

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 661

H.P. 491

House of Representatives, February 11, 2003

An Act To Amend the Laws Governing Privacy of Consumer Financial Information

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative DUDLEY of Portland.

Cosponsored by Senator DOUGLASS of Androscoggin and

Representatives: CANAVAN of Waterville, CLOUGH of Scarborough, MURPHY of Kennebunk, SIMPSON of Auburn, SMITH of Van Buren, Senators: EDMONDS of Cumberland, HALL of Lincoln.

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

PART A

Sec. A-1. 9-A MRSA §3-314, as enacted by PL 2001, c. 262, Pt. A, §1, is repealed and the following enacted in its place:

§3-314. Privacy of consumer financial information

1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties, a creditor shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the creditor is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24. This subsection does not apply to a supervised financial organization.

2. Opt in; disclosure to nonaffiliated 3rd party. A creditor required to comply with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information unless the person to whom the information pertains has affirmatively consented to the disclosure in writing and has not withdrawn that consent. This subsection does not prohibit the disclosure of nonpublic personal information by a creditor to a nonaffiliated 3rd party to the extent such a disclosure is permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802, subsection b, paragraph 2 and subsection e.

3. Use of terms. As used in this section, unless the context otherwise indicates, the terms "affiliate," "nonaffiliated 3rd party" and "nonpublic personal information" have the same meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999).

Sec. A-2. 9-A MRSA §9-310, as corrected by RR 2001, c. 1, §14, is repealed and the following enacted in its place:

2 **§9-310. Privacy of consumer financial information**

4 **1. Compliance with federal law and regulations.** Except as
6 provided in subsection 2 with respect to disclosure of nonpublic
8 personal information to nonaffiliated 3rd parties, a creditor
10 shall comply with the provisions of the federal
12 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
14 seq. (1999) and the applicable implementing federal Privacy of
16 Consumer Information regulations, as adopted by the Office of the
18 Comptroller of the Currency, 12 Code of Federal Regulations, Part
20 40 (2001); the Board of Governors of the Federal Reserve System,
22 12 Code of Federal Regulations, Part 216 (2001); the Federal
24 Deposit Insurance Corporation, 12 Code of Federal Regulations,
Part 332 (2001); the Office of Thrift Supervision, 12 Code of
Federal Regulations, Part 573 (2001); the National Credit Union
Administration, 12 Code of Federal Regulations, Part 716 (2001);
the Federal Trade Commission, 16 Code of Federal Regulations,
Part 313 (2001); or the Securities and Exchange Commission, 17
Code of Federal Regulations, Part 248 (2001), if the creditor is
a financial institution as defined in those regulations. This
subsection is not intended to permit the release of health care
information except as permitted by Title 22, section 1711-C or
Title 24-A, chapter 24.

26 **2. Opt in; disclosure to nonaffiliated 3rd party.** A
28 creditor required to comply with subsection 1 may not disclose,
30 directly or through an affiliate, to a nonaffiliated 3rd party
32 any nonpublic personal information unless the person to whom the
34 information pertains has affirmatively consented to the
36 disclosure in writing and has not withdrawn that consent. This
subsection does not prohibit the disclosure of nonpublic personal
information by a creditor to a nonaffiliated 3rd party to the
extent such a disclosure is permitted by the federal
Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
subsection b, paragraph 2 and subsection e.

38 **3. Use of terms.** As used in this section, unless the
40 context otherwise indicates, the terms "affiliate,"
42 "nonaffiliated 3rd party" and "nonpublic personal information"
have the same meanings as in the federal Gramm-Leach-Bliley Act,
15 United States Code, Section 6801 et seq. (1999).

44 **Sec. A-3. 9-A MRSA §10-306,** as enacted by PL 2001, c. 262,
46 Pt. A, §3, is repealed and the following enacted in its place:

48 **§10-306. Privacy of consumer financial information**

50 **1. Compliance with federal law and regulations.** Except as
provided in subsection 2 with respect to disclosure of nonpublic

2 personal information to nonaffiliated 3rd parties, a credit
3 services organization shall comply with the provisions of the
4 federal Gramm-Leach-Bliley Act, 15 United States Code, Section
5 6801 et seq. (1999) and the applicable implementing federal
6 Privacy of Consumer Information regulations, as adopted by the
7 Office of the Comptroller of the Currency, 12 Code of Federal
8 Regulations, Part 40 (2001); the Board of Governors of the
9 Federal Reserve System, 12 Code of Federal Regulations, Part 216
10 (2001); the Federal Deposit Insurance Corporation, 12 Code of
11 Federal Regulations, Part 332 (2001); the Office of Thrift
12 Supervision, 12 Code of Federal Regulations, Part 573 (2001); the
13 National Credit Union Administration, 12 Code of Federal
14 Regulations, Part 716 (2001); the Federal Trade Commission, 16
15 Code of Federal Regulations, Part 313 (2001); or the Securities
16 and Exchange Commission, 17 Code of Federal Regulations, Part 248
17 (2001), if the credit services organization is a financial
18 institution as defined in those regulations. This subsection is
19 not intended to permit the release of health care information
20 except as permitted by Title 22, section 1711-C or Title 24-A,
21 chapter 24.

22 2. Opt in; disclosure to nonaffiliated 3rd party. A credit
23 services organization required to comply with subsection 1 may
24 not disclose, directly or through an affiliate, to a
25 nonaffiliated 3rd party any nonpublic personal information unless
26 the person to whom the information pertains has affirmatively
27 consented to the disclosure in writing and has not withdrawn that
28 consent. This subsection does not prohibit the disclosure of
29 nonpublic personal information by a credit services organization
30 to a nonaffiliated 3rd party to the extent such a disclosure is
31 permitted by the federal Gramm-Leach-Bliley Act, 15 United States
32 Code, Section 6802, subsection b, paragraph 2 and subsection e.

33 3. Use of terms. As used in this section, unless the
34 context otherwise indicates, the terms "affiliate,"
35 "nonaffiliated 3rd party" and "nonpublic personal information"
36 have the same meanings as in the federal Gramm-Leach-Bliley Act,
37 15 United States Code, Section 6801 et seq. (1999).

38 Sec. A-4. 9-A MRSA §11-122, as enacted by PL 2001, c. 262,
39 Pt. A, §4, is repealed and the following enacted in its place:

40 **§11-122. Privacy of consumer financial information**

41 1. Compliance with federal law and regulations. Except as
42 provided in subsection 2 with respect to disclosure of nonpublic
43 personal information to nonaffiliated 3rd parties, a merchant who
44 enters into a rental-purchase agreement with a consumer shall
45 comply with the provisions of the federal Gramm-Leach-Bliley Act,
46 15 United States Code, Section 6801 et seq. (1999) and the
47 provisions of the federal Fair Credit Reporting Act, 15 United States
48 Code, Section 1681 et seq. (1999).

2 applicable implementing federal Privacy of Consumer Information
3 regulations, as adopted by the Office of the Comptroller of the
4 Currency, 12 Code of Federal Regulations, Part 40 (2001); the
5 Board of Governors of the Federal Reserve System, 12 Code of
6 Federal Regulations, Part 216 (2001); the Federal Deposit
7 Insurance Corporation, 12 Code of Federal Regulations, Part 332
8 (2001); the Office of Thrift Supervision, 12 Code of Federal
9 Regulations, Part 573 (2001); the National Credit Union
10 Administration, 12 Code of Federal Regulations, Part 716 (2001);
11 the Federal Trade Commission, 16 Code of Federal Regulations,
12 Part 313 (2001); or the Securities and Exchange Commission, 17
13 Code of Federal Regulations, Part 248 (2001), if the merchant is
14 a financial institution as defined in those regulations. This
15 subsection is not intended to permit the release of health care
16 information except as permitted by Title 22, section 1711-C or
17 Title 24-A, chapter 24. This subsection does not apply to a
18 supervised financial organization.

19 2. Opt in; disclosure to nonaffiliated 3rd party. A
20 merchant required to comply with subsection 1 may not disclose,
21 directly or through an affiliate, to a nonaffiliated 3rd party
22 any nonpublic personal information unless the person to whom the
23 information pertains has affirmatively consented to the
24 disclosure in writing and has not withdrawn that consent. This
25 subsection does not prohibit the disclosure of nonpublic personal
26 information by a merchant to a nonaffiliated 3rd party to the
27 extent such a disclosure is permitted by the federal
28 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
29 subsection b, paragraph 2 and subsection e.

30 3. Use of terms. As used in this section, unless the
31 context otherwise indicates, the terms "affiliate,"
32 "nonaffiliated 3rd party" and "nonpublic personal information"
33 have the same meanings as in the federal Gramm-Leach-Bliley Act,
34 15 United States Code, Section 6801 et seq. (1999).

35 **Sec. A-5. 9-B MRSA §161. sub-§2, ¶M,** as enacted by PL 2001, c.
36 262, Pt. B, §3, is amended to read:

37 M. The Except as provided in section 162-A, the sharing of
38 information to the extent permitted by the provisions of
39 the federal Gramm-Leach-Bliley Act, 15 United States Code,
40 Section 6801 et seq. (1999) and the applicable implementing
41 federal Privacy of Consumer Information regulations, as
42 adopted by the Office of the Comptroller of the Currency, 12
43 Code of Federal Regulations, Part 40 (2001); the Board of
44 Governors of the Federal Reserve System, 12 Code of Federal
45 Regulations, Part 216 (2001); the Federal Deposit Insurance
46 Corporation, 12 Code of Federal Regulations, Part 332
47 (2001); the Office of Thrift Supervision, 12 Code of Federal
48 Regulations, Part 573 (2001); the National Credit Union
49 Administration, 12 Code of Federal Regulations, Part 716 (2001);
50 the Federal Trade Commission, 16 Code of Federal Regulations,
Part 313 (2001); or the Securities and Exchange Commission, 17
Code of Federal Regulations, Part 248 (2001), if the merchant is
a financial institution as defined in those regulations. This
subsection is not intended to permit the release of health care
information except as permitted by Title 22, section 1711-C or
Title 24-A, chapter 24. This subsection does not apply to a
supervised financial organization.

2 Regulations, Part 573 (2001); the National Credit Union
Administration, 12 Code of Federal Regulations, Part 716
4 (2001); the Federal Trade Commission, 16 Code of Federal
Regulations, Part 313 (2001); or the Securities and Exchange
6 Commission, 17 Code of Federal Regulations, Part 248
(2001). This paragraph is not intended to permit the
8 release of health care information except as permitted by
Title 22, section 1711-C or Title 24-A, chapter 24; or

10 **Sec. A-6. 9-B MRSA §162-A** is enacted to read:

12 **§162-A. Disclosure of nonpublic personal information to**
14 **nonaffiliated 3rd party**

16 **1. Opt in; disclosure to nonaffiliated 3rd party.** A
18 **financial institution authorized to do business in this State or**
credit union authorized to do business in this State may not
disclose, directly or through an affiliate, to a nonaffiliated
3rd party any nonpublic personal information unless the person to
whom the information pertains has affirmatively consented to the
disclosure in writing and has not withdrawn that consent. This
subsection does not prohibit the disclosure of nonpublic personal
information by a financial institution authorized to do business
in this State or credit union authorized to do business in this
State to a nonaffiliated 3rd party to the extent such a
disclosure is otherwise permitted by this chapter or the federal
Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
subsection b, paragraph 2 and subsection e.

30 **2. Use of terms.** As used in this section, unless the
32 **context otherwise indicates, the terms "affiliate,"**
"nonaffiliated 3rd party" and "nonpublic personal information"
have the same meanings as in the federal Gramm-Leach-Bliley Act,
34 **15 United States Code, Section 6801 et seq. (1999).**

36 **Sec. A-7. 9-B MRSA §241, sub-§13,** as reallocated by RR 2001,
38 c. 1, §15, is amended to read:

40 **13. Privacy of consumer information.** A financial
42 institution authorized to do business in this State or a credit
union authorized to do business in this State shall comply with
44 the provisions of section 162-A and the federal
Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
46 seq. (1999) and the applicable implementing federal Privacy of
Consumer Information regulations, as adopted by the Office of the
48 Comptroller of the Currency, 12 Code of Federal Regulations, Part
40 (2001); the Board of Governors of the Federal Reserve System,
12 Code of Federal Regulations, Part 216 (2001); the Federal
Deposit Insurance Corporation, 12 Code of Federal Regulations,
50 Part 332 (2001); the Office of Thrift Supervision, 12 Code of

2 Federal Regulations, Part 573 (2001); or the National Credit
3 Union Administration, 12 Code of Federal Regulations, Part 716
4 (2001). This subsection is not intended to permit the release of
5 health care information except as permitted by Title 22, section
6 1711-C or Title 24-A, chapter 24.

7 Any violation of this subsection is an anticompetitive or
8 deceptive practice for the purposes of this chapter and is
9 subject to the remedies provided in this chapter in addition to
10 remedies otherwise provided by law.

11 **Sec. A-8. 24-A MRSA §2215, sub-§1, ¶J,** as enacted by PL 1997,
12 c. 677, §3 and affected by §5, is repealed.

13 **Sec. A-9. 24-A MRSA §2215, sub-§1, ¶P,** as amended by PL 2001,
14 c. 457, §21, is further amended to read:

15 P. To an affiliate whose only use of the information will
16 be in connection with an audit of the regulated insurance
17 entity or the marketing of a product or service of the
18 affiliate, if the information disclosed for marketing
19 purposes does not include health care information and if the
20 affiliate agrees not to disclose the information for any
21 other purpose or to unaffiliated persons; ~~or~~

22 **Sec. A-10. 24-A MRSA §2215, sub-§1, ¶Q,** as enacted by PL 2001,
23 c. 457, §22, is amended to read:

24 Q. In order to protect the public health and welfare, to
25 state governmental entities only insofar as necessary to
26 enable those entities to perform their duties when reporting
27 is required or authorized by law; ~~or~~

28 **Sec. A-11. 24-A MRSA §2215, sub-§1, ¶R** is enacted to read:

29 R. To the extent permitted by the federal
30 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
31 subsection b, paragraph 2 and subsection e as long as the
32 information disclosed does not include health care
33 information.

34 **Sec. A-12. 24-A MRSA §2215, sub-§2** is enacted to read:

35 2. Opt in; disclosure to nonaffiliated 3rd party. A
36 regulated insurance entity or insurance support organization may
37 not disclose, directly or through an affiliate, to a
38 nonaffiliated 3rd party any nonpublic personal information unless
39 the person to whom the information pertains has affirmatively
40 consented to the disclosure in writing and has not withdrawn that
41 consent. This subsection does not prohibit the disclosure of
42

2 nonpublic personal information by a regulated insurance entity or
3 insurance support organization to a nonaffiliated 3rd party to
4 the extent such a disclosure is permitted by subsection 1 or the
5 federal Gramm-Leach-Bliley Act, 15 United States Code, Section
6 6802, subsection b, paragraph 2 and subsection e. As used in
7 this subsection, unless the context otherwise indicates, the
8 terms "affiliate," "nonaffiliated 3rd party" and "nonpublic
9 personal information" have the same meanings as in the federal
10 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
11 seq. (1999).

12 **Sec. A-13. 30-A MRSA §3964-A, sub-§4.** as enacted by PL 2001,
13 c. 262, Pt. E, §1, is repealed and the following enacted in its
14 place:

15 **4. Privacy of consumer financial information.** The privacy
16 of consumer financial information is subject to the following.

17 A. Except as provided in paragraph B with respect to
18 disclosure of nonpublic personal information to
19 nonaffiliated 3rd parties, a pawnbroker shall comply with
20 the provisions of the federal Gramm-Leach-Bliley Act, 15
21 United States Code, Section 6801 et seq. (1999) and the
22 applicable implementing federal Privacy of Consumer
23 Information regulations, as adopted by the Office of the
24 Comptroller of the Currency, 12 Code of Federal Regulations,
25 Part 40 (2001); the Board of Governors of the Federal
26 Reserve System, 12 Code of Federal Regulations, Part 216
27 (2001); the Federal Deposit Insurance Corporation, 12 Code
28 of Federal Regulations, Part 332 (2001); the Office of
29 Thrift Supervision, 12 Code of Federal Regulations, Part 573
30 (2001); the National Credit Union Administration, 12 Code of
31 Federal Regulations, Part 716 (2001); the Federal Trade
32 Commission, 16 Code of Federal Regulations, Part 313 (2001);
33 or the Securities and Exchange Commission, 17 Code of
34 Federal Regulations, Part 248 (2001), if the pawnbroker is a
35 financial institution as defined in those regulations. This
36 paragraph is not intended to permit the release of health
37 care information except as permitted by Title 22, section
38 1711-C or Title 24-A, chapter 24.

39 B. A pawnbroker required to comply with paragraph A may not
40 disclose, directly or through an affiliate, to a
41 nonaffiliated 3rd party any nonpublic personal information
42 unless the person to whom the information pertains has
43 affirmatively consented to the disclosure in writing and has
44 not withdrawn that consent. This paragraph does not
45 prohibit the disclosure of nonpublic personal information by
46 a pawnbroker to a nonaffiliated 3rd party to the extent such
47 a disclosure is permitted by the federal Gramm-Leach-Bliley
48 Act, 15 United States Code, Section 6801 et seq. (1999).
49
50

2 Act, 15 United States Code, Section 6802, subsection b,
3 paragraph 2 and subsection e.

4 C. As used in this subsection, unless the context otherwise
5 indicates, the terms "affiliate," "nonaffiliated 3rd party"
6 and "nonpublic personal information" have the same meanings
7 as in the federal Gramm-Leach-Bliley Act, 15 United States
8 Code, Section 6801 et seq. (1999).

10 **Sec. A-14. 32 MRSA §6146.** as enacted by PL 2001, c. 262, Pt.
11 E, §2, is repealed and the following enacted in its place:

12 **§6146. Privacy of consumer financial information**

13 **1. Compliance with federal law and regulations.** Except as
14 provided in subsection 2 with respect to disclosure of nonpublic
15 personal information to nonaffiliated 3rd parties, a check
16 cashing business or foreign currency exchange business shall
17 comply with the provisions of the federal Gramm-Leach-Bliley Act,
18 15 United States Code, Section 6801 et seq. (1999) and the
19 applicable implementing federal Privacy of Consumer Information
20 regulations, as adopted by the Office of the Comptroller of the
21 Currency, 12 Code of Federal Regulations, Part 40 (2001); the
22 Board of Governors of the Federal Reserve System, 12 Code of
23 Federal Regulations, Part 216 (2001); the Federal Deposit
24 Insurance Corporation, 12 Code of Federal Regulations, Part 332
25 (2001); the Office of Thrift Supervision, 12 Code of Federal
26 Regulations, Part 573 (2001); the National Credit Union
27 Administration, 12 Code of Federal Regulations, Part 716 (2001);
28 the Federal Trade Commission, 16 Code of Federal Regulations,
29 Part 313 (2001); or the Securities and Exchange Commission, 17
30 Code of Federal Regulations, Part 248 (2001), if the check
31 cashing business or foreign currency exchange business is a
32 financial institution as defined in those regulations. This
33 subsection is not intended to permit the release of health care
34 information except as permitted by Title 22, section 1711-C or
35 Title 24-A, chapter 24.

36 **2. Opt in; disclosure to nonaffiliated 3rd party.** A check
37 cashing business or foreign currency exchange business required
38 to comply with subsection 1 may not disclose, directly or through
39 an affiliate, to a nonaffiliated 3rd party any nonpublic personal
40 information unless the person to whom the information pertains
41 has affirmatively consented to the disclosure in writing and has
42 not withdrawn that consent. This subsection does not prohibit
43 the disclosure of nonpublic personal information by a check
44 cashing business or foreign currency exchange business to a
45 nonaffiliated 3rd party to the extent such a disclosure is
46 permitted by the federal Gramm-Leach-Bliley Act, 15 United States
47 Code, Section 6802, subsection b, paragraph 2 and subsection e.

2 **3. Use of terms.** As used in this section, unless the
3 context otherwise indicates, the terms "affiliate,"
4 "nonaffiliated 3rd party" and "nonpublic personal information"
5 have the same meanings as in the federal Gramm-Leach-Bliley Act,
6 15 United States Code, Section 6801 et seq. (1999).

8 **Sec. A-15. 32 MRSA §6162.** as enacted by PL 2001, c. 262, Pt.
9 E, §3, is repealed and the following enacted in its place:

10 **§6162. Privacy of consumer financial information**

11 **1. Compliance with federal law and regulations.** Except as
12 provided in subsection 2 with respect to disclosure of nonpublic
13 personal information to nonaffiliated 3rd parties, an operator
14 shall comply with the provisions of the federal
15 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
16 seq. (1999) and the applicable implementing federal Privacy of
17 Consumer Information regulations, as adopted by the Office of the
18 Comptroller of the Currency, 12 Code of Federal Regulations, Part
19 40 (2001); the Board of Governors of the Federal Reserve System,
20 12 Code of Federal Regulations, Part 216 (2001); the Federal
21 Deposit Insurance Corporation, 12 Code of Federal Regulations,
22 Part 332 (2001); the Office of Thrift Supervision, 12 Code of
23 Federal Regulations, Part 573 (2001); the National Credit Union
24 Administration, 12 Code of Federal Regulations, Part 716 (2001);
25 the Federal Trade Commission, 16 Code of Federal Regulations,
26 Part 313 (2001); or the Securities and Exchange Commission, 17
27 Code of Federal Regulations, Part 248 (2001), if the operator is
28 a financial institution as defined in those regulations. This
29 subsection is not intended to permit the release of health care
30 information except as permitted by Title 22, section 1711-C or
31 Title 24-A, chapter 24.

32 **2. Opt in; disclosure to nonaffiliated 3rd party.** An
33 operator required to comply with subsection 1 may not disclose,
34 directly or through an affiliate, to a nonaffiliated 3rd party
35 any nonpublic personal information unless the person to whom the
36 information pertains has affirmatively consented to the
37 disclosure in writing and has not withdrawn that consent. This
38 subsection does not prohibit the disclosure of nonpublic personal
39 information by an operator to a nonaffiliated 3rd party to the
40 extent such a disclosure is permitted by the federal
41 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
42 subsection b, paragraph 2 and subsection e.

43 **3. Use of terms.** As used in this section, unless the
44 context otherwise indicates, the terms "affiliate,"
45 "nonaffiliated 3rd party" and "nonpublic personal information"

2 have the same meanings as in the federal Gramm-Leach-Bliley Act,
3 15 United States Code, Section 6801 et seq. (1999).

4 **Sec. A-16. 32 MRSA §10206** is enacted to read:

6 **§10206. Disclosure of nonpublic personal information to**
7 **nonaffiliated 3rd party**

8
9 **1. Opt in; disclosure to nonaffiliated 3rd party.** A person
10 subject to this chapter may not disclose, directly or through an
11 affiliate, to a nonaffiliated 3rd party any nonpublic personal
12 information unless the person to whom the information pertains
13 has affirmatively consented to the disclosure in writing and has
14 not withdrawn that consent. This subsection does not prohibit
15 the disclosure of nonpublic personal information by a person
16 subject to this chapter to a nonaffiliated 3rd party to the
17 extent such a disclosure is permitted by the federal
18 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
19 subsection b, paragraph 2 and subsection e.

20
21 **2. Use of terms.** As used in this section, unless the
22 context otherwise indicates, the terms "affiliate,"
23 "nonaffiliated 3rd party" and "nonpublic personal information"
24 have the same meanings as in the federal Gramm-Leach-Bliley Act,
25 15 United States Code, Section 6801 et seq. (1999).

26
27 **Sec. A-17. 32 MRSA §10313, sub-§1, ¶L,** as enacted by PL 2001,
28 c. 262, Pt. D, §3, is amended to read:

29
30 L. Has failed to comply with the requirements of section
31 10206 or the privacy provisions of the federal
32 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801
33 et seq. (1999) and the implementing Regulation S-P, federal
34 Privacy of Consumer Financial Information, 17 Code of
35 Federal Regulations, Part 248 (2001) adopted by the United
36 States Securities and Exchange Commission. This paragraph
37 is not intended to permit the release of health care
38 information except as permitted by Title 22, section 1711-C
39 or Title 24-A, chapter 24.

40
41 **Sec. A-18. 32 MRSA §11018,** as enacted by PL 2001, c. 262, Pt.
42 E, §4, is repealed and the following enacted in its place:

43 **§11018. Privacy of consumer financial information**

44
45 **1. Compliance with federal law and regulations.** Except as
46 provided in subsection 2 with respect to disclosure of nonpublic
47 personal information to nonaffiliated 3rd parties, a collection
48 agency or repossession company shall comply with the provisions
49 of the federal Gramm-Leach-Bliley Act, 15 United States Code,
50

2 Section 6801 et seq. (1999) and the applicable implementing
3 federal Privacy of Consumer Information regulations, as adopted
4 by the Office of the Comptroller of the Currency, 12 Code of
5 Federal Regulations, Part 40 (2001); the Board of Governors of
6 the Federal Reserve System, 12 Code of Federal Regulations, Part
7 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of
8 Federal Regulations, Part 332 (2001); the Office of Thrift
9 Supervision, 12 Code of Federal Regulations, Part 573 (2001); the
10 National Credit Union Administration, 12 Code of Federal
11 Regulations, Part 716 (2001); the Federal Trade Commission, 16
12 Code of Federal Regulations, Part 313 (2001); or the Securities
13 and Exchange Commission, 17 Code of Federal Regulations, Part 248
14 (2001), if the collection agency or repossession company is a
15 financial institution as defined in those regulations. This
16 subsection is not intended to permit the release of health care
17 information except as permitted by Title 22, section 1711-C or
18 Title 24-A, chapter 24.

19 **2. Opt in; disclosure to nonaffiliated 3rd party.** A
20 collection agency or repossession company required to comply with
21 subsection 1 may not disclose, directly or through an affiliate,
22 to a nonaffiliated 3rd party any nonpublic personal information
23 unless the person to whom the information pertains has
24 affirmatively consented to the disclosure in writing and has not
25 withdrawn that consent. This subsection does not prohibit the
26 disclosure of nonpublic personal information by a collection
27 agency or repossession company to a nonaffiliated 3rd party to
28 the extent such a disclosure is permitted by the federal
29 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
30 subsection b, paragraph 2 and subsection e.

31 **3. Use of terms.** As used in this section, unless the
32 context otherwise indicates, the terms "affiliate,"
33 "nonaffiliated 3rd party" and "nonpublic personal information"
34 have the same meanings as in the federal Gramm-Leach-Bliley Act,
35 15 United States Code, Section 6801 et seq. (1999).

36
37 **Sec. A-19. 33 MRSA §528.** as enacted by PL 2001, c. 262, Pt.
38 E, §5, is repealed and the following enacted in its place:

39 **§528. Privacy duties of settlement agents**

40
41 **1. Compliance with federal law and regulations.** Except as
42 provided in subsection 2 with respect to disclosure of nonpublic
43 personal information to nonaffiliated 3rd parties, a settlement
44 agent shall comply with the provisions of the federal
45 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
46 seq. (1999) and the applicable implementing federal Privacy of
47 Consumer Information regulations, as adopted by the Office of the
48 Comptroller of the Currency, 12 Code of Federal Regulations, Part
49
50

40 (2001); the Board of Governors of the Federal Reserve System,
12 Code of Federal Regulations, Part 216 (2001); the Federal
Deposit Insurance Corporation, 12 Code of Federal Regulations,
Part 332 (2001); the Office of Thrift Supervision, 12 Code of
Federal Regulations, Part 573 (2001); the National Credit Union
Administration, 12 Code of Federal Regulations, Part 716 (2001);
the Federal Trade Commission, 16 Code of Federal Regulations,
Part 313 (2001); or the Securities and Exchange Commission, 17
Code of Federal Regulations, Part 248 (2001), if the settlement
agent is a financial institution as defined in those
regulations. This subsection is not intended to permit the
release of health care information except as permitted by Title
22, section 1711-C or Title 24-A, chapter 24.

2. Opt in; disclosure to nonaffiliated 3rd party. A
settlement agent required to comply with subsection 1 may not
disclose, directly or through an affiliate, to a nonaffiliated
3rd party any nonpublic personal information unless the person to
whom the information pertains has affirmatively consented to the
disclosure in writing and has not withdrawn that consent. This
subsection does not prohibit the disclosure of nonpublic personal
information by a settlement agent to a nonaffiliated 3rd party to
the extent such a disclosure is permitted by the federal
Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
subsection b, paragraph 2 and subsection e.

3. Use of terms. As used in this section, unless the
context otherwise indicates, the terms "affiliate,"
"nonaffiliated 3rd party" and "nonpublic personal information"
have the same meanings as in the federal Gramm-Leach-Bliley Act,
15 United States Code, Section 6801 et seq. (1999).

PART B

Sec. B-1. Statutory referendum procedure; submission at statewide election; form of question; effective date. This Act takes effect when approved only for the purpose of permitting its submission to the legal voters of the State at a statewide election held on the Tuesday following the first Monday of November following passage of this Act. The municipal officers of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Do you favor requiring financial services providers to obtain permission from individuals before disclosing nonpublic personal information to nonaffiliated 3rd parties?"

2 The legal voters of each city, town and plantation shall
4 vote by ballot on this question and designate their choice by a
6 cross or check mark placed within a corresponding square below
8 the word "Yes" or "No." The ballots must be received, sorted,
10 counted and declared in open ward, town and plantation meetings
12 and returns made to the Secretary of State in the same manner as
 votes for members of the Legislature. The Governor shall review
 the returns and, if it appears that a majority of the legal votes
 are cast in favor of the Act, the Governor shall proclaim that
 fact without delay, and the Act takes effect 30 days after the
 date of the proclamation.

14 The Secretary of State shall prepare and furnish to each
16 city, town and plantation all ballots, returns and copies of this
 Act necessary to carry out the purposes of this referendum.

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SUMMARY

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 Currently, state law conforms to the opt-out provisions of
22 the federal Gramm-Leach-Bliley Act regarding the disclosure of
24 nonpublic personal information. This bill puts in place an
 opt-in requirement so that financial services providers,
26 including banks, credit unions, securities firms and mortgage
 companies, must have permission from individuals before
28 disclosing nonpublic personal information to nonaffiliated 3rd
 parties, but only upon approval by voters at a statewide
 referendum.