

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND THIRTIETH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 2020 to March 30, 2021**

**FIRST SPECIAL SESSION**  
**April 28, 2021 to July 19, 2021**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2021**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 18, 2021**

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

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**Augusta, Maine**  
**2021**

**CHAPTER 296  
H.P. 351 - L.D. 477**

**An Act To Allow for Fair  
Restitution by Providing That  
Restitution Includes the Cost of  
Analysis of Suspected Illegal  
Drugs If the Defendant Was  
Convicted of Trafficking and  
Was Motivated by Profit**

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

**Sec. 1. 17-A MRSA §2002, sub-§3, ¶B,** as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

B. "Critical investigation expense" means a necessary expense incurred by a government or by a victim while investigating or prosecuting suspected criminal conduct. "Critical investigation expense" is limited to the cost of an audit or other financial analysis when that analysis is necessary to determine whether and to what extent a victim has suffered financial harm from criminal conduct by an employee or other person in a position of trust and the cost of analysis of suspected illegal drugs if the defendant is convicted of trafficking a scheduled drug under chapter 45 and the court in sentencing the defendant makes a finding that the conduct underlying the conviction was motivated by profit.

See title page for effective date.

**CHAPTER 297  
S.P. 205 - L.D. 522**

**An Act To Protect Consumers  
against Predatory Lending  
Practices**

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

**Sec. 1. 9-A MRSA Art. 2, Pt. 7** is enacted to read:

**PART 7**

**FRAUDULENT PRACTICES**

**§2-701. Engaging in pretense to evade requirements  
of this Article prohibited**

An entity covered by this Article may not engage in any device, subterfuge or pretense to evade the requirements of this Article, including, but not limited to, making a loan disguised as a personal property sale and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services or making, offering, assisting or arranging a

debtor to obtain a loan with a greater rate of interest, consideration or charge than is permitted by this Article through any method. A loan made in violation of this Part is void and uncollectible as to any principal, fee, interest or charge.

**§2-702. Purporting to act as agent or service provider for another entity exempt from this Article**

A person is a lender subject to the requirements of this Article notwithstanding the fact that the person purports to act as an agent or service provider or in another capacity for another entity that is exempt from this Article, if, among other things:

1. The person holds, acquires or maintains, directly or indirectly, the predominant economic interest in the loan;
2. The person markets, brokers, arranges or facilitates the loan and holds the right, requirement or first right of refusal to purchase the loan or a receivable or interest in the loan; or
3. The totality of the circumstances indicate that the person is the lender and the transaction is structured to evade the requirements of this Article. Circumstances that weigh in favor of a person being a lender include, without limitation, when the person:

A. Indemnifies, insures or protects an exempt entity for any costs or risks related to the loan;

B. Predominantly designs, controls or operates the loan program; or

C. Purports to act as an agent or service provider or in another capacity for an exempt entity while acting directly as a lender in other states.

**Sec. 2. 9-A MRSA §5-201, sub-§2,** as amended by PL 1993, c. 496, §1, is further amended to read:

**2.** If a creditor has violated the provisions of this Act applying to authority to make supervised loans, section 2-301, the debtor is not obligated to pay ~~any application fee, prepaid finance charge or closing cost, nor the loan finance charge owed for the first 12 months of the loan.~~ If the debtor has paid any part of ~~the application fee, prepaid finance charge, closing cost or loan finance charge owed for the first 12 months of the loan,~~ the debtor has a right to recover the payment from the person violating this Act or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. With respect to violations arising from loans made pursuant to open-end credit, no action pursuant to this subsection may be brought more than 2 years after the violation occurred. With respect to violations arising from other loans, no action pursuant to this subsection may be brought more than one year after the due date of the