

Senator Bennett Amendment

## An Act To Cap Interest Rates for Consumer Debt

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

**Sec. 1. 9-A MRSA §2-702**, is hereby enacted to read:

No entity covered by this Article shall engage in any device, subterfuge, or pretense to evade the requirements of this Article 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 Part is void and uncollectible as to any principal, fee, interest, or charge.

**Sec. 2. 9-A MRSA §2-704** is hereby enacted to read:

A person is a lender subject to the requirements of this Act notwithstanding the fact that the person purports to act as an agent, service provider, or in another capacity for another entity that is exempt from this Act, 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 loans, receivables, or interests in the loans; 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 Act. Circumstances that weigh in favor of a person being a lender include, without limitation, where the person:

(i) indemnifies, insures, or protects an exempt entity for any costs or risks related to the loan; (ii) predominantly designs, controls, or operates the loan program; or (iii) purports to act as an agent, service provider, or in another capacity for an exempt entity while acting directly as a lender in other states.

**Section 3. 9-A MRS sec. 5-201(2), is amended to read as follows:**

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 last scheduled payment of the agreement pursuant to which the charge was paid.

**Sec. 4. 9-A MRS section 5-201(2-A) is enacted to read as follows:**

2-A. If a lender has violated the provisions of this Act applying to authority to make supervised loans, section 2-301, the lender:

A. Shall not report information concerning the debt to a consumer reporting agency as defined in 10 MRS sec. 1308(3); and

B. Shall not refer the debt to a debt collector as defined in 32 MRS sec. 11002(6).

## **Sec. 5. Short-term, small dollar loan study**

The Bureau of Consumer Credit Protection shall prepare and deliver to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters a report on the use by Maine residents of short-term, small dollar loans.

- 1) The bureau shall seek input from consumer advocates, regulators in other states, federal regulatory agencies, members of the lending industry and other interested parties.
- 2) The study shall include a survey of the interest rate cap laws of other New England states. The study shall also include a survey of other policies that help consumers avoid the debt trap, including prohibitions on post-dated checks or loan limits accompanied by cooling-off periods.
- 3) The study shall include a review of complaints from Maine consumers and a survey to credit counselors to provide insight into the types of debt that are causing the most difficulty to Maine consumers.
- 4) The study shall be presented to the committee on or before March 1, 2022, and shall include any recommendations for legislation.