| 1 | L.D. 1645 |
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| 2 | Date: (Filing No. S-) |
| 3 | HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES |
| 4 | Reproduced and distributed under the direction of the Secretary of the Senate. |
| 5 | STATE OF MAINE |
| 6 | SENATE |
| 7 | 130TH LEGISLATURE |
| 8 | FIRST SPECIAL SESSION |
| 9 10 | COMMITTEE AMENDMENT " " to S.P. 530, L.D. 1645, "An Act To Establish Protections for Private Student Loan Borrowers and a Registry of Lenders" |
| 11 12 | Amend the bill in section 1 in art. 15 in §15-101 by striking out all of subsection 3 and inserting the following: |
| 13 14 15 16 17 18 19 20 21 22 | '3. Student financing company. "Student financing company" means a person engaged in the business of making or extending credit to a student for postsecondary education expenses or a holder of debt or obligation owned or incurred by a student to finance postsecondary education expenses. "Student financing company" does not include a supervised financial organization; a financial institution holding company as defined in Title 9-B, section 1011, subsection 1; a mutual holding company as defined in Title 9-B, section 1052, subsection 2; a wholly owned subsidiary of a supervised financial organization, financial institution holding company or mutual holding company; or the Finance Authority of Maine. Only to the extent that state regulation is preempted by federal law, "student financing company" does not include: |
| 23 24 | A. A federally chartered bank, savings bank, savings and loan association or credit union; |
| 25 | B. A wholly owned subsidiary of a federally chartered bank or credit union; or |
| 26 27 28 | C. An operating subsidiary of a wholly owned subsidiary of a federally chartered bank or credit union in which each owner of the operating subsidiary is wholly owned by the same federally chartered bank or credit union.' |
| 29 30 | Amend the bill in section 1 in art. 15 in §15-102 in subsection 1 by striking out all of paragraph A (page 1, line 38 in L.D.) and inserting the following: |
| 31 32 | 'A. Registers with the superintendent under rules or procedures adopted by the superintendent, including the payment of a fee of not less than \$500 annually; and' |
| 33 34 35 | Amend the bill in section 1 in art. 15 in §15-103 in subsection 4 in the first 2 lines (page 2, lines 32 and 33 in L.D.) by striking out the following: "person who suffers damage as a result of the failure of another person to comply with this Article may bring an action |

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against the other person" and inserting the following: 'student financing company that fails to comply with this Article is liable to any person or class of persons obligated on such student financing contract'

Amend the bill in section 1 in art. 15 in §15-103 in subsection 4 in paragraph F in the first line (page 2, line 40 in L.D.) by inserting after the following: "proper" the following: ', including a declaration that the contract between the person or class of persons and the student financing company is void and unenforceable'

Amend the bill in section 1 in art. 15 in §15-103 by inserting after subsection 4 the following:

'5. Remedies. Any violation of this Article is subject to the remedies provided in this section in addition to remedies otherwise provided by law.'

Amend the bill in section 1 in art. 15 in §15-104 in the first indented paragraph in the first line (page 3, line 2 in L.D.) by striking out the following: "shall" and inserting the following: 'may'

Amend the bill in section 2 in art. 16 in §16-101 in subsection 1 in the last line (page 3, line 16 in L.D.) by striking out the following: "cosigner" and inserting the following: 'borrower or cosigner whose signature is needed solely to perfect the security interest in the loan'

Amend the bill in section 2 in art. 16 in §16-101 in subsection 5 in the 3rd line (page 3, line 33 in L.D.) by striking out the following: "To" and inserting the following: "Private education lender" does not include a supervised financial organization; a financial institution holding company as defined in Title 9-B, section 1011, subsection 1; a mutual holding company as defined in Title 9-B, section 1052, subsection 2; a wholly owned subsidiary of a supervised financial organization, financial institution holding company or mutual holding company; or the Finance Authority of Maine. Only to'

Amend the bill in section 2 in art. 16 by inserting after §16-101 the following:

'§16-102. License required

A person may not engage in the business of securing, making or extending a private education loan or holding a private education loan without having first obtained a license as a supervised lender from the administrator pursuant to section 2-301.'

Amend the bill in section 2 in art. 16 in §16-102 in subsection 3 in the last line (page 5, line 12 in L.D.) by inserting after the following: "cosigner." the following: "Upon written request of the borrower or cosigner, the lender may withhold individual contact information from the other party.'

Amend the bill in section 2 in art. 16 in §16-103 in subsection 1 in the first line (page 5, line 14 in L.D.) by striking out the following: "adopt" and inserting the following: 'inform the borrower and cosigner of all'

Amend the bill in section 2 in art. 16 in §16-103 in subsection 1 in the 2nd line (page 5, line 15 in L.D.) by inserting after the following: "criteria" the following: 'required'

Amend the bill in section 2 in art. 16 in §16-108 in subsection 2 in the 3rd line (page 8, line 35 in L.D.) by inserting after the following: "first" the following: 'written'

| 1 2 3 | Amend the bill in section 2 in art. 16 in §16-109 in subsection 1 in the last line (page 10, line 23 in L.D.) by striking out the following: "16-110" and inserting the following: '16-111' |
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| 4 5 6 | Amend the bill in section 2 in art. 16 in §16-109 in subsection 2 in the last 2 lines (page 10, lines 27 and 28 in L.D.) by striking out the following: "student financing company" and inserting the following: 'private education lender' |
| 7 8 | Amend the bill in section 2 in art. 16 in §16-109 by inserting after subsection 4 the following: |
| 9 10 11 12 | ' <u>5. Purporting to act as agent for an entity exempt from this Article.</u> A person is subject to the requirements of this Article notwithstanding the fact that the person purports to act as an agent or in another capacity for an entity that is exempt from this Article, if among other things: |
| 13 14 | A. The person holds, acquires or maintains, directly or indirectly, the predominant economic interest in the private education loan; |
| 15 16 17 | B. The person markets, brokers, arranges or facilitates the loan and holds the right requirement or right of first refusal to purchase the private education loan or a receivable or interest in the private education loan; or |
| 18 19 20 21 | C. The totality of the circumstances indicate that the person is the private education lender and the transaction is structured to evade the requirements of this Article. Circumstances that weigh in favor of a person being a private education lender include without limitation, when the person: |
| 22 23 | (1) Indemnifies, insures or protects an entity exempt from this Article for any costs or risks related to the private education loan; |
| 24 25 | (2) Predominantly designs, controls or operates the private education loan program; or |
| 26 27 | (3) Purports to act as an agent or in another capacity for an entity exempt from this Article while acting directly as a private education lender in other states. |
| 28 29 | 6. Remedies. Any violation of this Article is subject to the remedies provided in this section in addition to remedies otherwise provided by law.' |
| 30 31 32 | Amend the bill in section 2 in art. 16 in §16-110 in the first indented paragraph in the first line (page 11, line 1 in L.D.) by striking out the following: "shall" and inserting the following: 'may' |
| 33 | Amend the bill in section 2 in art. 16 by renumbering the sections to read consecutively. |
| 34 | Amend the bill by inserting after section 2 the following: |
| 35 36 | 'Sec. 3. Appropriations and allocations. The following appropriations and allocations are made. |
| 37 | PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF |
| 38 | Administrative Services - Professional and Financial Regulation 0094 |
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Initiative: Provides funding for the All Other costs of the newly established Principal Consumer Credit Examiner position.

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| 1 2 | OTHER SPECIAL REVENUE FUNDS All Other | 2021-22 \$2,730 | 2022-23 \$4,270 |
|----------------|---|---------------------------|--------------------------|
| 3 4 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$2,730 | \$4,270 |
| 5 | Bureau of Consumer Credit Protection 0091 | | |
| 6 7 | Initiative: Provides funding for the All Other costs of the Consumer Credit Examiner position. | e newly establish | ned Principal |
| 8 9 10 | OTHER SPECIAL REVENUE FUNDS All Other | 2021-22 \$8,994 | 2022-23 \$4,270 |
| 11 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$8,994 | \$4,270 |
| 12 | Licensing and Enforcement 0352 | | |
| 13 14 | Initiative: Establishes one Principal Consumer Credit Exaregulation of private education lending. | miner position to | manage the |
| 15 16 17 | OTHER SPECIAL REVENUE FUNDS Personal Services | 2021-22 \$78,377 | 2022-23 \$109,710 |
| 17 18 19 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$78,377 | \$109,710 |
| 20 21 22 | PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS | 2021-22 | 2022-23 |
| 23 24 25 | OTHER SPECIAL REVENUE FUNDS | \$90,101 | \$118,250 |
| 26 | DEPARTMENT TOTAL - ALL FUNDS | \$90,101 | \$118,250 |
| 27 | 1 | | |
| 28 | Amend the bill by relettering or renumbering any nonco | onsecutive Part let | ter or section |

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

30 SUMMARY

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This amendment makes the following changes to the bill.

- 1. It adds an exemption from the requirements of the bill for State-chartered banks and credit unions and the Finance Authority of Maine.
- 2. It requires that the registration fee for the private student lender registry adopted by rule may not be less than \$500 per year.
- 3. It requires that a person may not engage in the business of securing, making or extending a private education loan or holding a private education loan without a license as a supervised lender.
- 4. It clarifies that a person is subject to the requirements of the bill as a private education lender notwithstanding the fact that the person purports to act as an agent or in another capacity for an entity that is exempt if certain conditions are met.

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COMMITTEE AMENDMENT

| 1 2 | 5. It clarifies the authority of the Superintendent of Consumer Credit Protection with regard to enforcement. |
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| 3 4 | It makes the authority to adopt rules discretionary and makes other technical changes. |
| 5 | The amendment also adds an appropriations and allocations section. |
| 6 | FISCAL NOTE REQUIRED |
| 7 | (See attached) |
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