

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
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4. Inactive licenses. ~~Any~~ A licensee, who does not desire to perform any of the electrical installations described in section 1101, and who wants to preserve the license while not engaged in any electrical installations, shall surrender the license to the board for placement on inactive status. The board shall place the license on inactive status upon proper application by the licensee. The fee for inactive status may not exceed \$80 per renewal. During inactive status the licensee is required to renew the license biennially, but is not required to meet the education provisions under the rules of the board. ~~The dates on which the licenses expire are as provided in section 1204.~~

A licensee surrendering a license pursuant to this section may have the license reinstated to active status by demonstrating compliance within the previous biennium with section 1204 and proper application for an active license. Any license placed on inactive status after the effective date of this subsection and remaining inactive for 3 or more years may be reactivated by the applicant being required to successfully pass a license examination at the discretion of the board.

Sec. 15. 32 MRSA §1202, sub-§5 is enacted to read:

5. Electrical company. The board shall issue a license to operate an electrical company to a person who files an application validated by a master or limited electrician licensee.

Sec. 16. 32 MRSA §1203, as amended by PL 1993, c. 659, Pt. A, §3, is further amended to read:

§1203. Examinations

Applicants for licensure shall present to the board a written application for examination and license, containing such information as the board may require. The board shall adopt application, examination, licensure and biennial renewal fees in amounts ~~which~~ that are reasonable and necessary for their respective purposes, but in amounts not to exceed the following:

1. Applications \$25;
2. Examinations \$50; and
3. Licensure:
 - A. Journeyman/Journeyman-in-training \$80;
 - B. Master \$150;
 - C. Limited. \$100; and
 - D. Electrical company \$0.

~~Applications for a first examination must be received by the board at least 15 days prior to a scheduled meeting of the board. An applicant who has failed the examination is permitted to take the examination again as often as necessary upon timely payment of an additional examination fee for each examination.~~

~~When the unexpired term of license of an applicant is or will be more than one year at the time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial license renewal fee.~~

Sec. 17. 32 MRSA §1204, first ¶, as amended by PL 1991, c. 531, §12, is further amended to read:

~~All licenses issued expire October 31st of each biennial period as to master electricians and April 30th of each biennial period as to other licensees or other such times the Commissioner of Professional and Financial Regulation designates. All licensees licenses may be renewed for 2-year periods without further examination, upon the payment of the proper renewal fee and documentation of continuing education as established by rule as the board determines necessary. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Professional and Financial Regulation may designate. The board shall notify everyone registered under this chapter of the date of expiration of the license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

See title page for effective date.

CHAPTER 326

H.P. 1068 - L.D. 1503

An Act to Protect Consumers in High-cost Mortgages and Reverse Mortgages

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

Sec. 1. 9-A MRSA §1-301, sub-§17, as amended by PL 1987, c. 129, §23, is further amended to read:

17. "Creditor" means a person who both:

- A. Regularly extends credit in consumer credit transactions; and

B. Is the person to whom the debt arising from the consumer credit transactions is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit from persons who are not creditors is a creditor and, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount ~~which~~ that is a finance charge are creditors.

For the purposes of the requirements imposed under section 8-205, subsection 1, paragraphs E, F, G, and subsection 2, paragraphs A, B, C, D, I, K, and Article VIII, Parts 3 and 4, the term "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4 installments or the payment of a finance charge is or may be required, and the administrator shall, by regulation, apply these requirements to those card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.

A person regularly extends consumer credit only if ~~he~~ that person extended credit more than 25 times, or more than 5 times for transactions secured by a dwelling, in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards ~~shall~~ must be applied to the current calendar year.

Notwithstanding the provisions of this section, any person who originates 2 or more high-rate, high-fee mortgages as defined in section 8-103, subsection F-1 in any 12-month period or any person who originates one or more such mortgages through a credit services organization as defined in Article X of this Act in any 12-month period is considered a creditor.

Sec. 2. 9-A MRSA §8-103, sub-§1, ¶F-1 is enacted to read:

F-1. "High-rate, high-fee mortgage" means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction or a transaction under an open-end credit plan, if:

(1) The annual percentage rate at consummation of the transaction exceeds by more than 10 percentage points the yield on treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

(2) The total of the points and fees payable by the consumer at or before closing exceeds the greater of 8% of the total loan amount or \$400.

For purposes of this subparagraph, points and fees include:

(a) All items included in the finance charge, except interest and the time-price differential;

(b) All compensation paid to mortgage brokers;

(c) Each of the charges listed in section 1-301, subsection 19, paragraph B or section 8-105, subsection 5 except an escrow for future payment of taxes, unless the:

(i) Charge is reasonable;

(ii) Creditor receives no direct or indirect compensation; and

(iii) Charge is paid to a 3rd party unaffiliated with the creditor; and

(d) Any other charges the administrator determines appropriate.

Sec. 3. 9-A MRSA §8-103, sub-§1, ¶H-1 is enacted to read:

H-1. "Reverse mortgage transaction" means a nonrecourse transaction in which a mortgage, deed of trust or equivalent consensual security interest is created against the consumer's principal dwelling to secure one or more advances and with respect to which the payment of any principal, interest and shared appreciation or equity is due and payable, other than in the case of default, only after the transfer of the dwelling, the consumer ceases to occupy the dwelling as a principal dwelling or the death of the consumer.

Sec. 4. 9-A MRSA §8-106-A is enacted to read:

§8-106-A. Number of percentage points

1. Beginning 2 years after the effective date of the regulations adopted under the federal Riegle Community Development and Regulatory Improvement Act of 1994, Public Law No. 103-325, Section 155, 108 Stat. 2160, 2197 (1994) and no more often than biennially after the first increase or decrease in the number of percentage points under this section, the administrator may by rule increase or decrease the number of percentage points specified in section

8-103, subsection 1, paragraph F-1, subparagraph (1) if the administrator determines that the increase or decrease is:

A. Consistent with the consumer protection against abusive lending provided by amendments made by the federal Riegle Community Development and Regulatory Improvement Act of 1994, Title I, subtitle B, Public Law No. 103-325, 108 Stat. 2160, 2190 (1994); and

B. Warranted by the need for credit.

2. An increase or decrease under subsection 1 may not result in the number of percentage points referred to in subsection 1 being less than 8 percentage points or greater than 12 percentage points.

3. In determining whether to increase or decrease the number of percentage points referred to in subsection 1, the administrator shall consult with representatives of consumers, including low-income consumers, and lenders.

The dollar amount specified in section 8-103, subsection 1, paragraph F-1, subparagraph (2) must be adjusted annually on January 1st by the annual percentage change in the Consumer Price Index, as reported on June 1st of the year preceding the adjustment.

This section may not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for an extension of credit.

Sec. 5. 9-A MRSA §§8-206-A and 8-206-B are enacted to read:

§8-206-A. High-rate, high-fee mortgages

1. In addition to other disclosures required under this article, for each high-rate, high-fee mortgage the creditor shall provide to the consumer the following disclosures in conspicuous type size.

A. "You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application."

B. "If you obtain this loan, the lender will have a mortgage on your home. You could lose your home and any money you have put into it if you do not meet your obligations under the loan."

2. In addition to the disclosures required under subsection 1, the creditor shall disclose:

A. For a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

B. For any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase and the amount of the maximum monthly payment based on the maximum interest rate allowed pursuant to the federal Competitive Equality Banking Act of 1987, Public Law No. 100-86, Section 1204, 101 Stat. 552, 662 (1987).

3. The disclosures required by this section must be given to the consumer at least 3 business days prior to the consummation of the transaction.

4. After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if the changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

A. A creditor may provide new disclosures by telephone under the following terms:

(1) The change is initiated by the consumer; and

(2) At the consummation of the transaction under which the credit is extended, the creditor provides to the consumer the new disclosures in writing and the creditor and the consumer certify in writing that those new disclosures were provided by telephone at least 3 days prior to the date of consummation of the transaction.

5. Upon determining that a modification of the disclosure process is necessary to permit consumers to meet bona fide personal financial emergencies, the administrator may adopt rules authorizing the modification or waiver of the rights of disclosure created under subsections 3 and 4 to the extent allowed under the regulations.

6. A high-rate, high-fee mortgage may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

A. For purposes of this subsection and subsection 7, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d), 106 Stat. 3672, 3892 (1992).

7. Notwithstanding subsection 6, a high-rate, high-fee mortgage may contain a prepayment penalty, including terms calculating a refund by a method that is not prohibited under the federal Housing and

Community Development Act of 1992, Public Law No. 102-550, Section 933(b), 106 Stat. 3672, 3892 (1992), for the transaction in question if:

A. At the time the mortgage is consummated:

(1) The consumer is not liable for an amount of monthly indebtedness payments, including the amount of credit extended or to be extended under the transaction, that is greater than 50% of the monthly gross income of the consumer; and

(2) The income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report and, in the case of employment income, by payment records or by verification from the employer of the consumer, which may be in the form of a copy of a pay stub or other payment record supplied by the consumer;

B. The penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage or an affiliate of that creditor;

C. The penalty does not apply after the end of the 5-year period beginning on the date the mortgage is consummated; and

D. The penalty is not prohibited under other applicable law.

8. A high-rate, high-fee mortgage may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of such a mortgage is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate must be computed by a method that is not less favorable than the actuarial method, as that term is defined in the federal Housing and Community Development Act of 1992, Public Law No. 102-550, Section 933(d) 106 Stat. 3672, 3892 (1992).

9. A high-rate, high-fee mortgage that has a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments will not fully amortize the outstanding principal balance.

10. A high-rate, high-fee mortgage may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

11. A high-rate, high-fee mortgage may not include terms under which more than 2 periodic

payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

12. A creditor may not engage in a pattern or practice of extending credit to a consumer under a high-rate, high-fee mortgage based on the consumer's collateral without regard to the consumer's repayment ability, including the consumer's current and expected income, current obligations and employment.

13. A creditor may not make a payment to a contractor under a home improvement contract from amounts extended as credit under a high-rate, high-fee mortgage, except:

A. In the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

B. At the election of the consumer, by a 3rd-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor and the contractor before the date of payment.

14. A mortgage that contains a provision prohibited by this section is deemed a failure to deliver the material disclosures required under this article for the purpose of section 8-204.

15. The administrator may, by rule or order, exempt specific mortgage products or categories of mortgages from any of the prohibitions specified in subsections 6 to 13 if the administrator finds that the exemption:

A. Is in the interest of the borrowing public; and

B. Applies only to products that maintain and strengthen home ownership and equity protection.

16. The administrator, by regulation or order, shall prohibit acts or practices in connection with:

A. Mortgage loans that the administrator finds unfair, deceptive or designed to evade the provisions of this section; and

B. Refinancing of mortgage loans that the administrator finds are associated with abusive lending practices or that are otherwise not in the interest of the borrowing public.

17. For purposes of this section, the term "affiliate" has the same meaning as in the federal Bank Holding Company Act of 1956, 12 United States Code, Section 1841, subsection (K).

§8-206-B. Reverse mortgages

1. In addition to the disclosures required under this article, for each reverse mortgage the creditor shall provide to the consumer, at least 3 days prior to the consummation of the transaction, a disclosure in conspicuous type of a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate must be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure must include:

A. Statements of the annual interest rates for at least 3 projected appreciation rates and at least 3 credit transaction periods, as determined by the administrator, including:

- (1) A short-term reverse mortgage;
- (2) A term equaling the actuarial life expectancy of the consumer; and
- (3) Any longer term the administrator determines appropriate; and

B. A statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

2. In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection 1, the creditor shall take into account:

A. Any shared appreciation or equity that the lender is, by contract, entitled to receive;

B. All costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

C. All payments to and for the benefit of the consumer including, when an associated annuity is purchased and whether or not that purchase is required by the lender as a condition of making the reverse mortgage, the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

D. Any limitation on the liability of the consumer under reverse mortgage transactions such as nonrecourse limits and equity conservation agreements.

See title page for effective date.

CHAPTER 327

H.P. 1076 - L.D. 1515

**An Act Authorizing the Judicial
Supervision of the Disclosure of
Utility Records to the Attorney
General**

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

Sec. 1. 5 MRSA §200-B, as repealed and replaced by PL 1987, c. 769, Pt. A, §9, is repealed and the following enacted in its place:

**§200-B. Authority of Attorney General to request
utility records**

1. Public utility services. As used in this section, the term "public utility services" means services furnished by a public utility as defined in Title 35-A, section 102, subsections 5, 7, 8, 12, 14, 15, 17, 19 and 22 whether or not subject to the jurisdiction of the Public Utilities Commission.

2. Demand for utility records; cause. The Attorney General, a deputy attorney general or a district attorney may demand, in writing, all the records or information in the possession of the public utility relating to the furnishing of public utility services to a person or a location if the attorney has reasonable grounds to believe that the services furnished to a person or to a location by a public utility are being or may be used for, or to further, an unlawful purpose. Upon a showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

3. Release of other information. An order approving a demand for utility records may include a provision prohibiting the public utility from releasing the fact of the request or that the records or information will be or have been supplied. The public utility may not release the fact or facts without obtaining a court order to that effect.

4. Production of utility records. Upon receipt of a demand, approved by a justice or judge, the public utility shall immediately deliver to the attorney, or the attorney's designee or agent, making the request all the records or information demanded. A public utility or employee of that public utility is not criminally or civilly liable for furnishing any records or information in compliance with the order approving the demand.

5. Orders permitted under federal law. The Attorney General, a deputy attorney general or a