

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

SECOND REGULAR SESSION

January 2, 1980 to April 3, 1980

AND AT THE

THIRD SPECIAL SESSION

May 22, 1980

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND NINTH LEGISLATURE
January 2, 1980 to April 3, 1980

CHAPTER 660
H. P. 1784 — L. D. 1903

AN ACT to Include Arrangers of Credit under the Maine Consumer Credit Code and to Amend the Law Concerning Agricultural Loans, Residences, Security and Fines.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, climbing interest rates and economic uncertainty require adjustments in the regulation of consumer credit to assure continued availability of credit to farmers and certain other borrowers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 9-A MRSA § 1-202, sub-§ 8, last sentence, as amended by PL 1979, c. 541, Pt. A, § 86, is further amended to read:

For the purposes of this subsection, "mobile home" shall mean a structure, transportable in one or more sections, which is 8 body feet or more in width and is 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; or

Sec. 2. 9-A MRSA § 1-202, sub-§ 8-A is enacted to read:

8-A. Consumer credit transactions, other than transactions pursuant to open-end credit, entered into primarily for an agricultural purpose in which the amount financed exceeds \$10,000; consumer credit transactions, other than transactions pursuant to open-end credit, entered into primarily for an agricultural purpose under a line of credit which exceeds \$10,000; and consumer credit transactions pursuant to open-end credit entered into primarily for an agricultural purpose under a line of credit which exceeds \$10,000. For the purposes of this subsection, a line of credit shall be evidenced in writing prior to the transactions.

Sec. 3. 9-A MRSA § 1-202, last ¶, as enacted by PL 1979, c. 541, Pt. A., § 88, is amended to read:

The exclusions set forth in subsections 2, 4, 5, 7 and 8 and 8-A shall not apply to the Maine Consumer Credit Code, Truth-in-lending, Article VII.

Sec. 4. 9-A MRSA § 1-301, sub-§ 5-A is enacted to read:

5-A. "Arrange for the extension of credit or for lease of personal property" means to provide or offer to provide consumer credit or a lease which is or will be extended by another person under a business or other relationship pursuant to which the person arranging the credit or lease:

A. Receives or will receive a fee, compensation or other consideration for the service; or

B. Has knowledge of the credit or lease terms and participates in the preparation of the contract documents required in connection with the extension of credit or the lease.

It does not include honoring a credit card or similar device when no finance charge is imposed at the time of that transaction nor does it include insurance agents who act in the capacity of an arranger in which insurance premium finance agreements are involved.

Sec. 5. 9-A MRSA § 1-301, sub-§ 38, ¶¶ A-B, as enacted by PL 1973, c. 762, § 1, is amended to read:

A. Organized, chartered or holding an authorization certificate under the laws of ~~this State~~ a state or of the United States which authorize the person both to make loans and to receive deposits, including a savings, share, certificate or deposit account; and

B. Subject to supervision by an official or agency of ~~this State~~ a state or of the United States.

Sec. 6. 9-A MRSA § 2-307, sub-§ 2 is enacted to read:

2. With respect to a supervised loan in which the amount financed is \$1,000 or less, a lender may not take a security interest in the principle residence of the consumer. This subsection does not apply when the lender holds a first mortgage on the residence at the time the loan is made.

Sec. 7. 9-A MRSA § 2-504, 2nd sentence, as enacted by PL 1975, c. 173, § 2, is amended to read:

This section shall not apply to consumer loans in which the principle thereof is payable in a single payment on demand or at a specified time and the finance charge, calculated according to the actuarial method, does not exceed 12 $\frac{1}{4}$ % per year, or to consumer loans which, at the time of refinancing, are subject to the provisions of federal laws or regulations governing interest on deposits, provided that the difference between the rate of interest earned on the savings or time deposit and the rate of interest charged on the loan secured by that deposit does not exceed the difference between the rate of interest earned on the savings or

time deposit and the rate of interest charged on the loan secured by that deposit for the loan that is being refinanced.

Sec. 8. 9-A MRSA § 2-504, sub-§ 1, as enacted by PL 1973, c. 762, § 1, is amended to read:

1. If the transaction was not precomputed, the total of the unpaid balance and the accrued charges, **with the exception of any minimum charge**, on the date of the refinancing, or, if the transaction was precomputed, the amount which the consumer would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment, section 2-510, on the date of refinancing, except that for the purpose of computing this amount no minimum charge shall be allowed; and

Sec. 9. 9-A MRSA § 5-201, sub-§ 1, first sentence, as amended by PL 1975, c. 134, § 2, is amended to read:

If a creditor has violated the provisions of this Act applying to collection of excess charges or enforcement of rights, section 1-201, subsection 5, waiver clauses, section 1-107, use of multiple agreements, section 3-304, certain negotiable instruments, section 3-307, assignee subject to defenses, sections 3-403 and 3-404, restrictions on liability in consumer leases, section 3-401, balloon payment, section 3-308, security in sales or leases, section 3-301, cross-collateral, sections 3-302 and 3-303, assignments of earnings, section 3-305, attorney's fees, section 2-507, limitations on default charges, section 3-402, authorizations to confess judgment, section 3-306, restrictions on interests in land as security, section 2-307, limitations on the schedule of payments or loan term for regulated loans, section 2-308, for credit insurance, section 4-104, separate charges for excess charge for property insurance, section 4-301, restrictions on deficiency judgments, section 5-103, garnishment before judgment, section 5-104, or limitations on garnishment, section 5-105, **cure of default, section 5-111**, misrepresentation, section 5-115, illegal, fraudulent or unconscionable conduct in an attempted collection of debts, section 5-116, any aggrieved consumer has a right to recover actual damages from a person violating this Act, or in lieu thereof any consumer named as a plaintiff in the complaint as originally filed has a right to recover from a person violating this Act an amount determined by the court not less than \$250 nor more than \$1,000.

Sec. 10. 9-A MRSA § 6-201, as enacted by PL 1973, c. 762, § 1, is amended to read:

§ 6-201. Applicability

This Part applies to a person engaged in this State in entering into or, **for the purposes of section 6-202 only, arranging for the extension of** consumer credit transactions and to a person having an office or place of business in this State who takes assignments of and undertakes direct collection of payments from or enforcement of rights against debtors arising from these transactions.

Sec. 11. 9-A MRSA § 6-204 is enacted to read:

§ 6-204. Civil penalty

1. The administrator may impose a civil penalty of \$5 per day on any person failing to comply with the notification and fee requirements of this Part.

2. No civil penalty may be imposed if the fee required by section 6-203 is paid not more than 30 days after the date established in section 6-202, subsection 1.

3. If a licensee fails to pay the fee required by section 6-203 on or before February 20th of any year, the failure may be treated by the administrator as grounds for revocation of the license.

4. The administrator shall comply with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, in seeking compliance with this section. The administrator may seek enforcement of any order issued under this section in a court of competent jurisdiction.

Sec. 12. 9-A MRSA § 7-105, last sentence, as enacted by PL 1975, c. 446, § 2, is amended to read:

Any regulations prescribed under authority of this Article shall ~~not~~ be subject to the procedures provided by sections 6-404 and 6-405 ~~and shall become effective on the date designated by the regulation.~~

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective March 28, 1980

CHAPTER 661

S. P. 800 — L. D. 2004

AN ACT to Align Mortgage Loan Authority for Maine Thrift Institutions with Federal Regulation and to Adjust Interest Rate Ceilings in Certain Consumer Credit Transactions.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current economic conditions require an adjustment in interest rate ceilings to assure a continued adequate supply of credit for new car financing; and

Whereas, possible amendments to federal banking regulations will severely harm state chartered financial institutions unless they are allowed to make the same types of mortgage loans as federally chartered institutions; and

Whereas, in the judgment of the Legislature, these facts create an emergency