L.D. 1439

Date: 6/4/9 (Filing No. H-532)

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STATE OF MAINE

HOUSE OF REPRESENTATIVES

124TH LEGISLATURE

FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 523, L.D. 1439, Bill, "An Act To Conform State Mortgage Laws with Federal Laws"

Amend the amendment on page 2 by striking out all of paragraph A (page 2, lines 10 to 28 in amendment) and inserting the following:

'A. A creditor may not extend a higher-priced mortgage to a consumer based on the value of the consumer's collateral without regard to the consumer's repayment ability as of consummation, including the consumer's current and reasonably expected income, employment, assets other than the collateral, credit history, debt-to-income ratio, current obligations and mortgage-related obligations.

(1) For purposes of this paragraph, mortgage-related obligations are expected property taxes, premiums for mortgage-related insurance required by the creditor as set forth in paragraph C and similar expenses.

(2) Under this paragraph, a creditor must verify the consumer's repayment ability as follows.

(a) A creditor must verify amounts of income or assets that it relies on to determine repayment ability, including expected income or assets, by the consumer's federal Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records or other 3rd-party documents that provide reasonably reliable evidence of the consumer's income or assets. For the purposes of this division, "reasonably reliable evidence of the consumer's income or assets" includes, but is not limited to, statements from investment advisors, broker-dealers and others in a fiduciary relationship with the consumer as long as the statements reflect the consumer's actual income and not estimated, projected or anticipated income or a range of earnings for a consumer's type or class of employment.

(b) A creditor must verify the consumer's current obligations.

(3) A creditor is presumed to have complied with this paragraph with respect to a transaction if the creditor:

(a) Verifies the consumer's repayment ability as provided in subparagraphs (1) and (2);

(b) Determines the consumer's repayment ability using the largest payment of principal and interest scheduled in the first 7 years following consummation and taking into account current obligations and mortgage-related obligations; and

(c) Assesses the consumer's repayment ability taking into account at least one of the following:

(i) The ratio of total debt obligations to income; and

(ii) The income the consumer will have after paying debt obligations.

(4) Notwithstanding subparagraph (3), no presumption of compliance is available for a transaction for which:

(a) The regular periodic payments for the first 7 years would cause the principal balance to increase; or

(b) The term of the loan is less than 7 years and the regular periodic payments when aggregated do not fully amortize the outstanding principal balance.

(5) This paragraph does not apply to a temporary or so-called "bridge" loan with a term of 12 months or less, such as a loan to purchase a new dwelling when the consumer plans to sell a current dwelling within 12 months.'

SUMMARY

This amendment incorporates the changes proposed to Committee Amendment "A" made in Senate Amendment "D." This amendment adds language from current law that describes the permissible 3rd-party documents a creditor may use as reasonably reliable evidence of a consumer's income or assets.

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