

# 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)



# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

---

Legislative Document

No. 1708

S.P. 610

In Senate, January 11, 1994

---

### An Act to Protect Consumers in Loan Broker Transactions.

---

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CARPENTER of York.

Cosponsored by Senator: BRANNIGAN of Cumberland, Representatives: CARLETON of Wells, REED of Falmouth.

Be it enacted by the People of the State of Maine as follows:

2  
3       **Sec. 1. 9-A MRSA §10-102, sub-§1, ¶B**, as amended by PL 1991, c.  
4 824, Pt. A, §10, is further amended to read:

6       B. "Credit services organization" does not include:

8           (1) A supervised financial organization as defined in  
9 section 1-301, subsection 38;

10           (2) A supervised lender as defined in section 1-301,  
11 subsection 39;

12           (3) A person licensed by the Real Estate Commission to  
13 the extent that the person is engaged in activities  
14 regulated by that commission;

15           (4) A person currently admitted to the practice of law  
16 in this State;

17           (5) Any nonprofit organization exempt from taxation  
18 under the United States Internal Revenue Code, Section  
19 501(c)(3) to the extent that the organization's  
20 activities are consistent with those set forth in its  
21 application for tax exemption to the Internal Revenue  
22 Service; or

23           (6) A consumer reporting agency, as defined in the  
24 Fair Credit Reporting Act, Title 10, chapter 210.

25  
26       **Sec. 2. 9-A MRSA §10-201, first ¶**, as enacted by PL 1989, c. 70,  
27 §3, is amended to read:

28       A person desiring to engage or continue in business in this  
29 State as a credit services organization shall apply to the  
30 administrator for registration under this article on or before  
31 January 31st of each year. The application shall be in a form  
32 prescribed by the administrator. The administrator may refuse  
33 the application if it contains erroneous or incomplete  
34 information. A registration may not be issued unless the  
35 administrator, upon investigation, finds that the financial  
36 responsibility, character and fitness of the applicant, and where  
37 applicable, its partners, officers or directors, warrant belief  
38 that the business will be operated honestly and fairly within the  
39 purposes of this Title.

40  
41       **Sec. 3. 9-A MRSA §10-301**, as enacted by PL 1989, c. 70, §3,  
42 is amended to read:

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

**§10-301. Escrow of funds**

Each credit services organization shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow account ~~with a financial institution in this State~~, separate from any operating accounts of the business, pending completion of services offered. With respect to credit services organizations offering to arrange for or obtain extensions of credit for consumers, or provide advice or assistance therefor, "completion of services offered" means procurement of credit under the terms agreed to by the parties.

**Sec. 4. 9-A MRSA §10-302, sub-§1**, as enacted by PL 1989, c. 70, §3, is amended to read:

1. A full and detailed description of the services to be performed for the consumer, including all guarantees and all promises of full or partial refund of fees paid, whether or not services are completed, and the terms length of time for which the agreement shall remain in effect before return of the fees for nonperformance can be required by the consumer;

**Sec. 5. 9-A MRSA §10-401**, as enacted by PL 1989, c. 70, §3, is amended to read:

**§10-401. Effects of violations on rights of parties**

Any credit services organization ~~which~~ that violates any provision of this ~~article~~ Title or any rule issued by the administrator, or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer, is subject to the following:

1. After notice and hearing, a cease and desist order from the administrator;

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

3. A civil action, by the administrator through the 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 \$5,000; and

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

