

MAINE STATE LEGISLATURE

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2001

L.D. 1640

DATE: May 22, 2001

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BANKING AND INSURANCE

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**STATE OF MAINE
SENATE
120TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 521, L.D. 1640, Bill, "An Act to Conform the State's Financial Services Privacy Laws with Federal Law"

Amend the bill by striking out all of Part A and inserting in its place the following:

PART A

Sec. A-1. 9-A MRSA §3-314 is enacted to read:

§3-314. Privacy of consumer financial information

1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties, a creditor shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the creditor is

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2 a financial institution as defined in those regulations. This
3 subsection is not intended to permit the release of health care
4 information except as permitted by Title 22, section 1711-C or
5 Title 24-A, chapter 24. This subsection does not apply to a
6 supervised financial organization.

7 2. Opt in; disclosure to nonaffiliated 3rd party. A
8 creditor required to comply with subsection 1 may not disclose,
9 directly or through an affiliate, to a nonaffiliated 3rd party
10 any nonpublic personal information unless the person to whom the
11 information pertains has affirmatively consented to the
12 disclosure in writing and has not withdrawn that consent. This
13 subsection does not prohibit a creditor from disclosing nonpublic
14 personal information to a nonaffiliated 3rd party to the extent
15 permitted by the federal Gramm-Leach-Bliley Act, 15 United States
16 Code, Section 6802, subsection b, paragraph 2 and subsection e.

17 3. Use of terms. As used in this section, unless the
18 context otherwise indicates, the terms "affiliate,"
19 "nonaffiliated 3rd party" and "nonpublic personal information"
20 have the same meanings as in the federal Gramm-Leach-Bliley Act,
21 15 United States Code, Section 6801 et seq. (1999).

22
23 **Sec. A-2. 9-A MRSA §9-310 is enacted to read:**

24 **§9-310. Privacy of consumer financial information**

25 1. Compliance with federal law and regulations. Except as
26 provided in subsection 2 with respect to disclosure of nonpublic
27 personal information to nonaffiliated 3rd parties, a creditor
28 shall comply with the provisions of the federal
29 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
30 seq. (1999) and the applicable implementing federal Privacy of
31 Consumer Information regulations, as adopted by the Office of the
32 Comptroller of the Currency, 12 Code of Federal Regulations, Part
33 40 (2001); the Board of Governors of the Federal Reserve System,
34 12 Code of Federal Regulations, Part 216 (2001); the Federal
35 Deposit Insurance Corporation, 12 Code of Federal Regulations,
36 Part 332 (2001); the Office of Thrift Supervision, 12 Code of
37 Federal Regulations, Part 573 (2001); the National Credit Union
38 Administration, 12 Code of Federal Regulations, Part 716 (2001);
39 the Federal Trade Commission, 16 Code of Federal Regulations,
40 Part 313 (2001); or the Securities and Exchange Commission, 17
41 Code of Federal Regulations, Part 248 (2001), if the creditor is
42 a financial institution as defined in those regulations. This
43 subsection is not intended to permit the release of health care
44 information except as permitted by Title 22, section 1711-C or
45 Title 24-A, chapter 24.
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2 2. Opt in; disclosure to nonaffiliated 3rd party. A
3 creditor required to comply with subsection 1 may not disclose,
4 directly or through an affiliate, to a nonaffiliated 3rd party
5 any nonpublic personal information unless the person to whom the
6 information pertains has affirmatively consented to the
7 disclosure in writing and has not withdrawn that consent. This
8 subsection does not prohibit a creditor from disclosing nonpublic
9 personal information to a nonaffiliated 3rd party to the extent
10 permitted by the federal Gramm-Leach-Bliley Act, 15 United States
11 Code, Section 6802, subsection b, paragraph 2 and subsection e.

12 3. Use of terms. As used in this section, unless the
13 context otherwise indicates, the terms "affiliate,"
14 "nonaffiliated 3rd party" and "nonpublic personal information"
15 have the same meanings as in the federal Gramm-Leach-Bliley Act,
16 15 United States Code, Section 6801 et seq. (1999).

17 **Sec. A-3. 9-A MRSA §10-306 is enacted to read:**

18 **§10-306. Privacy of consumer financial information**

19 1. Compliance with federal law and regulations. Except as
20 provided in subsection 2 with respect to disclosure of nonpublic
21 personal information to nonaffiliated 3rd parties, a credit
22 services organization shall comply with the provisions of the
23 federal Gramm-Leach-Bliley Act, 15 United States Code, Section
24 6801 et seq. (1999) and the applicable implementing federal
25 Privacy of Consumer Information regulations, as adopted by the
26 Office of the Comptroller of the Currency, 12 Code of Federal
27 Regulations, Part 40 (2001); the Board of Governors of the
28 Federal Reserve System, 12 Code of Federal Regulations, Part 216
29 (2001); the Federal Deposit Insurance Corporation, 12 Code of
30 Federal Regulations, Part 332 (2001); the Office of Thrift
31 Supervision, 12 Code of Federal Regulations, Part 573 (2001); the
32 National Credit Union Administration, 12 Code of Federal
33 Regulations, Part 716 (2001); the Federal Trade Commission, 16
34 Code of Federal Regulations, Part 313 (2001); or the Securities
35 and Exchange Commission, 17 Code of Federal Regulations, Part 248
36 (2001), if the credit services organization is a financial
37 institution as defined in those regulations. This subsection is
38 not intended to permit the release of health care information
39 except as permitted by Title 22, section 1711-C or Title 24-A,
40 chapter 24.

41 2. Opt in; disclosure to nonaffiliated 3rd party. A credit
42 services organization required to comply with subsection 1 may
43 not disclose, directly or through an affiliate, to a
44 nonaffiliated 3rd party any nonpublic personal information unless
45 the person to whom the information pertains has affirmatively
46 consented to the disclosure in writing and has not withdrawn that

consent. This subsection does not prohibit a credit services organization from disclosing nonpublic personal information to a nonaffiliated 3rd party to the extent permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802, subsection b, paragraph 2 and subsection e.

3. Use of terms. As used in this section, unless the context otherwise indicates, the terms "affiliate," "nonaffiliated 3rd party" and "nonpublic personal information" have the same meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999).

Sec. A-4. 9-A MRSA §11-122 is enacted to read:

§11-122. Privacy of consumer financial information

1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties, a merchant who enters into a rental-purchase agreement with a consumer shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the merchant is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24. This subsection does not apply to a supervised financial organization.

2. Opt in; disclosure to nonaffiliated 3rd party. A merchant required to comply with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information unless the person to whom the information pertains has affirmatively consented to the disclosure in writing and has not withdrawn that consent. This subsection does not prohibit a merchant from disclosing nonpublic personal information to a nonaffiliated 3rd party to the extent permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802, subsection b, paragraph 2 and subsection e.

2 3. Use of terms. As used in this section, unless the
context otherwise indicates, the terms "affiliate,"
4 "nonaffiliated 3rd party" and "nonpublic personal information"
have the same meanings as in the federal Gramm-Leach-Bliley Act,
6 15 United States Code, Section 6801 et seq. (1999).'

8 Further amend the bill in Part B by striking out all of
section 2 and inserting in its place the following:

10 'Sec. B-2. 9-B MRSA §161, sub-§1-A is enacted to read:

12 1-A. Definitions. As used in this chapter, unless the
14 context otherwise indicates, the following terms have the
following meanings.

16 A. "Affiliate" has the same meaning as in section 131,
18 subsection 1-A.

20 B. "Credit union authorized to do business in this State"
has the same meaning as in section 131, subsection 12-A.

22 C. "Customer" means any person as that term "person" is
24 defined in section 131, subsection 30 who utilized or is
utilizing any service of a financial institution authorized
26 to do business in this State or a credit union authorized to
do business in this State or for whom a financial
28 institution authorized to do business in this State or a
credit union authorized to do business in this State is
30 acting or has acted as a fiduciary in relation to an account
maintained in the person's name. In addition, "customer"
32 means any person who provides information to a financial
institution authorized to do business in this State or a
34 credit union authorized to do business in this State in an
attempt to utilize any service of that financial institution
36 or credit union.

38 D. "Financial institution authorized to do business in this
State" has the same meaning as in section 131, subsection
40 17-A.

42 E. "Financial records" means the originals or copies of
records held by a financial institution authorized to do
44 business in this State or a credit union authorized to do
business in this State or their agents or affiliates
46 pertaining to a customer's relationship with the financial
institution or credit union and includes information derived
48 from such records.

50 F. "Supervisory agency" means:

- 2 (1) The Federal Deposit Insurance Corporation;
4 (2) The Office of Thrift Supervision;
6 (3) The Federal Home Loan Bank Board;
8 (4) The National Credit Union Administration;
10 (5) The Federal Reserve Board;
12 (6) The Office of the Comptroller of the Currency;
14 (7) The Bureau of Banking within the Department of
16 Professional and Financial Regulation;
18 (8) The Office of Consumer Credit Regulation within
20 the Department of Professional and Financial Regulation;
22 (9) The Bureau of Insurance within the Department of
24 Professional and Financial Regulation;
26 (10) The Securities Division within the Department of
 Professional and Financial Regulation; and
 (11) The United States Securities and Exchange
 Commission.'

28 Further amend the bill in Part B in section 3 in subsection
30 2 in paragraph L in the last line (page 5, line 41 in L.D.) by
32 striking out the following: "or"

34 Further amend the bill in Part B in section 3 in subsection
36 2 by striking out all of paragraph M and inserting in its place
38 the following:

40 'M. Except as provided in section 162-A, the sharing of
42 information to the extent permitted by the provisions of
44 the federal Gramm-Leach-Bliley Act, 15 United States Code,
46 Section 6801 et seq. (1999) and the applicable implementing
48 federal Privacy of Consumer Information regulations, as
 adopted by the Office of the Comptroller of the Currency, 12
 Code of Federal Regulations, Part 40 (2001); the Board of
 Governors of the Federal Reserve System, 12 Code of Federal
 Regulations, Part 216 (2001); the Federal Deposit Insurance
 Corporation, 12 Code of Federal Regulations, Part 332
 (2001); the Office of Thrift Supervision, 12 Code of Federal
 Regulations, Part 573 (2001); the National Credit Union
 Administration, 12 Code of Federal Regulations, Part 716

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2 (2001); the Federal Trade Commission, 16 Code of Federal
3 Regulations, Part 313 (2001); or the Securities and Exchange
4 Commission, 17 Code of Federal Regulations, Part 248 (2001).
5 This paragraph is not intended to permit the release of
6 health care information except as permitted by Title 22,
7 section 1711-C or Title 24-A, chapter 24; or

8 N. The sharing of financial records with affiliates other
9 than as permitted under paragraphs L and M.'

10

11 Further amend the bill in Part B by inserting after section
12 4 the following:

13 'Sec. B-5. 9-B MRSA §162-A is enacted to read:

14 §162-A. Disclosure of nonpublic personal information to
15 nonaffiliated 3rd party

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17 1. Opt in; disclosure to nonaffiliated 3rd party. A
18 financial institution authorized to do business in this State or
19 credit union authorized to do business in this State may not
20 disclose, directly or through an affiliate, to a nonaffiliated
21 3rd party any nonpublic personal information unless the person to
22 whom the information pertains has affirmatively consented to the
23 disclosure in writing and has not withdrawn that consent. This
24 subsection does not prohibit a financial institution authorized
25 to do business in this State or credit union authorized to do
26 business in this State from disclosing nonpublic personal
27 information to a nonaffiliated 3rd party to the extent otherwise
28 permitted by this chapter or the federal Gramm-Leach-Bliley Act,
29 15 United States Code, Section 6802, subsection b, paragraph 2
30 and subsection e.

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32 2. Use of terms. As used in this section, unless the
33 context otherwise indicates, the terms "affiliate,"
34 "nonaffiliated 3rd party" and "nonpublic personal information"
35 have the same meanings as in the federal Gramm-Leach-Bliley Act,
36 15 United States Code, Section 6801 et seq. (1999).'
37

38 Further amend the bill in Part B by striking out all of
39 sections 6 and 7 and inserting in their place the following:

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41 'Sec. B-6. 9-B MRSA §164, as amended by PL 1991, c. 824, Pt.
42 A, §11, is further amended to read:

43 **§164. Penalties**

44 1. Violation. Any officer or employee of a fiduciary
45 financial institution authorized to do business in this State,
46 credit union authorized to do business in this State, affiliate
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2 or consumer reporting agency who intentionally or knowingly
3 furnishes financial records in violation of this chapter commits
4 a civil violation ~~and--shall--be--subject--to~~ for which the
5 superintendent may assess a civil penalty of not more than \$1,000
6 \$5,000 per violation. Any financial institution authorized to do
7 business in this State or credit union authorized to do business
8 in this State that intentionally or knowingly furnishes financial
9 records in violation of this chapter or intentionally or
10 knowingly allows an affiliate to furnish financial records in
11 violation of this chapter commits a civil violation for which the
12 superintendent may assess a civil penalty of not more than
13 \$10,000 per violation. Any fiduciary financial institution
14 authorized to do business in this State or credit union
15 authorized to do business in this State or any agent or employee
16 of a fiduciary financial institution or credit union making a
17 disclosure of financial records in good-faith reliance upon the
18 certificate of agency or person requesting the disclosure, that
19 the provisions of section 163 requiring prior notice to the
20 customer have been complied with, shall is not be liable to the
21 customer for the disclosures and shall is not be liable for any
22 civil penalties under this section.

23
24 **2. Inducing violation.** Any person who intentionally or
25 knowingly induces or attempts to induce any officer or employee
26 of a fiduciary financial institution authorized to do business in
27 this State, credit union authorized to do business in this State
28 or consumer reporting agency to disclose financial records in
29 violation of this chapter commits a civil violation and--is
30 subject--to for which the superintendent may assess a civil
31 penalty of not more than \$1,000 \$10,000 per violation.

32 **Sec. B-7. 9-B MRSA §241, sub-§12** is enacted to read:

33 **12. Privacy of consumer information.** A financial
34 institution authorized to do business in this State or a credit
35 union authorized to do business in this State shall comply with
36 the provisions of section 162-A and with the provisions of the
37 federal Gramm-Leach-Bliley Act, 15 United States Code, Section
38 6801 et seq. (1999) and the applicable implementing federal
39 Privacy of Consumer Information regulations, as adopted by the
40 Office of the Comptroller of the Currency, 12 Code of Federal
41 Regulations, Part 40 (2001); the Board of Governors of the
42 Federal Reserve System, 12 Code of Federal Regulations, Part 216
43 (2001); the Federal Deposit Insurance Corporation, 12 Code of
44 Federal Regulations, Part 332 (2001); the Office of Thrift
45 Supervision, 12 Code of Federal Regulations, Part 573 (2001); or
46 the National Credit Union Administration, 12 Code of Federal
47 Regulations, Part 716 (2001). This subsection is not intended to
48 permit the release of health care information except as permitted
49 by Title 22, section 1711-C or Title 24-A, chapter 24.

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2 Any violation of this subsection is an anticompetitive or
4 deceptive practice for the purposes of this chapter and is
6 subject to the remedies provided in this chapter in addition to
8 remedies otherwise provided by law.'

Further amend the bill in Part C by inserting after section 2 the following:

10 'Sec. C-3. 24-A MRSA §2215, sub-§1, ¶J, as enacted by PL 1997,
12 c. 677, §3 and affected by §5, is repealed.

14 Sec. C-4. 24-A MRSA §2215, sub-§1, ¶¶O and P, as enacted by PL
16 1997, c. 667, §3 and affected by §5, are amended to read:

18 O. To a lienholder, mortgagee, assignee, lessor or other
20 person shown on the records of a carrier or producer as
22 having a legal or beneficial interest in a policy of
24 insurance, only if:

(1) No health care information is disclosed unless the
disclosure would otherwise be permitted by this
section; and

(2) The information disclosed is limited to that which
is reasonably necessary to permit that person to
protect its interests in the policy; or

28 P. To an affiliate whose only use of the information will
30 be in connection with an audit of the regulated insurance
32 entity or the marketing of a product or service of the
34 affiliate, if the information disclosed for marketing
36 purposes does not include health care information and if the
affiliate agrees not to disclose the information for any
other purpose or to unaffiliated persons; or

38 Sec. C-5. 24-A MRSA §2215, sub-§1, ¶Q is enacted to read:

40 O. To the extent permitted by the federal
42 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
44 subsection b, paragraph 2 and subsection e, as long as the
information disclosed does not include health care
information.

46 Sec. C-6. 24-A MRSA §2215, sub-§2 is enacted to read:

48 2. Opt in; disclosure to nonaffiliated 3rd party. A
regulated insurance entity or insurance support organization may
not disclose, directly or through an affiliate, to a
50 nonaffiliated 3rd party any nonpublic personal information unless

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2 the person to whom the information pertains has affirmatively
3 consented to the disclosure in writing and has not withdrawn that
4 consent. This subsection does not prohibit a regulated insurance
5 entity or insurance support organization from disclosing
6 nonpublic personal information to a nonaffiliated 3rd party to
7 the extent permitted by subsection 1 or the federal
8 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802,
9 subsection b, paragraph 2 and subsection e. As used in this
10 subsection, unless the context otherwise indicates, the terms
11 "affiliate," "nonaffiliated 3rd party" and "nonpublic personal
12 information" have the same meanings as in the federal
13 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
14 seq. (1999).'

15 Further amend the bill in Part D by inserting before section
16 1 the following:

17 'Sec. D-1. 32 MRSA §10206 is enacted to read:

18 **§10206. Disclosure of nonpublic personal information to**
19 **nonaffiliated 3rd party**

20 **1. Opt in; disclosure to nonaffiliated 3rd party.** A person
21 subject to this chapter may not disclose, directly or through an
22 affiliate, to a nonaffiliated 3rd party any nonpublic personal
23 information unless the person to whom the information pertains
24 has affirmatively consented to the disclosure in writing and has
25 not withdrawn that consent. This subsection does not prohibit a
26 person subject to this chapter from disclosing nonpublic personal
27 information to a nonaffiliated 3rd party to the extent permitted
28 by the federal Gramm-Leach-Bliley Act, 15 United States Code,
29 Section 6802, subsection b, paragraph 2 and subsection e.

30 **2. Use of terms.** As used in this section, unless the
31 context otherwise indicates, the terms "affiliate,"
32 "nonaffiliated 3rd party" and "nonpublic personal information"
33 have the same meanings as in the federal Gramm-Leach-Bliley Act,
34 15 United States Code, Section 6801 et seq. (1999).'

35 Further amend the bill in Part D by striking out all of
36 section 3 and inserting in its place the following:

37 'Sec. D-3. 32 MRSA §10313, sub-§1, ¶L is enacted to read:

38 **L.** Has failed to comply with the requirements of section
39 10206 or the privacy provisions of the federal
40 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801
41 et seq. (1999) and the implementing Regulation S-P, federal
42 Privacy of Consumer Financial Information, 17 Code of
43 Federal Regulations, Part 248 (2001) adopted by the United
44 States.

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2 States Securities and Exchange Commission. This paragraph
3 is not intended to permit the release of health care
4 information except as permitted by Title 22, section 1711-C
5 or Title 24-A, chapter 24.'

6 Further amend the bill by striking out all of Part E and
7 inserting in its place the following:

8 **PART E**

10 **Sec. E-1. 30-A MRSA §3964-A, sub-§4** is enacted to read:

12 **4. Privacy of consumer financial information.** The privacy
14 of consumer financial information is subject to the following.

16 A. Except as provided in paragraph B with respect to
17 disclosure of nonpublic personal information to
18 nonaffiliated 3rd parties, a pawnbroker shall comply with
19 the provisions of the federal Gramm-Leach-Bliley Act, 15
20 United States Code, Section 6801 et seq. (1999) and the
21 applicable implementing federal Privacy of Consumer
22 Information regulations, as adopted by the Office of the
23 Comptroller of the Currency, 12 Code of Federal Regulations,
24 Part 40 (2001); the Board of Governors of the Federal
25 Reserve System, 12 Code of Federal Regulations, Part 216
26 (2001); the Federal Deposit Insurance Corporation, 12 Code
27 of Federal Regulations, Part 332 (2001); the Office of
28 Thrift Supervision, 12 Code of Federal Regulations, Part 573
29 (2001); the National Credit Union Administration, 12 Code of
30 Federal Regulations, Part 716 (2001); the Federal Trade
31 Commission, 16 Code of Federal Regulations, Part 313 (2001);
32 or the Securities and Exchange Commission, 17 Code of
33 Federal Regulations, Part 248 (2001), if the pawnbroker is a
34 financial institution as defined in those regulations. This
35 paragraph is not intended to permit the release of health
36 care information except as permitted by Title 22, section
37 1711-C or Title 24-A, chapter 24.

38 B. A pawnbroker required to comply with paragraph A may not
39 disclose, directly or through an affiliate, to a
40 nonaffiliated 3rd party any nonpublic personal information
41 unless the person to whom the information pertains has
42 affirmatively consented to the disclosure in writing and has
43 not withdrawn that consent. This paragraph does not
44 prohibit a pawnbroker from disclosing nonpublic personal
45 information to a nonaffiliated 3rd party to the extent
46 permitted by the federal Gramm-Leach-Bliley Act, 15 United
47 States Code, Section 6802, subsection b, paragraph 2 and
48 subsection e.

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2 C. As used in this subsection, unless the context otherwise
3 indicates, the terms "affiliate," "nonaffiliated 3rd party"
4 and "nonpublic personal information" have the same meanings
5 as in the federal Gramm-Leach-Bliley Act, 15 United States
6 Code, Section 6801 et seq. (1999).

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8 **Sec. E-2. 32 MRSA §6146** is enacted to read:

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10 **§6146. Privacy of consumer financial information**

11 **1. Compliance with federal law and regulations.** Except as
12 provided in subsection 2 with respect to disclosure of nonpublic
13 personal information to nonaffiliated 3rd parties, a check
14 cashing business or foreign currency exchange business shall
15 comply with the provisions of the federal Gramm-Leach-Bliley Act,
16 15 United States Code, Section 6801 et seq. (1999) and the
17 applicable implementing federal Privacy of Consumer Information
18 regulations, as adopted by the Office of the Comptroller of the
19 Currency, 12 Code of Federal Regulations, Part 40 (2001); the
20 Board of Governors of the Federal Reserve System, 12 Code of
21 Federal Regulations, Part 216 (2001); the Federal Deposit
22 Insurance Corporation, 12 Code of Federal Regulations, Part 332
23 (2001); the Office of Thrift Supervision, 12 Code of Federal
24 Regulations, Part 573 (2001); the National Credit Union
25 Administration, 12 Code of Federal Regulations, Part 716 (2001);
26 the Federal Trade Commission, 16 Code of Federal Regulations,
27 Part 313 (2001); or the Securities and Exchange Commission, 17
28 Code of Federal Regulations, Part 248 (2001), if the check
29 cashing business or foreign currency exchange business is a
30 financial institution as defined in those regulations. This
31 subsection is not intended to permit the release of health care
32 information except as permitted by Title 22, section 1711-C or
33 Title 24-A, chapter 24.

34 **2. Opt in; disclosure to nonaffiliated 3rd party.** A check
35 cashing business or foreign currency exchange business required
36 to comply with subsection 1 may not disclose, directly or through
37 an affiliate, to a nonaffiliated 3rd party any nonpublic personal
38 information unless the person to whom the information pertains
39 has affirmatively consented to the disclosure in writing and has
40 not withdrawn that consent. This subsection does not prohibit a
41 check cashing business or foreign currency exchange business from
42 disclosing nonpublic personal information to a nonaffiliated 3rd
43 party to the extent permitted by the federal Gramm-Leach-Bliley
44 Act, 15 United States Code, Section 6802, subsection b, paragraph
45 2 and subsection e.

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47 **3. Use of terms.** As used in this section, unless the
48 context otherwise indicates, the terms "affiliate,"
49 "nonaffiliated 3rd party" and "nonpublic personal information"
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have the same meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999).

Sec. E-3. 32 MRSA §6162 is enacted to read:

§6162. Privacy of consumer financial information

1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties, a cash-dispensing machine operator shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the cash-dispensing machine operator is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

2. Opt in; disclosure to nonaffiliated 3rd party. A cash-dispensing machine operator required to comply with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information unless the person to whom the information pertains has affirmatively consented to the disclosure in writing and has not withdrawn that consent. This subsection does not prohibit a cash-dispensing machine operator from disclosing nonpublic personal information to a nonaffiliated 3rd party to the extent permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802, subsection b, paragraph 2 and subsection e.

3. Use of terms. As used in this section, unless the context otherwise indicates, the terms "affiliate," "nonaffiliated 3rd party" and "nonpublic personal information" have the same meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999).

Sec. E-4. 32 MRSA §11018 is enacted to read:

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1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties, a collection agency or repossession company shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the collection agency or repossession company is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

2. Opt in; disclosure to nonaffiliated 3rd party. A collection agency or repossession company required to comply with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information unless the person to whom the information pertains has affirmatively consented to the disclosure in writing and has not withdrawn that consent. This subsection does not prohibit a collection agency or repossession company from disclosing nonpublic personal information to a nonaffiliated 3rd party to the extent permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802, subsection b, paragraph 2 and subsection e.

3. Use of terms. As used in this section, unless the context otherwise indicates, the terms "affiliate," "nonaffiliated 3rd party" and "nonpublic personal information" have the same meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999).

Sec. E-5. 33 MRSA §528 is enacted to read:

§528. Privacy duties of settlement agents

1. Compliance with federal law and regulations. Except as provided in subsection 2 with respect to disclosure of nonpublic

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2 personal information to nonaffiliated 3rd parties, a settlement
3 agent shall comply with the provisions of the federal
4 Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et
5 seq. (1999) and the applicable implementing federal Privacy of
6 Consumer Information regulations, as adopted by the Office of the
7 Comptroller of the Currency, 12 Code of Federal Regulations, Part
8 40 (2001); the Board of Governors of the Federal Reserve System,
9 12 Code of Federal Regulations, Part 216 (2001); the Federal
10 Deposit Insurance Corporation, 12 Code of Federal Regulations,
11 Part 332 (2001); the Office of Thrift Supervision, 12 Code of
12 Federal Regulations, Part 573 (2001); the National Credit Union
13 Administration, 12 Code of Federal Regulations, Part 716 (2001);
14 the Federal Trade Commission, 16 Code of Federal Regulations,
15 Part 313 (2001); or the Securities and Exchange Commission, 17
16 Code of Federal Regulations, Part 248 (2001), if the settlement
17 agent is a financial institution as defined in those
18 regulations. This subsection is not intended to permit the
19 release of health care information except as permitted by Title
20 22, section 1711-C or Title 24-A, chapter 24.

21 **2. Opt in; disclosure to nonaffiliated 3rd party.** A
22 settlement agent required to comply with subsection 1 may not
23 disclose, directly or through an affiliate, to a nonaffiliated
24 3rd party any nonpublic personal information unless the person to
25 whom the information pertains has affirmatively consented to the
26 disclosure in writing and has not withdrawn that consent. This
27 subsection does not prohibit a settlement agent from disclosing
28 nonpublic personal information to a nonaffiliated 3rd party to
29 the extent permitted by the federal Gramm-Leach-Bliley Act, 15
30 United States Code, Section 6802, subsection b, paragraph 2 and
31 subsection e.

32 **3. Use of terms.** As used in this section, unless the
33 context otherwise indicates, the terms "affiliate,"
34 "nonaffiliated 3rd party" and "nonpublic personal information"
35 have the same meanings as in the federal Gramm-Leach-Bliley Act,
36 15 United States Code, Section 6801 et seq. (1999).

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40 **PART F**

41 **Sec. F-1. Department of Professional and Financial Regulation**
42 **report.** By January 15, 2002, the Department of Professional and
43 Financial Regulation shall report to the Joint Standing Committee
44 on Banking and Insurance on the following issues related to the
45 federal Gramm-Leach-Bliley Act, 15 United States Code, Section
46 6801 et seq. (1999) and the applicable implementing federal
47 regulations:
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COMMITTEE AMENDMENT "A" to S.P. 521, L.D. 1640

1. The legislative actions taken by the 50 states prior to January 1, 2002 or the status of any legislative actions in other states, including whether any states have enacted laws or rules more protective of consumer privacy;

2. Decisions by the Federal Trade Commission on the enforcement of state privacy laws that differ from the federal law and regulations against federally chartered financial institutions or credit unions authorized to do business in this State; and

3. The extent to which complaints have been made by consumers related to the sharing of personal information and any enforcement actions taken by agencies within the Department of Professional and Financial Regulation.'

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 Department of Professional and Financial Regulation will incur some minor additional costs to prepare and submit a report on the status of privacy legislation and rules in other states in response to the federal Gramm-Leach-Bliley Act. These costs can be absorbed within the department's existing budgeted resources.

Increasing the penalties for intentionally or knowingly violating the confidentiality provisions of the banking laws of the State will result in insignificant increases of General Fund revenues. The amount can not be determined at this time and will depend on the number of penalties assessed.'

SUMMARY

This amendment is the majority report of the committee. The amendment does the following.

1. It puts in place an opt-in requirement for the disclosure of nonpublic personal information to nonaffiliated 3rd parties under state law instead of the opt-out provision required under the federal Gramm-Leach-Bliley Act.

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2 2. It uses consistent terms and cross-references to the
various privacy regulations adopted by federal regulators and
clarifies that those regulations are applicable under state law
4 only to the extent applicable under federal law.

6 3. It clarifies that the privacy regulations are not
intended to permit the release of health care information except
8 as permitted under current state law.

10 4. It requires the Department of Professional and Financial
Regulation to submit a report to the Joint Standing Committee on
12 Banking and Insurance by January 15, 2002 on the status of
privacy legislation and rules in other states in response to the
14 federal Gramm-Leach-Bliley Act.

16 5. It also adds a fiscal note to the bill.