

# MAINE STATE LEGISLATURE

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L.D. 1385

DATE: May 15, 1997

(Filing No. S- 234 )

**BANKING AND INSURANCE**

Reported by: Senator LaFountain

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**STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT " A " to S.P. 439, L.D. 1385, Bill, "An Act to Promote Parity in the Regulation of Insurance Sales by Federally and State-chartered Financial Institutions"

Amend the bill in section 8 by striking out all of that part designated "§4-401." and inserting in its place the following:

'§4-401. Scope

1. Scope. This Part applies to supervised lenders who are not supervised financial organizations.

2. Exceptions. Except for sections 4-402 and 4-405, this Part does not apply to group health and group life insurance to the extent authorized by Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any other insurance product as determined by the Superintendent of Insurance.'

Further amend the bill in section 8 in that part designated "§4-403." in subsection 1 by striking out all of paragraph C and inserting in its place the following:

'C. An employee, officer other than a director or licensed 3rd-party agent of a supervised lender or any institution listed in paragraph A or B;'

Further amend the bill in section 8 in that part designated "§4-403." in subsection 2 in the last line (page 4, line 14 in L.D.) by striking out the following: "or its affiliate"

2 Further amend the bill in section 8 in that part designated  
3 "~~§4-403.~~" in subsection 6 by striking out all of the 2nd sentence  
4 (page 4, lines 30 to 34 in L.D.)

6 Further amend the bill in section 8 in that part designated  
7 "~~§4-403.~~" by inserting after subsection 6 the following:

8  
9 '7. Licensed 3rd-party agent. "Licensed 3rd-party agent"  
10 means a licensed insurance agent, broker or consultant who  
11 engages in authorized insurance activities related to insurance  
12 products directly on behalf of a specified licensed insurance  
13 entity through an independent contractor relationship.'

14  
15 Further amend the bill in section 8 in that part designated  
16 "~~§4-403.~~" in subsection 7 in the first line (page 4, line 36 in  
17 L.D.) by striking out the following: "7" and inserting in its  
18 place the following: '8'

20 Further amend the bill in section 8 in that part designated  
21 "~~§4-403.~~" in subsection 8 in the first line (page 4, line 40 in  
22 L.D.) by striking out the following: "8" and inserting in its  
23 place the following: '9'

24  
25 Further amend the bill in section 8 in that part designated  
26 "~~§4-403.~~" in subsection 8 in paragraph B in the first line (page  
27 4, line 48 in L.D.) by striking out the following:  
28 "Superintendent of Banking" and inserting in its place the  
29 following: 'Director of the Office of Consumer Credit Regulation'

30  
31 Further amend the bill in section 8 in that part designated  
32 "~~§4-405.~~" by striking out the first paragraph (page 5, lines 16  
33 to 22 in L.D.) and inserting in its place the following:

34  
35 'A supervised lender, a subsidiary of a supervised lender or  
36 an entity of which a supervised lender is a subsidiary may not  
37 sell in any manner an insurance product as authorized under  
38 section 4-402 or fix or vary the consideration for that product  
39 on the condition, agreement, requirement or understanding that  
40 the purchaser or borrower obtain additional or other credit,  
41 property or other service from the supervised lender, a  
42 subsidiary of a supervised lender or an entity of which a  
43 supervised lender is a subsidiary. This section does not  
44 prohibit a tie-in involving insurance products that is permitted  
45 under Title 24-A.'

46  
47 Further amend the bill in section 8 in that part designated  
48 "~~§4-406.~~" in the first paragraph in the 4th line (page 5, line 30  
49 in L.D.) by inserting after the following: "and" the following:  
50 'those'

2 Further amend the bill in section 8 in that part designated  
3 "~~§4-406.~~" in the first paragraph in the 5th line (page 5, line 31  
4 in L.D.) by inserting after the following: "lender" the  
5 following: '2'

6  
7 Further amend the bill in section 8 in that part designated  
8 "~~§4-406.~~" in the first paragraph in the 5th line (page 5, line 31  
9 in L.D.) by inserting after the following: "affiliates" the  
10 following: '2'

11  
12 Further amend the bill in section 8 in that part designated  
13 "~~§4-406.~~" in the first paragraph in the 5th line (page 5, line 31  
14 in L.D.) by striking out the following: "shall use signs" and  
15 inserting in its place the following: 'is in compliance with  
16 this section if it utilizes signs'

17  
18 Further amend the bill in section 8 in that part designated  
19 "~~§4-406.~~" in the first paragraph in the 7th line (page 5, line 33  
20 in L.D.) by inserting after the following: "lender" the  
21 following: '2'

22  
23 Further amend the bill in section 8 in that part designated  
24 "~~§4-406.~~" in the first paragraph in the 7th line (page 5, line 33  
25 in L.D.) by inserting after the following: "affiliates" the  
26 following: '2'

27  
28 Further amend the bill in section 8 in that part designated  
29 "~~§4-407.~~" in the first paragraph in the 5th line (page 5, line 44  
30 in L.D.) by striking out the following: "6" and inserting in its  
31 place the following: '5'

32  
33 Further amend the bill in section 9 in subsection 22-E by  
34 striking out the 2nd sentence (page 6, lines 37 to 46 in L.D.)

35  
36 Further amend the bill by striking out all of sections 13  
37 and 14 and inserting in their place the following:

38  
39 'Sec. 13. 9-B MRSA §241, sub-§11 is enacted to read:

40  
41  
42 11. Choice of insurance agent or broker. A financial  
43 institution or credit union authorized to do business in this  
44 State, or a financial institution holding company or an affiliate  
45 of a financial institution holding company that is authorized to  
46 do business in this State as insurance agent or broker under  
47 section 448, or pursuant to applicable federal law, and Title  
48 24-A to negotiate or sell insurance products to purchasers or  
borrowers may not, in connection with the extension of credit,  
interfere with a purchaser's or borrower's free choice of

R. of §

2 insurance agent or company under applicable provisions contained  
in Title 24-A.

4 Any violation of this subsection is an anticompetitive or  
deceptive practice under this chapter and is subject to the  
6 remedies provided in this chapter in addition to those remedies  
otherwise provided by law.

8  
10 This subsection does not apply to group health and group life  
insurance to the extent authorized by Title 24-A, chapters 31 and  
12 35 when the insured is enrolled in the insurance policy, credit  
life and health insurance to the extent authorized by Title 24-A,  
14 chapter 37, credit property insurance, credit involuntary  
unemployment insurance, forced placed property insurance, a  
16 vendor's single interest policy or any other insurance product as  
determined by the Superintendent of Insurance.

18 **Sec. 14. 9-B MRSA §242, sub-§4** is enacted to read:

20 **4. Advertisement of insurance products.** In any  
22 advertisement of an insurance product offered pursuant to section  
448, a financial institution or its affiliate shall include a  
24 statement that the product is not insured by the Federal Deposit  
Insurance Corporation or National Credit Union Administration, as  
26 applicable.

28 This subsection does not apply to group health and group life  
insurance to the extent authorized by Title 24-A, chapters 31 and  
30 35 when the insured is enrolled in the insurance policy, credit  
life and health insurance to the extent authorized by Title 24-A,  
32 chapter 37, credit property insurance, credit involuntary  
unemployment insurance, forced placed property insurance, a  
34 vendor's single interest policy or any other insurance product as  
determined by the Superintendent of Insurance.'

36 Further amend the bill in section 15 in subsection 1 in  
38 paragraph A by striking out the last sentence (page 8, lines 11  
and 12 in L.D.) and inserting in its place the following: 'This  
paragraph does not prohibit a tie-in involving insurance products  
40 that is permitted under Title 24-A'

42 Further amend the bill in section 16 in subsection 11 in  
44 paragraph B in the last line (page 9, line 27 in L.D.) by  
striking out the following: "b! 1993, c. 322, @1 (new). ?b"

46 Further amend the bill in section 17 in that part designated  
48 "§448." in subsection 1 in the 5th and 6th lines (page 9, lines  
42 and 43 in L.D.) by striking out the following: "for any  
insurance product sold or negotiated within the" and inserting in  
50 its place the following: 'in this'

R. 488

2 Further amend the bill in section 17 in that part designated  
3 "~~§448.~~" in subsection 1 in the 8th and 9th lines (page 9, lines  
4 45 and 46 in L.D.) by striking out the following: "for any  
5 insurance product sold or negotiated within this State"  
6

7 Further amend the bill in section 17 in that part designated  
8 "~~§448.~~" in subsection 1 in the 10th line (page 9, line 47 in  
9 L.D.) by inserting after the following: "Title 24-A" the  
10 following: "or engage in authorized insurance activities in  
11 another state, if the agent, agency, broker or consultant  
12 complies with the applicable laws of that state"

13 Further amend the bill in section 17 in that part designated  
14 "~~§448.~~" in subsection 1 by striking out the last 2 sentences.  
15

16 Further amend the bill in section 17 in that part designated  
17 "~~§448.~~" in subsection 2 in paragraph B in the last 2 lines (page  
18 10, lines 20 and 21 in L.D.) by striking out the following:  
19 "financial institution holding company" and inserting in its  
20 place 'credit union'  
21

22 Further amend the bill in section 17 in that part designated  
23 "~~§448.~~" in subsection 3 in paragraph A in the last line (page 10,  
24 line 34 in L.D.) by inserting after the following:  
25 "Administration" the following: ', as applicable'  
26

27 Further amend the bill in section 17 in that part designated  
28 "~~§448.~~" in subsection 3 in paragraph B in the first line (page  
29 10, line 36 in L.D.) by striking out the following: "The  
30 institution shall orally inform a" and inserting in its place the  
31 following: "When a prospective purchaser of insurance is  
32 directly and personally contacted by the institution, the  
33 institution shall orally inform that"  
34

35 Further amend the bill in section 17 in that part designated  
36 "~~§448.~~" in subsection 3 in paragraph B in the last line (page 10,  
37 line 39 in L.D.) by inserting after the following:  
38 "Administration" the following: ', as applicable'  
39

40 Further amend the bill in section 17 in that part designated  
41 "~~§448.~~" in subsection 4 in the first and 2nd lines (page 10,  
42 lines 46 and 47 in L.D.) by striking out the following:  
43 "Minimizing customer confusion between insurance sales and  
44 deposit or loan products" and inserting in its place the  
45 following: "Distinguishing insurance products from loan or  
46 deposit products; identification of insurance brokers and agents"  
47

48 Further amend the bill in section 17 in that part designated  
49 "~~§448.~~" in subsection 4 in the 3rd line from the end (page 11,  
50

line 4 in L.D.) by inserting after the following: "deposit" the following: ', share'

Further amend the bill in section 17 in that part designated "~~§448.~~" in subsection 5 in the 4th line (page 11, line 11 in L.D.) by striking out the following: "6" and inserting in its place the following: '5'

Further amend the bill in section 17 in that part designated "~~§448.~~" in subsection 5 in the 3rd line from the end (page 11, line 35 in L.D.) by striking out the following: "and" and inserting in its place the following: 'or'

Further amend the bill in section 17 in that part designated "~~§448.~~" by inserting after subsection 5 the following:

'6. Applicability. Other than the authorizations provided in subsection 1, this section does not apply to group health and group life insurance to the extent authorized by Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37, credit property insurance, credit involuntary unemployment insurance, forced placed property insurance, a vendor's single interest policy or any other insurance product as determined by the Superintendent of Insurance. This section also does not apply to annuity sales authorized under section 443, subsection 11.'

Further amend the bill by striking out all of section 18 and inserting in its place the following:

'Sec. 18. 24-A MRSA §1514, as amended by PL 1973, c. 585, §12, is repealed.'

Further amend the bill in section 19 in that part designated "~~§1514-A.~~" in subsection 1 in paragraph A-1 by striking out all of subparagraph (2) and inserting in its place the following:

'(2) An employee, an officer other than a director, or licensed 3rd-party agent of a financial institution or credit union authorized to do business in this State, a financial institution holding company or any institution listed in subparagraph (1);'

Further amend the bill in section 19 in that part designated "~~§1514-A.~~" in subsection 1 by inserting after paragraph B the following:

'B-1. "Licensed 3rd-party agent" means a licensed insurance agent, broker or consultant who engages in authorized

R. 439

2 insurance activities related to insurance products directly  
3 on behalf of a specified licensed insurance entity through  
4 an independent contractor relationship.'

6 Further amend the bill in section 19 in that part designated  
7 "~~§1514-A.~~" by striking out all of subsection 2 and inserting in  
8 its place the following:

10 ~~'2.--- Prohibition on licensing.--- A financial institution,~~  
11 ~~financial institution holding company or the subsidiary of either~~  
12 ~~or an officer, employee, agent or representative of a financial~~  
13 ~~institution,--- financial institution holding company--- or--- the~~  
14 ~~subsidiary of either may not be licensed as an insurance agent,~~  
15 ~~broker or consultant in this State or may not act as an insurance~~  
16 ~~agent,--- broker or consultant in this State.--- Nothing in this~~  
17 ~~section limits the activity of these organizations with respect~~  
18 ~~to credit life and credit health insurance to the extent~~  
19 ~~authorized by chapter 37, group health insurance to the extent~~  
20 ~~authorized by chapter 35 and group life insurance to the extent~~  
21 ~~authorized by chapter 31.--- Nothing in this section prohibits a~~  
22 ~~financial institution, credit union, financial institution~~  
23 ~~holding company or a subsidiary or employee of any such entity~~  
24 ~~from selling annuities, arranging for the sale of annuities or~~  
25 ~~sharing commissions in connection with the sale of annuities to~~  
26 ~~the extent authorized by Title 9-B, section 443, subsection 11,~~  
27 ~~provided that such entity has been licensed pursuant to section~~  
28 ~~1531, subsection 1, paragraph F and if that activity includes the~~  
29 ~~sale of variable annuity contracts, the National Association of~~  
30 ~~Securities Dealers registration form has been submitted to the~~  
31 ~~superintendent as required by the provisions of section 1520,~~  
32 ~~subsection 3.~~

34 2. Licensing. A financial institution or credit union  
35 authorized to do business in this State, financial institution  
36 holding company or the subsidiary or affiliate of either of those  
37 entities or an officer, employee, agent or representative of a  
38 financial institution, credit union financial institution holding  
39 company or the subsidiary of either of those entities may be  
40 licensed as an insurance agent, broker or consultant in this  
41 State and may act as an insurance agent, broker or consultant in  
42 this State. These organizations are not required to become  
43 licensed as an insurance agent, broker or consultant with respect  
44 to credit life and credit health insurance to the extent  
45 authorized by chapter 37 when the insured is enrolled in the  
46 policy, group health insurance to the extent authorized by  
47 chapter 35 when the insured is enrolled in the policy, group life  
48 insurance to the extent authorized by chapter 31 when the insured  
49 is enrolled in the policy, credit property insurance, credit  
50 involuntary unemployment insurance, forced placed property  
insurance, a vendor's single interest policy and any other



R. 68

insurance product as determined by the superintendent. In addition, a financial institution, credit union, financial institution holding company or a subsidiary or employee of any such entity may sell annuities, arrange for the sale of annuities or share commissions in connection with the sale of annuities to the extent authorized by Title 9-B, section 443, subsection 11, provided that such an entity has been licensed pursuant to section 1531, subsection 1, paragraph F or section 1512 and if that activity includes the sale of variable annuity contracts, the National Association of Securities Dealers registration form has been submitted to the superintendent as required by the provisions of section 1520, subsection 3.'

Further amend the bill in section 19 in that part designated "~~§1514-A.~~" by striking out all of subsection 5.

Further amend the bill in section 19 in that part designated "~~§1514-A.~~" in subsection 6 in the first line (page 15, line 42 in L.D.) by striking out the following: "6" and inserting in its place the following: '5'

Further amend the bill in section 22 in that part designated "~~§2168.~~" in subsection 1-A in the 2nd and 3rd lines from the end (page 17, lines 17 and 18 in L.D.) by striking out the following: ", credit unions and holding companies" and inserting in its place the following: 'and credit unions'

Further amend the bill in section 23 in that part designated "~~§2168.~~" in subsection 2 in the 3rd line from the end (page 17, line 36 in L.D.) by striking out the first "or" and inserting in its place the following: '^'

Further amend the bill in section 25 in that part designated "~~§2168-B.~~" in the first paragraph in the 5th line from the end (page 18, line 10 in L.D.) by inserting after the following: "has" the following: 'provided by hand or'

Further amend the bill in section 25 in that part designated "~~§2168-B.~~" in subsection 1 in the last line (page 18, line 20 in L.D.) by striking out the following: "^ or" and inserting in its place the following: '^'

Further amend the bill in section 25 in that part designated "~~§2168-B.~~" by striking out all of subsection 2 and inserting in its place the following:

'This section does not apply to group health and group life insurance to the extent authorized by chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by chapter 37,

R. 98  
2 credit property insurance, credit involuntary unemployment  
3 insurance, forced placed property insurance, a vendor's single  
4 interest policy or any other insurance product as determined by  
5 the superintendent.'

6 Further amend the bill in section 25 in that part designated  
7 "§2168-B." in the last paragraph in the 2nd and 3rd lines (page  
8 18, lines 30 and 31 in L.D.) by striking out the following: "credit unions and holding companies" and inserting in its place  
9 the following: 'and credit unions'

12 Further amend the bill in section 26 in that part designated  
13 "§2169." in the 14th line (page 19, line 2 in L.D.) by striking  
14 out the following: "credit unions and holding companies" and  
15 inserting in its place the following: 'and credit unions'

16 Further amend the bill in section 26 in that part designated  
17 "§2169." in the 22nd line (page 19, line 10 in L.D.) by striking  
18 out the following: "prohibited" and inserting in its place the  
19 following: 'not approved'

22 Further amend the bill in section 26 in that part designated  
23 "§2169." by inserting after the first paragraph the following:

24 'This section does not apply to group health and group life  
25 insurance to the extent authorized by chapters 31 and 35 when the  
26 insured is enrolled in the insurance policy, credit life and  
27 credit health insurance to the extent authorized by chapter 37,  
28 credit property insurance, credit involuntary unemployment  
29 insurance, forced placed property insurance, a vendor's single  
30 interest policy or any other insurance product as determined by  
31 the superintendent.'

34 Further amend the bill in section 27 in that part designated  
35 "§2169-A." in subsection 1 in the 4th line by inserting after the  
36 following: "may not" the following: 'later'

38 Further amend the bill in section 27 in that part designated  
39 "§2169-A." in subsection 1 in the 2nd and 3rd lines from the end  
40 (page 19, lines 46 and 47 in L.D.) by striking out the  
41 following: "credit unions and holding companies" and inserting  
42 in its place the following: 'and credit unions'

44 Further amend the bill in section 27 in that part designated  
45 "§2169-A." by inserting after subsection 2 the following:

46 '3. Information permitted under Fair Credit Reporting Act.  
47 Notwithstanding subsection 1, a lender or creditor may exchange  
48 insurance information with its affiliates as permitted under the

Fair Credit Reporting Act pursuant to Title 10, chapter 210 or 15  
United States Code, Chapter 41.'

Further amend the bill in section 28 in the last line (page 20, line 18 in L.D.) by striking out the following: "6" and inserting in its place the following: '5'

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

Further amend the bill by inserting at the end before the summary the following:

### FISCAL NOTE

Allowing state-chartered financial institutions to engage in the sale of insurance products will result in minor offsetting increases in dedicated revenues and expenditures by the Bureau of Insurance within the Department of Professional and Financial Regulation from increased licensing activity.

The Office of Consumer Credit Regulation, the Bureau of Banking and The Bureau of Insurance, all within the Department of Professional and Financial Regulation, will incur some minor additional costs to adopt certain rules pertaining to the authorization of state-chartered financial institutions to sell insurance products. These costs can be absorbed within these agencies' existing budgeted resources.

This bill may increase the number of prosecutions of civil violations and civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees and fines may also increase General Fund revenue by minor amounts.'

### SUMMARY

This amendment clarifies that certain statutory provisions relating to the regulation of insurance sales by supervised lenders, financial institutions and credit unions authorized to do business in this State do not apply to group health and group life insurance to the extent authorized by the Maine Revised Statutes, Title 24-A, chapters 31 and 35 when the insured is enrolled in the insurance policy, credit life and credit health insurance to the extent authorized by Title 24-A, chapter 37,

COMMITTEE AMENDMENT "A" to S.P. 439, L.D. 1385

2 credit property insurance, credit involuntary unemployment  
insurance, forced placed property insurance, a vendor's single  
4 interest policy or any insurance product as determined by the  
Superintendent of Insurance.

6 The amendment removes the limit authorizing only supervised  
lenders, credit unions and financial institutions located in  
8 towns with populations of 5,000 or less to sell insurance  
products and authorizes supervised lenders, credit unions,  
10 financial institutions and their affiliates and subsidiaries  
located anywhere in the State to be licensed to sell insurance  
12 products under the Maine Insurance Code.

14 The amendment also makes technical and grammatical changes  
to the bill and adds a fiscal note.  
16