

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

6. National Women's History Week. National Women's History Week is the week containing March 8th, in accordance with Title 1, section 122.

Effective July 25, 1984.

CHAPTER 720

S.P. 762 - L.D. 2070

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Sec. 1. 9-A MRSA §1-110, sub-§1, as enacted by PL 1981, c. 218, is repealed and the following enacted in its place:

1. Consumer credit transactions involving mobile homes as defined in section 1-301, subsection 24-A;

Sec. 2. 9-A MRSA §1-202, sub-§8, as amended by PL 1983, c. 212, §2, is further 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, provided that, with respect to advances of additional funds on that loan, this exemption shall apply only to those advances to protect the security and advances representing the negative amortization of principal as specified in the loan agreement. The exemption provided by this subsection shall not apply to the requirements on servicing of assigned supervised loans, section 2-310. 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 §1-301, sub-§15, as enacted by PL 1973, c. 762, §1, is repealed and the following enacted in its place:

15. "Credit" means the right granted by a creditor to a consumer to defer payment of an obligation, to incur an obligation and defer its payment or to obtain possession of property or the benefit of services and defer payment therefor pursuant to an agreement which includes, but is not limited to, a sale of goods, a sale of an interest in land, a sale of services or a loan.

Sec. 4. 9-A MRSA §1-301, sub-§19, ¶B, as amended by PL 1975, c. 770, §§47 and 48, is further amended to read:

B. The term does not include:

(i) Charges as a result of default, additional charges, section 2-501, delinquency charges, section 2-502, or deferral charges, section 2-503; ~~or~~

(ii) The discount, when a creditor purchases or satisfies obligations of a cardholder pursuant to a credit card and the purchase or satisfaction is made at less than the face amount of the obligation;

(iii) ~~the~~ Any discount ~~not in excess of~~ 5% offered by a creditor or seller for the purpose of inducing payment by cash, check or other means to be made at the time of sale not involving the use of a credit card shall not constitute a finance charge if ~~such that~~ discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously; or

(iv) "Closing costs" as defined in subsection 8.

Sec. 5. 9-A MRSA §1-301, sub-§33, as enacted by PL 1973, c. 762, §1, is amended to read:

33. "Sale of goods" includes any agreement in the form of a bailment or lease of goods if the bailee or lessee pays, will pay or agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal considera-

tion has the option to become, the owner of the goods upon full compliance with his obligations under the terms of the agreement, including any optional renewals thereof.

Sec. 6. 9-A MRSA §2-302, sub-§1, as enacted by PL 1973, c. 762, §1, is amended to read:

1. The administrator shall receive and act on all applications for licenses to make supervised loans under this Act. Applications shall be filed in the manner prescribed by the administrator and shall contain the information the administrator requires by rule to make an evaluation of the financial responsibility, character and fitness of the applicant. Initial applications for a license shall be accompanied by a \$500 fee. Renewal applications shall include a \$200 fee. Licenses shall be granted for a 2-year period and shall expire on September 30th.

Sec. 7. 9-A MRSA §2-302, sub-§2, ¶C, as amended by PL 1975, c. 179, §1, is repealed.

Sec. 8. 9-A MRSA §2-302, sub-§4, as enacted by PL 1973, c. 762, §1, is amended to read:

4. A separate license shall be required for each place of business. No license fee may be imposed for any license issued for a place of business other than that of the first licensed location of the licensee.

Sec. 9. 9-A MRSA §2-303, sub-§1-A is enacted to read:

1-A. The administrator may refuse to renew a license, after notice and opportunity for a hearing has been provided to the licensee, for any of the reasons set forth in subsection 1.

Sec. 10. 9-A MRSA §2-310 is enacted to read:

§2-310. Servicing requirements of assigned supervised loans

No supervised loan secured by a mortgage on real estate may be assigned under this Article unless:

1. The supervised lender making the loan retains servicing of the loan and maintains a place of business in this State; or

2. The assignee maintains a toll-free telephone number, or other free means of oral communication, that is disclosed to mortgagors in each coupon book

or on each periodic billing notice or statement of account and that is staffed during normal business hours for mortgagors to use to communicate with the assignee concerning the supervised loan.

Sec. 11. 9-A MRSA §3-204, sub-§2, as amended by PL 1983, c. 212, §6, 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~~ subsections 3 and 3-A, the creditor shall give to the consumer written notice of any change of terms relating to penalties, interest or other charges at least 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 notice of change an offer to finance by a separate loan arrangement the outstanding unpaid balance as of the effective date of the change at the same rate of interest with the same repayment schedule as applies to that open-end credit account;

B. The consumer may accept the offer of a separate loan arrangement with respect to the then existing unpaid balance anytime prior to 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 the loan.

Sec. 12. 9-A MRSA §3-204, sub-§3, as amended by PL 1983, c. 212, §7, is further amended to read:

3. The notice procedure specified in subsection 2 ~~is not required~~ does not have to be followed if:

A. The consumer, after receiving the notice of the change and his rights specified in subsection 2, agrees in writing to the change; or

~~B. The change involves no significant cost to the consumer; or~~

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

Sec. 13. 9-A MRSA §3-204, sub-§3-A is enacted to read:

3-A. No notice of a change in terms is required if the change involves no significant cost to the consumer.

Sec. 14. 9-A MRSA §3-310, sub-§1, ¶C, as enacted by PL 1981, c. 138, is amended to read:

C. The maximum amount by which the annual percentage rate may increase at any one time. If the maximum amount by which the annual percentage rate may increase at any one time is unlimited, that fact shall be clearly stated;

Sec. 15. 9-A MRSA §3-310, sub-§1, ¶E, as enacted by PL 1981, c. 138, is amended to read:

E. The maximum amount by which the annual percentage rate may increase over the term of the transaction. If the maximum amount by which the annual percentage rate may increase over the term of the transaction is unlimited, that fact shall be clearly stated;

Sec. 16. 9-A MRSA §3-310, sub-§1, ¶F, as enacted by PL 1981, c. 138, is repealed and the following enacted in its place:

F. The identity of the index or method that meets the standards of subsection 1-A that will be the determinant of any increase or decrease in the annual percentage rate;

Sec. 17. 9-A MRSA §3-310, sub-§1, ¶H, as amended by PL 1981, c. 579, is further amended to read:

H. A hypothetical calculation showing the effect on the transaction's other terms and schedule of payments if the annual percentage rate when the credit is extended was increased once by the maximum amount disclosed under paragraph C. If there is no maximum amount by which the annual percentage rate may increase under paragraph C, then a hypothetical calculation showing the effect on the transaction's other terms and schedule of payments if the annual percentage rate when credit is extended is increased by 5%. With respect to open-end credit transactions, the calculation will consist of a comparison of the finance charge that the increased annual percentage rate will yield on \$1,000 for one billing cycle with the finance charge that the annual percent-

age rate in effect at the time the agreement is executed will yield.

Sec. 18. 9-A MRSA §3-310, sub-§1-A is enacted to read:

1-A. In connection with a consumer credit transaction in which the annual percentage rate may vary during the term of the transaction; the creditor may only use an index or other method that is beyond its control for determining any increase or decrease in the annual percentage rate.

Sec. 19. 9-A MRSA §3-310, sub-§5, is enacted to read:

5. The administrator may adopt reasonable rules in accordance with this section governing consumer credit transactions which are alternative mortgage transactions as defined in the Alternative Mortgage Transaction Parity Act of 1982, the United States Code, Title 12, Section 3802, subsection 1. In adopting any rule, the administrator shall take into consideration the terms of any rules adopted by the Superintendent of Banking relating to variable rate mortgage instruments and may provide that the terms and provisions of the alternative mortgage transactions that are lawful for supervised financial organizations chartered under the laws of this State shall be lawful for alternative mortgage transactions made by supervised lenders licensed by the administrator. In any rule, the administrator may specify:

A. The maximum amount by which the annual percentage rate may change during a period of time and over the entire term of the agreement;

B. The minimum notice that may be required to be given to the mortgagor prior to a change in the annual percentage rate;

C. Acceptable indices that may be used by creditors for the purpose of determining when, and the amount by which, changes in the annual percentage rate may occur and what effects, if any, the choice of index may have on the rate movement allowances specified in paragraph A;

D. Appropriate hypothetical examples to illustrate the effects of changes in the annual percentage rate;

E. Permissible variations in payment schedules, payment amounts, loan amortization and loan term

resulting from rate variations or other contract terms; and

F. Permissible limitations on refunds of prepaid finance charges and notice requirements for prepayment.

Sec. 20. 9-A MRSA §3-310, sub-§6 is enacted to read:

6. The provisions of sections 2-503, 2-504, 2-510 and 3-308 shall not apply to any consumer credit transaction that is subject to rules promulgated under subsection 5 and that is in compliance with those rules.

Sec. 21. 9-A MRSA §6-204, sub-§§1 - 3, as enacted by PL 1979, c. 660, §11, are amended to read:

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~~ requirements of sections 6-202 and 6-203.

2. No ~~civil~~ penalty may be imposed if the ~~fee~~ fees required by section 6-203 ~~is~~, subsections 1 to 3, are paid not more than 30 days after the date established in section 6-202, subsection 1, or if the expenses of examination incurred by the administrator pursuant to section 6-203, subsection 4, are paid within 30 days of receipt of notice by the examinee of their assessment.

3. If a licensee fails to pay the ~~fee~~ fees required by section 6-203, subsections 1 to 3 on or before February 20th of any year, or if the licensee fails to pay the expenses of examination of the administrator within 30 days of receipt of the notice of assessment, the failure may be treated by the administrator as grounds for revocation of the license.

Sec. 22. 9-A MRSA §8-204, sub-§5, ¶D, as enacted by PL 1981, c. 243, §25, is amended to read:

D. Advances under a preexisting open-end credit plan if a security interest has already been retained or acquired in conformance with this section and such advances are in accordance with a previously established credit limit for such plan adopted in conformance with this section. This paragraph shall cease to be effective on April 17, 1985 whatever day the United States Code, Title 15, Section 1635, subsection e, paragraph 1, subparagraph D, is made ineffective under federal law.

Sec. 23. 9-A MRSA §8-208, sub-§1, ¶A, as enacted by PL 1981, c. 243, §25, is amended to read:

A. Any actual damage sustained by such person as a result of the failure; or

Sec. 24. Transition provision. Notwithstanding the Revised Statutes, Title 9-A, section 2-302, subsection 1, the administrator may, for purposes of staggering the renewal dates of existing licenses, cause certain licensees whose licenses must be renewed in 1984, to be renewed, upon proper application, for only one year. In those cases where a license has been renewed for only one year, the license fee shall be 1/2 the biennial renewal fee.

Effective July 25, 1984.

CHAPTER 721

H.P. 1673 - L.D. 2218

AN ACT Authorizing an Adoption
Assistance Compact and Procedures
for Interstate Services Payments.

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

22 MRSA c. 1152-A is enacted to read:

CHAPTER 1152-A

ADOPTION ASSISTANCE COMPACT

§4171. Findings and purposes

1. Findings. The Legislature finds that:

A. Finding adoptive families for children for whom state assistance is desirable, pursuant to Title 19, chapter 10, the Adoption Subsidy Act, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

B. Provision of medical and other necessary services for children with state assistance encour-