

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1410

S.P. 504

In Senate, April 23, 2013

An Act To Update the Fair Credit Reporting Act Consistent with Federal Law

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.
Cosponsored by Representative BECK of Waterville and
Representative: MORRISON of South Portland.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA c. 209-B** is enacted to read:

3 **CHAPTER 209-B**

4 **FAIR CREDIT REPORTING ACT**

5 **§1306. Short title**

6 This chapter may be known and cited as "the Fair Credit Reporting Act."

7 **§1307. Statement of purpose**

8 **1. Findings.** The Legislature makes the following findings.

9 A. Creditors, insurers and prospective employers are dependent upon fair and
10 accurate consumer reporting. Inaccurate consumer reports directly impair the
11 efficiency of economic decisions, and unfair consumer reporting methods undermine
12 the public confidence that is essential to our economic system.

13 B. An elaborate mechanism has been developed for investigating and evaluating the
14 creditworthiness, credit standing, credit capacity, character and general reputation of
15 consumers.

16 C. Consumer reporting agencies have assumed a vital role in assembling and
17 evaluating consumer credit and other information on consumers.

18 D. There is a need to ensure that consumer reporting agencies exercise their grave
19 responsibilities with fairness, impartiality and a respect for the consumer's right to
20 privacy.

21 **2. Purposes.** The purposes of this chapter are to:

22 A. Require consumer reporting agencies to adopt reasonable procedures for meeting
23 the needs of commerce for consumer credit, personnel, insurance and other
24 information in a manner that is fair and equitable to the consumer, with regard for
25 confidentiality, accuracy, relevancy and proper use of this information in accordance
26 with the requirements of this chapter; and

27 B. Supplement the provisions of the United States Fair Credit Reporting Act of the
28 United States Consumer Credit Protection Act, 15 United States Code, Section 1681
29 et seq.

30 **§1308. Definitions**

31 As used in this chapter, unless the context otherwise indicates, the following terms
32 have the following meanings. Unless the context otherwise indicates, any word or phrase
33 that is not defined in this chapter but that is defined in the federal Fair Credit Reporting
34 Act has the meaning set forth in the federal Fair Credit Reporting Act.

35 **1. Administrator.** "Administrator" means the Superintendent of Consumer Credit
36 Protection within the Department of Professional and Financial Regulation.

1 **2. Consumer.** "Consumer" means an individual about whom a consumer report or
2 an investigative consumer report has been prepared by a consumer reporting agency or an
3 office of a consumer reporting agency.

4 **3. Consumer reporting agency.** "Consumer reporting agency" means a person that,
5 for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or
6 in part in the practice of assembling or evaluating consumer credit information or other
7 information on consumers for the purpose of furnishing consumer reports or investigative
8 consumer reports to 3rd parties.

9 **4. Federal Fair Credit Reporting Act.** "Federal Fair Credit Reporting Act" means
10 the Fair Credit Reporting Act, 15 United States Code, Section 1681 et seq., as amended.

11 **5. Person subject to this chapter.** "Person subject to this chapter" means a person
12 subject to the provisions of the federal Fair Credit Reporting Act and a consumer
13 reporting agency.

14 **6. Proper identification.** "Proper identification" means that information generally
15 considered sufficient to identify a person.

16 **7. Security freeze.** "Security freeze" means a notice placed in a consumer report at
17 the request of the consumer pursuant to section 1310 that prohibits a consumer reporting
18 agency from releasing the consumer report or any information in the report without that
19 consumer's express authorization.

20 **8. Supervised financial organization.** "Supervised financial organization" has the
21 same meaning as in Title 9-A, section 1-301, subsection 38-A.

22 **§1309. Incorporation by reference of federal law and rulemaking**

23 **1. Federal law and regulation.** A person subject to this chapter shall comply with
24 the federal Fair Credit Reporting Act and the provisions of 12 Code of Federal
25 Regulations, Section 1022.1 et seq., as amended.

26 **2. Rules.** Subject to the limitations in 15 United States Code, Section 1681t, the
27 administrator may adopt rules not inconsistent with the provisions of 12 Code of Federal
28 Regulations, Section 1022.1 et seq., as amended; 16 Code of Federal Regulations, Section
29 681.1 et seq.; and 16 Code of Federal Regulations, Section 682.1 et seq. Rules adopted
30 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
31 subchapter 2-A.

32 **§1310. Additional requirements for persons subject to this chapter**

33 In addition to the compliance requirements of section 1309, subsection 1, a person
34 subject to this chapter shall comply with this section.

35 **1. Security freeze by consumer reporting agency; time in effect.** A person
36 subject to this chapter shall comply with the following provisions regarding security
37 freezes.

1 A. A consumer may place a security freeze on the consumer's consumer report as
2 follows.

3 (1) A consumer who has been the victim of identity theft may place a security
4 freeze on the consumer's consumer report by making a request in writing by
5 certified mail to a consumer reporting agency with a valid copy of a police report,
6 investigative report or complaint the consumer has filed with a law enforcement
7 agency about unlawful use of personal information by another person. In the case
8 of a victim of identity theft, a consumer reporting agency may not charge a fee
9 for placing, removing or suspending for a specific party or period of time a
10 security freeze on a consumer report.

11 (2) A consumer who has not been the victim of identity theft may place a
12 security freeze on the consumer's consumer report by making a request in writing
13 by certified mail to a consumer reporting agency. A consumer reporting agency
14 may charge a fee of no more than \$10 to a consumer for each security freeze,
15 removal of a security freeze or temporary suspension of a security freeze for a
16 period of time or for reissuing the same or a new personal identification number
17 if the consumer fails to retain the original personal identification number
18 provided by the agency under paragraph D. A consumer reporting agency may
19 charge a fee of not more than \$12 for a temporary suspension of a security freeze
20 for a specific party.

21 B. Subject to the exceptions in paragraph M, when a security freeze has been placed
22 on an account the consumer reporting agency may not:

23 (1) Release the consumer report or any information from it without the express
24 authorization of the consumer; or

25 (2) Release information from a consumer report to a 3rd party without express
26 authorization of the consumer. This subparagraph does not prevent a consumer
27 reporting agency from advising a 3rd party that a security freeze is in effect with
28 respect to the consumer report.

29 C. A consumer reporting agency shall place a security freeze on a consumer report
30 no later than 5 business days after receiving a written request from the consumer.

31 D. The consumer reporting agency shall send a written confirmation of the security
32 freeze to the consumer within 10 business days after receiving a written request from
33 the consumer and shall provide the consumer with a personal identification number
34 or password, other than the consumer's social security number, to be used by the
35 consumer when providing authorization for the release of the consumer report to a
36 specific party or for a period of time.

37 E. If a consumer wishes to allow access to a consumer report by a specific party or
38 for a period of time while a security freeze is in place, the consumer may contact the
39 consumer reporting agency, request that the security freeze be temporarily suspended
40 and provide the following:

41 (1) Proper identification;

42 (2) The personal identification number or password provided by the consumer
43 reporting agency pursuant to paragraph D; and

1 (3) The proper information regarding the specific party granted access or the
2 time period for which the consumer report is to be available to users.

3 F. A consumer reporting agency may develop procedures involving the use of
4 telephone, facsimile transmission, the Internet or other medium of electronic
5 communications to receive and process a request from a consumer to temporarily
6 suspend a security freeze on a consumer report pursuant to paragraph E in an
7 expedited manner. A consumer reporting agency may not charge a fee to a consumer
8 for use of these procedures in excess of those fees otherwise permitted under this
9 section.

10 G. A consumer reporting agency that receives a request from a consumer to
11 temporarily suspend a security freeze on a consumer report pursuant to paragraph E
12 shall comply with the request no later than 3 business days after receiving the request.

13 H. A consumer reporting agency shall remove or temporarily suspend a security
14 freeze placed on a consumer report only:

15 (1) Upon consumer request pursuant to paragraph E or K; or

16 (2) If the security freeze was due to a material misrepresentation of fact by the
17 consumer. If a consumer reporting agency intends to remove a security freeze
18 from a consumer report pursuant to this subparagraph, the consumer reporting
19 agency shall notify the consumer in writing prior to removing the security freeze.

20 I. If a 3rd party requests access to a consumer report on which a security freeze is in
21 effect and this request is in connection with an application for credit or any other use
22 and the consumer does not allow access to the consumer report for that specific party
23 or period of time, the 3rd party may treat the application as incomplete.

24 J. If a consumer requests a security freeze pursuant to this subsection, the consumer
25 reporting agency shall disclose to the consumer the processes of placing and
26 temporarily lifting a security freeze and the process for allowing access to
27 information from the consumer report for a specific party or period of time while the
28 security freeze is in place. A consumer reporting agency shall provide a sample copy
29 of the agency's disclosure form to the administrator at the annual registration or
30 reregistration under section 1310-A and any time there is a material change in the
31 disclosure form required by this paragraph.

32 K. A security freeze must remain in place until the consumer requests that the
33 security freeze be removed. A consumer reporting agency shall remove a security
34 freeze within 3 business days of receiving a request for removal from a consumer
35 who provides:

36 (1) Proper identification; and

37 (2) The personal identification number or password provided by the consumer
38 reporting agency pursuant to paragraph D.

39 L. A consumer reporting agency shall require proper identification of the person
40 making a request to place or remove a security freeze.

41 M. The provisions of this subsection, including the security freeze, do not apply to
42 the use of a consumer report by:

1 (1) A person or person's subsidiary, affiliate, agent or assignee with which the
2 consumer has or, prior to assignment, had an account, contract or debtor-creditor
3 relationship for the purposes of reviewing the account or collecting the financial
4 obligation owing for the account, contract or debt or extending credit to a
5 consumer with a prior or existing account, contract or debtor-creditor
6 relationship, subject to the requirements of 15 United States Code, Section
7 1681b. For purposes of this subparagraph, "reviewing the account" includes
8 activities related to account maintenance, monitoring, credit line increases and
9 account upgrades and enhancements;

10 (2) A subsidiary, affiliate, agent, assignee or prospective assignee of a person to
11 whom access has been granted under paragraph E for purposes of facilitating the
12 extension of credit or another permissible use;

13 (3) A person acting pursuant to a court order, warrant or subpoena;

14 (4) Child support enforcement officials when investigating a child support case
15 pursuant to Title 19-A or the federal Social Security Act, Title IV-D;

16 (5) The Department of Health and Human Services or its agents or assignees
17 acting to investigate Medicaid fraud;

18 (6) The Department of Administrative and Financial Services, Maine Revenue
19 Services; municipal taxing authorities; the Secretary of State, Bureau of Motor
20 Vehicles; or any of their agents or assignees, acting to investigate or collect
21 delinquent taxes or assessments, including interest and penalties and unpaid court
22 orders, or to fulfill any of their other statutory or charter responsibilities;

23 (7) A person's use of credit information for prescreening as provided by the
24 federal Fair Credit Reporting Act or this chapter;

25 (8) A person for the sole purpose of providing a credit file monitoring
26 subscription service to which the consumer has subscribed;

27 (9) A consumer reporting agency for the sole purpose of providing a consumer
28 with a copy of that consumer's report upon the consumer's request; and

29 (10) The administrator pursuant to section 1310-A.

30 **2. Duties of consumer reporting agency if security freeze is in place.** If a security
31 freeze is in place, a consumer reporting agency may not change any of the following
32 official information in a consumer report without sending written confirmation of the
33 change to the consumer within 30 days after the change is posted to the consumer's file:
34 name, date of birth, social security number and address. Written confirmation is not
35 required for technical modifications of a consumer's official information, including name
36 and street abbreviations, complete spellings and transposition of numbers or letters. In
37 the case of an address change, the written confirmation must be sent to the new address
38 and the former address.

39 **3. Persons not required to place security freeze.** The following persons are not
40 required to place on a consumer report a security freeze pursuant to subsection 1, except
41 that any person that is not required to place a security freeze on a consumer report under

1 the provisions of subsection 1 is subject to a security freeze placed on a consumer report
2 by another consumer reporting agency from which it obtains information:

3 A. A check services or fraud prevention services company that reports on incidents
4 of fraud or issues authorizations for the purpose of approving or processing
5 negotiable instruments, electronic fund transfers or similar methods of payment;

6 B. A deposit account information services company that issues reports regarding
7 account closures due to fraud, overdrafts, automated teller machine abuse or similar
8 negative information regarding a consumer to inquiring financial institutions for use
9 only in reviewing that consumer's request for a deposit account at the inquiring
10 financial institution; and

11 C. A consumer reporting agency that:

12 (1) Acts only to resell credit information by assembling and merging information
13 contained in a database of one or more consumer reporting agencies; and

14 (2) Does not maintain a permanent database of credit information from which
15 new consumer reports are produced.

16 **4. Reporting of child support debts.** Information regarding child support debt must
17 be provided as required under this subsection.

18 A. The Department of Health and Human Services, upon request of a consumer
19 reporting agency, shall make available information regarding the amount of overdue
20 child support owed by any parent.

21 B. Prior to making the information available to a requesting agency, the department
22 shall provide the obligor parent with notice of the proposed action. The parent must
23 be given 20 days in which to contest the accuracy of the information before the
24 information may be made available.

25 C. The department may impose a fee upon the requesting agency in an amount not
26 exceeding the actual cost of providing the information.

27 Nothing in this section prevents the department from voluntarily providing information to
28 a consumer reporting agency regarding any individual who is indebted to the department
29 for failure to pay child support.

30 **5. Solicitation of loans using prescreened trigger lead information from**
31 **consumer report.** Solicitation of loans using prescreened trigger lead information from
32 consumer reports is subject to the requirements of this subsection. For the purposes of
33 this subsection, "prescreened trigger lead information" means information in a consumer
34 report provided to a nonaffiliated 3rd party by a consumer reporting agency that the
35 agency has reason to believe will be used to solicit a loan or extension of credit.

36 A. When using prescreened trigger lead information derived from a consumer report
37 to solicit a consumer who has applied for a loan with another lender or loan broker, a
38 lender or loan broker may not use unfair or deceptive practices described in
39 paragraph B.

40 B. Without limitation, it is an unfair or deceptive practice to:

1 (1) Fail to state in the initial phase of the solicitation from a lender or loan broker
2 that the solicitor is not affiliated with the lender or loan broker with which the
3 consumer initially applied;

4 (2) Fail in the initial solicitation to conform to state and federal law relating to
5 prescreened solicitations using consumer reports, including the requirement to
6 make a firm offer of credit to the consumer;

7 (3) Knowingly or negligently use information regarding consumers who have
8 opted out of prescreened offers of credit or who have placed their contact
9 information on the most current federal do-not-call registry; or

10 (4) Solicit a consumer with offers of certain rates, terms and costs with intent to
11 subsequently raise the rates or change the terms to the consumer's detriment.

12 **6. Consumer mortgage reports.** In any consumer credit transaction involving a
13 consumer report relating to a loan to be secured by a first mortgage on an owner-occupied
14 dwelling, whenever a user has requested such a report and because or partly because of
15 information contained in the report adverse action is taken, the user shall provide a copy
16 of the report to the consumer. This requirement does not apply if the consumer reporting
17 agency provides a copy of the report to the consumer.

18 **7. Dissemination of consumer report information prohibited.** Every user of a
19 consumer report or an investigative consumer report is prohibited from disseminating to
20 any other person, other than the consumer who is the subject of the report, any such
21 report other than information contained in its own files as a result of its direct experience
22 with the consumer. Except for information or records obtained directly or indirectly and
23 with the consent of the individual to whom it relates, from a licensed physician, medical
24 practitioner, hospital, clinic or other medical or medically related facility, a consumer
25 reporting agency may not by contract or otherwise prohibit a user of any consumer report
26 or investigative consumer report from disclosing the contents of the report to the
27 consumer to whom it relates. A contractual provision in violation of this section is
28 unenforceable.

29 **8. Medical expenses debts; court or administrative orders.** A debt collector may
30 report overdue medical expenses for a minor child to a consumer reporting agency, but
31 only in the name of the responsible party identified in a court order or administrative
32 order and only if the debt collector is notified orally or in writing of the existence of the
33 order. In addition, a report may not be made until after the debt collector has notified, or
34 made a good faith effort to notify, the responsible party of that party's obligation to pay
35 the overdue medical expenses. Existing information regarding overdue medical expenses
36 for a minor child in the name of a person other than the responsible party identified in a
37 court order or administrative order is considered inaccurate information and is subject to
38 correction. A debt collector or consumer reporting agency may request reasonable
39 verification of the order, including a certified copy of the order.

40 **9. Nonliability.** A person may not be held liable for any violation of this section if
41 the person shows by a preponderance of the evidence that at the time of the alleged
42 violation the person maintained reasonable procedures to ensure compliance with the
43 provisions of this section.

1 **§1310-A. Administrative enforcement**

2 **1. Authority.** The administrator, within the limits provided by law, may:

3 A. Receive and act on complaints, take action designed to obtain voluntary
4 compliance with this chapter, refer complaints to the Department of Professional and
5 Financial Regulation, Bureau of Financial Institutions pursuant to subsection 9 or
6 refer cases to the Attorney General, who shall appear for and represent the
7 administrator in court;

8 B. Counsel groups and persons on their rights and duties under this chapter;

9 C. Establish programs for the education of consumers with respect to the provisions
10 of this chapter;

11 D. Make studies appropriate to effectuate the purposes and policies of this chapter
12 and make the results available to the public;

13 E. Issue advisory rulings designed to clarify the applicability of any statutory
14 provision of this chapter necessary or proper to effectuate its purposes;

15 F. Maintain a public file of all enforcement proceedings instituted and of their
16 disposition, including all assurances of voluntary compliance accepted and their
17 terms and the pleadings and briefs in all actions in which the administrator is a party;
18 and

19 G. Request registration and annual reregistration of consumer reporting agencies
20 located in this State or serving users within this State and set an annual registration
21 fee not to exceed \$100, the aggregate of which must be used by the administrator to
22 enforce this chapter.

23 **2. Investigatory powers.** The administrator has the following investigatory powers
24 except in cases in which the Department of Professional and Financial Regulation,
25 Bureau of Financial Institutions or the Attorney General has exclusive authority pursuant
26 to subsection 9.

27 A. The administrator may annually investigate any person whom the administrator
28 believes has engaged in conduct governed by this chapter, except that the
29 administrator may, at any time, investigate any person the administrator believes to
30 be a consumer reporting agency. If the administrator has reasonable cause to believe
31 that any person has violated this chapter, the administrator may investigate that
32 person at any time. During any investigation, the administrator may administer oaths
33 or affirmations and, upon the administrator's own motion or upon request of any
34 party, may subpoena witnesses, compel their attendance, adduce evidence and require
35 the production of any matter that is relevant to the investigation, including the
36 existence, description, nature, custody, condition and location of any books,
37 documents or other tangible things and the identity and location of persons having
38 knowledge of relevant facts, or any other matter reasonably calculated to lead to the
39 discovery of admissible evidence. If the administrator finds a violation of this
40 chapter, the administrator shall so notify all parties to the transactions involved.

41 B. If the records of a person under investigation are located outside this State, the
42 person, at the administrator's option, may either make the original records or

1 facsimiles of the record available to the administrator at a convenient location within
2 this State or pay the reasonable and necessary expenses for the administrator or the
3 administrator's representative to examine them at the place where the records are
4 maintained. The administrator may designate representatives, including comparable
5 officials of the state in which the records are located or federal officials, to inspect the
6 records on the administrator's behalf.

7 C. The expenses of the administrator necessarily incurred in the examination of
8 persons subject to this chapter must be chargeable to that person in the same manner
9 and for the same expenses set forth in Title 9-A, section 6-106, subsection 6, except
10 that users of consumer reports may not be charged examination expenses unless the
11 administrator finds a violation of this chapter.

12 **3. Administrative enforcement orders.** After notice and hearing, the administrator
13 may order a person to cease and desist from engaging in violations of this chapter. The
14 administrator may also order affirmative action designed to correct past or future
15 violations of this chapter. Any hearing held under this subsection must be conducted in
16 accordance with the procedures of Title 5, chapter 375, subchapter 4. A respondent
17 aggrieved by an order of the administrator may obtain judicial review of the order and the
18 administrator may, through the Attorney General, obtain an order of the court for
19 enforcement of its order in the Superior Court. The proceedings for review or
20 enforcement must be initiated and conducted in accordance with Title 5, chapter 375,
21 subchapter 7.

22 **4. Assurance of discontinuance.** If it is claimed that a person has engaged in
23 conduct that could be subject to any order by the administrator, the administrator shall
24 first attempt to negotiate an assurance in writing that the person will not engage in the
25 same or similar conduct in the future, prior to initiating an enforcement order under
26 subsection 3. The assurance may include, but is not limited to, admissions of past
27 specific acts by the person or that such acts violated this chapter or other statutes. A
28 violation of an assurance of discontinuance is a violation of this chapter.

29 **5. Civil action.** The administrator, through the Attorney General, may bring a civil
30 action against a person to recover a civil penalty for knowingly violating this chapter or
31 violating an assurance of discontinuance, and if the court finds that the defendant has
32 engaged in a knowing violation of this chapter or a violation of an assurance of
33 discontinuance, it may assess a civil penalty of not more than \$5,000.

34 If the defendant establishes by a preponderance of evidence that repeated violations were
35 the result of a bona fide error notwithstanding the maintenance of procedures reasonably
36 adapted to avoid any such violation or error, a penalty may not be imposed under this
37 subsection.

38 **6. Remedies not affected.** The grant of powers to the administrator in this section
39 does not affect remedies available to the Attorney General or to consumers under this
40 chapter or under other principles of law or equity.

41 **7. Venue.** The administrator, through the Attorney General, may bring actions or
42 proceedings in a court in a county or division in which an act on which the action or

1 proceeding is based occurred or in a county or division in which a respondent resides or
2 transacts business.

3 **8. Bureau of Insurance.** With respect to those examinations authorized by
4 subsection 2, paragraph A, the administrator shall, where applicable, coordinate
5 examinations for compliance with this chapter with examinations conducted by the
6 Department of Professional and Financial Regulation, Bureau of Insurance for
7 compliance with Title 24-A.

8 **9. Bureau of Financial Institutions.** When a supervised financial organization as
9 defined in Title 9-A, section 1-301, subsection 38-A is a person subject to this chapter
10 and the Department of Professional and Financial Regulation, Bureau of Financial
11 Institutions charters or regulates the supervised financial organization, the Bureau of
12 Financial Institutions has exclusive authority pursuant to this chapter over the supervised
13 financial organization. This authority is in addition to the authority of the Bureau of
14 Financial Institutions in Title 9-B. The Attorney General has authority to enforce the
15 provisions of this chapter for any other supervised financial organization that is a person
16 subject to this chapter.

17 **§1310-B. Criminal violations**

18 **1. Obtaining information under false pretenses.** A person who knowingly and
19 intentionally obtains information on a consumer from a consumer reporting agency under
20 false pretenses commits a Class D crime.

21 **2. Unauthorized provision of information.** An officer or employee of a consumer
22 reporting agency who knowingly and intentionally provides information concerning an
23 individual from the agency's files to a person not authorized to receive that information
24 commits a Class D crime.

25 **§1310-C. Civil liability for willful noncompliance**

26 A consumer reporting agency or user of information that willfully and knowingly
27 fails to comply with a requirement imposed under this chapter with respect to a consumer
28 is liable to that consumer for and the court may award an amount equal to the sum of:

29 **1. Actual damages.** Actual damages sustained by the consumer as a result of the
30 failure;

31 **2. Treble damages.** An amount equal to 3 times the actual damages according to
32 subsection 1; and

33 **3. Costs and attorney's fees.** In the case of a successful action to enforce a liability
34 under this section, the costs of the action together with reasonable attorney's fees as
35 determined by the court.

1 **§1310-D. Civil liability for negligent noncompliance**

2 A consumer reporting agency or user of information that is negligent in failing to
3 comply with a requirement imposed under this chapter with respect to a consumer is
4 liable to that consumer in an amount equal to the sum of:

5 **1. Actual damages.** Actual damages sustained by the consumer as a result of the
6 failure;

7 **2. Additional damages.** Such amount of additional damages as the court may allow,
8 but not less than \$100 for each violation of this chapter involving negligence, and for
9 each consumer report containing any item of information that was inaccurate and that
10 contributed in whole or in part to the decision to take adverse action against the
11 consumer; and

12 **3. Costs and attorney's fees.** In the case of any successful action to enforce any
13 liability under this section, the costs of the action together with reasonable attorney's fees
14 as determined by the court.

15 **§1310-E. Jurisdiction of courts; limitation of actions**

16 An action to enforce liability created under this chapter may be brought in any court
17 of competent jurisdiction within 2 years from the date on which the liability arises, except
18 that when a defendant has materially and willfully misrepresented any information
19 required under this chapter to be disclosed to an individual and the information so
20 misrepresented is material to the establishment of the defendant's liability to that
21 individual under this chapter, the action may be brought at any time within 2 years after
22 the discovery by the individual of the misrepresentation.

23 **§1310-F. Relation to other laws and the powers of the Superintendent of Financial**
24 **Institutions**

25 This chapter does not limit the obligations of a supervised financial organization to
26 comply with other state and federal laws to which the supervised financial organization is
27 subject, or the authority of the Superintendent of Financial Institutions conferred by Title
28 9-B, including the authority to examine and supervise a supervised financial organization
29 to ensure compliance with state and federal laws and regulations as set forth in Title 9-B,
30 section 211, subsection 3.

31 **§1310-G. Enforcement powers in addition to those in federal law**

32 The enforcement powers of the administrator under this chapter are in addition to the
33 State's enforcement powers authorized under federal law.

34 **§1310-H. Additional state-specific provisions**

35 **1. Fee for disclosure.** In addition to any rights to which a consumer is entitled under
36 federal law, a consumer reporting agency may not impose a fee for a consumer report
37 provided to a consumer upon request once during any 12-month period. For a 2nd or

1 subsequent report provided during a 12-month period, a consumer reporting agency may
2 charge a consumer a fee not to exceed \$5.

3 **2. Time to reinvestigate.** Notwithstanding any provision of federal law, if a
4 consumer disputes any item of information contained in the consumer's file on the
5 grounds that it is inaccurate and the dispute is directly conveyed to the consumer
6 reporting agency by the consumer, the consumer reporting agency shall reinvestigate and
7 record the current status of the information within 21 calendar days of notification of the
8 dispute by the consumer, unless it has reasonable grounds to believe that the dispute by
9 the consumer is frivolous.

10 **3. Nonliability.** A person may not be held liable for any violation of this section if
11 the person shows by a preponderance of the evidence that at the time of the alleged
12 violation the person maintained reasonable procedures to ensure compliance with the
13 provisions of subsections 1 and 2.

14 **Sec. 2. 10 MRSA c. 210,** as amended, is repealed.

15 **Sec. 3. Revisor's review; cross-references.** The Revisor of Statutes shall
16 review the Maine Revised Statutes and include in the errors and inconsistencies bill
17 submitted to the Second Regular Session of the 126th Legislature pursuant to Title 1,
18 section 94 any sections necessary to correct and update any cross-references in the
19 statutes to provisions of law repealed in this Act.

20 **SUMMARY**

21 This bill incorporates federal fair credit reporting laws into state law while preserving
22 enhanced protections found in current state law.