



# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1912

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H.P. 1228

House of Representatives, May 9, 2023

### **An Act to Establish Consumer Protections Regarding Small Dollar Loans**

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BLIER of Buxton.  
Cosponsored by President JACKSON of Aroostook and  
Representatives: BOYLE of Gorham, MORRIS of Turner, SWALLOW of Houlton, Senators:  
GROHOSKI of Hancock, STEWART of Aroostook.

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

2 **Sec. 1. 9-A MRSA §2-701**, as enacted by PL 2021, c. 297, §1, is amended to read:

3 **§2-701. Engaging in pretense to evade requirements of this Article prohibited**

4 ~~An~~ Except as expressly provided in section 2-703, an entity covered by this Article  
5 may not engage in any device, subterfuge or pretense to evade the requirements of this  
6 Article, including, but not limited to, making a loan disguised as a personal property sale  
7 and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual  
8 installment sale of goods or services or making, offering, assisting or arranging a debtor to  
9 obtain a loan with a greater rate of interest, consideration or charge than is permitted by  
10 this Article through any method. A loan made in violation of this Part is void and  
11 uncollectible as to any principal, fee, interest or charge.

12 **Sec. 2. 9-A MRSA §2-702**, as enacted by PL 2021, c. 297, §1, is repealed.

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

14 **§2-703. Exemptions**

15 The provisions of this Article do not apply to a person doing business pursuant to any  
16 law of this State or of the United States relating to banks, national banking associations,  
17 savings banks, trust companies, savings and loan associations, credit unions or mortgage  
18 companies, including without limitation any affiliate, subsidiary or service provider of such  
19 a person, irrespective of whether or not such an affiliate, subsidiary or service provider is  
20 a bank.

21 **Sec. 4. 9-A MRSA Art. 2, Pt. 8** is enacted to read:

22 **PART 8**

23 **MAINE SMALL DOLLAR CONSUMER PROTECTION ACT**

24 **§2-801. Short title**

25 This Part may be known and cited as "the Maine Small Dollar Consumer Protection  
26 Act."

27 **§2-802. Definitions**

28 As used in this Part, unless the context otherwise indicates, the following terms have  
29 the following meanings.

30 **1. Renew.** "Renew" means to renew, repay, refinance or consolidate an existing small  
31 dollar loan with the proceeds of another small dollar loan.

32 **2. Small dollar loan.** "Small dollar loan" means a loan made by a supervised lender  
33 that:

34 A. Is made to one or more individuals for personal, family or household use;

35 B. Has a principal amount that does not exceed \$2,500;

36 C. Is unsecured and payable in substantially equal installments;

1 D. Has a repayment schedule consisting of installment payments of substantially equal  
2 amounts of principal and service fees amortizing over the term of the loan such that the  
3 loan is repaid in full by the maturity date; and

4 E. Has a maturity date that is not less than 90 days or more than 365 days after the date  
5 of the loan agreement.

6 **§2-803. Small dollar loans authorized; rules**

7 A supervised lender may make a small dollar loan to a consumer pursuant to this Part.  
8 The administrator shall adopt rules to carry out the purposes of this Part. The rules must  
9 include, at a minimum, the following:

10 1. Copy. A requirement for a supervised lender to immediately provide a consumer  
11 with a signed copy of the small dollar loan agreement;

12 2. Payment. Provisions allowing for payment of a small dollar loan to a consumer by  
13 check, money order, cash or other mutually agreed upon means, but that prohibit the  
14 supervised lender from charging the consumer additional fees based on the method of  
15 payment;

16 3. Right to cancel. The right of a consumer to cancel a small dollar loan agreement  
17 by notifying the supervised lender and returning the total original small dollar loan amount  
18 within 3 business days after the date the consumer entered into the small dollar loan  
19 agreement;

20 4. Right to file complaint. The right of a consumer to file a complaint against a  
21 supervised lender for a violation of any provision of this Part; and

22 5. Modification. An allowance for a supervised lender and a consumer to mutually  
23 agree to modify the repayment schedule to allow for different payment amounts over the  
24 term of the small dollar loan, as long as the modified repayment schedule does not include  
25 a payment due at the date of maturity that is substantially larger than any previously  
26 scheduled installment payment.

27 Rules adopted pursuant to this section are routine technical rules as defined in Title 5,  
28 chapter 375, subchapter 2-A.

29 **§2-804. Limitations on multiple small dollar loans**

30 A supervised lender may not enter into a small dollar loan agreement with a consumer  
31 if the consumer has an open small dollar loan agreement with the supervised lender or  
32 another supervised lender in the State. A supervised lender may rely on a consumer's  
33 representation of open small dollar loan agreements with any other supervised lender.

34 **§2-805. Renewal of small dollar loans**

35 A supervised lender may not renew a small dollar loan agreement unless:

36 1. Payments as scheduled. A consumer has made payments as scheduled; and

37 2. Percentage of payments. A consumer has made at least 30% of all scheduled  
38 payments or has retired at least 50% of the principal amount of the small dollar loan.

39 **§2-806. Consideration of ability to repay**

40 1. Considerations. In determining the amount and duration of a small dollar loan as  
41 part of the underwriting, making or negotiating of the small dollar loan, a supervised lender

1 shall take into consideration a consumer's financial ability to repay the small dollar loan in  
2 the time and manner provided in the prospective small dollar loan agreement. The  
3 supervised lender's consideration must include, but is not limited to, a consumer's:

4 A. Credit and borrowing history;

5 B. Gross income;

6 C. Representation of major financial obligations; and

7 D. Estimated basic living expenses, including, but not limited to, expenses for food,  
8 utilities, regular medical costs and other costs associated with the consumer's health,  
9 welfare and ability to produce income and the health and welfare of members of the  
10 consumer's household who are financially dependent on the consumer. A supervised  
11 lender may rely on a consumer's representation of estimated basic living expenses when  
12 determining the consumer's ability to repay a small dollar loan.

13 **2. Ability to pay.** A supervised lender may enter into a small dollar loan agreement  
14 only with a consumer whom the supervised lender has determined pursuant to subsection  
15 1 to be able to repay the small dollar loan in the time and manner provided in the  
16 prospective small dollar loan agreement. A supervised lender may not enter into a small  
17 dollar loan agreement with a consumer if the supervised lender determines that the  
18 prospective small dollar loan agreement would result in a monthly payment that would  
19 exceed 12% of the consumer's monthly gross income.

20 **§2-807. No prepayment penalty**

21 A consumer may prepay in full the unpaid balance of the small dollar loan at any time  
22 without additional interest, fees or penalties.

23 **§2-808. Limitations on collections**

24 A supervised lender may not use or threaten to use criminal proceedings in order to  
25 collect upon the terms of a small dollar loan agreement under this Part.

26 **§2-809. Report to credit reporting agency required**

27 A supervised lender shall report to a credit reporting agency or agencies the terms of a  
28 small dollar loan agreement and a consumer's performance pursuant to those terms.

29 **§2-810. Required consumer disclosures**

30 **1. Public notice.** A supervised lender shall post prominently at its place of business  
31 in a way designed to be seen by a consumer before the consumer enters into a small dollar  
32 loan agreement and on any website designed to be seen by a consumer before the consumer  
33 enters into a small dollar loan agreement a written notice that, at a minimum, informs the  
34 consumer that:

35 A. State law prohibits a supervised lender from entering into a small dollar loan  
36 agreement with a consumer who already has a small dollar loan in effect with the  
37 supervised lender or with another supervised lender in the State;

38 B. If a consumer enters into a small dollar loan agreement, a copy of the signed  
39 agreement must be immediately provided to the consumer;

1 C. The proceeds of a small dollar loan are payable to a consumer by check, money  
2 order, cash or any other mutually acceptable means and that the consumer may not be  
3 subjected to additional fees based on the method of payment;

4 D. State law guarantees to a consumer the right to cancel a small dollar loan agreement  
5 and that, in order to cancel an agreement, the consumer must notify the supervised  
6 lender and return the original dollar value received within 3 business days after the date  
7 the consumer entered into the small dollar loan agreement;

8 E. State law prohibits a supervised lender from using or threatening to use any criminal  
9 proceedings to collect on a small dollar loan agreement; and

10 F. State law entitles a consumer to information regarding how to file a complaint  
11 against a supervised lender if the consumer has reason to believe that the supervised  
12 lender has violated the law and that a consumer who believes the supervised lender is  
13 acting unlawfully should contact the Bureau of Consumer Credit Protection within the  
14 Department of Professional and Financial Regulation.

15 Notices posted at the place of business must be in at least 36-point type. Notices posted on  
16 a website must be located in a prominent place easily located by a consumer.

17 **2. Public notice of fees and charges.** A supervised lender shall post prominently at  
18 its place of business in a way designed to be seen by a consumer before the consumer enters  
19 into a small dollar loan agreement and on any website designed to be seen by a consumer  
20 before the consumer enters into a small dollar loan agreement a schedule of all fees and  
21 charges to be imposed for small dollar loans. Notices posted at the place of business must  
22 be in at least 36-point type. Notices posted on a website must be located in a prominent  
23 place easily located by a consumer.

24 **SUMMARY**

25 This bill establishes the Maine Small Dollar Consumer Protection Act. It outlines the  
26 process for supervised lenders to offer small dollar loans, which are defined as loans not  
27 exceeding \$2,500 that are unsecured and paid in substantially equal installments and that  
28 mature not less than 90 days or more than 365 days after the date of the agreement, and the  
29 rights that consumers have when entering into small dollar loan agreements.

30 It also repeals the provision that provides that a person is a lender subject to the  
31 requirements of the Maine Consumer Credit Code governing finance charges and related  
32 provisions notwithstanding the fact that the person purports to act as an agent or service  
33 provider or in another capacity for another entity that is exempt from the requirements of  
34 the Maine Consumer Credit Code governing finance charges and related provision if  
35 certain conditions are met.

36 It provides that the requirements of the Maine Consumer Credit Code governing  
37 finance charges and related provisions do not apply to a person doing business pursuant to  
38 any law of this State or of the United States relating to banks, national banking associations,  
39 savings banks, trust companies, savings and loan associations, credit unions or mortgage  
40 companies, including without limitation any affiliate, subsidiary or service provider of such  
41 a person, irrespective of whether or not such an affiliate, subsidiary or service provider is  
42 a bank.