

MAINE STATE LEGISLATURE

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L.D. 1156

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MAJORITY
BANKING AND INSURANCE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 877, L.D. 1156, Bill, "An Act to Update the Maine Consumer Credit Code Regarding Rental-purchase Agreements"

Amend the bill in section 2 by striking out all of subsection 3 and inserting in its place the following:

'3. "Cash price" means the price for which the merchant would sell the property to the consumer for cash on the date of the rental-purchase agreement. The ~~"cash-price"~~ cash price must be reasonably related to the fair market value of the property. The cash price of new merchandise is reasonably related to fair market value if it is equal to or less than the amounts determined under the formula set forth in paragraph A.

A. The cash price of new merchandise may not exceed the amount produced by multiplying the merchant cost by the applicable factor set forth below. For purposes of this paragraph, "merchant cost" means the bona fide actual cost, including freight charges, of the rental property paid by the merchant to a wholesaler, distributor, manufacturer or other provider, net of volume rebates, discounts or other incentives received by the merchant at the time the merchant purchased the item. The maximum cash price must be computed as follows:

(1) For appliances, the applicable factor is 1.75;

(2) For electronics having merchant cost less than \$150, the applicable factor is 1.75;

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- 2 (3) For electronics having merchant cost greater than
or equal to \$150, the applicable factor is 2.00;
- 4 (4) For furniture and jewelry, the applicable factor is
2.50; and
- 6 (5) For items not listed in subparagraphs (1) to (4),
8 the applicable factor is 2.00.

10 B. The cash price of used merchandise offered for rental
12 may not exceed the maximum permitted cash price of the
14 property when new and must be adjusted for other relevant
16 factors. Other relevant factors include:

- 16 (1) The duration of prior rentals and whether the item
18 has been repaired one or more times;
- 20 (2) Whether the consumer price of the general class of
22 items to which the item belongs has decreased or
24 increased since the merchant originally purchased it;
26 and
- 28 (3) The condition of the item.'

30 Further amend the bill in section 3 by striking out all of
32 subsection 9 and inserting in its place the following:

34 '9. "Total of payments to acquire ownership" means the
36 total of all charges payable by the consumer to acquire ownership
38 of the rental property. "Total of payments to acquire ownership"
40 includes any initial administrative fee, the total of all rental
42 payments and taxes, but does not include delivery charges, late
44 charges, payment pick-up fees or any optional charges or fees
46 that meet the requirements of section 11-111, subsection 4.'

50 Further amend the bill in section 9 by striking out all of
52 paragraph G (page 3, lines 39 to 43 in L.D.) and inserting in its
54 place the following:

56 'G. A statement that the total amount of payments to
58 acquire ownership does not include other charges the
60 consumer may incur, such as late-payment and, payment
62 pick-up fees and charges or fees for optional products or
64 services. Late-payment and, payment pick-up fees and
66 charges or fees for optional products or services must be
68 separately disclosed in the agreement;'

70 Further amend the bill by striking out all of section 10 and
72 inserting in its place the following:

'Sec. 10. 9-A MRSA §11-108, sub-§2 is enacted to read:

2
4 2. To the extent applicable, the following information must
6 be disclosed and grouped together in each rental-purchase
8 agreement:

10 A. The amount of the payment required at or before
12 consummation of the agreement or delivery of the property,
14 whichever is later, using the term "initial payment." The
16 merchant shall itemize each component of the initial payment
18 by type and amount, including any initial administrative
20 fee, delivery charge, rental payment, taxes and charges or
22 fees for optional products or services;

24 B. The amount of the "regular periodic payment," using that
26 term. The merchant shall itemize each component of the
28 regular periodic payment by type and amount, including the
30 rental payment, taxes and charges or fees for optional
32 products or services. If the final periodic payment is less
34 than or equal to the regular periodic payment, the
36 components of the final periodic payment need not be
38 itemized;

40 C. The "total of payments to acquire ownership," using that
42 term and a brief description, such as "the total amount you
44 will have paid, including any initial administrative fee,
46 the total of all rental payments and taxes, if you acquire
48 ownership of the property by making all scheduled payments,
50 but not including late charges or payment pick-up fees you
may incur or charges or fees for optional products or
services you may elect to purchase";

D. A statement in substantially the following form in no
less than 8-point boldface type: "YOU WILL BE RENTING THE
PROPERTY. YOU WILL NOT ACQUIRE EQUITY OR OWNERSHIP RIGHTS IN
THE PROPERTY UNLESS YOU MAKE ALL PAYMENTS NECESSARY TO
ACQUIRE OWNERSHIP.";

E. The following statement: "Other important terms. See
your rental-purchase agreement for additional important
information on termination, purchase option, reinstatement
rights, warranties, maintenance responsibilities, late
charges and payment pick-up fees and your liability for
loss, theft, damage or destruction of the property."; and

F. The "payment schedule," using that term, and a
description of the number, amount and due dates or periods
of payments scheduled under the agreement. A merchant may
also disclose alternative periodic payments and payment
schedules.'

2 Further amend the bill by striking out all of section 11 and
inserting in its place the following:

4 'Sec. 11. 9-A MRSA §11-110, as enacted by PL 1991, c. 787, is
6 amended to read:

8 **§11-110. Calculation of late charges**

10 Any late charge assessed pursuant to section 11-109,
12 subsection 8 may not exceed the greater of 5% of the delinquent
payment amount or \$2 \$3. Only one late charge may be assessed on
14 any delinquent payment, regardless of how long the payment
remains unpaid.'

16 Further amend the bill in section 12 in that part designated
"§11-111." in subsection 1 in the first line (page 5, line 31 in
18 L.D.) by striking out the following: "\$15 \$22.50" and inserting
in its place the following: '\$15'

20 Further amend the bill in section 13 in that part designated
22 "§11-113." in subsection 1 in the 5th line (page 6, line 8 in
L.D.) by inserting after the following: "2" the following:
24 'business'

26 Further amend the bill in section 14 in the indented
paragraph in the 4th line (page 7, line 5 in L.D.) by striking
28 out the following: "\$2" and inserting in its place the following:
'\$2 \$3'

30 Further amend the bill in section 17 in that part designated
32 "§11-118." in subsection 1 by striking out all of paragraph C
(page 8, lines 5 to 7 in L.D.) and inserting in its place the
34 following:

36 'C. That the consumer does not acquire ownership rights ~~if~~
38 until the total ~~amount--necessary of payments~~ to acquire
ownership is ~~net~~ paid.'

40 Further amend the bill in section 17 in that part designated
42 "§11-118." by striking out all of subsection 2 and inserting in
its place the following:

44 '2. If For any item of property is displayed or offered for
46 rent-with-a--point-of-sale rental-purchase, the merchant shall
display a point-of-rental placard that-refers-to-or-states-the
48 amount-of-any-weekly-or-monthly-payment,-the-point-of-sale . The
point-of-rental placard must state, disclose the rental payment
50 amount and, in numerals and lettering at least as prominent as
the rental payment price amount, the following:

- 2 A. The number of ~~weekly-or-monthly~~ rental payments necessary
to acquire ownership of the item and the rental period; and
4
6 B. The ~~total--amount--of--payments--necessary--to--acquire~~
~~ownership~~ rental-purchase cost of the item; and
8
C. Whether the item is new or used.

10 Labeling a new item as used is not a violation of this Article.'

12 Further amend the bill in section 18 in that part designated
"§11-119." in subsection 1 by striking out all of paragraph A
14 (page 8, lines 47 to 50 in L.D.) and inserting in its place the
following:

16 'A. Identify the merchant and state that the merchant is
18 confirming or correcting location information concerning the
consumer;'

20 Further amend the bill in section 18 in that part designated
22 "§11-119." in subsection 1 by striking out all of paragraph C
(page 9, lines 4 to 8 in L.D.) and inserting in its place the
24 following:

26 'C. Not communicate with any such person more than once,
unless requested to do so by that person or unless the
28 merchant reasonably believes that the earlier response of
that person was erroneous or incomplete and that the person
30 now has correct or complete location information;'

32 Further amend the bill in section 18 in that part designated
"§11-119." in subsection 3 in the last 2 lines (page 10, lines 5
34 and 6 in L.D.) by striking out the following: "the creditor,
the attorney of the creditor"

36 Further amend the bill in section 18 in that part designated
38 "§11-119." in subsection 5 in paragraph A in the first 2 lines
(page 10, lines 49 and 50 in L.D.) by striking out the following:
40 "debt collector" and inserting in its place the following:
'merchant'

42 Further amend the bill in section 18 in that part designated
44 "§11-119." in subsection 5 in paragraph D in the last line (page
11, line 15 in L.D.) by striking out the following: "debt
46 collector or creditor" and inserting in its place the following:
'merchant'

48 Further amend the bill by striking out all of sections 19
50 and 20.

2 Further amend the bill by relettering or renumbering any
4 nonconsecutive Part letter or section number to read
consecutively.

6 Further amend the bill by inserting at the end before the
8 summary the following:

10 **FISCAL NOTE**

12 The Department of Professional and Financial Regulation will
14 incur some minor additional costs to adopt rules associated with
disclosure information in rental-purchase agreements. These
16 costs can be absorbed within the department's existing budgeted
resources.

18 This bill may increase the number of civil suits filed in
20 the court system. The additional workload and administrative
costs associated with the minimal number of new cases filed can
22 be absorbed within the budgeted resources of the Judicial
Department. The collection of additional filing fees may also
24 increase General Fund revenue by minor amounts.'

26 **SUMMARY**

28 This amendment is the majority report of the committee. It
30 clarifies the definition of "cash price" for items subject to a
rental-purchase agreement. The amendment also clarifies the
32 information that must be disclosed to consumers entering into
rental-purchase agreements. The amendment removes the sections of
34 the bill that make changes to the provision governing civil
actions by aggrieved consumers. The amendment makes technical
36 changes and corrections to the bill.

38 The amendment also adds a fiscal note to the bill.