131st MAINE LEGISLATURE

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Legislative Document

No. 1546

H.P. 998

House of Representatives, April 6, 2023

An Act Regarding Nondiscrimination in Financial Services

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.
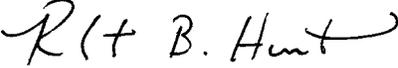
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ROBERT B. HUNT
Clerk

Presented by Representative QUINT of Hodgdon.
Cosponsored by Senator STEWART of Aroostook and
Representatives: BOYER of Poland, CAMPBELL of Orrington, DUCHARME of Madison, GREENWOOD of Wales, PAUL of Winterport, PERKINS of Dover-Foxcroft, SAMPSON of Alfred, SWALLOW of Houlton.

1   **Be it enacted by the People of the State of Maine as follows:**

2   **Sec. 1. 9-B MRSA §245** is enacted to read:

3   **§245. Nondiscrimination in financial services**

4   **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5   following terms have the following meanings.

6   A. "Financial institution" means:

7   (1) A state or national bank or trust company;

8   (2) A state or federal savings and loan association;

9   (3) A state or federal credit union;

10   (4) A savings bank;

11   (5) An insurance company registered in this State and described in Title 24-A,
12   section 4; or

13   (6) An institution that:

14   (a) Holds and receives deposits, savings or share accounts;

15   (b) Issues certificates of deposit, or provides to its customers a deposit account
16   subject to withdrawal by check, instrument, order or electronic means to effect
17   3rd-party payments;

18   (c) Provides insurance services; or

19   (d) Provides investment services.

20   B. "Financial service" means a service provided by a financial institution.

21   C. "Reputational risk" means the potential that negative publicity regarding a financial
22   institution's business practices, whether true or not, will cause a decline in the customer
23   base or revenue reductions.

24   D. "Social risk" means the potential of impairment of goodwill arising from negative
25   perceptions of a financial institution's impact on stakeholders or the community.

26   **2. Fair access to financial services.** To provide fair access to financial services, a
27   financial institution:

28   A. Shall make each financial service it offers available to each person in the geographic
29   market served by the financial institution on a nondiscriminatory basis;

30   B. Shall approve or deny a person a financial service that the financial institution offers
31   solely based on the quantitative, impartial, risk-based financial standards established
32   in advance by the financial institution;

33   C. May not deny a person a financial service that the financial institution offers when
34   the effect of the denial is to prevent, limit or otherwise disadvantage the person:

35   (1) From or regarding entering or competing in a market or business segment; or

36   (2) In such a way that benefits another person or business activity in which the
37   financial institution has a financial interest; and

D. May not, in coordination with others, deny a person a financial service that the financial institution offers.

3. Nonfinancial criteria. A financial institution that uses standards or guidelines based on nonfinancial, nontraditional or subjective criteria, such as reputational risk; social risk; environmental, social and governance scores; or diversity, equity and inclusion policies, shall:

A. Disclose to the bureau the specific standards, guidelines and criteria used by the financial institution to determine access to or denial of a financial service for a person in this State;

B. Provide to a person denied a financial service a disclosure with the specific information, standards, guidelines and criteria used to support the denial, in bold 14-point font;

C. Provide to a person denied a financial service a precise and thorough explanation of how the financial institution became aware of the information that led the financial institution to deny service, including the identity of any 3rd party that notified the financial institution of the information and the nature of the notification by the 3rd party, to the extent such disclosures are not prohibited by law; and

D. Comply with rules adopted by the bureau.

4. Violations. A violation of this section is governed by this subsection.

A. A financial institution that violates this section is subject to a fine of $10,000.

B. A financial institution that commits 5 or more violations of this section within a 12-month period commits a Class D crime.

C. Whenever any financial institution has engaged or there are reasonable grounds to believe that any financial institution is about to engage in any act or practice prohibited by this section, the aggrieved party may initiate a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order or other order as is necessary to enforce the requirements of this section.

D. An aggrieved party may initiate a civil action to recover actual damages or $10,000, whichever is greater, for harm caused by each act or practice in violation of this section. If the court finds that the violation was willful, it may award damages of up to 3 times the actual damages sustained or $30,000, whichever is greater. A court shall award a prevailing plaintiff reasonable attorney's fees and court costs.

5. Enforcement. The superintendent shall enforce this section.

6. Rules. The superintendent shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill requires financial institutions to provide financial services to clients based on quantitative, impartial, risk-based financial standards. If a financial institution uses nonfinancial, nontraditional or subjective criteria in approving or denying financial services

1   for a person, the financial institution must disclose the criteria to the Department of
2   Professional and Financial Regulation, Bureau of Financial Institutions and the client.