

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

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

Penmor Lithographers
Lewiston, Maine
2005

- (a) ~~Is living and is determined to have~~ Has a total permanent disability resulting from a service-connected disability as a result of service;
- (b) Was killed in action;
- (c) Died from a service-connected disability as a result of service;
- (d) At the time of death was totally and permanently disabled due to service-connected disability, but whose death was not related to the service-connected disability; or
- (e) Is a member of the Armed Forces on active duty who has been listed for more than 90 days as missing in action, captured or forcibly detained or interned in the line of duty by a foreign government or power.

The continuous residency requirement of this subparagraph does not apply to a person who is receiving educational benefits under this chapter on or before January 1, 2006.

Sec. 3. 37-B MRSA §509, sub-§2, ¶¶E and F, as enacted by PL 2003, c. 404, §7, are amended to read:

- E. An attorney for any person specified in paragraphs A to D of this subsection; ~~or~~
- F. A civilian employee or military member of the department when in the conduct of official duties; or

Sec. 4. 37-B MRSA §509, sub-§2, ¶G is enacted to read:

G. The administrator of the Maine Veterans' Home when in the conduct of official duties.

Sec. 5. 37-B MRSA §§510 and 511 are enacted to read:

§510. Commemorative certificates, coins and medals

A commemorative certificates, coins and medals recognition program is established as follows.

1. Design; construct; issue. The director is authorized to design, construct and issue commemorative certificates, coins and medals honoring Maine's veterans serving in different conflicts. For World War II, the Korean Conflict and the Vietnam War, the commemorative items must be of a design similar to the World War II, Korean Conflict and Vietnam War

plaques that are displayed in the Hall of Flags in the State House.

2. Solicit donations. The bureau is authorized to solicit donations from private citizens, corporations and entities to help fund the design, construction and issuance of commemorative items under this section.

3. Advisory committee. The bureau shall establish an advisory committee of interested persons, including, but not limited to, veterans of the Persian Gulf War and the wars in Iraq and veterans from the period from 1947 to 1990, to develop commemorative items honoring veterans. Approval of commemorative items rests with the Commissioner of Defense, Veterans and Emergency Management.

4. Purchase by public. Specially identified commemorative certificates, coins and medals may be sold to the public as long as they are distinctive from those items awarded to the actual veterans.

§511. Fund established

A nonlapsing fund is established for the purpose of receiving funds from the State, donations from private citizens, corporations and entities and funds from the sales of commemorative items to pay the costs of the program established under section 510.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**DEFENSE, VETERANS AND EMERGENCY
MANAGEMENT,
DEPARTMENT OF**

Veterans Services 0110

Initiative: Provides initial allocations to reflect the establishment of a new account to allow the sale of certain commemorative materials.

OTHER SPECIAL REVENUE

FUNDS	2005-06	2006-07
All Other	\$500	\$500
OTHER SPECIAL REVENUE		
FUNDS TOTAL	\$500	\$500

See title page for effective date.

CHAPTER 274

S.P. 222 - L.D. 686

**An Act To Amend the Maine
Consumer Credit Code - Credit
Services Organizations**

**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 1995, c. 326, §1, 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 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~~ 8, 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 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 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~~ loan broker as defined in Article ~~X~~ 10 of this Act in any 12-month period is considered a creditor.

Sec. 2. 9-A MRSA §2-302, sub-§7 is enacted to read:

7. The administrator may adopt rules requiring that applicants, applicants' partners, officers or directors and employees of applicants satisfy initial and continuing educational requirements. The reasonable costs of meeting such educational require-

ments must be assessed to applicants. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 3. 9-A MRSA §10-101, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-101. Short title

This article ~~shall~~ may be known and ~~may be~~ cited as the "Maine Consumer Credit Code - ~~Credit Services Organizations~~ Loan Brokers."

Sec. 4. 9-A MRSA §10-102, sub-§1, as amended by PL 2001, c. 509, §§1 and 2, is further amended to read:

1. "~~Credit services organization~~ Loan broker" is defined as follows.

A. "~~Credit services organization~~ Loan broker" means any person who, with respect to the extension of consumer credit by others, provides or offers to provide, in return for the separate payment of money or other valuable consideration, any of the following services:

- (1) Improving a consumer's credit record, history or rating;
- (2) Arranging for or obtaining an extension of credit for a consumer; or
- (3) Providing advice or assistance to a consumer with respect to subparagraph (1) or (2).

B. "~~Credit services organization~~ Loan broker" does not include:

- (1) A supervised financial organization;
- (2) A supervised lender other than a supervised financial organization, except that, with respect to any transaction in which a supervised lender other than a supervised financial organization is acting solely as a ~~credit services organization~~ loan broker, section 10-302 applies;
- (3) A person licensed by the Real Estate Commission to the extent that the person is engaged in activities regulated by that commission;
- (4) A person currently admitted to the practice of law in this State;
- (5) Any nonprofit organization exempt from taxation under the United States Internal Revenue Code, Section 501(c)(3) to the extent that the organization's activities are

consistent with those set forth in its application for tax exemption to the Internal Revenue Service;

(6) A consumer reporting agency, as defined in the Fair Credit Reporting Act, Title 10, chapter 210;

(7) An affiliate of a supervised lender when the affiliate provides services described in paragraph A, subparagraph (1), (2) or (3) for or on behalf of that supervised lender and when the affiliate is not compensated by the consumer for those services;

(8) An employee of a supervised lender or an employee of an affiliate of a supervised lender when the employee provides services described in paragraph A, subparagraph (1), (2) or (3) for or on behalf of that supervised lender or affiliate and when the employee or the affiliate is not compensated by the consumer for those services;

(9) A person paid by a supervised lender or a consumer to document a loan, attend or conduct a loan closing, disburse loan proceeds or record or file loan documents;

(10) A person who performs marketing services for a creditor, such as a telemarketer, an advertising agency or a mailing house, when the person is not compensated by the consumer for those services;

(11) A seller of consumer goods or services that provides services described in paragraph A, subparagraph (1), (2) or (3) in connection with a sale or proposed sale of consumer goods or services by that seller when the seller is not compensated by a consumer for those services; or

(12) An employee of a seller of consumer goods or services that provides services described in paragraph A, subparagraph (1), (2) or (3) in connection with a sale or proposed sale of consumer goods or services by that seller when the employee or seller is not compensated by a consumer for those services.

For the purposes of this paragraph, "affiliate" has the same meaning as defined in Title 9-B, section 131, subsection 1-A.

Sec. 5. 9-A MRSA §10-201, as amended by PL 1993, c. 495, §2, is further amended to read:

§10-201. Licensing and biennial relicensing

A person desiring to engage or continue in business in this State as a ~~credit services organization loan broker~~ shall apply to the administrator for ~~registration a license~~ under this article on or before January 31st of each ~~even-numbered~~ year. The application must be in a form prescribed by the administrator. The administrator may refuse the application if it contains erroneous or incomplete information. A ~~registration license~~ may not be issued unless the administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and where applicable, its partners, officers or directors, warrant belief that the business will be operated honestly and fairly within the purposes of this Title. ~~The administrator may adopt rules requiring that applicants, applicants' partners, officers or directors and employees of applicants satisfy initial and continuing educational requirements. The reasonable costs of meeting such educational requirements are assessed to applicants. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.~~

The ~~initial application shall must include an initial a fee of \$200 \$400. Annual reregistration shall~~ ~~The biennial relicensing application must~~ include a fee of ~~\$100 \$200.~~

~~A licensee may conduct business only at or from a place of business for which the licensee holds a license and not under any other name than that on the license.~~

Sec. 6. 9-A MRSA §10-202, as amended by PL 1997, c. 727, Pt. B, §21, is further amended to read:

§10-202. Bond

Each application must be accompanied by evidence of a surety bond, in a form approved by the administrator in the aggregate amount of ~~\$10,000 \$25,000~~, to run to the State for use by the State and any person or persons who may have a cause of action against a ~~credit services organization loan broker~~. The terms of the bond must run concurrent with the period of time during which the license ~~will be~~ is in effect.

Sec. 7. 9-A MRSA §10-301, as amended by PL 1993, c. 495, §3, is further amended to read:

§10-301. Escrow of funds

Each ~~credit services organization loan broker~~ shall place fees from consumers, other than bona fide 3rd-party fees, in an escrow account separate from any operating accounts of the business, pending completion of services offered. With respect to ~~credit services organizations loan brokers~~ offering to arrange for or obtain extensions of credit for consumers, or provide advice or assistance ~~therefor to arrange for or~~

obtain extensions of credit, "completion of services offered" means procurement of credit under the terms agreed to by the parties.

Sec. 8. 9-A MRSA §10-302, first ¶, as enacted by PL 1989, c. 70, §3, is amended to read:

Each agreement between a consumer and a ~~credit services organization~~ loan broker must be in writing, dated, and signed by the consumer and ~~shall~~ must include the following:

Sec. 9. 9-A MRSA §10-302, sub-§2, as enacted by PL 1989, c. 70, §3, is amended to read:

2. The terms and conditions of payment, including the total of all payments to be made by the consumer for the service, whether to the ~~credit services organization~~ loan broker or to some other person; and

Sec. 10. 9-A MRSA §10-303, first ¶, as enacted by PL 1989, c. 70, §3, is amended to read:

Before any agreement is entered into, or before any money is paid by a consumer, whichever occurs first, the ~~credit services organization~~ loan broker shall provide the consumer with written disclosure of material consumer protections, including the following:

Sec. 11. 9-A MRSA §10-304, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-304. Advertising

1. ~~No credit services organization~~ A loan broker may not engage in this State in false or misleading advertising concerning the terms and conditions of any services or assistance offered.

2. This section imposes no liability on the owner or personnel of any medium in which an advertisement appears or through which it is disseminated.

3. A loan broker shall include its license number in all print advertising in this State.

Sec. 12. 9-A MRSA §10-305, as enacted by PL 1989, c. 70, §3, is amended to read:

§10-305. Rulemaking

The administrator may adopt reasonable rules pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, and in accordance with this article governing ~~credit services organizations~~ loan brokers.

Sec. 13. 9-A MRSA §10-306, as enacted by PL 2001, c. 262, Pt. A, §3, is amended to read:

§10-306. Privacy of consumer financial information

A ~~credit services organization~~ loan broker shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the ~~credit services organization~~ loan broker is a financial institution as defined in those regulations. This section is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

Sec. 14. 9-A MRSA §10-401, as amended by PL 1993, c. 495, §5, is further amended to read:

§10-401. Effects of violations on rights of parties

Any ~~credit services organization~~ loan broker that violates any provision of this Title or any rule issued by the administrator, or that through any unfair, unconscionable or deceptive practice causes actual damage to a consumer, is subject to the following:

1. After notice and hearing, a cease and desist order from the administrator;

2. After notice and hearing, forfeiture of such portion of the required bond as proportionately may make aggrieved parties whole;

3. A civil action, by the administrator through the Attorney General, after which a court may assess a civil penalty of not more than \$5,000;

4. A civil action by an aggrieved consumer in which that consumer has the right to recover actual damages from the ~~credit services organization~~ loan broker in an amount determined by the court, plus costs of the action together with reasonable attorney's fees; and

5. Revocation, suspension or nonrenewal of its ~~registration pursuant to section 2-303~~ license.

See title page for effective date.
