

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 87, L.D. 122, Bill, "An Act
Relating to Credit Services Organizations"

Amend the bill by striking out everything after the enacting
clause and before the statement of fact and inserting in its
place the following:

Sec. 1. 9-A MRSA §1-301, sub-§5-A, as repealed and replaced
by PL 1987, c. 129, §14, is repealed.

Sec. 2. 9-A MRSA §6-201, as amended by PL 1979, c. 660, §10,
is further amended to read:

§6-201. Applicability

This Part applies to a person engaged in this State in
entering into ~~or, for the purposes of section 6-202 only,~~
~~arranging for the extension of~~ consumer credit transactions and
to a person having an office or place of business in this State
who takes assignments of and undertakes direct collection of
payments from or enforcement of rights against debtors arising
from these transactions.

Sec. 3. 9-A MRSA Art. X is enacted to read:

ARTICLE X

CREDIT SERVICES ORGANIZATIONS

PART 1

GENERAL PROVISIONS

§10-101. Short title

This article shall be known and may be cited as the "Maine
Consumer Credit Code - Credit Services Organizations."

§10-102. Definitions

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As used in this article, unless the context otherwise indicates, the following terms have the following meanings.

1. "Credit services organization."

A. "Credit services organization" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment by the consumer of money or other valuable consideration, any of the following services:

- (1) Improving a consumer's credit record, history or rating;
- (2) Arranging for or obtaining an extension of credit for a consumer; or
- (3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2).

B. "Credit services organization" does not include:

- (1) A supervised financial organization as defined in Title 9-A, section 1-301, subsection 38;
- (2) A supervised lender as defined in Title 9-A, section 1-301, subsection 39;
- (3) A person licensed by the Real Estate Commission;
- (4) A person currently admitted to the practice of law in this State;
- (5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3); or
- (6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210.

2. "Bona fide 3rd-party fee" means a verifiable fee paid to a 3rd party for a credit report, appraisal, investigation, title examination or survey.

PART 2

REGISTRATION AND BONDING

§10-201. Registration and annual reregistration

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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 §10-303. Requirement for written disclosure

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 requirement that all fees from the consumer, other
19 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 §10-304. Advertising

25 1. No credit services organization may engage in this State
27 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 §10-305. Rulemaking

35 The administrator may adopt reasonable rules pursuant to the
37 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 1. After notice and hearing, a cease and desist order from
the administrator;

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2. After notice and hearing, forfeiture of such protion of
3 the required bond as proportionately may make aggrieved parties
4 whole;

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7 3. A civil action, by the administrator through the
8 Attorney General, after which a court, upon a finding of repeated
9 or willful violations or of violation of an assurance of
10 discontinuance, may assess a civil penalty of not more than
11 \$5,000; and

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13 4. A civil action by an aggrieved consumer in which that
14 consumer has the right to recover actual damages from the credit
15 services organization in an amount determined by the court to be
16 not less than \$250, nor more than \$1,000, plus costs of the
17 action together with reasonable attorney's fees.

FISCAL NOTE

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21 The Bureau of Consumer Credit Protection within the
22 Department of Professional and Financial Regulation will be able
23 to absorb the costs of the regulatory requirements within
24 existing budgeted resources. Dedicated revenue to the bureau
25 will increase by a minor amount.'

STATEMENT OF FACT

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31 This amendment requires registration and bonding of credit
32 services organizations, which are defined to include persons who
33 charge a fee to assist consumers to obtain credit for 3rd
34 parties, so-called "arrangers of credit" or "loan brokers", and
35 persons who charge a fee to improve consumers' credit reports or
36 ratings, "credit clinics" or "credit repair services". Arrangers
37 of credit have historically been required to register with the
38 Bureau of Consumer Credit Protection, but without any bonding to
39 protect consumers; credit clinics are not currently required to
40 register or provide a bond. Both categories of businesses are
41 growing in Maine, and many consumers have contacted the bureau
42 with claims of misrepresentation, nonperformance and fraud.
43 Arrangers of credit have taken large amounts of money from
44 consumers without procuring any loans. "Credit clinics" claim to
45 be able to erase bad credit, then charge fees merely to instruct
46 consumers to flood credit reporting agencies with ineffective,
47 frivolous appeals. Increasingly, credit clinics are also
48 instrumental in setting consumers up with "fully secured" credit
49 cards, in which consumers deposit \$500 with a credit card issuer,
50 and get a credit card good for up to \$500 worth of merchandise in
51 specific catalogs. With this amendment, Maine would join
approximately 20 other states in regulating the practices of, and
requiring protective bonds from, credit services organizations.