

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CB (S-470) (LD 1767 2020)

Date: 8/5/2020

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Date: (Filing No. S-)

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 sections 9 and 10.

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

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

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

17 **3-B. Report.** ~~On a quarterly~~ an annual basis, the Department of Professional and
18 Financial Regulation, Bureau of Consumer Credit Protection shall report to the joint
19 standing committee of the Legislature having jurisdiction over insurance and financial
20 services matters on the number of notices received pursuant to subsection 3-A. To the
21 extent information is available, the report must also include information on the number of
22 foreclosure filings based on data collected from the court and the Department of
23 Professional and Financial Regulation, Bureau of Financial Institutions and on the types
24 of lenders that are filing foreclosures.'

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

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

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

29 **5. Report.** ~~Beginning January 1, 2010, the~~ The Department of Professional and
30 Financial Regulation, Bureau of Consumer Credit Protection shall report ~~every 6 months~~
31 annually on the revenues received pursuant to subsection 4, the expenditures made to
32 carry out the purposes of this section, any financial orders submitted by the bureau and
33 any updated assumptions related to the bureau's revenues and expenditures in accordance
34 with this section. The report must be submitted to the joint standing committee of the
35 Legislature having jurisdiction over appropriations and financial affairs and the joint
36 standing committee of the Legislature having jurisdiction over insurance and financial
37 services matters.'

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

39 **'PART E**

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

1 to the court, the consumer does not need to file a more formal answer or responsive
2 pleading.

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

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

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

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

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

23 **2. Licenses.** Licenses granted by the superintendent under this section are for a
24 period of 2 years and expire on July 31st or at such other times as the superintendent may
25 designate. Each license may be renewed biennially as long as the superintendent regards
26 the business as responsible and safe, but in all cases terminate unless renewed by the
27 expiration date. Each license must plainly state the name and business address of the
28 licensee and be posted in a conspicuous place in the office where the business is
29 transacted. The fee for each biennial license is \$600. When the unexpired license term of
30 an applicant is or will be less than one year at a time of licensure, the license fee may not
31 exceed 1/2 the biennial license fee. The superintendent may permit affiliated companies
32 to be under a single license and subject to a single examination as long as all of the
33 affiliated company names are listed on the license. The superintendent may adopt rules to
34 determine what constitutes an affiliated company. Rules adopted pursuant to this
35 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
36 If a licensee desires to carry on business in more than one place, the licensee shall
37 procure a branch office license for each additional place where the business is to be
38 conducted. The fee for each biennial branch office license is \$300. Notwithstanding
39 other remedies available under this chapter, applications received after the due date are
40 subject to an additional fee of \$100.'

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

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SUMMARY

This amendment is the minority report of the committee. The amendment incorporates all of the changes in the majority report, except that it retains a provision in Part A of the bill authorizing the Superintendent of Consumer Credit Protection within the Department of Professional and Financial Regulation to lower or suspend fees by order.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 1767

LR 2366(03)

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
Revenue				
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.