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No. 1712

S.P. 678

In Senate, January 8, 2014

An Act To Make Technical Corrections to the Maine Consumer Credit Code To Facilitate the Multistate Licensing Process

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator WHITTEMORE of Somerset.
Cosponsored by Representative: TREAT of Hallowell.

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

2 **Sec. 1. 9-A MRSA §2-302, sub-§1**, as amended by PL 2011, c. 427, Pt. B, §3, is
3 repealed and the following enacted in its place:

4 1. The administrator shall receive and act on all applications for licenses to make
5 supervised loans under this Act. Applications must be filed in the manner prescribed by
6 the administrator and must contain the information required by the administrator to make
7 an evaluation of the financial responsibility, character and fitness of the applicant.

8 A. For a lender subject to this subsection whose activities include making or
9 arranging residential mortgage loans, an application for a license to make supervised
10 loans must be made electronically, through the nationwide mortgage licensing system
11 and registry. Licenses expire December 31st of each year and must be renewed
12 through the nationwide mortgage licensing system and registry. An application for an
13 initial license must be accompanied by a fee of \$250, and an annual renewal
14 application must be accompanied by a fee of \$100. An application for an initial
15 license or renewal for a place of business other than that of the applicant's first
16 licensed location must be accompanied by a fee of \$100. An applicant must also pay
17 a nationwide mortgage licensing system and registry processing fee in an amount to
18 be determined by the administrators of the nationwide mortgage licensing system and
19 registry. A nonprofit organization exempt from taxation under the United States
20 Internal Revenue Code, Section 501(c)(3) and engaged in the financing of housing
21 for low-income people under a program designed specifically for that purpose must
22 pay an initial licensing fee, and a fee for each branch location, of \$20 and a renewal
23 licensing fee and renewal fee for each branch location of \$10, plus the applicable
24 nationwide mortgage licensing system and registry processing fee.

25 B. For a lender subject to this subsection whose activities do not include making or
26 arranging residential mortgage loans, an initial application for a license must be
27 accompanied by a \$500 fee and a renewal application must include a \$200 fee. A
28 license is granted for a 2-year period and expires on September 30th of the 2nd year.
29 An application for an initial license or renewal for a place of business other than that
30 of the applicant's first licensed location must be accompanied by a fee of \$200.

31 **Sec. 2. 9-A MRSA §2-302, sub-§2**, as amended by PL 2011, c. 427, Pt. B, §5, is
32 further amended to read:

33 **2.** A license to make supervised loans or as a mortgage loan originator may not be
34 issued unless the administrator, upon investigation, finds that the financial responsibility,
35 character and fitness of the applicant, and of the members thereof, if the applicant is a
36 copartnership or association, and of the officers and directors thereof, if the applicant is a
37 corporation, and, when applicable, the character and fitness of the mortgage loan
38 originators thereof, are such as to warrant belief that the business will be operated
39 honestly and fairly within the purposes of this Act. In determining the financial
40 responsibility of an applicant proposing to engage in making insurance premium loans,
41 the administrator shall consider the liabilities the lender may incur for erroneous
42 cancellation of insurance.

1 A. Every applicant shall also, at the time of filing such application, file with the
2 administrator, if the administrator so requires, a surety bond satisfactory to the
3 administrator in an amount not to exceed \$50,000. The terms of the bond must run
4 concurrent with the period of time during which the license will be in effect. The
5 bond must run to the State for the use of the State and of any person or persons who
6 may have a cause of action against the licensee under this Act. The bond must be
7 conditional that the licensee will faithfully conform to and abide by the provisions of
8 this Act and to all rules lawfully made by the administrator under this Act and will
9 pay to the State and to any such person or persons any and all amounts of money that
10 may become due or owing to the State or to such person or persons from the licensee
11 under and by virtue of this Act during the period for which the bond is given.

12 B. As used in this section, the term "financial responsibility" means that the applicant
13 has available for the operation of the licensed business net assets of at least \$25,000
14 and upon issuance of a license, each licensee shall maintain net assets of at least
15 \$25,000 that are either used or readily available for use in the conduct of the business
16 of each office of the licensee in which supervised loans are made.

17 D. In determining the financial responsibility of a nonprofit organization engaged in
18 the financing of housing for low-income people under a program specifically
19 designed for that purpose, the administrator may waive the requirement of a bond and
20 availability of \$25,000 of net assets, if the applicant submits appropriate additional
21 evidence of financial responsibility.

22 **Sec. 3. 9-A MRSA §2-302, sub-§4**, as amended by PL 1995, c. 614, Pt. A, §2, is
23 further amended to read:

24 **4.** A separate license is required for each place of business. ~~A license fee exceeding~~
25 ~~\$200 may not be imposed for any license issued for a place of business other than that of~~
26 ~~the first licensed location of the licensee.~~ Each branch location license application must
27 be accompanied by a surety bond, in a form acceptable to the administrator, in the
28 amount of \$50,000.

29 **Sec. 4. 9-A MRSA §2-302, sub-§5-A**, as amended by PL 2011, c. 427, Pt. B, §6,
30 is further amended to read:

31 **5-A.** A licensee subject to subsection 1, paragraph A may conduct the business of
32 making supervised loans only through a mortgage loan originator who possesses a
33 current, valid license.

34 **Sec. 5. 9-A MRSA §2-302, sub-§7**, as amended by PL 2009, c. 243, §2, is
35 repealed.

36 **Sec. 6. 9-A MRSA §2-304**, as amended by PL 1985, c. 336, §§3 and 4, is further
37 amended to read:

38 **§2-304. Records; annual and quarterly reports**

39 **2.** The administrator may, ~~by rule, require every~~ direct each licensee to file a
40 composite annual ~~report~~ and quarterly reports relating to all supervised loans made or

1 arranged by that licensee. Information contained in annual and quarterly reports shall be
2 is confidential and may be published only in composite form. The administrator may at
3 any time require additional reports if ~~he deems~~ the administrator determines such action
4 necessary to the proper supervision of licensees.

5 **Sec. 7. 9-A MRSA §10-201**, as amended by PL 2011, c. 427, Pt. B, §15, is
6 repealed and the following enacted in its place:

7 **§10-201. Licensing and biennial relicensing**

8 A person desiring to engage or continue in business in this State as a loan broker shall
9 apply to the administrator for a license under this Article as set forth in this section. The
10 administrator may refuse the application if it contains erroneous or incomplete
11 information. A license may not be issued unless the administrator, upon investigation,
12 finds that the financial responsibility, character and fitness of the applicant and, when
13 applicable, its partners, officers and directors and, when applicable, the character and
14 fitness of its mortgage loan originators, warrant belief that the business will be operated
15 honestly and fairly within the purposes of this Title.

16 **1. Loan broker whose activities include arranging for or obtaining an extension**
17 **of credit for a residential mortgage loan.** A loan broker subject to this section whose
18 activities include arranging for or obtaining an extension of credit for a residential
19 mortgage loan must apply for a license electronically through the nationwide mortgage
20 licensing system and registry. The initial application must include a fee of \$300 and a
21 renewal application must include a fee of \$150. An application for a branch location
22 license for a location other than that of the first licensed location from which the
23 applicant conducts business or from which the applicant conducts business under a
24 different name than that listed on the first license must be accompanied by a license fee of
25 \$150 and an annual renewal fee of \$75. The applicant must also pay such nationwide
26 mortgage licensing system and registry processing fees as are established by the
27 nationwide mortgage licensing system and registry. A license expires on December 31st
28 of each year and must be renewed through the nationwide mortgage licensing system and
29 registry. Notwithstanding other remedies available under this Title, an application
30 received after the due date is subject to an additional fee of \$100. A licensed loan broker
31 subject to this subsection may conduct business only through a mortgage loan originator
32 who possesses a current, valid license.

33 **2. Loan broker whose activities do not include arranging for or obtaining an**
34 **extension of credit for a residential mortgage loan.** The initial application for a license
35 as a loan broker subject to this section whose activities do not include arranging for or
36 obtaining an extension of credit for a residential mortgage loan must be made directly to
37 the administrator. Initial licenses are granted for a period not to exceed 2 years and
38 expire January 31st. The initial application must include a fee of \$600, and a biennial
39 relicensing application must include a fee of \$300. An application for a branch location
40 license for a location other than that of the first licensed location from which the
41 applicant conducts business or from which the applicant conducts business under a
42 different name than that listed on the first license must be accompanied by a license fee of
43 \$300 and a biennial renewal fee of \$150. Notwithstanding other remedies available under
44 this Title, applications received after the due date are subject to an additional fee of \$100.

1 A licensed loan broker may conduct business only through a mortgage loan originator
2 who possesses a current, valid license.

3 The administrator may direct each licensee to file composite annual and quarterly
4 reports relating to all brokered loans arranged or obtained by that licensee. Information
5 contained in annual and quarterly reports is confidential and may be published only in
6 composite form. The administrator may at any time require additional reports if the
7 administrator determines such action necessary to the proper supervision of licensees.

8 **Sec. 8. 9-A MRSA §13-106, sub-§1**, as enacted by PL 2009, c. 362, Pt. B, §1, is
9 amended to read:

10 **1. Minimum education requirements.** In order to meet the prelicensing education
11 requirement set forth in section 13-105, subsection 4, a person must complete at least 20
12 hours of education approved in accordance with subsection 2, ~~which must include at~~
13 ~~least.~~

14 A. ~~Three hours of instruction in federal law and regulations;~~

15 B. ~~Three hours of ethics, which must include instruction on fraud, consumer~~
16 ~~protection and fair lending issues; and~~

17 C. ~~Two hours of training related to lending standards for the nontraditional mortgage~~
18 ~~product marketplace.~~

19 **Sec. 9. 9-A MRSA §13-107**, as enacted by PL 2009, c. 362, Pt. B, §1, is amended
20 to read:

21 **§13-107. Testing of mortgage loan originators**

22 **1. Written test.** In order to meet the written test requirement required under section
23 13-105, subsection 5, an individual must pass, in accordance with the standards
24 established under this section, a ~~qualified~~ written test developed by the nationwide
25 mortgage licensing system and registry and administered by a test provider approved by
26 the nationwide mortgage licensing system and registry based upon reasonable standards.

27 ~~**2. Qualified test.** A written test may not be treated as a qualified written test for~~
28 ~~purposes of subsection 1 unless the test adequately measures the applicant's knowledge~~
29 ~~and comprehension in appropriate subject areas, including:~~

30 A. ~~Ethics;~~

31 B. ~~Federal laws and regulations pertaining to mortgage origination;~~

32 C. ~~State laws and rules pertaining to mortgage origination;~~

33 D. ~~Federal and state laws, rules and regulations, including instruction on fraud,~~
34 ~~consumer protection, the nontraditional mortgage product marketplace and fair~~
35 ~~lending issues.~~

36 **3. Testing location.** Nothing in this section prohibits a test provider approved by the
37 nationwide mortgage licensing system and registry from providing a test at the location of
38 the employer of the applicant, or any subsidiary or affiliate of the employer of the

1 applicant, or any entity with which the applicant holds an exclusive arrangement to
2 conduct the business of a mortgage loan originator.

3 **4. Minimum competence.** An individual is not considered to have passed a
4 ~~qualified~~ written test unless the individual achieves a test score of not less than 75%
5 correct answers to questions.

6 A. An individual may retake a test 3 consecutive times, undergoing each consecutive
7 test at least 30 days after the preceding test.

8 B. After failing 3 consecutive tests, an individual must wait at least 6 months before
9 taking the test again.

10 C. A licensed mortgage loan originator who fails to maintain a valid license for a
11 period of 5 years or longer shall retake the test.

12 **Sec. 10. 9-A MRSA §13-109, sub-§1**, as enacted by PL 2009, c. 362, Pt. B, §1,
13 is amended to read:

14 **1. Requirement.** In order to meet the annual continuing education requirements set
15 forth in section 13-108, subsection 1, paragraph B, a licensed mortgage loan originator
16 must complete at least 8 hours of education approved in accordance with subsection 2,
17 ~~which must include at least:~~

18 ~~A. Three hours of federal laws and regulations;~~

19 ~~B. Two hours of ethics, which must include instruction on fraud, consumer~~
20 ~~protection and fair lending issues; and~~

21 ~~C. Two hours of training related to lending standards for the nontraditional mortgage~~
22 ~~product marketplace.~~

23 **Sec. 11. 9-A MRSA §13-109, sub-§5, ¶A**, as enacted by PL 2009, c. 362, Pt. B,
24 §1, is amended to read:

25 A. Notwithstanding ~~subsection 9~~ and section 13-108, subsection 2, receive credit for
26 a continuing education course only in the year in which the course is taken; and

27 **Sec. 12. 9-A MRSA §13-109, sub-§6**, as enacted by PL 2009, c. 362, Pt. B, §1,
28 is repealed.

29 **Sec. 13. 9-A MRSA §13-109, sub-§9**, as enacted by PL 2009, c. 362, Pt. B, §1,
30 is repealed.

31 **Sec. 14. 9-A MRSA §13-110, sub-§2**, as amended by PL 2011, c. 427, Pt. B,
32 §20, is further amended to read:

33 **2. Fees.** The payment of fees to apply for or renew licenses through the nationwide
34 mortgage licensing system and registry, that fee being initially established in the amount
35 of \$20 to the administrator at application and \$20 for renewal, subject to adjustment
36 pursuant to rule or order as set forth under this section. Renewal applications received
37 after the due date are subject to an additional fee of \$100;

1 **SUMMARY**

2 This bill makes the following changes to the Maine Consumer Credit Code.

3 1. It makes changes to the laws governing the licensing of lenders who make
4 supervised loans and the licensing of loan brokers depending on whether those lenders
5 and brokers make or arrange residential mortgage loans. Lenders and brokers who make
6 or arrange residential mortgage loans must apply for and renew licenses electronically
7 through the nationwide mortgage licensing system and registry. Different fees for
8 licensing and renewal are charged depending on whether lenders and brokers make or
9 arrange residential mortgage loans, since mortgage lenders receive one-year licenses and
10 nonmortgage lenders receive 2-year licenses.

11 2. It requires that each branch location license application to make supervised loans
12 be accompanied by a surety bond in the amount of \$50,000.

13 3. It allows the Superintendent of Consumer Credit Protection to require a licensee to
14 file quarterly reports.

15 4. It removes references to specific topics that must be covered in prelicensing
16 education, testing and continuing education for mortgage loan originators. It also repeals
17 rule-making provisions related to continuing education.