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Environment and Natural Resources Committee  
Government Oversight Committee

**Testimony of Senator Richard Bennett  
before the Joint Standing Committee on Health Coverage, Insurance and Financial Services**

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

March 9, 2021

Senator Sanborn, Representative Tepler and esteemed colleagues of the Joint Standing Committee on Health Coverage, Insurance and Financial Services: My name is Rick Bennett, I live in Oxford, and I have the honor of representing the beautiful foothills and lakes region of western Maine in the Maine Senate. I am pleased to present LD 522, An Act To Cap Interest Rates for Consumer Debt.

**Introduction**

There are three purposes to this bill. First, to better align Maine's consumer interest rate caps with our neighboring states. Second, to recalibrate the maximum APRs that can be changed under our statutes to recognize this extended and enduring period of historically low interest rates. Third, to raise awareness of the predatory practices of certain players in the dark corners of financial services who sell money at outrageously usurious rate to Mainers in distress.

In order to better achieve these ends, I present with my testimony today an amendment to the bill that I ask the committee to consider as a substitution for LD 522. I will review this amendment later in my testimony.

**The Problem**

If you read through Consumer Financial Protection Bureau complaints<sup>1</sup>, you will see a lot of anguish and financial stress. You will read about your neighbor who was misinformed, bilked, conned, and abused by unscrupulous predator lenders, often when they are in dire personal circumstances as well and most vulnerable to snake oil and fine print.

One Maine resident wrote: "My husband had been working minimal hours, and I was in a very tight place. I applied and received my contract - I thought I would be paying around \$150.00 a month for 6 months on a \$650.00 loan. Very steep, but I was in a desperate situation. They called it an installment loan, so I assumed that they are licensed in Maine, where I live. My plan was to pay the loan back within a two-week time frame. When I logged into my account to see what my payoff was, I found that not only did I owe the \$650.00, but I also owed approximately \$190.00 in interest - for two weeks???? So, I looked at my agreement and the payment plan was for

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<sup>1</sup> <https://www.consumerfinance.gov/data-research/consumer-complaints/>

\$150.00 biweekly for a 6-month term, which came out to be around \$1900.00, for a \$650.00 loan!”

Another Maine complained: “I took out a \$400.00 loan under the guise of a high interest rate and \$120.00 payment per pay period but now I am being told the \$400.00 payday loan will end up being \$1400.00 with interest! Even if paid it off early. Right now my total amount due is supposedly \$800.00 and that’s \$400.00 principal and \$400.00 interest! I have revoked ACH authorization from the group (after reading stories of similar situations) and will be happy to settle this matter but not for \$1400.00. That has to be illegal.”

The sad truth is that these unscrupulous players are often beyond the reach of this Legislature and our Maine regulatory agencies. They are often tribal lenders, on-line facilities, and dodgy financial business from out of state. Thanks to the 1978 Supreme Court case *Marquette National Bank of Minneapolis vs. First of Omaha Service Corp.*,<sup>2</sup> states’ usury laws are largely ineffective. While everyone has a credit card, we have a race to the bottom on ethical application of interest rates.

### Updating Our Statute

However, this does not mean that Maine policymakers are helpless, and it does not mean that, within the practical restraints of our efficacy, we should not review our statutes for currency and comparability.

Current Maine law allows annual percentage rates (APRs) on consumer loans up to 30% on unpaid balances of the amount financed of \$2,000 or less; 24% on such amounts between \$2,000 and \$4,000; and 18% on such amounts above \$4,000. While there may be disagreements about the rates, on its face this construction seems sensible. The law also allows for fees on a sliding scale to charge on the amount loaned. Specifically, \$5 may be charged when the amount financed does not exceed \$75; \$15 when the amount financed is between \$75 and \$250; and \$25 when the amount is \$250 or more.

Let me take you through an example of how this might work in practice for a borrower and how the so-called “minimum” finance charge results in an APR that greatly exceeds 30%:

Loan Amount = \$250  
Minimum Charge = \$25.00  
Final Payment due in 10-days = \$275.00

Calculation of APR:  
\$25.00 (equivalent to “finance charge”) accrues in only 10-days.  
Therefore, the “per diem” interest accrual is  $\$25.00 / 10 = \$2.50$   
 $\$2.50 \times 365$  days a year = \$912.50.

$\$912.50 / \$250.00 = 3.65$  or 365% APR.

A borrower could receive a similar hypothetical loan that uses the interest-accrual method of calculating the finance charge (rather than the flat fee) that results in a similarly high effective APR if instead of a flat finance charge using the “minimum charge” the lender sets the interest at the statutory maximum but also adds on a \$15 or \$20 “origination fee” or premium for a “credit insurance policy.”

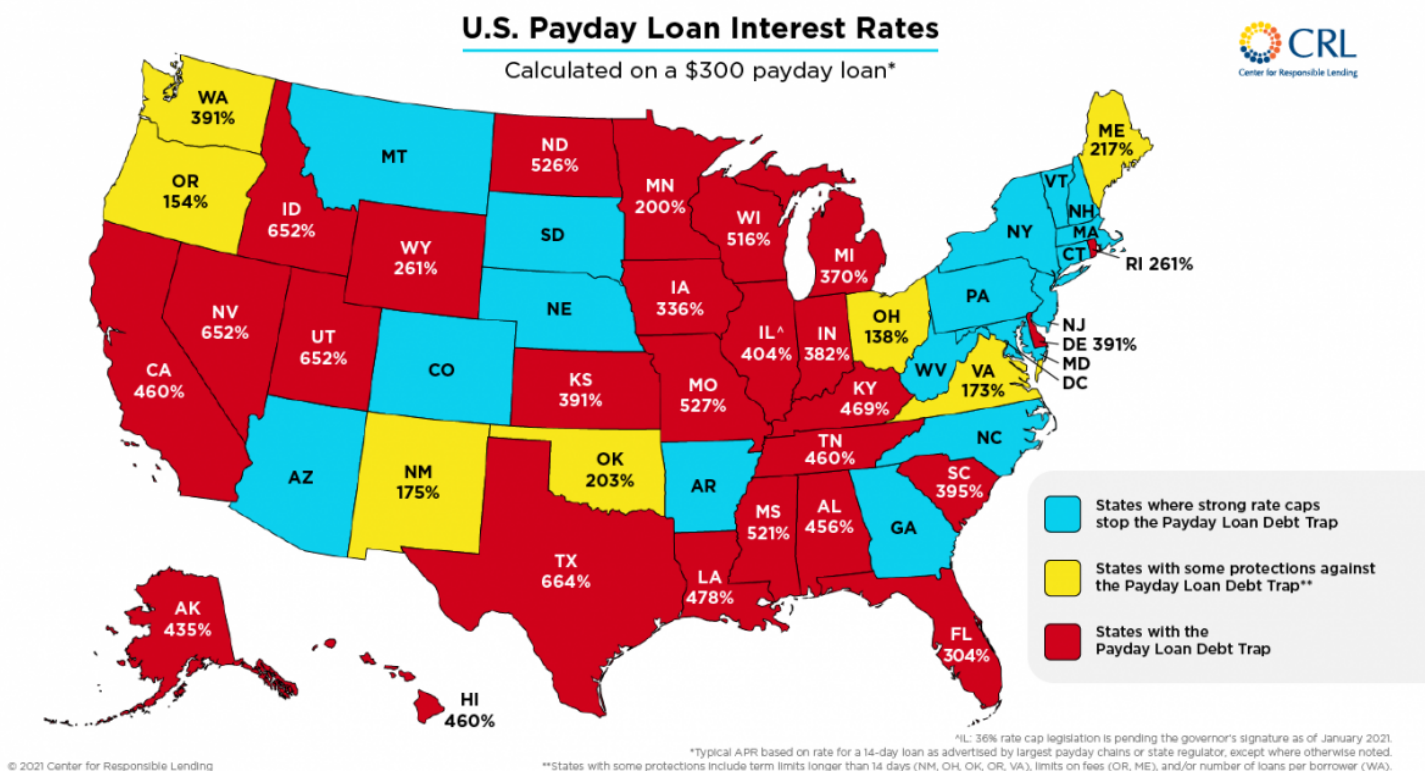
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<sup>2</sup> <https://caselaw.findlaw.com/us-supreme-court/439/299.html>

Neither illustration contemplates a “rollover” fee, which are common in payday loans and which create an even higher effective APR. Rollover fees might occur when a borrower has a small amount outstanding on a loan from their previous pay period, and borrows an additional amount to cover expenses until their next paycheck.

I understand at least two lenders in Maine use the “minimum charge” (i.e. flat fee) on short-term loans in Maine that result in triple-figure effective APRs: Republicash and CashNetUSA. The latter provides helpful disclosure of their rates using an online tool on their webpage, that at least gives consumers transparency into what their borrowing actually costs.<sup>3</sup>

To give provide some comparison of how our laws align with other states, consider the following chart from the Center for Responsible Lending, predicated on a 14-day payday loan of \$300. Under this scenario, which is not atypical, our law puts Maine people in a much more precarious position than most of their neighbors in New England.



### Substitution for LD 522

The amended language I present to you today as a substitution for the printed version of LD 522 is designed to address these problems. Most importantly, it would require that the fees charged would be considered in the calculation of the maximum APRs in current existing law. This change would make the caps of 18%, 24% and

<sup>3</sup> <https://www.cashnetusa.com/rates-and-terms.html>

30% real limits on interest rates. The amendment would also exclude Maine chartered or supervised financial organizations, such as community banks and credit unions.

As the committee works this bill, I would also ask you to consider adjusting downward the APR caps to 15%, 20% and 25%, respectively. This would further put Maine law in alignment with our other northeastern U.S. neighbors while acknowledging that interest rates throughout the country are and have been for many years at historic lows.

I ask for your favorable consideration and thank you for your attention.

## SUBSTITUTION AMENDMENT

L.D. 522

### 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 §2-701, 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.