

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REPORT "B"

L.D. 1439

Date: 5-26-09

(Filing No. S-222)

INSURANCE AND FINANCIAL SERVICES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "B" 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 A-4. 9-A MRSA §8-103, sub-§1-A, ¶U, as amended by PL 2007, c. 471, §5 and affected by §18, is repealed and the following enacted in its place: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 in paragraph B by
8 striking out all of the first blocked paragraph (page 10, lines 29 to 37 in L.D.) and
9 inserting the following:

10 'B. Beginning October 1, 2009, a higher-priced mortgage loan may not include a
11 penalty for paying all or part of the principal before the date on which the principal is
12 due except as allowed under subparagraph (1). The exception under subparagraph (1)
13 does not apply to high-rate, high-fee mortgages, which are subject to section
14 8-206-H, subsection 1, paragraph B, subparagraph (4), and alternative mortgage
15 transactions, which are subject to section 9-308.'

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

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

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

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

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

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

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

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

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

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

7 '13. Excessive insurance. Cause or require a borrower to obtain property insurance
8 coverage in an amount that exceeds the replacement cost of the improvements as
9 established by the property insurer;

10 14. Account. Fail to truthfully account for money belonging to a party to a
11 residential mortgage loan transaction; or

12 15. Good faith and fair dealing. Fail to comply with the duties of good faith and
13 fair dealing as required in section 10-303-A.'

14 **SUMMARY**

15 This amendment makes clarifying changes to retain existing provisions in Maine law
16 not intended to be changed in the bill.

17 The amendment makes changes to Part B of the bill to provide for an exemption from
18 licensing as a mortgage loan originator for nonprofit organizations engaged in financing
19 housing for low-income persons and for retail sellers of manufactured homes to the extent
20 determined by the federal Department of Housing and Urban Development. The
21 amendment clarifies the requirements for licensing related to an applicant's criminal
22 history and credit history. The amendment also includes a provision making the duties of
23 good faith and fair dealing apply to mortgage loan originators.