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Committee Amendment "A" (H-427)
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L.D. 290

SMC ROPS

Date: 5/31/11 (Filing No. H-427)

INSURANCE AND FINANCIAL SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 234, L.D. 290, Bill, "An Act To Amend the Maine Secure and Fair Enforcement for Mortgage Licensing Act of 2009"

Amend the bill by striking out all of section 1 and inserting the following:

'**Sec. 1. 9-A MRSA §13-102, sub-§1-A** is enacted to read:

1-A. Credit sale. "Credit sale" means the sale of a dwelling or residential real estate purchased for a personal, family or household purpose in which credit is extended by the seller and either the debt is payable in installments or a finance charge is made.

Sec. 2. 9-A MRSA §13-102, sub-§13, as enacted by PL 2009, c. 362, Pt. B, §1, is amended to read:

13. Residential mortgage loan. "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. "Residential mortgage loan" does not include a credit sale unless the credit sale is determined to be a residential mortgage loan by any rule, advisory ruling or interpretation issued by the administrator or by the United States Department of Housing and Urban Development or successor federal agency responsible for ensuring state compliance with the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 United States Code, Sections 5101 to 5113.

Sec. 3. 9-A MRSA §13-103, sub-§2, ¶G is enacted to read:

G. An individual who, during any calendar year or other 12-month period, takes applications for or offers or negotiates terms of not more than the maximum number of residential mortgage loans to qualify for exemption as determined by rule, advisory ruling or interpretation issued by the administrator or by the United States Department of Housing and Urban Development or successor federal agency responsible for ensuring state compliance with the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 United States Code, Sections 5101 to 5113.

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Sec. 4. 9-A MRSA §13-112, sub-§5 is enacted to read:

5. Effect on mortgage loans. This article may not be construed to provide that a mortgage loan originator's good faith failure to comply with the requirements of this article affects the validity or enforceability of the obligations under any residential mortgage loan resulting from a transaction in which the mortgage loan originator participated.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment strikes the provision in the bill that exempts individuals who do not offer or originate more than 5 loans in any one calendar year from having to be licensed under the Maine Secure and Fair Enforcement for Mortage Licensing Act of 2009. The amendment amends the Act to add an exemption for a de minimis number of transactions per year not to exceed the limit set forth in regulations adopted by the United States Department of Housing and Urban Development. The amendment defines "credit sale" to clarify that credit extended by a property owner to the buyer when the property is sold is not subject to licensing. The amendment also clarifies that the enforceability of mortgage loans is not affected by a good faith failure to comply with the terms of the Act. The amendment retains the bill's retroactive date of January 1, 2011.

FISCAL NOTE REQUIRED
(See attached)

Approved: 05/18/11 mac

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125th MAINE LEGISLATURE

LD 290 **LR 1146(02)**

An Act To Amend the Maine Secure and Fair Enforcement for Mortgage Licensing Act of 2009

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Insurance and Financial Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Bureau of Consumer Credit Protection in the Department of Professional and Financial Regulation are expected to be minor and can be absorbed within existing budgeted resources.