

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 792

S.P. 294

In Senate, March 14, 1995

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**An Act to Consolidate the Functions of the Bureau of Consumer Credit Protection within the Bureau of Banking in Order to Streamline the Regulation of Creditors and Financial Institutions.**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator CAREY of Kennebec.

Cosponsored by Senators: BERUBE of Androscoggin, CIANCHETTE of Somerset, KIEFFER of Aroostook, LAWRENCE of York, PINGREE of Knox, SMALL of Sagadahoc, STEVENS of Androscoggin, Representatives: AULT of Wayne, BIRNEY of Paris, CAMERON of Rumford, CAMPBELL of Holden, DRISCOLL of Calais, GOOLEY of Farmington, GWADOSKY of Fairfield, LEMONT of Kittery, LIBBY of Buxton, LINDAHL of Northport, LOOK of Jonesboro, MARSHALL of Eliot, MAYO of Bath, MORRISON of Bangor, PINKHAM of Lamoine, RICE of South Bristol, SIMONEAU of Thomaston, SPEAR of Nobleboro, TAYLOR of Cumberland.

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

4 **Sec. 1. 9-A MRSA §6-103**, as amended by PL 1989, c. 702, Pt. E, §5, is repealed and the following enacted in its place:

6 **§6-103. Administrator**

8 As used in this Article, "administrator" means the Superintendent of Banking, who is appointed pursuant to Title 9-B, section 211.

12 **Sec. 2. 9-A MRSA §6-104, sub-§3**, as corrected by RR 1993, c. 1, §21, is repealed.

14 **Sec. 3. 9-A MRSA §6-104-A**, as enacted by PL 1981, c. 501, §27, is repealed.

18 **Sec. 4. 9-A MRSA §6-116, first ¶**, as enacted by PL 1985, c. 763, Pt. A, §51, is amended to read:

20 The following records of the Bureau of ~~Consumer--Credit~~  
22 ~~Protection--shall--be~~ Banking are confidential, unless those  
24 records become part of the record of a judicial proceeding or administrative hearing:

26 **Sec. 5. 10 MRSA §1126, sub-§1**, as amended by PL 1985, c. 763, Pt. A, §73, is further amended to read:

28 **1. Certification.** A supervised lender or lessor, or any  
30 trade organization or association acting on behalf of supervised  
32 lenders or lessors, may submit any proposed form of agreement to  
34 the Bureau of ~~Consumer-Credit-Protection~~ Banking. Within 45 days,  
36 the bureau shall either certify the form as complying with the  
38 requirements of section 1124, or refuse to certify the form as  
40 complying, setting forth written reasons for its refusal. Failure  
by the bureau to act under this section within 45 days ~~shall-be~~  
is considered a certification of the form's compliance. A  
certification of compliance under this section ~~shall-be~~ is an  
absolute bar to any legal proceeding by the superintendent for  
failure to comply with the requirements of section 1124.

42 **Sec. 6. 10 MRSA §1273**, as enacted by PL 1993, c. 115, §1, is  
44 amended to read:

46 **§1273. Administrative enforcement**

48 The Superintendent of the ~~Bureau--of--Consumer--Credit~~  
~~Protection~~ Banking may take appropriate action to ensure  
50 compliance with this chapter, including without limitation: to  
receive and act on complaints; negotiate an assurance in writing

2 that a violator will not engage in the same or similar conduct in  
3 the future; conduct hearings in accordance with the Maine  
4 Administrative Procedure Act and issue a cease and desist order  
5 for violation of this chapter; refer cases to the Attorney  
6 General, who may bring a civil action against a person for  
7 knowingly violating a written assurance of discontinuance. If a  
8 court finds a violation of this chapter it may assess a civil  
forfeiture of not more than \$1,000.

10 **Sec. 7. 10 MRSA §1312, sub-§1-A**, as amended by PL 1981, c.  
11 501, §82, is further amended to read:

12 **1-A. Administrator.** "Administrator" means the  
13 Superintendent of ~~the--Bureau--of--Consumer--Credit--Protection~~  
14 Banking.

15 **Sec. 8. 30-A MRSA §3964-A, sub-§3.** as enacted by PL 1993, c.  
16 59, §5, is amended to read:

17 **3. Model forms.** The Superintendent of ~~Consumer--Credit~~  
18 Protection Banking may issue model disclosure forms and clauses  
19 to facilitate compliance with the disclosure and computational  
20 requirements of this subchapter, pursuant to the truth-in-lending  
21 provisions of the Maine Consumer Credit Code.

22 **Sec. 9. 32 MRSA §11002, sub-§9**, as enacted by PL 1985, c. 702,  
23 §2, is amended to read:

24 **9. Superintendent.** "Superintendent" means the  
25 Superintendent of ~~Consumer--Credit--Protection~~ Banking.

26 **Sec. 10. 32 MRSA §11039**, as enacted by PL 1985, c. 702, §2,  
27 is amended to read:

28 **§11039. Fees**

29 The aggregate of license fees provided for by this chapter  
30 is appropriated for the use of the Bureau of ~~Consumer--Credit~~  
31 Protection Banking. Any balance of these funds shall may not  
32 lapse, but shall must be carried forward to be expended for the  
33 same purposes in the following fiscal year.

34 **Sec. 11. 32 MRSA §11051**, as amended by PL 1989, c. 502, Pt.  
35 A, §116, is further amended to read:

36 **§11051. Investigation, suspension and revocation of**  
37 **licenses**

38 The Bureau of ~~Consumer--Credit--Protection~~ Banking may  
39 investigate the records and practices of a licensee in accordance  
40 with the provisions of this chapter.

2 with Title 9-A, section 6-106, and may charge for expenses  
3 incurred pursuant to Title 9-A, section 6-106, subsection 6. The  
4 superintendent may file a complaint with the Administrative Court  
5 to suspend or revoke a license issued pursuant to this chapter,  
6 if, after investigation or hearing, or both, the superintendent  
7 has reason to believe that the licensee has violated any  
8 provisions of this chapter or any administrative rules issued  
9 pursuant to this chapter, or has failed to maintain its financial  
10 condition sufficient to qualify for a license on an original  
11 application.

12 **Sec. 12. Transition.** Any rule, license, opinion or advisory  
13 opinion issued by the former Superintendent of the Bureau of  
14 Consumer Credit Protection remains in effect until modified by  
15 the Superintendent of Banking.  
16

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## 19 STATEMENT OF FACT

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21 In order to streamline the regulation of creditors and  
22 financial institutions, this bill repeals the Bureau of Consumer  
23 Credit Protection and consolidates the functions of the bureau  
24 within the Bureau of Banking.