

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

the person believes it is not in possession of any property reportable or deliverable under this chapter.

Sec. 15. 33 MRSA §1364, sub-§1, as enacted by PL 1977, c. 707, §8, is amended to read:

1. Limit on fees. No agreement entered into within ~~one year~~ 2 years after a report is filed under section 1351 is valid if any person thereby undertakes to locate property included in that report for a fee or compensation exceeding 15% of the value of recoverable property; unless the agreement. After this period, compensation may exceed the 15% limitation if the agreement:

- A. Is in writing and signed by the property owner;
- B. Discloses the nature and value of the property; and
- C. Discloses the name and address of the holder.

Effective September 23, 1983.

CHAPTER 212

S.P. 219 - L.D. 656

AN ACT to Amend the Maine Consumer Credit Code.

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

Sec. 1. 9-A MRSA §1-202, sub-§7, as amended by PL 1981, c. 638, §1, is further amended to read:

7. A loan made for the purpose of financing expenses related to attendance at an institution of post-secondary education, and on which the finance charge does not exceed that rate per year on the unpaid balances of the amount financed as shall be established by federal law or, for loans for which federal law does not establish a rate, the highest rate established for educational loans under any federal program, and which is insured, guaranteed or subsidized by the Federal Government or a state or by a nonprofit private loan guaranty or organization or by the institution of higher education itself or

through an endowment or trust fund affiliated with such an institution; or

Sec. 2. 9-A MRSA §1-202, sub-§8, as repealed and replaced by PL 1981, c. 618, §1, is amended to read:

8. A loan made by a supervised lender when the loan is secured by a first mortgage on real estate and the security interest in real estate is not made for the purpose of circumventing or evading this Act. With respect to a supervised lender other than a supervised financial organization, the exemption provided by this subsection shall be limited to residential mortgage transactions as defined in section 8-103, subsection 1, paragraph H or the refinancing of those residential mortgage transactions, and shall apply to the following provisions and no others: Maximum finance charge limitations, sections 2-308 and 2-401; limitations on security interest, section 2-307; delinquency charges, section 2-502; limitations on attorney's fees, section 2-507; notice to consumer, section 3-202; and notice of right to cure default, sections 5-110 and 5-111; or

Sec. 3. 9-A MRSA §2-301, first ¶, as enacted by PL 1973, c. 762, §1, is amended to read:

Unless a person is a supervised financial organization or has first obtained a license pursuant to this Act or the Insurance Premium Finance Company Act, Title 9, section 4054, from the administrator authorizing him to make supervised loans, he shall not engage in the business of:

Sec. 4. 9-A MRSA §2-301, sub-§2, as amended by PL 1975, c. 179, §1, is further amended to read:

2. Taking assignments of and undertaking direct collection of payments from or enforcement of rights in this State against debtors arising from supervised loans.

Sec. 5. 9-A MRSA §2-302, sub-§2, ¶A, as enacted by PL 1973, c. 762, §1, is amended to read:

A. Every applicant shall also, at the time of filing such application, file with the administrator, if he so requires, a bond satisfactory to the administrator in an amount not to exceed ~~\$5,000~~ \$25,000. The bond shall 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 shall be conditional that the licensee will faithfully conform to and abide by the provisions of this Act and to all rules and regulations lawfully

made by the administrator hereunder 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 calendar year for which the bond is given;

Sec. 6. 9-A MRSA §3-204, sub-§2, as amended by PL 1975, c. 178, is further amended to read:

2. A creditor may change the terms of an open-end credit account whether or not the change is authorized by prior agreement. Except as provided in subsection 3, the creditor shall give to the consumer written notice of any change of terms relating to penalties, interest or other charges at least 3 ~~times, with the first notice at least 3 months~~ 30 days before the effective date of the change. Any change of terms which would increase any penalty, interest or other charges may not affect outstanding balances incurred prior to the effective date of any such change unless:

A. The creditor includes in the ~~above described~~ notice of change an offer to finance by a separate loan arrangement the outstanding unpaid balance as of the effective date of ~~such~~ the change at the same rate of interest with the same repayment schedule as applies to ~~such~~ that open-end credit account;

B. The consumer may accept ~~such~~ the offer of ~~said~~ a separate loan arrangement with respect to the then existing unpaid balance anytime prior to ~~30~~ 7 days before the change is to become effective;

C. The creditor has legal authority to make such a loan; and

D. No minimum finance charge is assessed nor prepayment penalty charged on ~~such~~ the loan.

Sec. 7. 9-A MRSA §3-204, sub-§3, ¶C, as enacted by PL 1973, c. 762, §1, is amended to read:

C. The change applies only to debts incurred after a date specified in a notice of the change given ~~in 2 billing cycles~~ 15 days prior to the effective date of the change.

Sec. 8. 9-A MRSA §3-310, sub-§4, as enacted by PL 1981, c. 138, is amended to read:

4. This section does not apply to a consumer

loan if the debt is payable in a single installment either on demand or at a specified time; if the loan is secured by a savings or time deposit subject to federal law or regulations governing interest on deposits, and if the difference between the rate of interest on the savings or time deposit and the annual percentage rate on the loan at no time exceeds the difference between the 2 when the loan was made.

Sec. 9. 9-A MRSA §6-104, sub-§2, as enacted by PL 1973, c. 762, §1, is amended to read:

2. Except for refund of an excess charge, no liability is imposed under this Act for an act done or omitted in conformity with a rule or advisory ruling of the administrator notwithstanding that after the act or omission the rule or advisory ruling may be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

Sec. 10. 9-A MRSA §6-108, sub-§1, as amended by PL 1977, c. 694, §155-F, is further amended to read:

1. After notice and hearing, the administrator may order any person to cease and desist from engaging in violations of this Act or any lawful regulation issued by the administrator. Notice and hearing need not be provided, when, in the opinion of the administrator, immediate action is required to protect the public interest, and

A. The creditor has not complied with section 6-202; or

B. The creditor does not maintain a permanent place of business in this State.

A respondent aggrieved by an order of the administrator may obtain judicial review of the order and the administrator may, through the Attorney General, obtain an order of the court for enforcement of its order in the Superior Court. The proceeding for review or enforcement is initiated and conducted in accordance with Title 5, chapter 375, subchapter VII.

Sec. 11. 9-A MRSA §6-110, 2nd ¶, as amended by PL 1975, c. 134, §3, is further amended to read:

In such an action, the court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any practices prohibited by this Act, to reform contracts to conform to this Act or to rescind contracts in which a violation has tended to induce the debtor to contract with the creditor, even though the debtors are not parties to the action. In such an action, the court may, in its

discretion, award the administrator his reasonable costs of investigation and reasonable attorneys' fees incurred in bringing the action. An action under this section and an action under section 6-113, subsection 17 may be brought jointly using a single complaint.

Sec. 12. 9-A MRSA §6-408, as amended by PL 1977, c. 694, §155-O, is repealed.

Sec. 13. 9-A MRSA §6-411, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied in nonjury, civil cases in the Superior Court of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under these rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Evidence is admissible if it is of a type commonly relied upon by reasonable persons in the conduct of serious affairs. The administrator shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

Effective September 23, 1983.

CHAPTER 213

S.P. 345 - L.D. 1019

AN ACT to Permit the Public Utilities
Commission to Authorize a Management Audit
of a Public Utility.

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

35 MRSA §18 is enacted to read:

§18. Management audit

The commission may require the performance of a management audit of the operations of any public utility in order to determine:

1. Construction programs. The degree to which a