

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

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

Effective June 26, 1989.

CHAPTER 472

H.P. 1002 - L.D. 1391

An Act to Amend the Maine Consumer Credit Code to Add Provisions Relating to Credit and Charge Card Disclosures

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

Whereas, The Federal Fair Credit and Charge Card Act of 1988, upon which the following legislation is based, will become effective on August 31, 1989; and

Whereas, If enactment of the following legislation is delayed to a date beyond August 31, 1989, a gap in consumer protection, and a period of regulatory inconsistency and noncompliance in this State may occur; 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 §8-202, as enacted by PL 1981, c. 243, §25, is amended to read:

§8-202. Form of disclosure; additional information; tabular format required for certain credit and charge card disclosures

1. Information required by this Article shall be disclosed clearly and conspicuously, in accordance with regulations of the administrator. The terms "annual percentage rate" and "finance charge" shall be disclosed more conspicuously than other terms, data or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations Except as provided in subsection 3, regulations of the administrator need not require that disclosures pursuant to this Article be made in the order set forth in this Article and, except as otherwise provided, may permit the use of terminology different from that employed in this Article if it conveys substantially the same meaning.

2. Any creditor may supply additional information or explanation with any disclosures required under this Article, except as provided in section 8-206, subsection 2.

3. Tabular format shall be required for certain disclosures under section 8-205, subsection 3.

A. The information described in section 8-205, subsection 3, paragraph A, subparagraph (i); section 8-205, subsection 3, paragraph C, subparagraph (ii), division (a), subdivision (1); section 8-205, subsection 3, paragraph D, subparagraph (i) and subparagraph (iii), division (a), subdivision (1) shall be:

(i) Disclosed in the form and manner which the administrator shall prescribe by regulations; and

(ii) Placed in a conspicuous and prominent location on or with any written application, solicitation or other document or paper with respect to which that disclosure is required.

B. Tabular format shall be as follows:

(i) In the regulations prescribed under paragraph A, subparagraph (i), the administrator shall require that the disclosure of the information shall, to the extent the administrator determines to be practicable and appropriate, be in the form of a table which:

(a) Contains clear and concise headings for each item of the information; and

(b) Provides a clear and concise form for stating each item of information required to be disclosed under each heading.

(ii) In prescribing the form under subparagraph (i), the administrator may:

(a) List the items required to be included in the table in a different order than the order in which those items are set forth in section 8-205, subsection 3, paragraph A, subparagraph (i) or paragraph D, subparagraph (i); and

(b) Subject to subparagraph (iii), employ terminology which is different from the terminology which is employed in section 8-205, subsection 3, if that terminology conveys substantially the same meaning.

(iii) Either the heading or the statement under the heading which relates to the time period referred to in section 8-205, subsection 3, paragraph A, subparagraph (i), division (c) shall contain the term "grace period."

Sec. 2. 9-A MRSA §8-205, sub-§§3 to 7 are enacted to read:

3. Disclosure in credit and charge card applications and solicitations shall be as follows.

A. Direct mail applications and solicitations shall be governed by this paragraph.

(i) Any application to open a credit card account for any person under an open-end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers, shall disclose in tabular format the following information, pursuant to subsection 5 and section 8-202, subsection 3:

(a) Annual percentage rates:

(1) Each annual percentage rate applicable to extensions of credit under the credit plan;

(2) When an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing and how the rate is determined; and

(3) When more than one rate applies, the range of balances to which each rate applies;

(b) Annual and other fees:

(1) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle;

(2) Any minimum finance charge imposed for each period during which any extension of credit which is subject to a finance charge is outstanding; and

(3) Any transaction charge imposed in connection with use of the card to purchase goods or services;

(c) Grace period:

(1) Subject to section 2-202, subsection 5, the date by which, or the period within which, any credit extended under the credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge; and

(2) If the length of the grace period varies, the card issuer may disclose the range of days, the minimum number of days or the average number of days in the grace period, if the disclosure is identified as such; and

(d) Balance calculation method:

(1) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the administrator, or a detailed explanation of the balance calculation method used if the method has not been so defined; and

(2) In prescribing regulations to carry out this subsection, the administrator shall define and name not more than the 5 balance calculation methods determined by the administrator to be the most commonly used methods.

(ii) In addition to the information required to be disclosed under subparagraph (i), each application or solicitation to which that subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections 5 and 6:

(a) Any cash advance fee which is any fee imposed for an extension of credit in the form of cash;

(b) Any late fee which is any fee imposed for a late payment; and

(c) Any over-the-limit fee which is any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to that account.

B. Telephone solicitations shall be governed by this paragraph.

(i) In any telephone solicitation to open a credit card account for any person under an open-end consumer credit plan, the person making the solicitation shall orally disclose the information described in paragraph A, subparagraph (i).

(ii) Subparagraph (i) shall not apply to any telephone solicitation if:

(a) The credit card issuer:

(1) Does not impose any fee described in subsection 3, paragraph A, subparagraph (i), division (b), subdivision (1); or

(2) Does not impose any fee in connection with telephone solicitations unless the consumer signifies acceptance by using the card;

(b) The card issuer discloses clearly and conspicuously in writing the information described in paragraph A within 30 days after the consumer requests the card, but in no event later than the date of delivery of the card; and

(c) The card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

C. Applications and solicitations by other means shall be governed by this paragraph.

(i) Any application to open a credit card account for any person under an open-end consumer credit plan, or any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall meet the disclosure requirements of subparagraph (ii), (iii) or (iv).

(ii) An application or solicitation described in subparagraph (i) meets the requirement of this subparagraph if that application or solicitation contains:

(a) The information:

(1) Described in paragraph A, subparagraph (i) in the form required under section 8-202, subsection 3, subject to subsection 5 of this section; and

(2) Described in paragraph A, subparagraph (ii) in a clear and conspicuous form, subject to subsections 5 and 6;

(b) A statement, in a conspicuous and prominent location on the application or solicitation, that:

(1) The information is accurate as of the date the application or solicitation was printed;

(2) The information contained in the application or solicitation is subject to change after that date; and

(3) The applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

(c) A clear and conspicuous disclosure of the date the application or solicitation was printed; and

(d) A disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll-free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

(iii) An application or solicitation described in subparagraph (i) meets the requirement of this subparagraph if that application or solicitation:

(a) Contains a statement, in a conspicuous and prominent location on the application or solicitation, that:

(1) There are costs associated with the use of credit cards; and

(2) The applicant may contact the creditor to request disclosure of specific information of those costs by calling a toll-free telephone number or by writing to an address, specified in the application;

(b) Contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll-free telephone number and a mailing address at which the applicant may contact the creditor to obtain that information; and

(c) Does not contain any of the items described in paragraph A.

(iv) An application or solicitation meets the requirements of this subparagraph if it contains, or is accompanied by:

(a) The disclosures required by subsection 1, paragraphs A through F;

(b) The disclosures required by paragraph A, subparagraphs (i) and (ii), included clearly and conspicuously, except that the provisions of section 8-202, subsection 3, shall not apply; and

(c) A toll-free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided.

(v) Upon receipt of a request for any information referred to in subparagraph (ii), (iii) or (iv), the card issuer or the agent of that issuer shall promptly disclose all other information described in paragraph A.

D. Charge card applications and solicitation shall be governed by this paragraph.

(i) Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information in the form required by section 8-202, subsection 3, subject to subsection 5:

(a) Any annual fee, other periodic fee or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity

for the account during the billing cycle;

(b) Any transaction charge imposed in connection with use of the card to purchase goods or services; and

(c) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for that charge card account.

(ii) In addition to the information required to be disclosed under subparagraph (i), each written application or solicitation to which that subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections 5 and 6, provided those fees or charges are not prohibited under section 2-501 or 2-502:

(a) Any cash advance fee which is any fee imposed for an extension of credit in the form of cash;

(b) Any late fee which is any fee imposed for a late payment; and

(c) Any over-the-limit fee which is any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to that account.

(iii) Any application to open a charge card account, or any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications, shall contain:

(a) The information:

(1) Described in subparagraph (i) in the form required under section 8-202, subsection 3, subject to subsection 5; and

(2) Described in subparagraph (ii) in a clear and conspicuous form, subject to subsections 5 and 6;

(b) A statement, in a conspicuous and prominent location on the application or solicitation, that:

(1) The information is accurate as of the date the application or solicitation was printed;

(2) The information contained in the application or solicitation is subject to change after that date; and

(3) The applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

(c) A clear and conspicuous disclosure of the date the application or solicitation was printed; and

(d) A disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll-free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

(iv) If a charge card permits the card holder to receive an extension of credit under an open-end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraphs (i) and (ii) in the form required by those subparagraphs in lieu of the information required under paragraph A, B or C with respect to any credit extended under that plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that:

(a) The charge card issuer will make an independent decision as to whether to issue the card;

(b) The charge card may arrive before the decision is made with respect to an extension of credit under an open-end consumer credit plan; and

(c) Approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph A shall be provided to the charge card holder by the creditor which maintains the open-end consumer credit plan before the first extension of credit under that plan.

(v) For the purposes of this subsection, the term "charge card" means a card, plate or other single credit device that may be used

from time to time to obtain credit which is not subject to a finance charge.

E. The administrator may, by regulation, require the disclosure of information in addition to that required by this subsection or subsection 4, and modify any disclosure of information required by those subsections, in any application to open a credit card account for any person under an open-end consumer credit plan or any application to open a charge card account for any person, or a solicitation to open any such account without requiring an application, if the administrator determines that the action is necessary to carry out the purposes of, or prevent evasions of, this subsection.

4. Disclosure prior to renewal shall be as follows:

A. Except as provided in paragraph B, a card issuer that imposes any fee described in subsection 3, paragraph A, subparagraph (i), division (b), subdivision (1) or subsection 3, paragraph D, subparagraph (i), division (a), shall transmit to the consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of:

(i) The date, the month, or the billing period at the close of which the account will expire if not renewed;

(ii) The information described in subsection 3, paragraph A, subparagraph (i), or subsection 3, paragraph D, subparagraph (i), that would apply if the account were renewed, subject to subsection 5; and

(iii) The method by which the consumer may terminate continued credit availability under the account.

B. Special rule for certain disclosures shall be governed by this paragraph.

(i) The disclosures required by this subsection may be provided:

(a) Prior to posting a fee described in subsection 3, paragraph A, subparagraph (i), division (b), subdivision (1) or subsection 3, paragraph D, subparagraph (i), division (a), to the account; or

(b) With the first periodic billing statement that reflects the posting of the fee to the account.

(ii) Disclosures may be provided under subparagraph (i) only if:

(a) The consumer is given a 30-day period to avoid payment of the fee or

to have the fee recredited to the account in any case when the consumer does not wish to continue the availability of the credit; and

(b) The consumer is permitted to use the card during that period without incurring an obligation to pay the fee.

C. The administrator may, by regulation, provide for fewer disclosures than are required by paragraph A in the case of an account which is renewable for a period of less than 6 months.

5. Other rules for disclosures under subsections 3 and 4 shall be as follows.

A. If the amount of any fee required to be disclosed under subsection 3 or 4 is determined on the basis of a percentage of another amount, the percentage used in making that determination and the identification of the amount against which that percentage is applied shall be disclosed in lieu of the amount of that fee.

B. If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of subsection 3 or 4, this provision shall not apply with respect to that issuer.

6. If the amount of any fee required to be disclosed by a credit or charge card issuer under subsection 3, paragraph A, subparagraph (ii); subsection 3, paragraph C, subparagraph (ii), division (a), subdivision (2); subsection 3, paragraph D, subparagraph (ii); or subsection 3, paragraph D, subparagraph (iii), division (a), subdivision (2), varies from state to state, the card issuer may disclose the range of those fees for purposes of subsection 3 in lieu of the amount for each applicable state, if that disclosure includes a statement that the amount of the fee varies from state to state.

7. Insurance in connection with certain open-end credit card plans shall be as follows:

A. Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open-end credit card plan proposes to change the provider of that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change, including notice of any increase in the rate or substantial decrease in coverage or service which will result from that change. The notice may be included on or with the monthly statement provided to the consumer prior to the month in which the proposed change would take effect.

B. In any case in which a proposed change described in paragraph A occurs, the insured consumer shall be given the name and address of the new guarantor or insurer and a copy of the policy or group certificate

containing the basic terms and conditions, including the premium rate to be charged.

C. The notices required under paragraphs A and B shall each include a statement that the consumer has the option to discontinue the insurance or guarantee.

D. The administrator shall define in regulations what constitutes a "substantial decrease in coverage or service" for purposes of paragraph A.

Sec. 3. 9-A MRSA §8-208, sub-§8, as amended by PL 1981, c. 698, §23, is further amended to read:

8. With respect to disclosure under sections 8-205 and 8-206, a creditor is liable under subsection 1, ~~paragraph~~ paragraphs B or D, only for the failure to comply with certain disclosure requirements.

A. In connection with the disclosures of section 8-205, subsections 1 and 2 of a creditor's only liability under subsection 1, ~~paragraph~~ paragraphs B or D, is for failing to comply with the requirements of section 8-204, section 8-205, subsection 1 or subsection 2, paragraphs paragraph D, E, F, G, H, I or J.

B. In connection with the disclosures of section 8-206, a creditor's only liability determined under subsection 1, ~~paragraph~~ paragraphs B or D, is for failing to comply with the requirements of section 8-204, or section 8-206, subsection 1, ~~paragraphs~~ paragraph B, C, D, E, F or I.

C. With respect to any failure to make disclosures required by this Article, liability shall be imposed only upon the creditor required to make disclosures, except as provided in section 8-209.

Sec. 4. 9-A MRSA §8-208, sub-§9 is enacted to read:

9. In connection with the disclosures referred to in section 8-205, subsections 3 or 4, a card issuer shall have a liability under this section only to a card holder who uses a credit or charge card or pays a fee described in section 8-205, subsection 3, paragraph A, subparagraph (i), division (b), subdivision (1) or section 8-205, subsection 3, paragraph D, subparagraph (i), division (a).

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect on August 31, 1989.

Effective August 31, 1989.

CHAPTER 473

S.P. 592 - L.D. 1669

An Act to Establish a Budget Committee
for Kennebec County