

# MAINE STATE LEGISLATURE

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REPORT "C"

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

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

'PART A

Sec. A-1. 9-A MRSA §8-103, sub-§1-A, ¶Q-1 is enacted to read:

Q-1. "Higher-priced mortgage loan" means either:

(1) A residential mortgage loan that is a "nontraditional mortgage" as defined in paragraph T; or

(2) A "rate spread home loan" as defined in paragraph V.

Sec. A-2. 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:

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

Sec. A-3. 9-A MRSA §8-103, sub-§1-A, ¶BB, as amended by PL 2007, c. 471, §7 and affected by §18, is repealed.

Sec. A-4. 9-A MRSA §8-206-D, sub-§1, ¶B, as amended by PL 2007, c. 471, §11 and affected by §18, is further amended to read:

B. A creditor may not knowingly or intentionally engage in the act or practice of flipping a residential mortgage loan when making a subprime higher-priced mortgage loan. The administrator shall adopt rules defining with reasonable specificity the

1 requirements for compliance with this paragraph. Rules adopted pursuant to this  
2 paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

3 **Sec. A-5. 9-A MRSA §8-206-D, sub-§1, ¶G**, as repealed and replaced by PL  
4 2007, c. 471, §12 and affected by §18, is amended to read:

5 G. A creditor may not extend a ~~subprime~~ higher-priced mortgage loan to a borrower  
6 unless a reasonable creditor would believe at the time the loan is made that the  
7 borrower will be able to make the scheduled payments associated with the loan.

8 (1) The determination of a borrower's reasonable ability to repay a  
9 ~~subprime~~ higher-priced mortgage loan must be documented or otherwise  
10 evidenced in writing and must include, without limitation, a consideration of the  
11 following:

12 (a) The borrower's income;

13 (b) The borrower's credit history;

14 (c) The borrower's current obligations, including other secured and  
15 unsecured debts;

16 (d) The borrower's employment status;

17 (e) The debt-to-income ratio of the borrower's monthly gross income,  
18 including the borrower's total monthly housing-related payments including  
19 all principal, interest, taxes and insurance; and

20 (f) The borrower's other available financial resources, excluding the  
21 borrower's equity in the principal dwelling that secures or would secure the  
22 ~~subprime~~ higher-priced mortgage loan.

23 (2) The evaluation of the borrower's reasonable ability to repay the  
24 ~~subprime~~ higher-priced mortgage loan must include:

25 (a) The monthly payment amounts based on, at a minimum, the fully  
26 indexed rate, assuming a fully amortizing payment schedule;

27 (b) The verification of income by:

28 (i) Review of a borrower's tax returns, payroll receipts or records of  
29 accounts from a borrower's financial institution, or reasonable 3rd-party  
30 verification of those returns, receipts or records;

31 (ii) Review of reasonable alternatives to the borrower's tax returns,  
32 payroll receipts or records of accounts from a borrower's financial  
33 institution, including, but not limited to, statements from investment  
34 advisors, broker-dealers and others in a fiduciary relationship with the  
35 borrower as long as the reasonable alternatives reflect the borrower's  
36 actual income and not estimated, projected, anticipated or a range of  
37 earnings for a borrower's type or class of employment; and

1 (c) For products that permit negative amortization, a repayment analysis  
2 based upon the initial loan amount plus any balance increase that may accrue  
3 from the negative amortization provision.

4 (3) The administrator may adopt, amend and repeal routine technical rules in  
5 accordance with Title 5, chapter 375, subchapter 2-A defining with reasonable  
6 specificity the requirements set forth in subparagraphs (1) and (2). In adopting  
7 rules under this subparagraph, the administrator shall give due consideration and  
8 weight to the following federal regulations and guidelines, as amended from time  
9 to time:

- 10 (a) Final Interagency Guidance on Nontraditional Mortgage Product Risks;
- 11 (b) Credit Risk Management Guidance for Home Equity Lending;
- 12 (c) Expanded Guidance for Subprime Lending Programs; and
- 13 (d) Interagency Guidance on Subprime Lending.'

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

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

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

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

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

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

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

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

