

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

H.P. 1214 - L.D. 1691

**An Act To Stop Unlicensed Loan Transactions**

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

**Sec. 1. 9-A MRSA §5-118** is enacted to read:

**§5-118. Unlicensed loan transactions**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Automated clearinghouse" means the nationwide electronic funds transfer system that provides for an interbank exchange of either checks or automated debit or credit entries.

B. "Financial account" means a checking, savings, share, stored value, prepaid, payroll card or other depository account.

C. "Lender" means a person engaged in the business of making loans of money and charging, contracting for or receiving on any such loan interest, a finance charge, a discount or consideration. For purposes of this section, "lender" does not include a supervised financial organization.

D. "Process" or "processing" includes printing a check, draft or other form of negotiable instrument drawn on or debited against a consumer's financial account, formatting or transferring data for use in connection with the debiting of a consumer's financial account by means of such an instrument or an electronic funds transfer or arranging for such services to be provided to a lender.

E. "Processor" means a person who engages in processing. For purposes of this section, "processor" does not include the automated clearinghouse.

**2. Certain loans prohibited.** It is an unfair or deceptive act or practice in commerce, a violation of the Maine Unfair Trade Practices Act and a violation of this Title for a lender directly or through an agent to solicit or make a loan to a consumer by any means unless the lender is in compliance with Article 2, Part 3 or is otherwise exempt from the requirements of Article 2, Part 3.

**3. Certain processing prohibited.** It is an unfair or deceptive act or practice in commerce, a violation of the Maine Unfair Trade Practices Act and a violation of this Title for a processor, other than a supervised financial organization, to process a check, draft, other form of negotiable instrument or an electronic funds transfer from a consumer's financial account in connection with a loan solicited from or made by any means to a consumer unless the lender is in compliance with Article 2, Part 3 or is otherwise exempt from the requirements of Article 2, Part 3.

**4. Certain assistance to lenders or processors prohibited.** It is an unfair or deceptive act or practice in commerce, a violation of the Maine Unfair Trade Practices Act and a violation of this Title for a person or lender to provide substantial assistance to a lender or processor when the person or lender or the person's or lender's authorized agent receives notice from a regulatory, law enforcement or similar governmental authority, knows from its normal monitoring and compliance systems or consciously avoids knowing that the lender or processor is in violation of subsection 2 or 3 or is engaging in an unfair or deceptive act or practice in commerce. This subsection does not apply to a supervised financial organization.