

MAINE STATE LEGISLATURE

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REPORT "A"

L.D. 1439

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INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

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

Amend the bill in Part A by striking out all of section 4 (page 1, lines 27 to 35 and page 2, lines 2 to 6 in L.D.) and inserting the following:

'Sec. A-4. 9-A MRSA §8-103, sub-§1-A, ¶U, as amended by PL 2007, c. 471, §5 and affected by §18, is repealed and the following enacted in its place:

U. "Points and fees" has the same meaning as set forth in 12 Code of Federal Regulations, Section 226.32(b)(1). In addition, "points and fees" includes:

(1) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents;

(2) All prepayment fees and penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and

(3) All compensation paid directly or indirectly to a mortgage broker from any source, including a mortgage broker that originates a loan in its own name in a table-funded transaction.

For open-end loans, points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties that may be charged or collected under the terms of the loan documents and the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.'

Amend the bill in Part A by striking out all of section 5 (page 2, lines 7 to 13 in L.D.) and inserting the following:

'Sec. A-5. 9-A MRSA §8-103, sub-§1-A, ¶V, as enacted by PL 2007, c. 273, Pt. A, §4 and affected by §§37 and 41, is amended to read:

COMMITTEE AMENDMENT

1 V. "Rate spread home loan" means any loan for which the rate spread must be
2 reported under the Home Mortgage Disclosure Act of 1975, Regulation C except that,
3 beginning October 1, 2009, "rate spread home loan" has the same meaning as set
4 forth for "higher-priced mortgage loans" in 12 Code of Federal Regulations, Section
5 203.4(a)(12); and 226.35(a). In addition, "rate spread home loan" means any loan
6 that meets the criteria of a high-rate, high-fee mortgage.'

7 Amend the bill in Part A in section 13 in §8-206-I in subsection 1 by striking out all
8 of paragraph A (page 9, lines 26 to 40 and page 10, lines 1 to 28 in L.D.) and inserting the
9 following:

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

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

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

20 (a) A creditor must verify amounts of income or assets that it relies on to
21 determine repayment ability, including expected income or assets, by the
22 consumer's federal Internal Revenue Service Form W-2, tax returns, payroll
23 receipts, financial institution records or other 3rd-party documents that
24 provide reasonably reliable evidence of the consumer's income or assets.

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

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

29 Amend the bill in Part A in section 13 in §8-206-I in subsection 1 in paragraph B by
30 striking out all of the first blocked paragraph (page 10, lines 29 to 37 in L.D.) and
31 inserting the following:

32 'B. Beginning October 1, 2009, a higher-priced mortgage loan may not include a
33 penalty for paying all or part of the principal before the date on which the principal is
34 due except as allowed under subparagraph (1). The exception under subparagraph (1)
35 does not apply to high-rate, high-fee mortgages, which are subject to section
36 8-206-H, subsection 1, paragraph B, subparagraph (4), and alternative mortgage
37 transactions, which are subject to section 9-308.'

38 Amend the bill in Part A in section 14 in §8-206-J in subsection 2 by striking out all
39 of paragraph B (page 13, lines 4 to 9 in L.D.) and inserting the following:

40 'B. A borrower may not be charged for a late payment unless the loan documents
41 specifically authorize the charge, the charge is not imposed unless the payment is past
42 due for 10 days or more and the charge does not exceed 5% of the amount of the late

1 payment. A late payment charge may not be imposed more than once with respect to
2 a particular late payment. If a late payment charge is deducted from a payment made
3 on the residential mortgage loan and that deduction results in a subsequent default on
4 a subsequent payment, a late payment charge may not be imposed for that default. A
5 creditor or servicer may apply any payment made in the order of maturity to a prior
6 period's payment due even if the result is late payment charges accruing on
7 subsequent payments due.'

8 Amend the bill in Part B in section 1 in Article 13 in §13-102 in subsection 1 by
9 striking out all of paragraph A (page 15, lines 1 and 2 in L.D.) and inserting the
10 following:

11 'A. The receipt, collection, distribution and analysis of information common for the
12 processing, underwriting or modification of a residential mortgage loan; and'

13 Amend the bill in Part B in section 1 in Article 13 in §13-103 in subsection 2 by
14 inserting after paragraph D the following:

15 'E. An employee of a nonprofit organization exempt from taxation under the United
16 States Internal Revenue Code, Section 501(c)(3) and engaged in the financing of
17 housing for low-income people under a program designed specifically for that
18 purpose, to the extent exempted by the administrator by rule, advisory ruling or
19 interpretation, after taking into consideration any rule, advisory ruling or
20 interpretation issued by the United States Department of Housing and Urban
21 Development.

22 F. A retail seller of a manufactured home to the extent determined by any rule,
23 advisory ruling or interpretation issued by the United States Department of Housing
24 and Urban Development.'

25 Amend the bill in Part B in section 1 in Article 13 in §13-104 in subsection 4 in
26 paragraph B by striking out all of subparagraph (1) (page 18, lines 27 and 28 in L.D.) and
27 inserting the following:

28 '(1) An independent credit report from a consumer reporting agency described in
29 the federal Fair Credit Reporting Act, Section 603(p) except that information on a
30 credit report may not be used as the sole basis for the denial of a mortgage loan
31 originator license pursuant to section 13-105; and'

32 Amend the bill in Part B in section 1 in Article 13 in §13-105 in subsection 2 by
33 striking out all of the first indented paragraph (page 19, lines 3 and 4 in L.D.) and
34 inserting the following:

35 '2. No felony conviction. Except if the administrator determines that a conviction
36 as described in paragraph A does not affect the applicant's demonstration of good
37 character and fitness under subsection 3, the applicant has not been convicted of, or
38 pleaded guilty or nolo contendere to, a felony in a domestic, foreign or military court.'

39 Amend the bill in Part B in section 1 in Article 13 in §13-116 by striking out all of
40 subsections 13 and 14 (page 28, lines 29 to 33 in L.D.) and inserting the following:

