

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

D. OF R.

1  
2  
  
3  
4  
5  
6  
  
7  
8  
9  
  
10  
11  
12  
  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
  
38  
39

L.D. 2070

(Filing No. S- 336 )

STATE OF MAINE  
SENATE  
111TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 762,  
L.D. 2070, Bill, "AN ACT to Amend the Maine Consumer  
Credit Code."

Amend the bill in section 2 by striking out all  
of subsection 8 and inserting in its place the fol-  
lowing:

'8. A loan made by a supervised lender when the  
loan is secured by a first mortgage on real estate  
and the security interest in real estate is not made  
for the purpose of circumventing or evading this Act,  
provided that, with respect to advances of additional  
funds on that loan, this exemption shall apply only  
to those advances to protect the security and ad-  
vances representing the negative amortization of  
principal as specified in the loan agreement. The  
exemption provided by this subsection shall not apply  
to the requirements on servicing of assigned super-  
vised loans, section 2-310. With respect to a super-  
vised lender other than a supervised financial orga-  
nization, the exemption provided by this subsection  
shall be limited to residential mortgage transactions  
as defined in section 8-103, subsection 1, paragraph  
H or the refinancing of those residential mortgage  
transactions, and shall apply to the following provi-  
sions and no others: Maximum finance charge limita-  
tions, sections 2-308 and 2-401; limitations on secu-  
rity interest, section 2-307; delinquency charges,  
section 2-502; limitations on attorney's fees, sec-  
tion 2-507; notice to consumer, section 3-202; and  
notice of right to cure default, sections 5-110 and  
5-111; or'

Further amend the bill by striking out all of  
section 8.

COMMITTEE AMENDMENT " A " to S.P. 762, L.D. 2070

1 Further amend the bill by inserting after section  
2 9 the following:

3 'Sec. 10. 9-A MRSA §2-303, sub-§1-A is enacted  
4 to read:

5 1-A. The administrator may refuse to renew a li-  
6 icense, after notice and opportunity for a hearing has  
7 been provided to the licensee, for any of the reasons  
8 set forth in subsection 1.'

9 Further amend the bill in section 10 in that part  
10 designated "§2-310." by striking out all of the first  
11 paragraph and inserting in its place the following:

12 'No supervised loan secured by a mortgage on real  
13 estate may be assigned under this Article unless.'

14 Further amend the bill in section 10 in that part  
15 designated "§2-310." by striking out all of subsec-  
16 tion 2 and inserting in its place the following:

17 '2. The assignee maintains a toll-free telephone  
18 number, or other free means of oral communication,  
19 that is disclosed to mortgagors in each coupon book  
20 or on each periodic billing notice or statement of  
21 account and that is staffed during normal business  
22 hours for mortgagors to use to communicate with the  
23 assignee concerning the supervised loan.'

24 Further amend the bill by inserting after section  
25 15 the following:

26 'Sec. 16. 9-A MRSA §3-310, sub-§1, ¶E, as en-  
27 acted by PL 1981, c. 138, is repealed and the follow-  
28 ing enacted in its place:

29 'F. The identity of the index or method that  
30 meets the standards of subsection 1-A that will  
31 be the determinant of any increase or decrease in  
32 the annual percentage rate;'

COMMITTEE AMENDMENT " A " to S.P. 762, L.D. 2070

1 Further amend the bill by inserting after section  
2 16 the following:

3 'Sec. 17. 9-A MRSA §3-310, sub-§1-A is enacted  
4 to read:

5 1-A. In connection with a consumer credit trans-  
6 action in which the annual percentage rate may vary  
7 during the term of the transaction, the creditor may  
8 only use an index or other method that is beyond its  
9 control for determining any increase or decrease in  
10 the annual percentage rate.'

11 Further amend the bill in section 17 by striking  
12 out all of subsection 5 and inserting in its place  
13 the following:

14 '5. The administrator may adopt reasonable rules  
15 in accordance with this section governing consumer  
16 credit transactions which are alternative mortgage  
17 transactions as defined in the Alternative Mortgage  
18 Transaction Parity Act of 1982, the United States  
19 Code, Title 12, Section 3802, subsection 1. In  
20 adopting any rule, the administrator shall take into  
21 consideration the terms of any rules adopted by the  
22 Superintendent of Banking relating to variable rate  
23 mortgage instruments and may provide that the terms  
24 and provisions of the alternative mortgage transac-  
25 tions that are lawful for supervised financial orga-  
26 nizations chartered under the laws of this State  
27 shall be lawful for alternative mortgage transactions  
28 made by supervised lenders licensed by the adminis-  
29 trator. In any rule, the administrator may specify:

30 A. The maximum amount by which the annual per-  
31 centage rate may change during a period of time  
32 and over the entire term of the agreement;

33 B. The minimum notice that may be required to be  
34 given to the mortgagor prior to a change in the  
35 annual percentage rate;

COMMITTEE AMENDMENT " A " to S.P. 762, L.D. 2070

1 C. Acceptable indices that may be used by credi-  
2 tors for the purpose of determining when, and the  
3 amount by which, changes in the annual percentage  
4 rate may occur and what effects, if any, the  
5 choice of index may have on the rate movement al-  
6 lowances specified in paragraph A;

7 D. Appropriate hypothetical examples to illus-  
8 trate the effects of changes in the annual per-  
9 centage rate;

10 E. Permissible variations in payment schedules,  
11 payment amounts, loan amortization and loan term  
12 resulting from rate variations or other contract  
13 terms; and

14 F. Permissible limitations on refunds of prepaid  
15 finance charges and notice requirements for pre-  
16 payment.

17 Further amend the bill by inserting after section  
18 17 the following:

19 'Sec. 18. 9-A MRSA §3-310, sub-§6 is enacted to  
20 read:

21 6. The provisions of sections 2-503, 2-504,  
22 2-510 and 3-308 shall not apply to any consumer cred-  
23 it transaction that is subject to rules promulgated  
24 under subsection 5 and that is in compliance with  
25 those rules.'

26 Further amend the bill in section 18, in subsec-  
27 tion 1, in the first line (page 7, line 28 in L.D.)  
28 by striking out the word "civil" and inserting in its  
29 place the word '~~civil~~'

30 Further amend the bill in section 18, in subsec-  
31 tion 2, in the first line (page 7, line 32 in L.D.)  
32 by striking out the word "civil" and inserting in its  
33 place the word '~~civil~~'

COMMITTEE AMENDMENT " A " to S.P. 762, L.D. 2070

1 Further amend the bill in section 19 in paragraph  
2 D in the next to the last line (page 8, line 17 in  
3 L.D.) by striking out the underlined word "it" and  
4 inserting in its place the following: 'the United  
5 States Code, Title 15, Section 1635, subsection e,  
6 paragraph 1, subparagraph D.'

7 Further amend the bill by renumbering the sec-  
8 tions to read consecutively.

9 STATEMENT OF FACT

10 This amendment makes clear that the extent of the  
11 exemption on future advances made on first lien mort-  
12 gages under the Maine Consumer Credit Code is limited  
13 to advances made for protecting the security (tax and  
14 insurance payments made by the mortgagee) and ad-  
15 vances made under a negatively amortizing loan. This  
16 change makes it clear that while additional loans may  
17 be made through the future advance mechanism and se-  
18 cured by the first lien mortgage, those loans will be  
19 subject to the provisions of the Maine Consumer Cred-  
20 it Code.

21 This amendment eliminates a proposed change to a  
22 statutory section that did not need to be amended.  
23 It thus will let present law remain unchanged.

24 This amendment establishes the standards the ad-  
25 ministrator will follow in deciding not to renew a  
26 supervised lender's license.

27 This amendment makes clear that an out-of-state  
28 assignee can accept collect calls instead of install-  
29 ing a toll-free telephone line as a way to comply  
30 with the servicing requirement on mortgages. It also  
31 requires the assignee to post its phone number in  
32 coupon books sent to consumers for payment of their  
33 mortgages, as well as on periodic billing statements.

34 This amendment clarifies slightly confusing lan-

COMMITTEE AMENDMENT " A " to S.P. 762, L.D. 2070

1 guage in the current law without making any substan-  
2 tive changes.

3 This amendment sets forth legislative policy that  
4 there should be competitive equality between credi-  
5 tors engaged in lending mortgages that are currently  
6 subject to differing statutes and regulations and are  
7 not treated equally. This amendment authorizes the  
8 Superintendent of the Bureau of Consumer Credit Pro-  
9 tection to adopt rules on alternative mortgage trans-  
10 actions for supervised lenders, such as mortgage com-  
11 panies, after having taken into consideration rules  
12 that have been adopted by the Superintendent of Bank-  
13 ing for banks. The amendment also renders certain  
14 sections of the Maine Consumer Credit Code inapplica-  
15 ble to any supervised lender that is subject to the  
16 rules and is in compliance with them.

17 The final change this amendment makes is to spec-  
18 ify the specific federal statute that, when repealed  
19 under federal law, will trigger the repeal of a sec-  
20 tion of the Maine Consumer Credit Code.

21

6406032284

Reported by the Committee on BUSINESS LEGISLATION  
Reproduced and distributed pursuant to Senate Rule 11-A.

March 27, 1984

(S-336)