

# MAINE STATE LEGISLATURE

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R. d. S.

L.D. 1434

DATE: 4-20-99

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**BANKING AND INSURANCE**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1023, L.D. 1434, Bill, "An Act to Make Minor Corrections to the Laws Governing Consumer Credit and Collection"

Amend the bill by striking out the title and substituting the following:

**'An Act to Make Minor Corrections to the Laws Governing Financial Regulation and Debt Collection'**

Further amend the bill by inserting after section 2 the following:

**'Sec. 3. 9-A MRSA §2-401, sub-§7, ¶B,** as enacted by PL 1975, c. 298, §2, is amended to read:

B. ~~Seven-dollars-and-fifty-cents~~ Fifteen dollars when the amount financed exceeds \$75, but is less than \$250; or

**Sec. 4. 9-A MRSA §2-502, sub-§1,** as amended by PL 1985, c. 763, Pt. A, §34, is further amended to read:

1. With respect to a precomputed consumer credit transaction and, a consumer lease or a fixed-rate consumer credit transaction that is not made pursuant to open-end credit and that is secured only by an interest in real estate, the parties may contract for a delinquency charge on any installment not paid in full within 15 days after its scheduled or deferred due date in an amount not exceeding the greater of:

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- A. An amount, not exceeding \$10, which is 5% of the unpaid amount of the installment; or
- B. The deferral charge, section 2-503, that would be permitted to defer the unpaid amount of the instalment installment for the period that it is delinquent.

Sec. 5. 9-A MRSa §6-117 is enacted to read:

**§6-117. Contracts with other state and federal agencies**

1. The administrator may employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as may be necessary to assist the administrator in carrying out the regulatory functions of this Act. The administrator may contract agency staff to other state and federal agencies to assist those other state and federal agencies in carrying out their regulatory functions.

2. The administrator may enter into cooperative agreements with other state, federal or foreign agencies to facilitate the regulatory functions of the administrator, including, but not limited to, information sharing, coordination of examinations and joint examinations.

3. Any information furnished pursuant to this section by or to the administrator that has been designated as confidential by the agency furnishing the information remains the property of the agency furnishing the information and must be kept confidential by the recipient of the information except as authorized by the furnishing agency.

Sec. 6. 9-B MRSa §212, sub-§4, as enacted by PL 1995, c. 628, §9, is amended to read:

**4. Contracts with other state and federal regulatory agencies.** The superintendent may employ and engage experts, professionals or other personnel of other state and federal regulatory agencies as may be necessary to assist the bureau in carrying out its regulatory functions. The superintendent may contract bureau staff to other state and federal agencies to assist those agencies in carrying out their regulatory functions. Contracts for services under this subsection are designated sole source contracts and are not subject to the procurement requirements of Title 5, chapter 155.

Sec. 7. 9-B MRSa §226, sub-§3, as amended by PL 1995, c. 628, §14, is further amended to read:

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2           3. **Disclosure to others.** The superintendent may disclose  
 4 the information specified in subsection 1 to the following  
 6 persons or entities, except that information furnished to the  
 8 superintendent that has been designated as confidential by a  
 10 state or federal agency furnishing the information may not be  
 12 disclosed by the recipient of the information unless disclosure  
 14 has been authorized by the furnishing agency. However, Whenever  
confidential information is disclosed pursuant to this section,  
the information remains the property of the bureau or the  
furnishing agency and the recipients of the confidential  
 information may not disclose or make public information so  
 communicated, except as authorized by the superintendent or  
 pursuant to other provisions of this Title:

16           A. The Treasurer of State and the Commissioner of  
 18 Professional and Financial Regulation;

20           C. State departments that, in the opinion of the  
 superintendent, require this information;

22           D. Other persons, including other state, foreign or federal  
 24 regulatory officials, who, in the opinion of the  
 superintendent, require this information to facilitate the  
 general conduct of supervisory activities of the bureau;

26           E. A court of law or equity, but only with the written  
 28 consent of the superintendent or pursuant to a special order  
 of the court; and

30           F. To those persons or entities necessary in order to  
 32 comply with provisions of this Title relating to disclosure  
 or publication of certain applications, reports, statistics  
 34 and information.

36           **Sec. 8. 9-B MRSA §226-A**, as enacted by PL 1995, c. 628, §15,  
 38 is amended to read:

40           **§226-A. Cooperative agreements**

42           The superintendent may enter into cooperative agreements  
 44 with other state, federal or foreign regulatory agencies to  
 facilitate the regulatory ~~supervision of financial institutions~~  
 46 ~~authorized to do business in this State~~ functions of the bureau,  
 including, but not limited to, information sharing, coordination  
 of examinations and joint examinations.

48           **Sec. 9. 9-B MRSA §252, sub-§3-A**, as enacted by PL 1995, c.  
 521, §1, is amended to read:

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2           **3-A. Confidential treatment of other state and federal**  
 4 **regulatory information.** Any records or information in the  
 6 possession of any state or federal agency ~~directly or indirectly~~  
 8 involved in the regulation of financial institutions or financial  
 10 institution holding companies or the affiliates or subsidiaries  
 12 of financial institutions or financial institution holding  
 14 companies that is recognized under state or federal law as  
 16 confidential remains confidential if delivered or disclosed to  
 the superintendent or a bureau employee in the course of a  
 decision-making proceeding under this chapter. The  
 superintendent may rely upon any records or information  
 considered confidential pursuant to this subsection as the basis  
 for a decision on an application if these records or information  
 is disclosed to the applicant and any interested party to the  
 proceeding.'

18           Further amend the bill by inserting after section 4 the  
 20 following:

22           'Sec. 5. 10 MRSA §8002, sub-§8, as amended by PL 1997, c. 727,  
 24 Pt. A, §4, is further amended to read:

26           **8. Adequate resources.** Ensure that each bureau, office,  
 28 board and commission has adequate resources to carry out  
 regulatory functions and that the department's expenditures are  
 equitably apportioned; and

30           **Sec. 6. 10 MRSA §8002, sub-§9,** as enacted by PL 1997, c. 727,  
 32 Pt. A, §5, is amended to read:

34           **9. Licensing.** Coordinate all administrative processes  
 36 related to licensing functions of bureaus, offices, boards and  
 commissions within the department, including but not limited to  
 the frequency and form of applications and licenses; and

38           **Sec. 7. 10 MRSA §8002, sub-§10** is enacted to read:

40           **10. Confidentiality of shared information.** Keep  
 42 confidential any information provided by or to the commissioner  
 44 that has been designated confidential by the agency, bureau,  
 46 board or commission within the department that furnished the  
 48 information and that is the property of the agency, bureau, board  
or commission that furnished the information. Any information  
provided pursuant to this subsection may not be disclosed by the  
recipient of the information unless disclosure has been  
authorized by the agency, bureau, board or commission that  
furnished the information.

50           **Sec. 8. 10 MRSA §8003, sub-§2, ¶E,** as amended by PL 1997, c.  
 210, §1, is further amended to read:

2 E. To perform licensing functions for other state agencies  
3 on a fee-for-service basis; and

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5 **Sec. 9. 10 MRSA §8003, sub-§2, ¶F**, as enacted by PL 1997, c.  
6 210, §2, is amended to read:

8 F. To study jurisdictional overlap between the department's  
9 boards and commissions and other state agencies for purposes  
10 of streamlining and consolidating related legal authorities  
11 and administrative processes.

12 **Sec. 10. 10 MRSA §8003, sub-§2, ¶¶G and H** are enacted to read:

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15 G. To employ and engage experts, professionals or other  
16 personnel of other state or federal regulatory agencies as  
17 necessary to assist the office in carrying out its  
18 regulatory functions and to contract office staff to other  
19 state and federal regulatory agencies to assist those  
20 agencies in carrying out their regulatory functions; and

22 H. To enter into cooperative agreements with other state,  
23 federal or foreign regulatory agencies to facilitate the  
24 regulatory functions of the office, including, but not  
25 limited to, information sharing, coordination of  
26 examinations or inspections and joint examinations or  
27 inspections. Any information furnished pursuant to this  
28 paragraph by or to the office that has been designated  
29 confidential by the agency furnishing the information  
30 remains confidential and the property of the agency  
31 furnishing the information and may not be disclosed by the  
32 recipient of the information unless disclosure has been  
33 authorized by the agency that furnished the information.

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35 **Sec. 11. 24-A MRSA §208-A** is enacted to read:

36 **§208-A. Cooperative agreements**

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39 The superintendent, in the superintendent's discretion, may  
40 enter into cooperative agreements with other state, federal or  
41 foreign law enforcement or regulatory agencies to facilitate the  
42 regulatory functions of the superintendent, including, but not  
43 limited to, information sharing, coordination of examinations and  
44 investigations and joint examinations and investigations.

46 **Sec. 12. 24-A MRSA §216, sub-§5**, as enacted by PL 1995, c.  
47 375, Pt. B, §1, is amended to read:

48 5. In order to assist the superintendent in the regulation

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2 of insurers in this State, it is the duty of the superintendent  
 3 to maintain as confidential a document or information received  
 4 from the National Association of Insurance Commissioners ~~or~~  
 5 ~~insurance-departments-of-other-states~~, public officials of other  
 6 ~~jurisdictions~~, agencies of the Federal Government or political  
 7 ~~subdivisions~~ or other agencies of this State, if the document or  
 8 the information has been provided to the superintendent with  
 9 notice that it is confidential under the laws of the jurisdiction  
 10 that is the source of the document or information. Any  
 11 information furnished pursuant to this subsection by or to the  
 12 superintendent that has been designated confidential by the  
 13 official or agency furnishing the information remains the  
 14 property of the agency furnishing the information and must be  
 15 held as confidential by the recipient of the information, except  
 16 as authorized by the official or agency furnishing the  
 17 information. The superintendent may share information, including  
 18 otherwise confidential information, with the National Association  
 19 of Insurance Commissioners, ~~insurance-departments-of-other-states~~  
 20 ~~or-other-state-agencies~~ public officials of other jurisdictions,  
 21 ~~agencies of the Federal Government or political subdivisions or~~  
 22 ~~other agencies of this State~~, if the other jurisdiction,  
 23 ~~political subdivision~~ or agency agrees to maintain the same level  
 24 of confidentiality as is available under Maine law and has  
 25 demonstrated that it has the legal authority to do so. This  
 26 subsection does not alter prohibitions or restrictions applicable  
 27 to ex parte contacts in the course of an adjudicatory proceeding  
 28 in which a state agency is a party. For purposes of this  
 29 subsection, "other state agencies of this State" includes bureau  
 30 personnel and consultants designated as serving in an advocacy  
 31 capacity in an adjudicatory proceeding before the superintendent.'

32 Further amend the bill by inserting after section 5 the  
33 following:

34 'Sec. 6. 32 MRSA §10701, sub-§4, as amended by PL 1989, c.  
35 542, §55, is repealed and the following enacted in its place:

36 4. Nonpublic information. The confidentiality provisions  
37 of Title 9-B, section 226 apply to nonpublic matters and  
38 information. For purposes of this Act, nonpublic information  
39 includes:

40 A. Information filed with or obtained by the administrator  
41 to the extent the information would be considered as  
42 nonpublic matters and information by the Securities and  
43 Exchange Commission as provided by 17 Code of Federal  
44 Regulations 200.80 et seq.; and

45 B. Any information furnished to the administrator by an  
46 agency designated in section 10702, subsection 1 or by the  
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administrator to an agency designated in section 10702, subsection 1 that has been designated as confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information, and the recipient of the information may not disclose the information except as authorized by the furnishing agency.

**Sec. 7. 32 MRSA §10702, sub-§1**, as amended by PL 1999, c. 37, §18, is further amended to read:

**1. Cooperation.** The administrator and the employees of the administrator may cooperate, including bearing the expense of the cooperation, with the securities agencies or securities administrator of another state or Canadian province or territory or of another country, the United States Securities and Exchange Commission, the United States Commodity Futures Trading Commission, the Federal Trade Commission, the United States Securities Investor Protection Corporation, any self-regulatory organization established under the United States Securities Exchange Act of 1934 or the United States Commodity Exchange Act, any national or international organization of securities officials or agencies, state regulatory agencies and any governmental law enforcement agency.

**Sec. 8. 32 MRSA §10702, sub-§3** is enacted to read:

**3. Contracts for services.** The administrator may employ and engage experts, professionals and other personnel of other state and federal regulatory agencies as necessary to assist the Securities Division in carrying out its regulatory functions.'

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**

The bill establishes a collection agency branch office licensing fee at a cost lower than the main office license fee. Additional dedicated revenue that results from the increase in the number of branch offices that will be licensed will offset the revenue reduction created by lowering the per license fee.'



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**SUMMARY**

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This amendment permits the imposition of late fees on fixed-rate, closed-end subordinate mortgages and increases the minimum finance charge allowed for small loans between \$75 and \$250 from \$7.50 to \$15.

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The amendment allows the Office of Consumer Credit Regulation, the Bureau of Banking, the Securities Division and the Bureau of Insurance to enter into cooperative agreements with other state, federal or foreign regulatory agencies for the sharing of information, coordination of examinations and joint examinations. The amendment protects the confidentiality of information provided to or by the agencies.

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The amendment also allows these state agencies to contract with experts, professionals and other personnel of other state and federal regulatory agencies to assist in carrying out their regulatory functions.

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The amendment allows the Commissioner of Professional and Financial Regulation to receive and share confidential information from any agency, bureau, board or commission within the department and protects the confidentiality of that information.

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The amendment also adds a fiscal note to the bill.