11 to consumer credit and collection law. It amends the Maine
12 Consumer Credit Code to clarify legislative intent that only
13 retail credit card plans, not all open-end agreements, are
14 deregulated with respect to interest rates; and to increase the
15 consumer protection bond for supervised lenders from \$25,000 to
16 \$50,000. Further, the bill amends the Fair Credit Reporting Act
17 to correct and clarify the text of a statutory provision and
18 amends a subsection headnote. Finally, the bill amends the Maine
19 Fair Debt Collection Practices Act to correct a statutory
20 reference and to provide for the licensing of branch offices of
collection agencies.