

## **LD 522, An Act To Cap Interest Rates for Consumer Debt**

### **SUMMARY:**

As originally drafted, LD 522 proposes to cap interest rates on consumer credit sales and consumer loans, including credit cards, at 15%.

At the public hearing, the sponsor proposed an amendment (see page 2) that would replace the bill's provisions and do the following:

- Make clear that a finance charge on any consumer credit transaction is inclusive of any ancillary product or service and any other charge or fee incident to the consumer credit transaction;
- Prohibit any entity engaging in consumer credit transactions from engaging in any device, subterfuge or pretense to evade the requirements and make any loans made in violation void and uncollectible; and
- Exempts supervised financial organizations, financial institution holding companies, mutual organization holding companies, credit union service organizations and any of their subsidiaries, and the Maine State Housing Authority from the requirements

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## **PROPOSED AMENDMENT PRESENTED AT HEARING BY SPONSOR:**

**Sec. 1. 9-A MRSA §2-701**, is hereby enacted to read:

A finance charge on any consumer credit transaction subject to Article 2, Title 9-A of the Maine Revised Statutes is inclusive of any ancillary product or service and any other charge or fee incident to the consumer credit transaction.

**Sec. 2. 9-A MRSA §2-702**, is hereby enacted to read:

No entity covered by this Section shall engage in any device, subterfuge, or pretense to evade the requirements of this subsection including, but not limited to, making loans 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 or interest, consideration, or charge than is permitted by this Article through any method.

Any loan made in violation of this subsection is void and uncollectible as to any principal, fee, interest, or charge.

**Sec. 3. 9-A MRSA §2-703** is hereby enacted to read:

The provisions set forth in this section shall not apply to a supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A; a financial institution holding company as defined in Title 9-B, section 1011, subsection 1; a mutual holding company as defined in Title 9-B, section 1052, subsection 2; a credit union service organization as defined in 12 Code of Federal Regulations, Section 712.1; or a subsidiary of a supervised financial organization, financial institution holding company, mutual holding company or credit union service organization; or the Maine State Housing Authority.

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**CURRENT LAW:** The statutory requirements for maximum finance charges on consumer credit sales are set forth in [9-A MRSA §2-201](#) and [§2-202](#); for maximum finance charges on consumer loans are set forth in [9-A MRSA §2-401](#) and [§2-402](#); and for other credit transactions are set forth in [9-A MRSA §2-601](#).

Maximum interest rate on credit sales other than pursuant to open-end credit: 9-A MRSA §2-201, sub-§2 and 9-A MRSA §2-401, sub-§2 provide that the finance charge on the unpaid balance of the amount financed may not exceed the greater of:

- The total of: (1)30% per year on an amount \$1000 or less; (2)21% per year that is more than \$1000 but does not exceed \$2800; and (3)15% per year that is more than \$2800; or
- 18% per year.

Maximum interested rate on consumer credit sale of a motor vehicle: 9-A MRSA §2-201, sub-§9-A provides that the finance charge on a consumer credit sale of a motor vehicle may not exceed 18% per year on the unpaid balance of the amount financed.

Maximum interest rate on consumer loans other than loans pursuant to open-end credit: 9-A MRSA §2-401, sub-§2 provides that the finance charge may not exceed the greater of:

- The total of: (1)30% per year on an amount \$2000 or less; (2)24% per year that is more than \$2000 but does not exceed \$4000; and (3)18% per year that is more than \$4000.

With respect to a consumer loan in which the amount financed exceeds \$8000, a lender may not contract for and receive a finance charge in excess of 18% on the entire amount of the loan. Notwithstanding these maximums, 9-A MRSA §2-401, sub-§7 allows lenders to impose certain minimum charges: \$5 on amounts less than \$75; \$15 on amounts between \$75-\$250; and \$25 when amount exceeds \$250.

Maximum interest rate on credit cards: 9-A MRSA §2-202, sub-§7 and 9-A MRSA §2-402, sub-§5 provide that a creditor may not impose a finance charge in excess of that set forth in the agreement between the consumer and the creditor.

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### ISSUES FOR CONSIDERATION:

1. Consider impact of federal preemption of State law on banks and credit unions? Would it put Maine banks and credit unions on unlevel playing field? Interest rate caps as proposed in original bill would apply only to Maine-chartered banks and credit unions and not to out-of-state, state and federal-chartered institutions. There is established case law that banks can “export” terms allowed in their home states.
2. As drafted, proposed amendment would maintain existing caps on interest rates but makes changes intended to institute a “hard cap” so that lenders include all fees when determining the interest rate on a loan. Proponents of proposal indicated these changes would protect consumers from predatory lending practices. The amendment would prohibit the practice of charging of fees on small loans, like payday loans, in lieu of interest which often has the result of permitting an effective annual percentage rate of interest much higher than 30%.
3. Proposed amendment would exempt banks and credit unions from the provisions. The provisions would continue to apply to non-bank lenders and other entities that extend consumer credit or consumer loans. Representatives of OneMain, a supervised lender with offices in the State, expressed concerns about impact of language on their ability to continue to do business. Auto dealers may also be affected. Consider impact?
4. What does “ancillary product” mean? As drafted, proposed amendment does not define the term. In addition to fees currently permitted in 9-A MRSA §2-401, sub-§7, term could also describe credit insurance products, extended warranties and other products offered in conjunction with auto sales, auto insurance if required by lender as part of collateral. Also, federal Truth-in-Lending laws and regulations permit the exclusion of some of these type of products from the finance charge. Consider whether to add definition or other clarification?

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### **ISSUES FOR CONSIDERATION (cont'd):**

5. Consider extent to which Maine-licensed lenders or non-licensed entities from out-of-state are source of issues for Maine consumers? The Bureau of Consumer Credit Protection indicated their availability to answer questions at the work session.

### **FISCAL INFORMATION:**

Not yet determined