

MAINE STATE LEGISLATURE

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L.D. 1503

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BANKING AND INSURANCE

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1068, L.D. 1503, Bill, "An Act to Protect Consumers in High-cost Mortgages and Reverse Mortgages"

Amend the bill by inserting after the enacting clause the following:

Sec. 1. 9-A MRSA §1-301, sub-§17, as amended by PL 1987, c. 129, §23, is further amended to read:

17. "Creditor" means a person who both:

A. Regularly extends credit in consumer credit transactions; and

B. Is the person to whom the debt arising from the consumer credit transactions is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit from persons who are not creditors is a creditor and, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which that is a finance charge are creditors.

For the purposes of the requirements imposed under section 8-205, subsection 1, paragraphs E, F, G, and subsection 2, paragraphs A, B, C, D, I, K, and Article VIII, Parts 3 and 4, the term "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4

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2 installments or the payment of a finance charge is or may be
3 required, and the administrator shall, by regulation, apply
4 these requirements to those card issuers, to the extent
5 appropriate, even though the requirements are by their terms
6 applicable only to creditors offering open-end credit plans.

7 A person regularly extends consumer credit only if he that person
8 extended credit more than 25 times, or more than 5 times for
9 transactions secured by a dwelling, in the preceding calendar
10 year. If a person did not meet these numerical standards in the
11 preceding calendar year, the numerical standards shall must be
12 applied to the current calendar year.

13 Notwithstanding the provisions of this section, any person who
14 originates 2 or more high-rate, high-fee mortgages as defined in
15 section 8-103, subsection F-1 in any 12-month period or any
16 person who originates one or more such mortgages through a credit
17 services organization as defined in Article X of this act in any
18 12-month period is considered a creditor.'

19 Further amend the bill in section 1 in paragraph F-1 in
20 subparagraph (2) in division (c) in the first line (page 1, line
21 31 in L.D.) by inserting after the following: "section" the
22 following: '1-301, subsection 19, paragraph B or section'

23 Further amend the bill by striking out all of section 2 and
24 inserting in its place the following:

25 **'Sec. 2. 9-A MRSA §8-103, sub-§1, ¶H-1 is enacted to read:**

26 H-1. "Reverse mortgage transaction" means a nonrecourse
27 transaction in which a mortgage, deed of trust or equivalent
28 consensual security interest is created against the
29 consumer's principal dwelling to secure one or more advances
30 and with respect to which the payment of any principal,
31 interest and shared appreciation or equity is due and
32 payable, other than in the case of default, only after the
33 transfer of the dwelling, the consumer ceases to occupy the
34 dwelling as a principal dwelling or the death of the
35 consumer.'

36 Further amend the bill in section 3 in that part designated
37 "§8-106-A." in subsection 1 in the first paragraph in the next to
38 last line (page 2, line 21 in L.D.) by striking out the
39 following: "this section" and inserting in its place the
40 following: 'section 8-103, subsection 1, paragraph F-1,
41 subparagraph (1)'

42 Further amend the bill in section 3 in that part designated
43 "§8-106-A." in the first indented paragraph (page 2, line 42 in
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L.D.) by inserting after the following: "The" the following:
'dollar'

Further amend the bill in section 4 in that part designated "§8-206-A." in subsection 1 in the first paragraph in the last line (page 3, line 9 in L.D.) by inserting after the following: "type" the following: 'size'

Further amend the bill in section 4 in that part designated "§8-206-A." in subsection 1 in paragraph B in the first line (page 3, line 15 in L.D.) by striking out the following: "has" and inserting in its place the following: 'will have'

Further amend the bill in section 4 in that part designated "§8-206-A." in subsection 4 in paragraph A in the 2nd line (page 3, line 46 in L.D.) by striking out the following: "terms." and inserting in its place the following: 'terms:'

Further amend the bill in section 4 in that part designated "§8-206-A." in subsection 4 in paragraph A in subparagraph (1) in the first line (page 3, line 48 in L.D.) by striking out the following: "consumer." and inserting in its place the following: 'consumer; and'

Further amend the bill in section 4 in that part designated "§8-206-A." in subsection 16 by striking out all of paragraph B (page 6, lines 27 to 32 in L.D.) and inserting in its place the following:

'B. Refinancing of mortgage loans that the administrator finds are associated with abusive lending practices or that are otherwise not in the interest of the borrowing public.'

Further amend the bill in section 4 in that part designated "§8-206-A." by inserting after subsection 16 the following:

'17. For purposes of this section, the term "affiliate" has the same meaning as in the federal Bank Holding Company Act of 1956, 12 United States Code, Section 1841, subsection (K).'

Further amend the bill in section 4 in that part designated "§8-206-B." in subsection 2 by striking out all of paragraph C and inserting in its place the following:

'C. All payments to and for the benefit of the consumer including, when an associated annuity is purchased and whether or not that purchase is required by the lender as a condition of making the reverse mortgage, the annuity payments received by the consumer and financed from the

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2 proceeds of the loan, instead of the proceeds used to
3 finance the annuity; and'

4 Further amend the bill by relettering or renumbering any
5 nonconsecutive Part letter or section number to read
6 consecutively.

8 Further amend the bill by inserting at the end before the
9 statement of fact the following:

12 **FISCAL NOTE**

14 The Bureau of Banking within the Department of Professional
15 and Financial Regulation will incur some minor additional costs
16 to enforce the state codification of the federal Home Ownership
17 and Equity Protection Act of 1994. These costs can be absorbed
18 within the bureau's existing budgeted resources.'

20 **STATEMENT OF FACT**

22 This amendment incorporates the provisions of the federal
24 Home Ownership and Equity Protection Act of 1994, which amended
25 the federal Truth-in-Lending Act, into state law. These
26 provisions that add new protections for consumers entering into
27 high-rate, high-fee mortgages and reverse mortgages must be
28 codified in order to maintain parity with the new federal
29 provisions and protect the State's exemption from federal
30 preemption in this area.

32 The amendment also adds a fiscal note to the bill.