

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 striking out all of section 1 and inserting the following:

‘**Sec. 1. 32 MRSA §6183** is enacted to read:

§ 6183. Debt management services related to residential mortgage loans

A person that engages in debt management services as described in section 6172, subsection 2, paragraph D related to a consumer's residential mortgage loan shall comply with the requirements of this chapter governing debt management service providers, subject to the following conditions and provisions.

1. Good faith and fair dealing. A person subject to this section shall act in good faith and with fair dealing in any transaction, practice or course of business in connection with the providing of debt management services.

2. Training. With respect to section 6174-B, training leading to certification of the counselor must relate to subject matter specific to such activity, including but not limited to the tax consequences to the consumer of forgiven debt, the consumer's options for discharge of debt, including but not limited to the availability of bankruptcy, and all other options available to the consumer. The consumer education program must also include information about the tax consequences of forgiven debt.

3. Written reports. With respect to section 6177, subsection 1, the periodic written reports must consist of written updates provided to the consumer on at least a quarterly basis as well as a final accounting provided to the consumer.

4. Exceptions. Section 6179, subsections 1 and 3 do not apply to the provisions of this section.

5. Disclosure. If the service to be provided to the consumer includes the sale or transfer of an interest in real property:

A. The consumer's right to cancel the agreement by providing a written notice of cancellation to the other party pursuant to section 6176, subsection 2, paragraph E is effective only until the date of consummation of the transfer;

B. The debt management service provider must provide the consumer with the names and contact information for 3rd-party housing counselors approved by the United States Department of Housing and Urban Development; and

C. The debt management service provider must specifically advise the consumer in writing whether the consumer will be liable for a deficiency or not liable for a deficiency resulting from the sale or transfer.

6. Damages. In addition to any other remedies available to the consumer, a consumer has a right to recover consequential damages from the debt management service provider for a violation of this section.’

SUMMARY

This amendment clarifies that a business acting as a foreclosure negotiator relating to a residential mortgage is subject to the laws regulating debt management service providers but exempts that business from certain provisions of current law, such as the requirements to provide credit counseling services and to provide the consumer with certain internal business records. In addition, since a foreclosure negotiator arranges for the purchase of property, the amendment provides that an agreement may be cancelled until the date of the transfer of the property. The amendment requires that a foreclosure negotiator notify a consumer with contact information for a housing counselor and advise the consumer about whether the consumer will be liable for any deficiency resulting from the transfer. The amendment also gives a consumer the right to recover consequential damages for violations.

The amendment retains consumer protections such as the requirement to register with the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection, post a surety bond to ensure compliance and accountability with the law and provide written agreements to a consumer.