

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 17, 2003.

CHAPTER 49

H.P. 383 - L.D. 494

An Act To Enhance Consumer Protections in Relation to Certain Mortgages

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

Sec. 1. 9-A MRSA §8-103, sub-§1, ¶F-1, as enacted by PL 1995, c. 326, §2, is repealed and the following enacted in its place:

F-1. "High-rate, high-fee mortgage" means a consumer credit transaction, involving real property located within this State, that is considered a "mortgage" under Section 152 of the federal Home Ownership and Equity Protection Act of 1994, 15 United States Code, Section 1602(aa) and subject to the regulations adopted pursuant thereto by the Federal Reserve Board, including 12 Code of Federal Regulations, Section 226.32 and the official staff commentary to the regulations as each may be amended from time to time.

Sec. 2. 9-A MRSA §8-206-A, sub-§8, as enacted by PL 1995, c. 326, §5, is amended to read:

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 or for default charges in excess of 5% of the amount in 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).

Sec. 3. 9-A MRSA §8-206-A, sub-§11-A is enacted to read:

11-A. A creditor who makes a high-rate, high-fee mortgage shall report both the favorable and unfavorable payment history of the consumer to a nationally recognized consumer credit reporting agency at least annually during the period the creditor holds or services the loan.

Sec. 4. 9-A MRSA §8-206-A, sub-§12-A is enacted to read:

12-A. A creditor may not:

A. Charge any points in connection with a high-rate, high-fee mortgage if the proceeds of the high-rate, high-fee mortgage are used to refinance an existing high-rate, high-fee mortgage owned by the creditor and the last financing was within 18 months of the current refinancing; except, however, this paragraph does not prohibit a creditor from charging points in connection with any additional proceeds received by the consumer or paid to 3rd parties on the consumer's behalf in connection with the refinancing. For purposes of this subsection, "additional proceeds" for a closed-end loan is the amount over and above the outstanding principal balance of the existing high-rate, high-fee mortgage; or

B. Charge a consumer any fees to modify, renew, extend or amend a high-rate, high-fee mortgage or defer any payment due under a high-rate, high-fee mortgage if, after the modification, renewal, extension or amendment, the loan is still a high-rate, high-fee mortgage or, if no longer a high-rate, high-fee mortgage, the annual percentage rate has not been reduced by a least 2 percentage points. For purposes of this paragraph, the term "fees" does not include interest that is otherwise payable and consistent with the provisions of the loan documents. The provisions of this paragraph do not prohibit a creditor from charging, imposing or causing to be paid, directly or indirectly, prepaid finance charges in connection with any additional proceeds, as defined in paragraph A, received by the consumer in connection with the modification, renewal, extension or amendment, provided the prepaid finance charges on the additional proceeds do not exceed 5% of the additional proceeds. This paragraph does not apply if the existing high-rate, high-fee mortgage is 60 or more days delinquent and the modification, renewal, extension, amendment or deferral is part of a work-out process.

Sec. 5. 9-A MRSA §8-206-A, sub-§§13-A to 13-C are enacted to read:

13-A. A creditor may not advertise that refinancing preexisting debt with a high-rate, high-fee mortgage will reduce a consumer's aggregate monthly debt payment without also disclosing that the high-rate, high-fee mortgage may increase both the consumer's aggregate number of monthly debt payments and the aggregate amount paid by the consumer over the term of the high-rate, high-fee mortgage.

13-B. A creditor may not recommend or encourage default or further default by a consumer on an existing loan or other debt prior to the closing of a high-rate, high-fee mortgage that refinances all or any portion of the existing loan or debt.

13-C. Beginning January 1, 2004, a creditor that makes a high-rate, high-fee mortgage to a consumer and offers the consumer the option to purchase an individual or group credit life, accident, health, disability or unemployment insurance product on a prepaid single premium basis must also offer the consumer the option of purchasing that insurance product on a monthly premium basis.

If a consumer purchases from a lender an individual or group credit life, accident, health, disability or unemployment insurance product, that consumer has the right to cancel the insurance product at any time and receive a refund of any unearned premiums paid. Notice of the right to cancel must be sent by mail to the consumer by the creditor no later than 30 days after consummation. The notice must also disclose the type of insurance product purchased, the cost of the product and the procedure for canceling the product.

Sec. 6. 9-A MRSA §8-206-A, sub-§§16-A, 16-B and 18 are enacted to read:

16-A. A creditor that makes a high-rate, high-fee mortgage to a consumer and any assignee of that creditor have the obligation, jointly and severally, to refund or credit the consumer for any default charges, prepayment penalties or prepaid finance charges collected in excess of the limits set forth in this article.

16-B. A high-rate, high-fee mortgage may not include a call provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This subsection does not apply when repayment of the loan is accelerated by a bona fide default, pursuant to a due-on-sale clause provision or pursuant to another provision of the loan agreement unrelated to the payment schedule, including, but not limited to, bankruptcy or receivership.

18. A political subdivision of this State is prohibited from enacting, issuing and enforcing ordinances, resolutions, rules, regulations, orders, requests for proposals or requests for bids pertaining to the making of a high-rate, high-fee mortgage by a person who:

A. Is subject to the jurisdiction of the Office of Consumer Credit Regulation or the Bureau of Financial Institutions, including activities subject to this article;

B. Is subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comp-

troller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Trade Commission or the United States Department of Housing and Urban Development;

C. Is subject to the jurisdiction or regulatory supervision of a department or agency of another state; or

D. Originates, purchases, sells, assigns, securitizes or services property interests or obligations created by financial transactions or loans made, executed or originated by a person referred to in paragraph A, B or C or assist or facilitate such transactions.

This subsection applies to all ordinances, resolutions, rules, regulations, orders, requests for proposals and requests for bids pertaining to financial or lending activities, including any ordinances, resolutions, rules, regulations, orders, requests for proposals and requests for bids disqualifying persons from doing business with a political subdivision based upon the making of a high-rate, high-fee mortgage or imposing reporting requirements or any other obligations upon persons regarding the making of a high-rate, high-fee mortgage.

This subsection applies retroactively to all ordinances, resolutions, rules, regulations, orders, requests for proposals and requests for bids in existence on the effective date of this subsection.

See title page for effective date.

CHAPTER 50

H.P. 1148 - L.D. 1566

An Act To Authorize a General Fund Bond Issue in the Amount of \$60,000,000 for Municipal Facilities and for Investments in Research, Development, Farming and Affordable Housing in Order To Sustain and Improve Maine's Economy

Preamble. Two thirds of both Houses of the Legislature deeming it necessary in accordance with the Constitution of Maine, Article IX, Section 14 to authorize the issuance of bonds on behalf of the State of Maine to provide funds as described in this Act,

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