

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

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Lewiston, Maine
2003

inconsistent with this section and contrary to public policy. No association or corporation organized for the sole purpose of marketing fish, shellfish or any of the fish products or agricultural products of this State, ~~or for the sole purpose of marketing, producing or trucking, pulpwood or saw logs,~~ the members of or stockholders in which are actually engaged in the production of such products, or in the selling, canning or otherwise preserving of fish products, ~~or selling, cutting or trucking of pulpwood or saw logs,~~ shall ~~may~~ be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall ~~may~~ the marketing contracts and agreements between such association or corporation and its members or stockholders be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

See title page for effective date.

CHAPTER 47

H.P. 202 - L.D. 247

An Act To Increase the Value of Real and Personal Property Exempt from Attachment

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

Sec. 1. 14 MRSA §4422, sub-§1, ¶A, as amended by PL 2001, c. 306, §1, is further amended to read:

A. Except as provided in paragraph B, the debtor's aggregate interest, not to exceed ~~\$25,000~~ \$35,000 in value, in real or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor, provided that if minor dependents of the debtor have their principal place of residence with the debtor, the debtor's aggregate interest may not exceed ~~\$50,000~~ \$70,000 and provided further that if the debtor's interest is held jointly with any other person or persons, the exemption may not exceed in value the lesser of ~~\$25,000~~ \$35,000 or the product of the debtor's fractional share times ~~\$50,000~~ \$70,000.

Sec. 2. 14 MRSA §4422, sub-§1, ¶B, as enacted by PL 1989, c. 286, §1, is amended to read:

B. The debtor's aggregate interest, not to exceed ~~\$60,000~~ \$70,000 in value, in property described in paragraph A, if the debtor or a dependent of

the debtor is either a person 60 years of age or older or a person physically or mentally disabled and because of such disability is unable to engage in substantial gainful employment and whose disability has lasted or can be expected to last for at least 12 months or can be expected to result in death; provided that if the debtor's interest is held jointly with any other person or persons, the exemption ~~shall~~ may not exceed in value the lesser of ~~\$60,000~~ \$70,000 or the product of the fractional share of the debtor's interest times ~~\$120,000~~ \$140,000. This paragraph does not apply to liens obtained prior to its effective date or to judgments based on torts involving other than ordinary negligence on the part of the debtor.

See title page for effective date.

CHAPTER 48

H.P. 575 - L.D. 776

An Act To Eliminate Potential Restrictions to the Establishment of an Alternative Form of Regulation for Some Telephone Utilities

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

Whereas, the Maine Revised Statutes, Title 35-A, section 9104 contains provisions that might be read as a restriction that allowed the Public Utilities Commission to establish an alternative form of regulation only during a time period in 1995 and 1996 and that are otherwise obsolete; and

Whereas, the Public Utilities Commission and at least one telephone utility are engaged in discussions that may lead to the establishment of an alternative form of regulation for that company; and

Whereas, if such discussions are fruitful, an alternative form of regulation would be established prior to June of 2003; 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. 35-A MRSA §9104, as enacted by PL 1993, c. 638, §2, is repealed.

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

Effective April 17, 2003.

CHAPTER 49

H.P. 383 - L.D. 494

An Act To Enhance Consumer Protections in Relation to Certain Mortgages

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

Sec. 1. 9-A MRSA §8-103, sub-§1, ¶F-1, as enacted by PL 1995, c. 326, §2, is repealed and the following enacted in its place:

F-1. "High-rate, high-fee mortgage" means a consumer credit transaction, involving real property located within this State, that is considered a "mortgage" under Section 152 of the federal Home Ownership and Equity Protection Act of 1994, 15 United States Code, Section 1602(aa) and subject to the regulations adopted pursuant thereto by the Federal Reserve Board, including 12 Code of Federal Regulations, Section 226.32 and the official staff commentary to the regulations as each may be amended from time to time.

Sec. 2. 9-A MRSA §8-206-A, sub-§8, as enacted by PL 1995, c. 326, §5, is amended to read:

8. A high-rate, high-fee mortgage may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default or for default charges in excess of 5% of the amount in default. If the date of maturity of such a mortgage is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate must be computed by a method that is not less favorable than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d) 106 Stat. 3672, 3892 (1992).

Sec. 3. 9-A MRSA §8-206-A, sub-§11-A is enacted to read:

11-A. A creditor who makes a high-rate, high-fee mortgage shall report both the favorable and unfavorable payment history of the consumer to a nationally recognized consumer credit reporting agency at least annually during the period the creditor holds or services the loan.

Sec. 4. 9-A MRSA §8-206-A, sub-§12-A is enacted to read:

12-A. A creditor may not:

A. Charge any points in connection with a high-rate, high-fee mortgage if the proceeds of the high-rate, high-fee mortgage are used to refinance an existing high-rate, high-fee mortgage owned by the creditor and the last financing was within 18 months of the current refinancing; except, however, this paragraph does not prohibit a creditor from charging points in connection with any additional proceeds received by the consumer or paid to 3rd parties on the consumer's behalf in connection with the refinancing. For purposes of this subsection, "additional proceeds" for a closed-end loan is the amount over and above the outstanding principal balance of the existing high-rate, high-fee mortgage; or

B. Charge a consumer any fees to modify, renew, extend or amend a high-rate, high-fee mortgage or defer any payment due under a high-rate, high-fee mortgage if, after the modification, renewal, extension or amendment, the loan is still a high-rate, high-fee mortgage or, if no longer a high-rate, high-fee mortgage, the annual percentage rate has not been reduced by a least 2 percentage points. For purposes of this paragraph, the term "fees" does not include interest that is otherwise payable and consistent with the provisions of the loan documents. The provisions of this paragraph do not prohibit a creditor from charging, imposing or causing to be paid, directly or indirectly, prepaid finance charges in connection with any additional proceeds, as defined in paragraph A, received by the consumer in connection with the modification, renewal, extension or amendment, provided the prepaid finance charges on the additional proceeds do not exceed 5% of the additional proceeds. This paragraph does not apply if the existing high-rate, high-fee mortgage is 60 or more days delinquent and the modification, renewal, extension, amendment or deferral is part of a work-out process.

Sec. 5. 9-A MRSA §8-206-A, sub-§§13-A to 13-C are enacted to read:

13-A. A creditor may not advertise that refinancing preexisting debt with a high-rate, high-fee mortgage will reduce a consumer's aggregate monthly debt payment without also disclosing that the high-rate, high-fee mortgage may increase both the consumer's aggregate number of monthly debt payments and the aggregate amount paid by the consumer over the term of the high-rate, high-fee mortgage.