ARTICLE 8-A

MAINE TRUTH-IN-LENDING

§8-501. Short title

This Article may be known and cited as the "Maine Consumer Credit Code - Truth-in-Lending." [PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW).

§8-502. Findings and declaration of purpose

The Legislature finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumers. It is the purpose of this Article to ensure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to the consumer and avoid the uninformed use of credit and to protect the consumer against inaccurate and unfair credit billing and credit card practices. [PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW).

§8-503. Conformity with federal law

Unless the context otherwise indicates, any word or phrase that is not defined in this Article but that is defined in the Federal Truth in Lending Act, Title I of the federal Consumer Credit Protection Act, 15 United States Code, Section 1601 et seq. or its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.1 et seq., has the meaning set forth in the Federal Truth in Lending Act and its implementing regulations. [PL 2013, c. 464, §3 (AMD).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §3 (AMD).

§8-504. Maine Consumer Credit Code - Truth-in-Lending

1. Compliance with Federal Truth in Lending Act. Notwithstanding any other law, a creditor shall comply with the Federal Truth in Lending Act, Title I of the federal Consumer Credit Protection Act, 15 United States Code, Section 1601 et seq. and its implementing regulations, Regulation Z, 12 Code of Federal Regulations, Section 1026.1 et seq. and Regulation M, 12 Code of Federal Regulations, Section 1013.1 et seq.
[PL 2013, c. 464, §4 (AMD).]

2. Rule-making authority. Consistent with the purposes of Title X and Title XIV of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 and with the purposes set forth in sections 1-102 and 8-502 and notwithstanding other law, the administrator may adopt rules substantially similar to or that afford more protection for consumers than those codified in 12 Code of Federal Regulations, Part 1026 and 12 Code of Federal Regulations, Part 1013. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. In adopting rules pursuant to this subsection, the administrator shall specifically consider whether there is a substantial impact on consumer protection before adopting rules affecting the following provisions of section 8-506:

A. The rate thresholds pertaining to high-cost mortgage loans in section 8-506, subsection 1, paragraph H; [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. The prepayment penalties for high-cost mortgage loans in section 8-506, subsection 2, paragraph D; [PL 2011, c. 427, Pt. A, §15 (NEW).]

C. The assignee liability for high-cost mortgage loans in section 8-506, subsection 3; [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. The ability to repay in section 8-506, subsection 4; [PL 2011, c. 427, Pt. A, §15 (NEW).]

E. The prohibition against flipping and the principles of tangible net benefit in section 8-506, subsection 5; and [PL 2013, c. 464, §4 (AMD).]

F. The enhanced penalties for violations in section 8-506, subsection 6. [PL 2011, c. 427, Pt. A, §15 (NEW).]

The rules may contain classifications, differentiations or other provisions and may provide for adjustments and exceptions for any class of transactions subject to this Title that in the judgment of the administrator are necessary or proper to effectuate the purposes of this Title, or to prevent circumvention or evasion of or to facilitate compliance with, the provisions of this Title.
[PL 2013, c. 464, §4 (AMD).]

3. Compliance with rules prior to effective date. A creditor may comply with any rules adopted by the administrator pursuant to subsection 2 prior to the effective date of those rules.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §4 (AMD).

§8-505. Enforcement

1. Enforcement under Article 6. The administrator shall enforce this Article under the provisions of Article 6. When the Superintendent of Financial Institutions is acting as administrator, the superintendent may, in addition to the enforcement authority under Article 6, use any authority provided in Title 9-B for the supervision of financial institutions.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

2. Reimbursement. The administrator may adopt by rule a reimbursement program such that creditors subject to an administrative order under section 6-108 may be ordered to make whatever adjustments are necessary to ensure that any person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. In determining any readjustment, the administrator shall apply, with respect to the annual percentage rate, a tolerance allowed under the Federal Truth in Lending Act, 15 United States Code, Section 1607 and its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.1 et seq. and, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance allowed by the Federal Truth in Lending Act and its implementing regulations for the annual percentage rate. The administrator may order partial adjustment or partial payments over an extended period if the administrator determines that a partial adjustment or making partial payments over an extended period is necessary to avoid causing the creditor to become undercapitalized pursuant to the Federal Deposit Insurance Act.
[PL 2013, c. 464, §5 (AMD).]

3. Criminal liability for willful and knowing violation. Whoever willfully and knowingly gives false or inaccurate information or fails to provide information that the person is required to disclose under the provisions of this Article or any regulation issued thereunder, uses any chart or table authorized by the administrator under this Article in such a manner as to consistently understate the

annual percentage rate determined under this Article or otherwise fails to comply with any requirement imposed under this Article is guilty of a Class D crime.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

4. Penalties inapplicable to governmental agencies. A civil or criminal penalty provided under this Article for any violation thereof may not be imposed upon the United States or any agency thereof, or upon any state or political subdivision thereof, or any agency of any state or political subdivision thereof.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

5. Civil liability. Except as otherwise provided for transactions subject to section 8-506, subsection 6, any creditor that fails to comply with the requirements imposed under this Article with respect to any person is liable to that person as provided for in the Federal Consumer Credit Protection Act, 15 United States Code, Section 1640.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

6. Liability of assignees. Except as otherwise provided for transactions subject to section 8-506, subsection 3, any civil action for a violation of this Article that may be brought against a creditor may be maintained against any assignee of such creditor as provided for in the federal Consumer Credit Protection Act, 15 United States Code, Section 1641.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

7. Attorney General. The Attorney General has jurisdiction to enforce this Article against mortgage brokers as defined in section 8-506, subsection 1, paragraph J and supervised lenders that are not supervised financial organizations through their general regulatory powers and through civil process. The administrator, through the Attorney General, may bring a civil action to restrain any person from violating this Article.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §5 (AMD).

§8-506. Enhanced restrictions on certain creditors

In addition to the compliance requirements of section 8-504, subsection 1, unless otherwise required by rules adopted pursuant to section 8-504, subsection 2, a creditor shall comply with the following enhanced restrictions. [PL 2011, c. 427, Pt. A, §15 (NEW).]

1. Definitions. The following definitions apply to the enhanced restrictions set forth in this section.

A. "Administrator" has the same meaning as set forth in section 1-301. [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. "Bona fide discount points" means an amount knowingly paid by a borrower for the express purpose of reducing, and that in fact does result in a bona fide reduction of, the interest rate applicable to a residential mortgage loan, as long as the undiscounted interest rate for the residential mortgage loan does not exceed the conventional mortgage rate by more than 2 percentage points for a residential mortgage loan secured by a first lien or by 3 1/2 percentage points for a residential mortgage loan secured by a subordinated lien. [PL 2011, c. 427, Pt. A, §15 (NEW).]

C. "Borrower" means any natural person obligated to repay a loan, including a coborrower, cosigner or guarantor. [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. "Conventional mortgage rate" means the most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as published in statistical release H.15 or any superseding publication, as of the applicable time set forth in 12 Code of Federal Regulations, Section 1026.32(a)(1)(i). [PL 2013, c. 464, §6 (AMD).]

E. "Conventional prepayment penalty" means any prepayment penalty or fee that may be collected or charged in a residential mortgage loan and that is authorized by law other than this section, as long as the residential mortgage loan does not have an annual percentage rate that exceeds the conventional mortgage rate by more than 2 percentage points and does not permit any prepayment fees or penalties that exceed 2% of the amount prepaid. [PL 2011, c. 427, Pt. A, §15 (NEW).]

F. "Creditor" has the same meaning as set forth in section 1-301, subsection 17. For purposes of this section, "creditor" also includes an entity defined as a lender as set forth in 12 Code of Federal Regulations, Section 1024.2, including a mortgage broker. [PL 2013, c. 464, §7 (AMD).]

G. "Excluded points and fees" means, in connection with a residential mortgage loan, all bona fide fees paid to a federal or state government agency that insures payment of some portion of a residential mortgage loan plus an amount not to exceed 2% of the total loan amount attributable to bona fide discount points or a conventional prepayment penalty. [PL 2011, c. 427, Pt. A, §15 (NEW).]

H. "High-cost mortgage loan" means a residential mortgage loan in which the terms of the loan meet or exceed one or more of the following thresholds:

(1) Rate threshold, which, for a residential mortgage loan, is the point at which the annual percentage rate equals or exceeds the rate set forth in 12 Code of Federal Regulations, Section 1026.32(a)(1)(i) without regard to whether the residential mortgage loan may be considered a "residential mortgage transaction" or an extension of "open-end credit" as those terms are set forth in 12 Code of Federal Regulations, Section 1026.2; and

(2) The total points and fees threshold, which is:

(a) For loans in which the total loan amount is $40,000 or more, the point at which the total points and fees payable in connection with the residential mortgage loan less any excluded points and fees exceed 5% of the total loan amount; and

(b) For loans in which the total loan amount is less than $40,000, the point at which the total points and fees payable in connection with the residential mortgage loan less any excluded points and fees exceed 6% of the total loan amount. [PL 2013, c. 464, §8 (AMD).]

I. "Higher-priced mortgage loan" has the same meaning as set forth in the Federal Truth in Lending Act and its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.35(a). "Higher-priced mortgage loan" also includes a residential mortgage loan that is a nontraditional mortgage as described in the "Interagency Guidance on Nontraditional Mortgage Product Risks" issued September 29, 2006 and published in 71 Federal Register, 58609 on October 4, 2006 and as updated from time to time, except that "higher-priced mortgage loan" does not include a mortgage that does not allow a borrower to defer repayment of principal or interest. [PL 2013, c. 464, §8 (AMD).]

J. "Mortgage broker" has the same meaning as set forth in 12 Code of Federal Regulations, Section 1024.2, except as otherwise provided in this Article. [PL 2013, c. 464, §8 (AMD).]

K. "Points and fees" has the same meaning as set forth in 12 Code of Federal Regulations, Section 1026.32(b)(1). In addition, "points and fees" includes:

(1) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents;

(2) All prepayment fees and penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same creditor or an affiliate of the creditor; and

(3) All compensation paid directly or indirectly to a mortgage broker from any source, including a mortgage broker that originates a loan in its own name in a table-funded transaction.

For open-end loans, points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties that may be charged or collected under the terms of the loan documents and the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line. [PL 2013, c. 464, §8 (AMD).]

L. "Residential mortgage loan" means an extension of credit, including an open-end credit plan, in which:

(1) The loan does not exceed the maximum original principal obligation as set forth in and from time to time adjusted according to the provisions of 12 United States Code, Section 1454(a)(2);

(2) The loan is considered a federally related mortgage loan as set forth in 12 Code of Federal Regulations, Section 1024.2;

(3) The loan is not a reverse mortgage transaction or a loan made primarily for business, agricultural or commercial purposes;

(4) The loan is not a construction loan; and

(5) The loan is secured by the borrower's principal dwelling. [PL 2013, c. 464, §8 (AMD).]

M. "Servicing" has the same meaning as set forth in 12 Code of Federal Regulations, Section 1024.2 and includes any other activities or responsibilities undertaken in connection with a residential mortgage loan by a person who acts as a servicer with respect to that residential mortgage loan, including collection and default management functions. [PL 2013, c. 464, §8 (AMD).]

N. "Total loan amount" means the principal of a loan minus those points and fees that are included in the principal amount of the loan. For open-end loans, the total loan amount must be calculated using the total line of credit allowed under the residential mortgage loan at closing. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2013, c. 464, §§6-8 (AMD).]

2. High-cost mortgage loans; restrictions. A high-cost mortgage loan is subject to the provisions applying to certain closed-end home mortgages covered by Regulation Z, 12 Code of Federal Regulations, Section 1026.32 and the following restrictions.

A. In connection with a high-cost mortgage loan, a creditor may not directly or indirectly finance any points or fees. [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. In addition to the limitation on balloon payments found in Regulation Z, 12 Code of Federal Regulations, Section 1026.32, a high-cost mortgage loan may not contain a scheduled payment that is more than twice as large as the average of earlier scheduled payments. This paragraph does not apply when the payment schedule is adjusted to the seasonal or irregular income of the borrower. [PL 2013, c. 464, §9 (AMD).]

C. A creditor may not make a high-cost mortgage loan without first receiving certification from a counselor with a 3rd-party, nonprofit organization approved by the United States Department of Housing and Urban Development, a housing financing agency of this State or the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection that the borrower has received counseling on the advisability of the loan transaction. [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. A prepayment fee or penalty may not be included in the loan documents or charged under the terms of a high-cost mortgage loan. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2013, c. 464, §9 (AMD).]

3. High-cost mortgage loans; assignee liability. The following provisions apply to a claim made by a borrower against a purchaser or assignee of a high-cost mortgage loan.

A. Any person who purchases or is otherwise assigned a high-cost mortgage loan is subject to all affirmative claims and any defenses with respect to the loan that the borrower may assert against a creditor of the loan, except that this paragraph does not apply if the purchaser or assignee demonstrates by a preponderance of the evidence that it:

(1) Has in place, at the time of the purchase or assignment of the subject loan, policies that expressly prohibit the purchaser or assignee's purchase or acceptance of assignment of any high-cost mortgage loan;

(2) Requires by contract that a seller or assignor of residential high-cost mortgage loans to the purchaser or assignee represent and warrant to the purchaser or assignee that neither the seller or assignor will sell or assign any high-cost mortgage loans to the purchaser or assignee, nor that the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect; and

(3) Exercises reasonable due diligence, at the time of purchase or assignment of residential mortgage loans or within a reasonable period of time after the purchase or assignment of such residential mortgage loans, intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high-cost mortgage loan. For purposes of this subparagraph, reasonable due diligence must provide for sampling and may not require loan-by-loan review. [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. Notwithstanding paragraph A, liability pursuant to this subsection may not accrue to a purchaser or assignee of a high-cost mortgage loan as a result of an alleged violation by a creditor of subsection 5. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2011, c. 427, Pt. A, §15 (NEW).]

4. Ability to repay. A creditor may not extend a high-cost mortgage loan or a higher-priced mortgage loan to a consumer based on the value of the consumer's collateral without regard to the consumer's repayment ability as of consummation, including the consumer's current and reasonably expected income, employment, assets other than the collateral, credit history, debt-to-income ratio, current obligations and mortgage-related obligations.

A. For purposes of this subsection, mortgage-related obligations are expected property taxes, premiums for mortgage-related insurance required by the creditor, such as insurance against loss of or damage to property or against liability arising out of the ownership or use of the property or insurance protecting the creditor against the consumer's default or other credit loss, and similar expenses. [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. Under this subsection, a creditor must verify the consumer's repayment ability as follows.

(1) A creditor must verify amounts of income or assets that it relies on to determine repayment ability, including expected income or assets, by the consumer's federal Internal Revenue Service Form W-2, tax returns, payroll receipts, financial institution records or other 3rd-party documents that provide reasonably reliable evidence of the consumer's income or assets. For the purposes of this subparagraph, "reasonably reliable evidence of the consumer's income or assets" includes, but is not limited to, statements from investment advisors, broker-dealers and others in a fiduciary relationship with the consumer as long as the statements reflect the consumer's actual income and not estimated, projected or anticipated income or a range of earnings for a consumer's type or class of employment.

(2) A creditor must verify the consumer's current obligations. [PL 2011, c. 427, Pt. A, §15 (NEW).]

C. A creditor is presumed to have complied with this subsection with respect to a transaction if the creditor:

(1) Verifies the consumer's repayment ability as provided in paragraph B;

(2) Determines the consumer's repayment ability using the largest payment of principal and interest scheduled in the first 7 years following consummation and taking into account current obligations and mortgage-related obligations; and

(3) Assesses the consumer's repayment ability taking into account at least one of the following:

(a) The ratio of total debt obligations to income; and

(b) The income the consumer will have after paying debt obligations. [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. Notwithstanding paragraph C, no presumption of compliance is available for a transaction for which:

(1) The regular periodic payments for the first 7 years would cause the principal balance to increase; or

(2) The term of the loan is less than 7 years and the regular periodic payments when aggregated do not fully amortize the outstanding principal balance. [PL 2011, c. 427, Pt. A, §15 (NEW).]

E. This subsection does not apply to a temporary or so-called "bridge" loan with a term of 12 months or less, such as a loan to purchase a new dwelling when the consumer plans to sell a current dwelling within 12 months. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2011, c. 427, Pt. A, §15 (NEW).]

5. Flipping. A creditor or a mortgage broker may not knowingly or intentionally engage in the act or practice of flipping a residential mortgage loan when making a high-cost mortgage loan or higher-priced mortgage loan. The administrator may adopt rules defining with reasonable specificity the requirements for compliance with this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. For the purposes of this subsection, "flipping a residential mortgage loan" means the making of a residential mortgage loan to a borrower that refinances an existing residential mortgage loan when the new loan does not have reasonable, tangible net benefit to the borrower considering all the circumstances, including, but not limited to, the terms of both the new and refinanced loans, the cost of the new loan and the borrower's circumstances. [PL 2011, c. 427, Pt. A, §15 (NEW).]

6. Special liability. This subsection applies to any violation of this section in connection with the origination, brokering or servicing of a residential mortgage loan. This subsection does not apply to a purchaser or assignee of a residential mortgage loan except as permitted in subsection 3.

A. Any person who has been found in violation of this section with regard to residential mortgage loans may be liable to the borrower for the following:

(1) Actual damages, including consequential and incidental damages. The borrower may not be required to demonstrate reliance in order to receive actual damages;

(2) Punitive damages for violations of subsections 2 and 5, when the violation was malicious or reckless;

(3) Costs, including reasonable attorney's fees; and

(4) Statutory damages as follows:

(a) For violations described in subsection 2, statutory damages equal to 2 times the finance charge paid under the loan and forfeiture of the remaining interest under the loan; and

(b) For any other violations of this section, statutory damages in the amount of $5,000 per violation. [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. A borrower may be granted injunctive, declaratory and other equitable relief that the court determines appropriate in an action to enforce compliance with this section. [PL 2011, c. 427, Pt. A, §15 (NEW).]

C. The right of rescission granted under 15 United States Code, Chapter 41, Subchapter I, Part A for a violation of that law is available to a borrower acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a residential mortgage loan at any time during the term of the loan. Any recoupment claim asserted pursuant to this provision is limited to amounts required to reduce or extinguish the borrower's liability under the residential mortgage loan plus amounts required to recover costs, including reasonable attorney's fees. This paragraph may not be construed to limit recoupment rights available to the borrower under any other law. [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. The remedies provided in this subsection are not intended to be the exclusive remedies available to a borrower, nor must the borrower exhaust any administrative remedies provided under this subsection or any other applicable law before proceeding under this subsection. [PL 2011, c. 427, Pt. A, §15 (NEW).]

E. Any person who knowingly violates a provision of this section is guilty of a Class E crime. [PL 2011, c. 427, Pt. A, §15 (NEW).]

F. A creditor in a residential mortgage loan who, when acting in good faith, fails to comply with any provision of this section related to residential mortgage loans is deemed not to have violated this section if the creditor establishes that either:

(1) Within 30 days of the loan closing and prior to receiving any notice of the compliance failure, the creditor has made appropriate restitution to the borrower and appropriate adjustments have been made to the loan; or

(2) Within 60 days of the loan closing and prior to receiving any notice of the compliance failure, when the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower and appropriate adjustments are made to the loan. Examples of a bona fide error include clerical, calculation, computer malfunction and programming and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error. [PL 2011, c. 427, Pt. A, §15 (NEW).]

G. The remedies provided in this subsection are cumulative. [PL 2011, c. 427, Pt. A, §15 (NEW).]

H. Notwithstanding any other provision of law, a residential mortgage loan agreement may not include any provision that waives any borrower's remedies available at law or equity, whether acting individually or on behalf of others similarly situated, or the borrower's rights to civil discovery or appeal. Any such provision is unenforceable and void as a matter of law. [PL 2011, c. 427, Pt. A, §15 (NEW).]

I. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, any provision of a residential mortgage loan agreement that allows a person to require a borrower to assert any claim or defense in a forum that is less convenient, more costly or more dilatory for the resolution of a dispute than a judicial forum established in this State where the borrower may otherwise properly bring a claim or defense or that limits in any way any claim or defense the borrower may have is unconscionable and void as a matter of law. [PL 2011, c. 427, Pt. A, §15 (NEW).]

J. It is a violation of this section for any person to attempt in bad faith to avoid the application of this section by dividing any loan transaction into separate parts or structuring a residential mortgage loan transaction as an open-end loan for the purpose of evading the provisions of this section when the loan would have been a high-cost mortgage loan if the loan had been structured as a closed-end loan or by engaging in any other subterfuge with the intent of evading any provision of this section. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2011, c. 427, Pt. A, §15 (NEW).]

7. Exemption for supervised financial organizations and the Maine State Housing Authority. This section does not apply to any supervised financial organization as defined in section 1-301, subsection 38-A or to the Maine State Housing Authority.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §§6-9 (AMD).

§8-507. Exemption from the Federal Truth in Lending Act

1. Preservation of federal exemption. As required by the Federal Truth in Lending Act, 15 United States Code, Section 1633 and its implementing regulation, Regulation Z, 12 Code of Federal Regulations, Section 1026.29, the administrator may take any action necessary to apply for or to preserve a determination by the federal Consumer Financial Protection Bureau or its successor agency that under the laws of this State any class of credit transactions within this State is subject to requirements substantially similar to federal requirements and that there are adequate provisions for enforcement of such requirements.

[PL 2013, c. 464, §10 (AMD).]

2. Application. This Article does not apply to any class of credit transactions within this State that is subject to the requirements of the Federal Truth in Lending Act, Title I of the federal Consumer Credit Protection Act unless any such class of transactions has first been exempted by a regulation of the federal Consumer Financial Protection Bureau and that exemption remains in effect.

[PL 2013, c. 464, §10 (AMD).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 464, §10 (AMD).

§8-508. Authority of administrator

The administrator, by rule or order, shall prohibit acts or practices in connection with: [PL 2011, c. 427, Pt. A, §15 (NEW).]

1. Unfair or deceptive mortgage loans. The making of a residential mortgage loan that the administrator finds unfair, deceptive or designed to evade the provisions of section 8-506; and

[PL 2011, c. 427, Pt. A, §15 (NEW).]

2. Refinancing; abusive lending practices. The refinancing of a residential mortgage loan that the administrator finds is associated with abusive lending practices or that is otherwise not in the interest of the borrowing public.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW).

§8-509. Credit card and debit card surcharge prohibition

1. Surcharge prohibited. A seller in a sales transaction may not impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means. For purposes of this section, "surcharge" means any means of increasing the regular price to a cardholder that is not imposed on a customer paying by cash, check or similar means. A discount or reduction from the regular price is not a surcharge.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

2. Surcharge permitted for governmental entity. Notwithstanding subsection 1, a governmental entity may impose a surcharge for payments made with a credit card or debit card for taxes, fines, charges, utility fees, regulatory fees, license or permit fees or the provision of a specific service provided by that governmental entity if the surcharge:

A. Is disclosed clearly to the consumer prior to payment; and [PL 2011, c. 427, Pt. A, §15 (NEW).]

B. Does not exceed the costs associated with providing the credit card or debit card service that are directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service provider for a credit card or debit card transaction. If there is not a cost assessed by an authorized 3rd-party payment service provider for a debit card transaction, the governmental entity may not impose a surcharge associated with a debit card transaction. [PL 2011, c. 427, Pt. A, §15 (NEW).]

A governmental entity shall disclose to the consumer that the surcharge may be avoided if the consumer makes payments by cash, check or other means not a credit card or debit card. A governmental entity is not subject to any liability to the issuer of a credit card or an authorized 3rd-party payment service provider for nonpayment of credit card charges by the consumer. As used in this subsection, "governmental entity" includes, but is not limited to, a county established or governed by Title 30-A, Part 1, a municipality as defined in Title 30-A, section 2001, subsection 8, a quasi-municipal corporation as defined in Title 30-A, section 2604, subsection 3, the Judicial Department as described in Title 4, the University of Maine System, the Maine Community College System and the Maine Maritime Academy.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW).

§8-510. Disclosure of lists of the names, addresses and account numbers of credit card holders

1. Disclosure prohibited. Except as provided in subsection 2, it is unlawful for a person, business, corporation, partnership, agency, financial institution, credit card registration service or other entity to rent, sell, exchange or otherwise disclose or make available to another person or entity a list containing the names, addresses and account numbers of credit card holders without the express, written permission of the credit card holders.
[PL 2011, c. 427, Pt. A, §15 (NEW).]

2. Exceptions. The following disclosures of lists containing the names, addresses and account numbers of credit card holders are not prohibited:

A. Disclosure to or from a consumer reporting agency, as defined in Title 10, section 1308, subsection 3, as long as the transfer is for purposes of compliance with and in a manner consistent with the terms of the Fair Credit Reporting Act; [PL 2013, c. 588, Pt. C, §1 (AMD).]

B. Disclosure between a parent corporation and a subsidiary or affiliate of that corporation or between subsidiaries or affiliates of a parent corporation; [PL 2011, c. 427, Pt. A, §15 (NEW).]

C. Disclosure in connection with the sale or pledge, or negotiation of the sale or pledge, of any portion of a business or the assets of a business, as long as the party to whom disclosure is made maintains the confidentiality of the information disclosed; [PL 2011, c. 427, Pt. A, §15 (NEW).]

D. Disclosure in connection with authorization, processing, billing, collection, charge-back, fraud prevention or credit card recovery; and [PL 2011, c. 427, Pt. A, §15 (NEW).]

E. Disclosure pursuant to state or federal law or at the direction of a governmental entity pursuant to law or in response to a court order. [PL 2011, c. 427, Pt. A, §15 (NEW).]

[PL 2013, c. 588, Pt. C, §1 (AMD).]

3. Violation. A violation of this section constitutes a violation of the Maine Consumer Credit Code and the Maine Unfair Trade Practices Act.

[PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW). PL 2013, c. 588, Pt. C, §1 (AMD).

§8-511. Recurring charges to credit card or charge card accounts

If a sale of goods, services or insurance is charged to a credit card or charge card account on an annual basis without substantially contemporaneous authorizations by the consumer, the seller shall inform the consumer of the voluntary nature of the charge to the credit card or charge card account and of the steps necessary to prevent this charge at least 30 days prior to the annual charge. The card issuer may provide the notice on behalf of the seller. This section does not apply to insurance subject to notice and cancellation rights pursuant to section 4-204. [PL 2011, c. 427, Pt. A, §15 (NEW).]

SECTION HISTORY

PL 2011, c. 427, Pt. A, §15 (NEW).

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