

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

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No. 783

H.P. 534

House of Representatives, February 26, 2009

An Act To Protect the Privacy of Consumer Financial Information

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LEGG of Kennebunk.
Cosponsored by Senator BARTLETT of Cumberland and
Representatives: ADAMS of Portland, AYOTTE of Caswell, BEAUDETTE of Biddeford,
BERRY of Bowdoinham, CONNOR of Kennebunk, CROCKETT of Augusta, DILL of Cape
Elizabeth, DOSTIE of Sabattus, EBERLE of South Portland, EVES of North Berwick,
FLAHERTY of Scarborough, FLEMINGS of Bar Harbor, FOSSEL of Alna, GOODE of
Bangor, HARLOW of Portland, HINCK of Portland, WALSH INNES of Yarmouth, JONES of
Mount Vernon, MacDONALD of Boothbay, McCABE of Skowhegan, MORRISON of South
Portland, NELSON of Falmouth, O'BRIEN of Lincolnville, PENDLETON of Scarborough,
PERCY of Phippsburg, PETERSON of Rumford, PRESCOTT of Topsham, RICHARDSON of
Warren, RUSSELL of Portland, SANBORN of Gorham, SMITH of Monmouth, TREAT of
Hallowell, VALENTINO of Saco, VAN WIE of New Gloucester, WAGNER of Lyman,
WEBSTER of Freeport, Senators: ALFOND of Cumberland, BRYANT of Oxford,
GERZOFKY of Cumberland, SCHNEIDER of Penobscot, SIMPSON of Androscoggin.

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

2 PART A

3 Sec. A-1. 9-A MRSA §3-314, as enacted by PL 2001, c. 262, Pt. A, §1, is
4 repealed and the following enacted in its place:

5 **§3-314. Privacy of consumer financial information**

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

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

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

34 Sec. A-2. 9-A MRSA §9-310, as corrected by RR 2001, c. 1, §14, is repealed and
35 the following enacted in its place:

36 **§9-310. Privacy of consumer financial information**

37 **1. Compliance with federal law and regulations.** Except as provided in subsection
38 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties,
39 a creditor shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15
40 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal

1 Privacy of Consumer Information regulations, as adopted by the Office of the
2 Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board
3 of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216
4 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part
5 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573
6 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part
7 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313
8 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations,
9 Part 248 (2001), if the creditor is a financial institution as defined in those regulations.
10 This subsection is not intended to permit the release of health care information except as
11 permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

12 2. Opt in; disclosure to nonaffiliated 3rd party. A creditor required to comply
13 with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd
14 party any nonpublic personal information unless the person to whom the information
15 pertains has affirmatively consented to the disclosure in writing and has not withdrawn
16 that consent. This subsection does not prohibit the disclosure of nonpublic personal
17 information by a creditor to a nonaffiliated 3rd party to the extent such a disclosure is
18 permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section
19 6802(b)(2) and (e).

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

24 Sec. A-3. 9-A MRSA §10-306, as amended by PL 2005, c. 274, §13, is repealed
25 and the following enacted in its place:

26 **§10-306. Privacy of consumer financial information**

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

42 2. Opt in; disclosure to nonaffiliated 3rd party. A credit services organization
43 required to comply with subsection 1 may not disclose, directly or through an affiliate, to

1 a nonaffiliated 3rd party any nonpublic personal information unless the person to whom
2 the information pertains has affirmatively consented to the disclosure in writing and has
3 not withdrawn that consent. This subsection does not prohibit the disclosure of nonpublic
4 personal information by a credit services organization to a nonaffiliated 3rd party to the
5 extent such a disclosure is permitted by the federal Gramm-Leach-Bliley Act, 15 United
6 States Code, Section 6802(b)(2) and (e).

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

11 **Sec. A-4. 9-A MRSA §11-122**, as enacted by PL 2001, c. 262, Pt. A, §4, is
12 repealed and the following enacted in its place:

13 **§11-122. Privacy of consumer financial information**

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

31 **2. Opt in; disclosure to nonaffiliated 3rd party.** A merchant required to comply
32 with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd
33 party any nonpublic personal information unless the person to whom the information
34 pertains has affirmatively consented to the disclosure in writing and has not withdrawn
35 that consent. This subsection does not prohibit the disclosure of nonpublic personal
36 information by a merchant to a nonaffiliated 3rd party to the extent such a disclosure is
37 permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section
38 6802(b)(2) and (e).

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

1 **Sec. A-5. 9-B MRSA §161, sub-§2, ¶M,** as enacted by PL 2001, c. 262, Pt. B,
2 §3, is amended to read:

3 M. ~~The~~ Except as provided in section 162-A, the sharing of information to the extent
4 permitted by the provisions of the federal Gramm-Leach-Bliley Act, 15 United States
5 Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of
6 Consumer Information regulations, as adopted by the Office of the Comptroller of the
7 Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of
8 the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the
9 Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332
10 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573
11 (2001); the National Credit Union Administration, 12 Code of Federal Regulations,
12 Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations,
13 Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal
14 Regulations, Part 248 (2001). This paragraph is not intended to permit the release of
15 health care information except as permitted by Title 22, section 1711-C or Title 24-A,
16 chapter 24; or

17 **Sec. A-6. 9-B MRSA §162-A** is enacted to read:

18 **§162-A. Disclosure of nonpublic personal information to nonaffiliated 3rd party**

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

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

33 **Sec. A-7. 9-B MRSA §241, sub-§13,** as reallocated by RR 2001, c. 1, §15, is
34 amended to read:

35 **13. Privacy of consumer information.** A financial institution authorized to do
36 business in this State or a credit union authorized to do business in this State shall comply
37 with the provisions of section 162-A and the federal Gramm-Leach-Bliley Act, 15 United
38 States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy
39 of Consumer Information regulations, as adopted by the Office of the Comptroller of the
40 Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the
41 Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal
42 Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the

1 Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); or the
2 National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001).
3 This subsection is not intended to permit the release of health care information except as
4 permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

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

8 **Sec. A-8. 24-A MRSA §2215, sub-§1, ¶J**, as enacted by PL 1997, c. 677, §3 and
9 affected by §5, is repealed.

10 **Sec. A-9. 24-A MRSA §2215, sub-§1, ¶Q**, as amended by PL 2005, c. 127, §2,
11 is further amended to read:

12 Q. In order to protect the public health and welfare, to state governmental entities
13 only insofar as necessary to enable those entities to perform their duties when
14 reporting is required or authorized by law; ~~or~~

15 **Sec. A-10. 24-A MRSA §2215, sub-§1, ¶R**, as enacted by PL 2005, c. 127, §3,
16 is amended to read:

17 R. By a regulated insurance entity that is also a covered entity or is a business
18 associate of a covered entity under the standards for privacy of individually
19 identifiable health information, 45 Code of Federal Regulations, Parts 160 and 164
20 (2004), if the disclosure is made for purposes of treatment, payment or health care
21 operations of the disclosing or receiving entity and is made in full compliance with
22 the requirements of the standards for privacy of individually identifiable health
23 information and any applicable business associate agreement; or

24 **Sec. A-11. 24-A MRSA §2215, sub-§1, ¶S** is enacted to read:

25 S. To the extent permitted by the federal Gramm-Leach-Bliley Act, 15 United States
26 Code, Section 6802(b)(2) and (e) as long as the information disclosed does not
27 include health care information.

28 **Sec. A-12. 24-A MRSA §2215, sub-§2** is enacted to read:

29 **2. Opt in; disclosure to nonaffiliated 3rd party.** A regulated insurance entity or
30 insurance support organization may not disclose, directly or through an affiliate, to a
31 nonaffiliated 3rd party any nonpublic personal information unless the person to whom the
32 information pertains has affirmatively consented to the disclosure in writing and has not
33 withdrawn that consent. This subsection does not prohibit the disclosure of nonpublic
34 personal information by a regulated insurance entity or insurance support organization to
35 a nonaffiliated 3rd party to the extent such a disclosure is permitted by subsection 1 or the
36 federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6802(b)(2) and (e). As
37 used in this subsection, unless the context otherwise indicates, the terms "affiliate,"
38 "nonaffiliated 3rd party" and "nonpublic personal information" have the same meanings
39 as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq.
40 (1999).

1 **Sec. A-13. 30-A MRSA §3964-A, sub-§4**, as enacted by PL 2001, c. 262, Pt. E,
2 §1, is repealed and the following enacted in its place:

3 **4. Privacy of consumer financial information.** The privacy of consumer financial
4 information is subject to this subsection.

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

21 B. A pawnbroker required to comply with paragraph A may not disclose, directly or
22 through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information
23 unless the person to whom the information pertains has affirmatively consented to the
24 disclosure in writing and has not withdrawn that consent. This paragraph does not
25 prohibit the disclosure of nonpublic personal information by a pawnbroker to a
26 nonaffiliated 3rd party to the extent such a disclosure is permitted by the federal
27 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802(b)(2) and (e).

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

32 **Sec. A-14. 32 MRSA §6146**, as enacted by PL 2001, c. 262, Pt. E, §2, is repealed
33 and the following enacted in its place:

34 **§6146. Privacy of consumer financial information**

35 **1. Compliance with federal law and regulations.** Except as provided in subsection
36 2 with respect to disclosure of nonpublic personal information to nonaffiliated 3rd parties,
37 a check cashing business or foreign currency exchange business shall comply with the
38 provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801
39 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information
40 regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of
41 Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve
42 System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance
43 Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift

1 Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union
2 Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade
3 Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and
4 Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the check
5 cashing business or foreign currency exchange business is a financial institution as
6 defined in those regulations. This subsection is not intended to permit the release of
7 health care information except as permitted by Title 22, section 1711-C or Title 24-A,
8 chapter 24.

9 **2. Opt in; disclosure to nonaffiliated 3rd party.** A check cashing business or
10 foreign currency exchange business required to comply with subsection 1 may not
11 disclose, directly or through an affiliate, to a nonaffiliated 3rd party any nonpublic
12 personal information unless the person to whom the information pertains has
13 affirmatively consented to the disclosure in writing and has not withdrawn that consent.
14 This subsection does not prohibit the disclosure of nonpublic personal information by a
15 check cashing business or foreign currency exchange business to a nonaffiliated 3rd party
16 to the extent such a disclosure is permitted by the federal Gramm-Leach-Bliley Act, 15
17 United States Code, Section 6802(b)(2) and (e).

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

22 **Sec. A-15. 32 MRSA §6162,** as enacted by PL 2001, c. 262, Pt. E, §3, is repealed
23 and the following enacted in its place:

24 **§6162. Privacy of consumer financial information**

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

40 **2. Opt in; disclosure to nonaffiliated 3rd party.** An operator required to comply
41 with subsection 1 may not disclose, directly or through an affiliate, to a nonaffiliated 3rd
42 party any nonpublic personal information unless the person to whom the information
43 pertains has affirmatively consented to the disclosure in writing and has not withdrawn

1 that consent. This subsection does not prohibit the disclosure of nonpublic personal
2 information by an operator to a nonaffiliated 3rd party to the extent such a disclosure is
3 permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section
4 6802(b)(2) and (e).

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

9 **Sec. A-16. 32 MRSA §11018,** as enacted by PL 2001, c. 262, Pt. E, §4, is
10 repealed and the following enacted in its place:

11 **§11018. Privacy of consumer financial information**

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

28 **2. Opt in; disclosure to nonaffiliated 3rd party.** A collection agency or
29 repossession company required to comply with subsection 1 may not disclose, directly or
30 through an affiliate, to a nonaffiliated 3rd party any nonpublic personal information
31 unless the person to whom the information pertains has affirmatively consented to the
32 disclosure in writing and has not withdrawn that consent. This subsection does not
33 prohibit the disclosure of nonpublic personal information by a collection agency or
34 repossession company to a nonaffiliated 3rd party to the extent such a disclosure is
35 permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code, Section
36 6802(b)(2) and (e).

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

41 **Sec. A-17. 32 MRSA §16411, sub-§9,** as enacted by PL 2005, c. 65, Pt. A, §2, is
42 amended to read:

1 **9. Privacy provisions.** A broker-dealer licensed or required to be licensed under
2 this chapter and an investment adviser licensed or required to be licensed under this
3 chapter shall comply with the privacy provisions of the federal Gramm-Leach-Bliley Act,
4 15 United States Code, Section 6801 et seq. (1999) and the implementing Regulation S-P,
5 federal Privacy of Consumer Financial Information, 17 Code of Federal Regulations, Part
6 248 (2001) adopted by the Securities and Exchange Commission. This subsection is not
7 intended to permit the release of health care information except as permitted by Title 22,
8 section 1711-C or Title 24-A, chapter 24.

9 A. A person subject to this chapter may not disclose, directly or through an affiliate,
10 to a nonaffiliated 3rd party any nonpublic personal information unless the person to
11 whom the information pertains has affirmatively consented to the disclosure in
12 writing and has not withdrawn that consent. This paragraph does not prohibit the
13 disclosure of nonpublic personal information by a person subject to this chapter to a
14 nonaffiliated 3rd party to the extent such a disclosure is permitted by the federal
15 Gramm-Leach-Bliley Act, 15 United States Code, Section 6802(b)(2) and (e). As
16 used in this paragraph, unless the context otherwise indicates, the terms "affiliate,"
17 "nonaffiliated 3rd party" and "nonpublic personal information" have the same
18 meanings as in the federal Gramm-Leach-Bliley Act, 15 United States Code, Section
19 6801 et seq. (1999).

20 **Sec. A-18. 33 MRSA §528**, as enacted by PL 2001, c. 262, Pt. E, §5, is repealed
21 and the following enacted in its place:

22 **§528. Privacy duties of settlement agents**

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

38 **2. Opt in; disclosure to nonaffiliated 3rd party.** A settlement agent required to
39 comply with subsection 1 may not disclose, directly or through an affiliate, to a
40 nonaffiliated 3rd party any nonpublic personal information unless the person to whom the
41 information pertains has affirmatively consented to the disclosure in writing and has not
42 withdrawn that consent. This subsection does not prohibit the disclosure of nonpublic
43 personal information by a settlement agent to a nonaffiliated 3rd party to the extent such a

1 disclosure is permitted by the federal Gramm-Leach-Bliley Act, 15 United States Code,
2 Section 6802(b)(2) and (e).

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

7 PART B

8 **Sec. B-1. Statutory referendum procedure; submission at election; form**
9 **of question; effective date.** This Act must be submitted to the legal voters of the State
10 at a statewide election held in the month of November following passage of this Act. The
11 municipal officers of this State shall notify the inhabitants of their respective cities, towns
12 and plantations to meet, in the manner prescribed by law for holding a statewide election,
13 to vote on the acceptance or rejection of this Act by voting on the following question:

14 "Do you favor requiring financial services providers to obtain permission from
15 individuals before disclosing nonpublic personal information to nonaffiliated 3rd
16 parties?"

17 The legal voters of each city, town and plantation shall vote by ballot on this question
18 and designate their choice by a cross or check mark placed within a corresponding square
19 below the word "Yes" or "No." The ballots must be received, sorted, counted and
20 declared in open ward, town and plantation meetings and returns made to the Secretary of
21 State in the same manner as votes for members of the Legislature. The Governor shall
22 review the returns. If a majority of the legal votes are cast in favor of this Act, the
23 Governor shall proclaim the result without delay and this Act becomes effective 30 days
24 after the date of the proclamation.

25 The Secretary of State shall prepare and furnish to each city, town and plantation all
26 ballots, returns and copies of this Act necessary to carry out the purposes of this
27 referendum.

28 SUMMARY

29 Currently, state law conforms to the opt-out provisions of the federal Gramm-Leach-
30 Bliley Act regarding the disclosure of nonpublic personal information. This bill puts in
31 place an opt-in requirement so that financial services providers, including banks, credit
32 unions, securities firms and mortgage companies, must have permission from individuals
33 before disclosing nonpublic personal information to nonaffiliated 3rd parties. The bill is
34 contingent on approval by voters at a statewide referendum.