

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by inserting after the enacting clause and before section 1 the following:

## PART A

### Sec. .

Amend the bill in section 2 in §6-105-A in subsection 1 in the first line (page 1, line 15 in L.D.) by inserting after the following: "rules" the following: ', consistent with the principles for operation and implementation established by the system.'

Amend the bill in section 2 in §6-105-A by inserting after subsection 2 the following:

Any information provided by or to the administrator pursuant to this section that has been designated as confidential by another state's regulatory agency remains the property of the agency furnishing the information and must be kept confidential by the administrator and the system except as authorized by the agency that furnished the information.'

Amend the bill in section 4 in subsection 1-A by inserting after paragraph F the following:

'G. "Bureau of Consumer Credit Protection" has the same meaning as set out in section 6-103.'

Amend the bill in section 4 in subsection 1-A in paragraph V in subparagraph (2) in the last line (page 4, line 33 in L.D.) by striking out the following: "3500.2; and" and inserting the following: '3500.2;'

Amend the bill in section 4 in subsection 1-A in paragraph V in subparagraph (3) in the last line (page 4, line 35 in L.D.) by striking out the following: "purposes." and inserting the following: 'purposes; and'

Amend the bill in section 4 in subsection 1-A in paragraph V by inserting after subparagraph (3) the following:

(4) The loan is not a construction loan.

Amend the bill in section 4 in subsection 1-A by inserting after paragraph Z the following:

'AA. "Subprime mortgage loan" means either a nontraditional mortgage as defined in paragraph S or a rate spread home loan as defined in paragraph U.

BB. "Superintendent of Consumer Credit Protection" has the same meaning as set out in section 6-103.'

Amend the bill in section 4 in subsection 1-A by relettering the paragraphs to read consecutively.

Amend the bill in section 19 in §8-206-C in subsection 1 in the 3rd line (page 7, line 9 in L.D.) by striking out the following: "30" and inserting the following: '30-A'

Amend the bill in section 19 in §8-206-C in subsection 1 in paragraph G in the 4th and 5th lines (page 7, lines 39 and 40 in L.D.) by striking out the following: "regulatory agency that has jurisdiction over the creditor" and inserting the following: 'Bureau of Consumer Credit Protection'

Amend the bill in section 20 in §8-206-D in subsection 1 in paragraph B in the last line (page 9, line 31 in L.D.) by inserting after the following: "loan." the following: 'The administrator shall adopt rules defining with reasonable specificity the requirements for compliance with this paragraph. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.'

Amend the bill in section 20 in §8-206-D in subsection 1 by striking out all of paragraph G (page 10, lines 15 to 43 and page 11, lines 1 to 4 in L.D.) and inserting the following:

'G. A subprime mortgage loan may not be extended to a borrower unless a reasonable creditor would believe at the time the loan is closed that the borrower will be able to make the scheduled payments associated with the loan.

(1) The determination of a borrower's reasonable ability to repay a subprime mortgage loan must include, but may not be limited to, consideration of the borrower's income, including statements submitted by or on behalf of the borrower in the loan application, except that a creditor may not disregard facts and circumstances that indicate that the income statements submitted by or on behalf of the borrower are inaccurate or incomplete, credit history, current obligations and employment status; the debt-to-income ratio of the borrower's monthly gross income, including the costs of property taxes and insurance; and other available financial resources other than the borrower's equity in the principal dwelling that secures or would secure the subprime mortgage loan.

(2) The calculation assumptions used in evaluating the ability to repay for subprime mortgage loans must include:

(a) The monthly payment amounts based on, at a minimum, the fully indexed rate, assuming a fully amortizing repayment schedule;

(b) Verification of all sources of income by tax returns, payroll receipts, bank records, reasonable alternative or reasonable 3rd-party verification; and

(c) For products that permit negative amortization, the repayment analysis based upon the initial loan amount plus any balance increase that may accrue from the negative amortization provision.

(3) The administrator shall adopt, amend and repeal routine technical rules in accordance with Title 5, chapter 375, subchapter 2-A defining with reasonable specificity the requirements set forth in subparagraphs (1) and (2). In adopting rules under this subparagraph, the administrator shall give due consideration and weight to the following federal regulations and guidelines, as amended from time to time:

(a) Final Interagency Guidance on Nontraditional Mortgage Product Risks;

(b) Credit Risk Management Guidance for Home Equity Lending;

(c) Expanded Guidance for Subprime Lending Programs; and

(d) Interagency Guidance on Subprime Lending.

Amend the bill in section 20 in §8-206-D in subsection 2 in paragraph A in the 3rd line (page 11, line 9 in L.D.) by inserting after the following: "action." the following: 'The borrower shall pay any reasonable costs incurred by the creditor or servicer before the cure of default.'

Amend the bill in section 20 in §8-206-D in subsection 2 by striking out all of paragraph B (page 11, lines 13 to 14 in L.D.) and inserting the following:

'B. A borrower has the right to cure a default once in a 12-month period.'

Amend the bill in section 21 in §8-206-E in subsection 1 in the last line (page 11, line 33 in L.D.) by inserting after the following: "loan." the following: 'This section does not apply to a purchaser or assignee of a residential mortgage loan except as permitted in section 8-206-C, subsection 2.'

Amend the bill in section 21 in §8-206-E in subsection 2 in paragraph C in the first line (page 12, line 7 in L.D.) by inserting after the following: "damages" the following: 'for violations of section 8-206-C or section 8-206-D, subsection 1, paragraph B'

Amend the bill in section 21 in §8-206-E by striking out all of subsection 6 (page 12, lines 24 to 30 in L.D.) and inserting the following:

'6. Any person who knowingly violates section 8-206-A or 8-206-C is guilty of a Class E crime.'

Amend the bill by striking out all of section 22 and inserting the following:

'Sec. 22. 9-A MRSA §8-206-F is enacted to read:

**§ 8-206-F. Investigative and legal compliance personnel**

**1. The Superintendent of Consumer Credit Protection shall establish the following positions:**

A. A position with the responsibility for promoting compliance with, and investigating alleged violations of, the provisions of this section by entities or individuals subject to the jurisdiction of the Bureau of Consumer Credit Protection; and

B. A staff attorney position with the responsibility for compliance with, and enforcement of the provisions of, this section by entities or individuals subject to the jurisdiction of the Bureau of Consumer Credit Protection.

2. Notwithstanding section 6-203, subsection 3-C, the Superintendent of Consumer Credit Protection may by rule adjust the fees paid with respect to creditors that are not supervised financial organizations making residential mortgage loans to support the costs of the positions established in subsection 1. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 23. 9-A MRSA §8-206-G** is enacted to read:

**§ 8-206-G. Annual report to Legislature**

The Superintendent of Consumer Credit Protection shall report to the Legislature by January 15th of each year regarding the status of mortgage lending in this State and any unfair, deceptive or abusive mortgage lending practices that affect consumers. The report must include, but is not limited to, information on consumer complaints relating to mortgage lending, any enforcement actions, the number of foreclosures in the State, and support for financial literacy and consumer education and counseling. In preparing the report, the superintendent shall consult with the Bureau of Financial Institutions and the Attorney General.'

Amend the bill by inserting after section 28 the following:

**Sec. 29. 9-A MRSA §10-303-A** is enacted to read:

**§ 10-303-A. Good faith and fair dealing**

1. A loan broker shall, in addition to duties imposed by other statutes or at common law:

A. Act in good faith and with fair dealing in any transaction, practice or course of business in connection with the brokering or making of any mortgage loan;

B. Safeguard and account for any money handled for the borrower;

C. Follow reasonable and lawful instructions from the borrower;

D. Use reasonable skill, care and diligence;

E. Timely and clearly disclose to the borrower material information that might reasonably affect the borrower's rights, interests or ability to receive the borrower's intended benefit from the residential mortgage loan, including the total compensation the broker would receive from any of the loan options the broker presents to the borrower; and

F. Make reasonable efforts to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges and repayment terms of the loan.

2. The duties and standards of care created in this section may not be waived or modified.'

Amend the bill in section 33 in the first and 2nd lines (page 16, lines 14 and 15 in L.D.) by striking out the following: "Director of the Office of Consumer Credit Regulation" and inserting the following: 'Superintendent of Consumer Credit Protection'

Amend the bill by striking out all of section 35 and inserting the following:

**'Sec. 35. Application.** That section of this Part that amends the Maine Revised Statutes, Title 9-A, section 8-206-A and those sections of this Part that enact Title 9-A, section 8-103, subsection 1-A and Title 9-A, sections 8-206-C, 8-206-D and 8-206-E apply to all residential mortgage loans and high-rate, high-fee mortgages originated or entered into on or after the effective date of this Part. '

Amend the bill in section 36 in the last line (page 16, line 35 in L.D.) by striking out the following: "Act." and inserting the following: 'Part.'

Amend the bill in section 37 in subsection 1 in the next to the last line (page 17, line 3 in L.D.) by striking out the following: "Act" and inserting the following: 'Part'

Amend the bill in section 37 in subsection 2 in the first line (page 17, line 5 in L.D.) by striking out the following: "Act" and inserting the following: 'Part'

Amend the bill by striking out all of section 38 and inserting the following:

**'Sec. 38. Rulemaking.** The Superintendent of Consumer Credit Protection and the Superintendent of Financial Institutions shall adopt rules as authorized by the Maine Revised Statutes, Title 9-A, section 8-206-D, subsection 1, paragraph B before January 1, 2008.

**Sec. 39. Effective date.** That section of this Part that enacts the Maine Revised Statutes, Title 9-A, section 8-206-F takes effect 90 days after adjournment of the 123rd Legislature. The remainder of this Part takes effect January 1, 2008.

## PART B

**Sec. B-1. 2 MRSA §6, sub-§2,** as repealed and replaced by PL 2005, c. 683, Pt. A, §1, is amended to read:

**2. Range 90.** The salaries of the following state officials and employees are within salary range 90:

Superintendent of Financial Institutions;

Superintendent of Consumer Credit Protection;

State Tax Assessor;

Superintendent of Insurance;

Executive Director of the Maine Consumer Choice Health Plan;

Deputy Commissioner, Department of Administrative and Financial Services;

Associate Commissioner for Adult Services, Department of Corrections;

Associate Commissioner for Juvenile Services, Department of Corrections;

Public Advocate;

Deputy Commissioner of Integrated Services, Department of Health and Human Services;

Deputy Commissioner of Health, Integrated Access and Strategy, Department of Health and Human Services;

Chief Information Officer;

Associate Commissioner for Legislative and Program Services, Department of Corrections; and

Chief of the State Police.

**Sec. B-2. 2 MRSA §6, sub-§4**, as amended by PL 2005, c. 405, Pt. D, §3, is further amended to read:

**4. Range 88.** The salaries of the following state officials and employees are within salary range 88:

Director, Bureau of Employee Relations;

Director, Bureau of Air Quality;

Director, Bureau of Land and Water Quality;

Director, Bureau of Remediation and Waste Management;

Deputy Commissioner, Environmental Protection;

~~Director, Office of Consumer Credit Regulation;~~

Director, Office of Licensing and Registration;

Administrator, Office of Securities; and

Deputy Chief of the State Police.

**Sec. B-3. 9-A MRSA §6-103**, as amended by PL 1995, c. 502, Pt. H, §2, is repealed and the following enacted in its place:

**§ 6-103. Administration**

There is created and established the Bureau of Consumer Credit Protection within the Department of Professional and Financial Regulation. The Superintendent of Consumer Credit Protection is the head of the Bureau of Consumer Credit Protection. As used in this Act, and except as provided in section 1-301, subsection 2, "administrator" means the Superintendent of Consumer Credit Protection. The administrator is appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and to confirmation by the Legislature. The administrator is appointed for a 5-year term, or until a successor is appointed and qualified. Any

vacancy occurring must be filled by appointment for the unexpired portion of the term. The administrator may be removed from office for cause by the Governor and Title 5, section 931, subsection 2 does not apply.

**Sec. B-4. Transition provisions.** The following provisions govern the transition of the Office of Consumer Credit Regulation to the Bureau of Consumer Credit Protection.

1. The Bureau of Consumer Credit Protection is the successor in every way to the powers, duties and functions of the former Office of Consumer Credit Regulation.

2. The current Director of the Office of Consumer Credit Regulation becomes the acting Superintendent of Consumer Credit Protection and shall serve in that capacity until a successor is appointed and qualified in accordance with the Maine Revised Statutes, Title 9-A, section 6-103.

3. All existing rules, regulations and procedures in effect, in operation or adopted in or by the Office of Consumer Credit Regulation or any of its administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

4. All existing contracts, agreements and compacts currently in effect in the Office of Consumer Credit Regulation continue in effect.

5. Any positions authorized and allocated subject to the personnel laws to the former Office of Consumer Credit Regulation are transferred to the Bureau of Consumer Credit Protection and may continue to be authorized.

6. All records, property and equipment previously belonging to or allocated for the use of the former Office of Consumer Credit Regulation become, on the effective date of this Part, part of the property of the Bureau of Consumer Credit Protection.

7. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Office of Consumer Credit Regulation may be used by the Bureau of Consumer Credit Protection.

**Sec. B-5. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Office of Consumer Credit Regulation" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Bureau of Consumer Credit Protection" or "bureau," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. B-6. Maine Revised Statutes amended; revision clause.** Wherever in the Maine Revised Statutes the words "Director of the Office of Consumer Credit Regulation" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Superintendent of Consumer Credit Protection" or "superintendent," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. B-7. Effective date.** This Part takes effect when approved.

## PART C

**Sec. C-1. 9-A MRSA §1-202, sub-§8, ¶A,** as amended by PL 1997, c. 64, §1, is further amended to read:

A. With respect to advances of additional funds on the loan or credit sale made more than 30 days after the initial advance, this exclusion applies only to advances made:

- (1) Pursuant to the terms of a construction financing agreement;
- (2) To protect the security or to perform the covenants of the consumer;
- (3) As negative amortization of principal under the terms of the financing agreement;
- (4) From funds withheld at consummation pending the resolution of matters that otherwise would tend to delay or prevent closing, including, without limitation, remedy of title defects or repairs to meet appraisal standards; or
- (5) Pursuant to the terms of a reverse mortgage transaction, as defined in section 8-103, subsection ~~11-A~~, paragraph ~~H-1X~~, if the transaction is made pursuant to a commitment to purchase issued by, or is in a form approved for purchase by, any state or federal agency, instrumentality or government-sponsored enterprise, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

**Sec. C-2. 9-A MRSA §2-509,** as amended by PL 2007, c. 99, §1, is further amended to read:

**§ 2-509. Right to prepay**

Subject to the provisions on rebate upon prepayment, section 2-510, the consumer may prepay, in full or in part, the unpaid balance of a consumer credit transaction at any time without penalty, except for minimum charges as permitted by law. Notwithstanding any other provision of this Title, a reasonable charge may be assessed upon a consumer related to prepayment of a consumer loan made by a supervised financial organization and secured by an interest in land, other than a high-rate, high-fee mortgage, as defined in section 8-103, subsection ~~11-A~~, paragraph ~~F-1P~~, if the charge is reasonably calculated to offset the cost of origination of the loan. The administrator shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. C-3. 9-A MRSA §8-104, sub-§4,** as enacted by PL 1997, c. 155, Pt. C, §2, is amended to read:

4. The administrator may exempt, by rule, from all or part of this Title any class of transactions, other than transactions involving a mortgage described in section 8-103, subsection ~~11-A~~, paragraph ~~F-1P~~, for which, in the determination of the administrator, coverage under all or part of this Title does not



provide a meaningful benefit to consumers in the form of useful information or protection. In determining which classes of transactions to exempt in whole or in part under this subsection, the administrator shall consider the following factors:

- A. The amount of the loans and whether the disclosures, right of rescission and other provisions provide a benefit to the consumers who are parties to such transactions, as determined by the administrator;
- B. The extent to which the requirements of this Title complicate, hinder or make more expensive the credit process for the class of transactions;
- C. The status of the borrowers, including:
  - (1) Any related financial arrangements of the borrowers, as determined by the administrator;
  - (2) The financial sophistication of the borrowers relative to the type of transaction; and
  - (3) The importance to the borrowers of the credit, related supporting property and coverage under this Title, as determined by the administrator;
- D. Whether a loan is secured by the principal residence of the consumer; and
- E. Whether the goal of consumer protection would be undermined by such an exemption.

**Sec. C-4. 9-A MRSA §8-105, sub-§6, ¶B,** as enacted by PL 1995, c. 614, Pt. B, §3 and affected by §4, is amended to read:

- B. For purposes of section 8-204:
  - (i) If, except as provided in subparagraph (ii), the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1/2 of 1% of the total amount of credit extended; or
  - (ii) In the case of a transaction, other than a high-rate, high-fee mortgage as defined in section 8-103, subsection ~~1-A~~, paragraph ~~F-1P~~, that:
    - (a) Is a refinancing of the principal balance then due and any accrued and unpaid finance charges of a residential mortgage transaction, as defined in section 8-103, subsection ~~1-A~~, paragraph ~~HW~~, or is any subsequent refinancing of such a transaction; and

(b) Does not provide any new consolidation or new advance, if the amount disclosed as the finance charge does not vary from the actual finance charge by more than an amount equal to 1% of the total amount of credit extended.

**Sec. C-5. 9-A MRSA §8-106-A**, as enacted by PL 1995, c. 326, §4, is amended 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-A~~, paragraph ~~F-1~~, subparagraph ~~(1)P~~ 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-A~~, paragraph ~~F-1~~, subparagraph ~~(2)P~~ 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. C-6. 9-A MRSA §8-204, sub-§5, ¶A**, as enacted by PL 1981, c. 243, §25, is amended to read:

A. A residential mortgage transaction as defined in section 8-103, subsection ~~1-A~~, paragraph ~~HW~~;

**Sec. C-7. 9-A MRSA §8-206-A, sub-§15**, as enacted by PL 1995, c. 326, §5, is amended to read:

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~~10 and ~~11-A~~ 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.

**Sec. C-8. 9-A MRSA §8-209, sub-§4, ¶A,** as enacted by PL 1995, c. 614, Pt. A, §14, is amended to read:

A. Any person who purchases or is otherwise assigned a high-rate, high-fee mortgage, as defined in section 8-103, subsection ~~1-A~~, paragraph ~~F-1P~~, is subject to all claims and defenses with respect to that mortgage that the consumer may assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates by a preponderance of the evidence that a reasonable person exercising ordinary due diligence could not determine, based on the documentation required by this Title, the itemization of the amount financed and other disclosure of disbursements, that the mortgage was a high-rate, high-fee mortgage. This paragraph does not affect rights of a consumer under subsection 1, 2 or 3 or any other provision of this Title.

**Sec. C-9. 9-A MRSA §8-209, sub-§4, ¶D,** as enacted by PL 1995, c. 614, Pt. A, §14, is amended to read:

D. Any person who sells or otherwise assigns a high-rate, high-fee mortgage, as defined in section 8-103, subsection ~~1-A~~, paragraph ~~F-1P~~, shall include a prominent notice of the potential liability under this subsection as determined by the administrator.

**Sec. C-10. 10 MRSA §1141, sub-§2,** as enacted by PL 1991, c. 261, is amended to read:

**2. Credit card issuer.** "Credit card issuer" has the same meaning as "card issuer," as defined in Title 9-A, section 8-103, subsection ~~1-A~~, paragraph ~~DH~~.

**Sec. C-11. Appropriations and allocations.** The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

**Office of Consumer Credit Regulation 0091**

Initiative: Allocates funds for a Chief Field Investigator position with responsibility for investigating complex allegations of mortgage-related violations, including directing and overseeing the office's fact-gathering process, and for supervising the investigative activities of existing compliance examination staff and allocates for a Staff Attorney position with responsibility for compliance and enforcement as provided under the Maine Revised Statutes, Title 9-A, section 8-206-F.

| <b>OTHER SPECIAL REVENUE FUNDS</b>       | <b>2007-08</b>   | <b>2008-09</b>   |
|--|------------------|------------------|
| POSITIONS - LEGISLATIVE COUNT            | 2.000            | 2.000            |
| Personal Services                        | \$111,196        | \$156,841        |
| All Other                                | \$22,514         | \$20,144         |
|  | <hr/>            | <hr/>            |
| <b>OTHER SPECIAL REVENUE FUNDS TOTAL</b> | <b>\$133,710</b> | <b>\$176,985</b> |

**Office of Consumer Credit Regulation 0091**

Initiative: Allocates funds for the reclassification of the Director of the Office of Consumer Credit Regulation position to Superintendent of Consumer Credit Protection.

|   |                  |                  |
|---|------------------|------------------|
| <b>OTHER SPECIAL REVENUE FUNDS</b>  | <b>2007-08</b>   | <b>2008-09</b>   |
| Personal Services   | \$8,061          | \$15,785         |
|   | <hr/>            | <hr/>            |
| OTHER SPECIAL REVENUE FUNDS TOTAL   | \$8,061          | \$15,785         |
|   |                  |                  |
| <b>PROFESSIONAL AND FINANCIAL REGULATION,<br/>DEPARTMENT OF<br/>DEPARTMENT TOTALS</b> | <b>2007-08</b>   | <b>2008-09</b>   |
| <b>OTHER SPECIAL REVENUE FUNDS</b>  | <b>\$141,771</b> | <b>\$192,770</b> |
|   | <hr/>            | <hr/>            |
| <b>DEPARTMENT TOTAL - ALL FUNDS</b>   | <b>\$141,771</b> | <b>\$192,770</b> |

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

**SUMMARY**

This amendment does the following.

1. It clarifies that implementation of the multistate licensing system must reflect principles agreed upon by the Conference of State Bank Supervisors and the American Financial Services Association.
2. It clarifies that records provided to the administrator that are confidential must be maintained as confidential and not disclosed except as authorized.
3. It clarifies that construction loans are excluded from the definition of "residential mortgage loan."
4. It adds a definition of "subprime mortgage loan."
5. It clarifies that counseling organizations must be approved by the United States Department of Housing and Urban Development, the Maine State Housing Authority or the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection.
6. It requires rulemaking to further define tangible net benefit before January 1, 2008.
7. It clarifies that the provision requiring a creditor to determine a borrower's reasonable ability to pay before making a loan applies only to subprime mortgage loans.

8. It clarifies that a borrower must pay the reasonable costs of the lender incurred before cure of default.

9. It clarifies that assignees or purchasers of loans are not subject to the violations provision except as specifically provided.

10. It clarifies that punitive damages are permitted for violations of the high-rate, high-fee mortgage provisions or the flipping provision when the violation is malicious or reckless.

11. It excludes residential mortgage loans from potential criminal liability and clarifies that fines and terms of imprisonment for violations of the bill's provisions are in accordance with the Maine Revised Statutes, Title 17-A.

12. It requires the Superintendent of Consumer Credit Protection to report annually to the Legislature.

13. It adds a requirement of good faith and fair dealing on loan brokers.

14. It establishes the Bureau of Consumer Credit Protection to replace the current Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation.

**FISCAL NOTE REQUIRED**  
**(See attached)**