

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1912

H.P. 1228

House of Representatives, May 9, 2023

An Act to Establish Consumer Protections Regarding Small Dollar Loans

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BLIER of Buxton.
Cosponsored by President JACKSON of Aroostook and
Representatives: BOYLE of Gorham, MORRIS of Turner, SWALLOW of Houlton, Senators:
GROHOSKI of Hancock, STEWART of Aroostook.

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

2 **Sec. 1. 9-A MRSA §2-701**, as enacted by PL 2021, c. 297, §1, is amended to read:

3 **§2-701. Engaging in pretense to evade requirements of this Article prohibited**

4 ~~An~~ Except as expressly provided in section 2-703, an entity covered by this Article
5 may not engage in any device, subterfuge or pretense to evade the requirements of this
6 Article, including, but not limited to, making a loan disguised as a personal property sale
7 and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual
8 installment sale of goods or services or making, offering, assisting or arranging a debtor to
9 obtain a loan with a greater rate of interest, consideration or charge than is permitted by
10 this Article through any method. A loan made in violation of this Part is void and
11 uncollectible as to any principal, fee, interest or charge.

12 **Sec. 2. 9-A MRSA §2-702**, as enacted by PL 2021, c. 297, §1, is repealed.

13 **Sec. 3. 9-A MRSA §2-703** is enacted to read:

14 **§2-703. Exemptions**

15 The provisions of this Article do not apply to a person doing business pursuant to any
16 law of this State or of the United States relating to banks, national banking associations,
17 savings banks, trust companies, savings and loan associations, credit unions or mortgage
18 companies, including without limitation any affiliate, subsidiary or service provider of such
19 a person, irrespective of whether or not such an affiliate, subsidiary or service provider is
20 a bank.

21 **Sec. 4. 9-A MRSA Art. 2, Pt. 8** is enacted to read:

22 **PART 8**

23 **MAINE SMALL DOLLAR CONSUMER PROTECTION ACT**

24 **§2-801. Short title**

25 This Part may be known and cited as "the Maine Small Dollar Consumer Protection
26 Act."

27 **§2-802. Definitions**

28 As used in this Part, unless the context otherwise indicates, the following terms have
29 the following meanings.

30 **1. Renew.** "Renew" means to renew, repay, refinance or consolidate an existing small
31 dollar loan with the proceeds of another small dollar loan.

32 **2. Small dollar loan.** "Small dollar loan" means a loan made by a supervised lender
33 that:

34 A. Is made to one or more individuals for personal, family or household use;

35 B. Has a principal amount that does not exceed \$2,500;

36 C. Is unsecured and payable in substantially equal installments;

1 D. Has a repayment schedule consisting of installment payments of substantially equal
2 amounts of principal and service fees amortizing over the term of the loan such that the
3 loan is repaid in full by the maturity date; and

4 E. Has a maturity date that is not less than 90 days or more than 365 days after the date
5 of the loan agreement.

6 **§2-803. Small dollar loans authorized; rules**

7 A supervised lender may make a small dollar loan to a consumer pursuant to this Part.
8 The administrator shall adopt rules to carry out the purposes of this Part. The rules must
9 include, at a minimum, the following:

10 1. Copy. A requirement for a supervised lender to immediately provide a consumer
11 with a signed copy of the small dollar loan agreement;

12 2. Payment. Provisions allowing for payment of a small dollar loan to a consumer by
13 check, money order, cash or other mutually agreed upon means, but that prohibit the
14 supervised lender from charging the consumer additional fees based on the method of
15 payment;

16 3. Right to cancel. The right of a consumer to cancel a small dollar loan agreement
17 by notifying the supervised lender and returning the total original small dollar loan amount
18 within 3 business days after the date the consumer entered into the small dollar loan
19 agreement;

20 4. Right to file complaint. The right of a consumer to file a complaint against a
21 supervised lender for a violation of any provision of this Part; and

22 5. Modification. An allowance for a supervised lender and a consumer to mutually
23 agree to modify the repayment schedule to allow for different payment amounts over the
24 term of the small dollar loan, as long as the modified repayment schedule does not include
25 a payment due at the date of maturity that is substantially larger than any previously
26 scheduled installment payment.

27 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,
28 chapter 375, subchapter 2-A.

29 **§2-804. Limitations on multiple small dollar loans**

30 A supervised lender may not enter into a small dollar loan agreement with a consumer
31 if the consumer has an open small dollar loan agreement with the supervised lender or
32 another supervised lender in the State. A supervised lender may rely on a consumer's
33 representation of open small dollar loan agreements with any other supervised lender.

34 **§2-805. Renewal of small dollar loans**

35 A supervised lender may not renew a small dollar loan agreement unless:

36 1. Payments as scheduled. A consumer has made payments as scheduled; and

37 2. Percentage of payments. A consumer has made at least 30% of all scheduled
38 payments or has retired at least 50% of the principal amount of the small dollar loan.

39 **§2-806. Consideration of ability to repay**

40 1. Considerations. In determining the amount and duration of a small dollar loan as
41 part of the underwriting, making or negotiating of the small dollar loan, a supervised lender

1 shall take into consideration a consumer's financial ability to repay the small dollar loan in
2 the time and manner provided in the prospective small dollar loan agreement. The
3 supervised lender's consideration must include, but is not limited to, a consumer's:

4 A. Credit and borrowing history;

5 B. Gross income;

6 C. Representation of major financial obligations; and

7 D. Estimated basic living expenses, including, but not limited to, expenses for food,
8 utilities, regular medical costs and other costs associated with the consumer's health,
9 welfare and ability to produce income and the health and welfare of members of the
10 consumer's household who are financially dependent on the consumer. A supervised
11 lender may rely on a consumer's representation of estimated basic living expenses when
12 determining the consumer's ability to repay a small dollar loan.

13 **2. Ability to pay.** A supervised lender may enter into a small dollar loan agreement
14 only with a consumer whom the supervised lender has determined pursuant to subsection
15 1 to be able to repay the small dollar loan in the time and manner provided in the
16 prospective small dollar loan agreement. A supervised lender may not enter into a small
17 dollar loan agreement with a consumer if the supervised lender determines that the
18 prospective small dollar loan agreement would result in a monthly payment that would
19 exceed 12% of the consumer's monthly gross income.

20 **§2-807. No prepayment penalty**

21 A consumer may prepay in full the unpaid balance of the small dollar loan at any time
22 without additional interest, fees or penalties.

23 **§2-808. Limitations on collections**

24 A supervised lender may not use or threaten to use criminal proceedings in order to
25 collect upon the terms of a small dollar loan agreement under this Part.

26 **§2-809. Report to credit reporting agency required**

27 A supervised lender shall report to a credit reporting agency or agencies the terms of a
28 small dollar loan agreement and a consumer's performance pursuant to those terms.

29 **§2-810. Required consumer disclosures**

30 **1. Public notice.** A supervised lender shall post prominently at its place of business
31 in a way designed to be seen by a consumer before the consumer enters into a small dollar
32 loan agreement and on any website designed to be seen by a consumer before the consumer
33 enters into a small dollar loan agreement a written notice that, at a minimum, informs the
34 consumer that:

35 A. State law prohibits a supervised lender from entering into a small dollar loan
36 agreement with a consumer who already has a small dollar loan in effect with the
37 supervised lender or with another supervised lender in the State;

38 B. If a consumer enters into a small dollar loan agreement, a copy of the signed
39 agreement must be immediately provided to the consumer;

