

1	L.D. 122
3	(Filing No. H- 58)
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7	STATE OF MAINE HOUSE OF REPRESENTATIVES
9	114TH LEGISLATURE FIRST REGULAR SESSION
11	TINDI REGULAR DEDDION
13	COMMITTEE AMENDMENT " \mathbf{A} " to H.P. 87, L.D. 122, Bill, "An Act Relating to Credit Services Organizations"
15	Amend the bill by striking out everything after the enacting
17	clause and before the statement of fact and inserting in its place the following:
19	'Sec. 1. 9-A MRSA §1-301, sub-§5-A, as repealed and replaced
21	by PL 1987, c. 129, §14, is repealed.
23	Sec. 2. 9-A MRSA §6-201, as amended by PL 1979, c. 660, §10, is further amended to read:
25	§6-201. Applicability
27	This Part applies to a person engaged in this State in
29	entering into er,ferthepurpesesefsection6-202enly, arranging-forthe-entensionof consumer credit transactions and
31	to a person having an office or place of business in this State who takes assignments of and undertakes direct collection of
33	payments from or enforcement of rights against debtors arising from these transactions.
35	Sec. 3. 9-A MRSA Art. X is enacted to read:
37	ARTICLE_X
39	CREDIT SERVICES ORGANIZATIONS
41	PART 1
43	
45	GENERAL PROVISIONS
47	<u>§10-101. Short title</u>
49	This article shall be known and may be cited as the "Maine Consumer Credit Code - Credit Services Organizations."
51	<u>§10-102. Definitions</u>

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COMMITTEE AMENDMENT "A" to H.P. 87, L.D. 122

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3	As used in this article, unless the context otherwise indicates, the following terms have the following meanings.
5	1. "Credit services organization."
7	A. "Credit services organization" means any person who, with respect to the extension of consumer credit by others,
9	provides or offers to provide, in return for the separate payment by the consumer of money or other valuable
11	consideration, any of the following services:
13	(1) Improving a consumer's credit record, history or rating;
15	(2) Arranging for or obtaining an extension of credit
17	for a consumer; or
19	(3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2),
21	B. "Credit services organization" does not include:
23	
25	(1) A supervised financial organization as defined in Title 9-A, section 1-301, subsection 38;
27	(2) A supervised lender as defined in Title 9-A, section 1-301, subsection 39;
29	
31	(3) A person licensed by the Real Estate Commission;
33	(4) A person currently admitted to the practice of law in this State;
35	(5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section
37	501(c)(3); or
39	(6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.
41	2. "Bona fide 3rd-party fee" means a verifiable fee paid to
43	a 3rd party for a credit report, appraisal, investigation, title examination or survey.
45	PART 2
47	REGISTRATION AND BONDING
49	
51	§10-201. Registration and annual reregistration

COMMITTEE AMENDMENT "A" to H.P. 87, L.D. 122

1	<u>A person desiring to engage or continue in business in this</u>
	State as a credit services organization shall apply to the
3	administrator for registration under this article on or before
	January 31st of each year. The application shall be in a form
5	prescribed by the administrator. The administrator may refuse
	the application if it contains erroneous or incomplete
7	information.
9	The application shall include an initial fee of \$200.
-	Annual reregistration shall include a fee of \$100.
11	······································
	<u>\$10-202.</u> Bond
13	<u> </u>
10	Each application shall be accompanied by evidence of a
15	surety bond, in a form approved by the administrator in the
**	aggregate amount of \$10,000, to run to the State for use by the
17	State and any person or persons who may have a cause of action
T 1	against a credit services organization.
19	against a credit services organizacion.
19	PART 3
21	THAT J
61	REGULATION OF PRACTICES
23	REGULATION OF PRACTICES
23	<u>\$10-301. Escrow of funds</u>
25	<u>910-501. ESCIÓN OL lunds</u>
25	Rack modify anning exercise tion shall along food from
27	Each credit services organization shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow
21	
29	account with a financial institution in this State, separate from
29	any operating accounts of the business, pending completion of
31	services offered. With respect to credit services organizations
31	offering to arrange for or obtain extensions of credit for
33	consumers, or provide advice or assistance therefor, "completion
33	of services offered" means procurement of credit under the terms
25	agreed to by the parties.
35	
	<u>§10-302. Requirement for written agreement</u>
37	Pack apparent between a second by the second
39	Each agreement between a consumer and a credit services
23	organization shall be in writing, dated, signed by the consumer
41	and shall include the following:
41	
47	1. A full and detailed description of the services to be
43	performed for the consumer, including all guarantees and all
4 5	promises of full or partial refund of fees paid, whether or not
45	services are completed, and the terms for which the agreement
47	shall remain in effect before return of the fees for
47	nonperformance can be required by the consumer;
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49	2. The terms and conditions of payment, including the total
	of all payments to be made by the consumer for the service,
51	whether to the credit services organization or to some other
	person; and

COMMITTEE AMENDMENT "A" to H.P. 87, L.D. 122

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3	3. The following notice:
5	NOTICE TO CONSUMER: Do not sign this agreement before you read it. You are entitled to a copy of this agreement.
7	<u>\$10-303. Requirement for written disclosure</u>
9	Before any agreement is entered into, or before any money is paid by a consumer, whichever occurs first, the credit services
11	organization shall provide the consumer with written disclosure of material consumer protections, including the following:
13	1. The existence and purpose of the surety bond on file
15	with the State, and the procedure for instituting an action against that bond;
17	2 The new instant that all face from the consumer other
19	2. The requirement that all fees from the consumer, other than bona fide 3rd-party fees, be placed in an escrow account; and
21	3. The requirement for a written, signed agreement between the parties.
23	<u>\$10-304. Advertising</u>
25	
27	 No credit services organization may engage in this State in false or misleading advertising concerning the terms and conditions of any services or assistance offered.
29	2. This section imposes no liability on the owner or
31	personnel of any medium in which an advertisement appears or through which it is disseminated.
33	<u>\$10-305. Rulemaking</u>
35	JTA-2025 WATCHIGTING
37	The administrator may adopt reasonable rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, and in accordance with this article governing credit services
39	organizations.
41	PART 4
43	REMEDIES AND PENALTIES
45	§10-401. Effects of violations on rights of parties
47	Any credit services organization which violates any provision of this article or any rule issued by the administrator
49	is subject to the following:
51	 After notice and hearing, a cease and desist order from the administrator;

COMMITTEE AMENDMENT " to H.P. 87, L.D. 122

1 After notice and hearing, forfeiture of such protion of 2. the required bond as proportionately may make aggrieved parties 3 whole; 5 3. A civil action, by the administrator through the 7 Attorney General, after which a court, upon a finding of repeated or willful violations or of violation of an assurance of discontinuance, may assess a civil penalty of not more than 9 \$5,000; and 11 4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the credit 13 services organization in an amount determined by the court to be 15 not less than \$250, nor more than \$1,000, plus costs of the action together with reasonable attorney's fees. 17 FISCAL NOTE 19 The Bureau of Consumer Credit Protection within the Department of Professional and Financial Regulation will be able 21 to absorb the costs of the regulatory requirements within 23 existing budgeted resources. Dedicated revenue to the bureau will increase by a minor amount.' 25 27 STATEMENT OF FACT 29 This amendment requires registration and bonding of credit 31 services organizations, which are defined to include persons who charge a fee to assist consumers to obtain credit for 3rd 33 parties, so-called "arrangers of credit" or "loan brokers", and persons who charge a fee to improve consumers' credit reports or 35 ratings, "credit clinics" or "credit repair services". Arrangers of credit have historically been required to register with the 37 Bureau of Consumer Credit Protection, but without any bonding to protect consumers; credit clinics are not currently required to 39 register or provide a bond. Both categories of businesses are growing in Maine, and many consumers have contacted the bureau 41 with claims of misrepresentation, nonperformance and fraud. Arrangers of credit have taken large amounts of money from 43 consumers without procuring any loans. "Credit clinics" claim to be able to erase bad credit, then charge fees merely to instruct 45 consumers to flood credit reporting agencies with ineffective, frivolous appeals. Increasingly, credit clinics are also 47 instrumental in setting consumers up with "fully secured" credit cards, in which consumers deposit \$500 with a credit card issuer, and get a credit card good for up to \$500 worth of merchandise in 49 specific catalogs. With this amendment, Maine would join 51 approximately 20 other states in regulating the practices of, and requiring protective bonds from, credit services organizations.

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