

# MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (S-469) (LD 1767 2020)

Date: 8/5/2020



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**HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE  
SENATE  
129TH LEGISLATURE  
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 599, L.D. 1767, Bill, “An Act To Increase the Efficiency of Certain Consumer Credit Protection Laws”

Amend the bill in Part A by striking out all of section 2 and inserting the following:

**'Sec. A-2. 9-A MRS §1-301, sub-§17**, as amended by PL 2017, c. 106, §1, is further amended to read:

**17.** "Creditor" means a person who both:

A. Regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit that is payable by agreement in more than 4 installments or for which the payment of a finance charge is or may be required; and

B. Is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement; except that, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount that is a finance charge are creditors.

For the purpose of the requirements imposed under Article 8-A for credit billing pursuant to 15 United States Code, Section 1666 et seq. and for open-end consumer credit pursuant to 15 United States Code, Section 1637(a)(5), (a)(6), (a)(7), (b)(1), (b)(2), (b)(3), (b)(8) and (b)(10), "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4 installments or the payment of a finance charge is or may be required and the administrator shall by regulation apply these requirements to those card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.

For the purposes of this Title, "creditor" also includes any person who originates 2 or more mortgages referred to as high-cost mortgage loans under Article 8-A, section 8-506 in any 12-month period or any person who originates one or more such mortgage loans through a mortgage broker as defined in Article 8-A, section 8-506, subsection 1, paragraph J, or a loan broker as defined in Article 10.

**COMMITTEE AMENDMENT**

1 For purposes of this Title, "creditor" also includes a private educational lender as that  
2 term is defined in 15 United States Code, Section 1650.

3 ~~A Except with respect to credit sales of automobiles, a person regularly extends consumer~~  
4 ~~credit only if the person extended credit other than credit subject to high-cost mortgage~~  
5 ~~loan requirements more than 25 times or more than 5 times for transactions secured by a~~  
6 ~~dwelling in the preceding calendar year. With respect to credit sales of automobiles, a~~  
7 ~~person regularly extends consumer credit if the person extended credit more than 15~~  
8 ~~times in the preceding calendar year. If a person did not meet these numerical standards~~  
9 ~~in the preceding calendar year, the numerical standards must be applied to the current~~  
10 ~~calendar year.~~

11 "Creditor" includes a mortgage loan servicer.'

12 Amend the bill in Part A by striking out all of section 5 and inserting the following:

13 '**Sec. A-5. 9-A MRSA §6-203, sub-§3-D** is enacted to read:

14 **3-D.** Notwithstanding subsection 3-C, the administrator may by rule adjust the fees  
15 paid with respect to creditors that are not supervised financial organizations making  
16 residential mortgage loans to support the costs of compliance and staff attorney positions.  
17 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
18 chapter 375, subchapter 2-A.'

19 Amend the bill in Part A by striking out all of sections 9 and 10.

20 Amend the bill by striking out all of Part B.

21 Amend the bill in Part D by striking out all of section 2 and inserting the following:

22 '**Sec. D-2. 14 MRSA §6111, sub-§3-B**, as enacted by PL 2009, c. 402, §13, is  
23 amended to read:

24 **3-B. Report.** ~~On a quarterly~~ an annual basis, the Department of Professional and  
25 Financial Regulation, Bureau of Consumer Credit Protection shall report to the joint  
26 standing committee of the Legislature having jurisdiction over insurance and financial  
27 services matters on the number of notices received pursuant to subsection 3-A. To the  
28 extent information is available, the report must also include information on the number of  
29 foreclosure filings based on data collected from the court and the Department of  
30 Professional and Financial Regulation, Bureau of Financial Institutions and on the types  
31 of lenders that are filing foreclosures.'

32 Amend the bill in Part D by striking out all of section 3.

33 Amend the bill in Part D by striking out all of section 4 and inserting the following:

34 '**Sec. D-4. 14 MRSA §6112, sub-§5**, as enacted by PL 2009, c. 402, §15, is  
35 amended to read:

36 **5. Report.** ~~Beginning January 1, 2010, the~~ The Department of Professional and  
37 Financial Regulation, Bureau of Consumer Credit Protection shall report ~~every 6 months~~  
38 annually on the revenues received pursuant to subsection 4, the expenditures made to  
39 carry out the purposes of this section, any financial orders submitted by the bureau and  
40 any updated assumptions related to the bureau's revenues and expenditures in accordance  
41 with this section. The report must be submitted to the joint standing committee of the

1 Legislature having jurisdiction over appropriations and financial affairs and the joint  
2 standing committee of the Legislature having jurisdiction over insurance and financial  
3 services matters.'

4 Amend the bill by inserting after Part D the following:

5 **'PART E**

6 **Sec. E-1. 32 MRSA §11013, sub-§11** is enacted to read:

7 **11. Collection action prohibited on debt from medical expenses if eligible for**  
8 **free or charity care.** A debt collector may not collect or attempt to collect a debt from  
9 medical expenses against a consumer who has been determined to be qualified for free or  
10 charity care under guidelines adopted pursuant to Title 22, section 1716, or against a  
11 consumer who would have been determined to be qualified for free or charity care under  
12 guidelines adopted pursuant to Title 22, section 1716 but did not apply for good cause.

13 **PART F**

14 **Sec. F-1. 32 MRSA §11019, sub-§1**, as enacted by PL 2017, c. 216, §6, is  
15 amended to read:

16 **1. Complaint; required allegations.** A debt buyer may not initiate a collection  
17 action against a consumer, ~~including an action brought in small claims court pursuant to~~  
18 ~~Title 14, chapter 738~~, unless the debt buyer alleges all of the following information in the  
19 complaint:

- 20 A. The information described in section 11013, subsection 9, including that the debt  
21 buyer possesses the documentation described in section 11013, subsection 9;
- 22 B. The basis for any interest and fees described in section 11013, subsection 9;
- 23 C. The basis for the request for attorney's fees, if applicable;
- 24 D. That the debt buyer is the current owner of the debt; and
- 25 E. That the cause of action is filed within the applicable statute of limitations period.

26 **Sec. F-2. 32 MRSA §11020** is enacted to read:

27 **§11020. Collection action to collect credit card and student loan debts; additional**  
28 **requirements for collection action**

29 **1. Applicability.** This section applies to any collection action against a consumer to  
30 collect a credit card or student loan debt initiated by a debt collector.

31 **2. Commencement of collection action.** A collection action may not be  
32 commenced in small claims court pursuant to Title 14, chapter 738. A collection action is  
33 commenced upon the filing or serving of a complaint that provides notice of the  
34 complaint in the same manner as other civil complaints and satisfies the requirements of  
35 this section.

36 **3. Notice of complaint.** In a collection action subject to this section, the debt  
37 collector shall attach to the front of the complaint a one-page form notice to the consumer

1 as developed by the Department of Professional and Financial Regulation, Bureau of  
2 Consumer Credit Protection. The form notice must be written in language that is plain  
3 and readily understandable by the general public and, at a minimum, must contain the  
4 following:

5 A. A statement that failure to answer the complaint may result in entry of judgment  
6 in the amount demanded by the debt collector; and

7 B. A sample answer and an explanation that the consumer may fill out the form and  
8 return it to the court as the answer to the complaint. If the consumer returns the form  
9 to the court, the consumer does not need to file a more formal answer or responsive  
10 pleading.

11 **4. Entry of judgment.** A court may not enter judgment unless it specifically finds  
12 that all the requirements of this section and all other applicable requirements of this  
13 chapter are met, including, but not limited to, whether the plaintiff has produced evidence  
14 that is admissible pursuant to the Maine Rules of Evidence on all required elements of its  
15 claim.

16 **5. Default judgment.** If the defendant has failed to plead or otherwise defend, the  
17 plaintiff may apply for entry of default and a default judgment. The court is responsible  
18 for entering a default and a default judgment, not the clerk of the court. Regardless of  
19 whether the defendant appears in the action or the judgment is based on a proposed order  
20 concerning a settlement, the court may not enter judgment in favor of the plaintiff unless  
21 the court determines that all the requirements of this section and all other applicable  
22 requirements of this chapter are met, including, but not limited to, whether the plaintiff  
23 has produced evidence admissible pursuant to the Maine Rules of Evidence on all  
24 required elements of its claim.

25 **6. Exclusion.** This section does not apply to any collection action brought by a  
26 supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.

27 **7. Rules.** The court may adopt rules necessary to implement the provisions of this  
28 section.

29 **Sec. F-3. 32 MRSA §11031, sub-§2,** as amended by PL 2009, c. 243, §6, is  
30 further amended to read:

31 **2. Licenses.** Licenses granted by the superintendent under this section are for a  
32 period of 2 years and expire on July 31st or at such other times as the superintendent may  
33 designate. Each license may be renewed biennially as long as the superintendent regards  
34 the business as responsible and safe, but in all cases terminate unless renewed by the  
35 expiration date. Each license must plainly state the name and business address of the  
36 licensee and be posted in a conspicuous place in the office where the business is  
37 transacted. The fee for each biennial license is \$600. When the unexpired license term of  
38 an applicant is or will be less than one year at a time of licensure, the license fee may not  
39 exceed 1/2 the biennial license fee. The superintendent may permit affiliated companies  
40 to be under a single license and subject to a single examination as long as all of the  
41 affiliated company names are listed on the license. The superintendent may adopt rules to  
42 determine what constitutes an affiliated company. Rules adopted pursuant to this  
43 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
44 If a licensee desires to carry on business in more than one place, the licensee shall

1 procure a branch office license for each additional place where the business is to be  
2 conducted. The fee for each biennial branch office license is \$300. Notwithstanding  
3 other remedies available under this chapter, applications received after the due date are  
4 subject to an additional fee of \$100.'

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
6 section number to read consecutively.

7 **SUMMARY**

8 This amendment is the majority report of the committee. The amendment removes  
9 from the bill that section of Part A that amends the definition of "debt buyer" and  
10 removes all of Part B, which repeals mortgage lending restrictions applicable to nonbank  
11 mortgage lenders, and makes corresponding changes. The amendment also removes a  
12 provision in Part A that authorizes the Superintendent of Consumer Credit Protection  
13 within the Department of Professional and Financial Regulation to lower or suspend fees  
14 by order.

15 The amendment makes changes to Part D of the bill to change the timeline for the  
16 required reports from quarterly or semiannually to annually. The bill proposes to  
17 eliminate the reporting requirements. The amendment also removes language in Part D  
18 related to the consolidation of accounts within the Bureau of Consumer Credit Protection.

19 The amendment adds Part E, which makes it a violation of the Maine Fair Debt  
20 Collection Practices Act to collect or attempt to collect a debt from medical expenses  
21 against an individual eligible for free or charity care.

22 The amendment also adds Part F to the bill. Part F adds requirements relating to  
23 collection actions for credit card debt and student loan debt. Part F also authorizes the  
24 Superintendent of Consumer Credit Protection to permit affiliated companies to be under  
25 a single debt collector license.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**





# 129th MAINE LEGISLATURE

LD 1767

LR 2366(02)

## An Act To Increase the Efficiency of Certain Consumer Credit Protection Laws

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Health Coverage, Insurance and Financial Services**

**Fiscal Note Required: Yes**

### Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
<b>Revenue</b>				
Other Special Revenue Funds	\$0	(\$49,000)	(\$84,000)	(\$84,000)

#### Fiscal Detail and Notes

This bill requires that all student loan debt collection cases be filed as civil actions. These cases are currently filed as small claims cases, which include a mediation fee collected by the judicial department. Moving these cases to civil filings would result in a loss of this mediation fee, which is estimated to total about \$84,000 annually. Assuming this bill is effective in December, it is estimated revenue will fall by \$49,000 in fiscal year 2020-21.

Any additional costs or revenues accruing to the Department of Professional and Financial Regulation as a result of this bill are expected to be minor.