

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

~~administrative unit is not in compliance or private school serving exceptional students, within 180 days preceding receipt of the complaint, has failed to comply with this chapter.~~

Sec. 2. 20-A MRSA §7206, sub-§§1-A and 1-B are enacted to read:

1-A. Determination of jurisdiction. Within 15 days of the receipt of a complete complaint, the commissioner shall determine:

A. The school administrative unit or private school serving exceptional students with responsibility for compliance;

B. The specific laws and applicable rules with which the school administrative unit or private school serving exceptional students allegedly is in noncompliance; and

C. If any other state or federal agency is investigating or has investigated any similar allegations within 180 days of receipt of the complaint. If the commissioner determines that another state or federal agency is or has been involved in a similar allegation of noncompliance, the commissioner shall coordinate the department's investigation activities with those other agencies.

1-B. Notification. Within 15 days of the receipt of the complaint, the commissioner shall notify the affected school administrative unit or private school of the complaint and all information about the complaint which is available to the commissioner.

Sec. 3. 20-A MRSA §7206, sub-§2, as amended by PL 1983, c. 130, §1, is further amended to read:

2. Investigation; written report. The commissioner shall initiate, and complete within ~~30~~ 45 days, an investigation and a written report:

A. On receipt of a complaint and the determinations set out in subsection 1-A; or

B. If the commissioner has reason to believe that a unit is not in compliance with this chapter.

Sec. 4. 20-A MRSA §7206, sub-§3, ¶¶A and B, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

A. Upon determination that probable cause exists, the commissioner shall resolve the matter to the satisfaction of the interested parties through mediation and consultation. The commissioner shall write a report of these efforts and notify all interested parties that the report has been written specify in writing the necessary corrective actions and time frames to resolve the matter to the satisfaction of the interested parties.

B. If ~~conciliation~~ compliance has not been achieved within 45 days after the determination of probable cause, the commissioner shall notify all interested parties of the time and place of a local hearing to be held to determine whether the school administrative unit or private school is in violation of this chapter.

See title page for effective date.

CHAPTER 70

H.P. 87 - L.D. 122

An Act Relating to Credit Services Organizations

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

Sec. 1. 9-A MRSA §1-301, sub-§5-A, as repealed and replaced by PL 1987, c. 129, §14, is repealed.

Sec. 2. 9-A MRSA §6-201, as amended by PL 1979, c. 660, §10, is further 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. 3. 9-A MRSA Art. X is enacted to read:

ARTICLE X

CREDIT SERVICES ORGANIZATIONS

PART 1

GENERAL PROVISIONS

§10-101. Short title

This article shall be known and may be cited as the "Maine Consumer Credit Code - Credit Services Organizations."

§10-102. Definitions

As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. "Credit services organization."

A. "Credit services organization" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment by the consumer of money or

other valuable consideration, any of the following services:

- (1) Improving a consumer's credit record, history or rating;
- (2) Arranging for or obtaining an extension of credit for a consumer; or
- (3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2);

B. "Credit services organization" does not include:

- (1) A supervised financial organization as defined in Title 9-A, section 1-301, subsection 38;
- (2) A supervised lender as defined in Title 9-A, section 1-301, subsection 39;
- (3) A person licensed by the Real Estate Commission;
- (4) A person currently admitted to the practice of law in this State;
- (5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3); or
- (6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.

2. "Bona fide 3rd-party fee" means a verifiable fee paid to a 3rd party for a credit report, appraisal, investigation, title examination or survey.

PART 2

REGISTRATION AND BONDING

§10-201. Registration and annual reregistration

A person desiring to engage or continue in business in this State as a credit services organization shall apply to the administrator for registration under this article on or before January 31st of each year. The application shall be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information.

The application shall include an initial fee of \$200. Annual reregistration shall include a fee of \$100.

§10-202. Bond

Each application shall be accompanied by evidence of a surety bond, in a form approved by the administrator in the aggregate amount of \$10,000, to run to the State for use

by the State and any person or persons who may have a cause of action against a credit services organization.

PART 3

REGULATION OF PRACTICES

§10-301. Escrow of funds

Each credit services organization shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow account with a financial institution in this State, separate from any operating accounts of the business, pending completion of services offered. With respect to credit services organizations offering to arrange for or obtain extensions of credit for consumers, or provide advice or assistance therefor, "completion of services offered" means procurement of credit under the terms agreed to by the parties.

§10-302. Requirement for written agreement

Each agreement between a consumer and a credit services organization shall be in writing, dated, signed by the consumer and shall include the following:

1. A full and detailed description of the services to be performed for the consumer, including all guarantees and all promises of full or partial refund of fees paid, whether or not services are completed, and the terms for which the agreement shall remain in effect before return of the fees for nonperformance can be required by the consumer;

2. The terms and conditions of payment, including the total of all payments to be made by the consumer for the service, whether to the credit services organization or to some other person; and

3. The following notice:

NOTICE TO CONSUMER: Do not sign this agreement before you read it. You are entitled to a copy of this agreement.

§10-303. Requirement for written disclosure

Before any agreement is entered into, or before any money is paid by a consumer, whichever occurs first, the credit services organization shall provide the consumer with written disclosure of material consumer protections, including the following:

1. The existence and purpose of the surety bond on file with the State, and the procedure for instituting an action against that bond;

2. The requirement that all fees from the consumer, other than bona fide 3rd-party fees, be placed in an escrow account; and

3. The requirement for a written, signed agreement between the parties.

§10-304. Advertising

1. No credit services organization may engage in this State in false or misleading advertising concerning the terms and conditions of any services or assistance offered.

2. This section imposes no liability on the owner or personnel of any medium in which an advertisement appears or through which it is disseminated.

§10-305. Rulemaking

The administrator may adopt reasonable rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, and in accordance with this article governing credit services organizations.

PART 4**REMEDIES AND PENALTIES****§10-401. Effects of violations on rights of parties**

Any credit services organization which violates any provision of this article or any rule issued by the administrator is subject to the following:

1. After notice and hearing, a cease and desist order from the administrator;

2. After notice and hearing, forfeiture of such portion of the required bond as proportionately may make aggrieved parties whole;

3. A civil action, by the administrator through the Attorney General, after which a court, upon a finding of repeated or willful violations or of violation of an assurance of discontinuance, may assess a civil penalty of not more than \$5,000; and

4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the credit services organization in an amount determined by the court to be not less than \$250, nor more than \$1,000, plus costs of the action together with reasonable attorney's fees.

See title page for effective date.

CHAPTER 71

S.P. 75 - L.D. 65

An Act to Make Changes in the Motor Vehicle Laws

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

Whereas, certain amendments to the motor vehicle laws will become effective April 1, 1989, unless the effective date is changed; and

Whereas, the implementation process will require additional time for education of the affected parties and to acquire appropriate forms; and

Whereas, the overall success of implementation of those amendments will be greatly enhanced if the effective date is changed; 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. 29 MRSA §1, sub-§12, as amended by PL 1987, c. 789, §2, is further amended to read:

12. Semitrailer. "Semitrailer" means any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so designed that some part of its weight and of its load rests upon or is carried by that motor vehicle, and shall include pole dollies, pole dickets, so called, and wheels commonly used as a support for the ends of logs or other long articles, but excluding tow dollies ~~and camp trailers~~.

Sec. 2. 29 MRSA §530, sub-§1, ¶B, as amended by PL 1987, c. 415, §18, is further amended to read:

B. Any person who operates a motor vehicle on any way without being duly licensed or without holding a valid instruction permit or in violation of any condition or restriction placed on the use of an instruction permit or operator's license under the authority of this subchapter shall be guilty of a Class E crime, except that a person who operates a motor vehicle on a way and who possesses a license that has expired within the previous ~~180~~ 30 days commits the traffic infraction of operating a motor vehicle with an expired license. Any person who operates a motor vehicle on a way and who possesses a license that has been expired more than ~~180~~ 30 days is guilty of the Class E crime of operating without a license.

Sec. 3. 29 MRSA §1252, sub-§2, ¶E, as amended by PL 1983, c. 667, §1, is repealed.

Sec. 4. 29 MRSA §2012, sub-§1, ¶A, as amended by PL 1975, c. 435, §1, is further amended to read:

A. Shall be identified with the words, "School Bus," printed in letters not less than 8 inches high, located between the warning signal lamps as high as possible without impairing visibility of the lettering from both front and rear and have no other lettering on the front thereof or on the rear with the exception of lettering not more than 4 inches high indicating an emergency exit and a number assigned to that specific bus when desired. Four-inch lettering on buses with 20 or less carrying capacity shall be optional until