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Date: (Filing No. S-)

HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 599, L.D. 1767, Bill, “An Act To Increase the Efficiency of Certain Consumer Credit Protection Laws”

Amend the bill in Part A by striking out all of section 2 and inserting the following:

'Sec. A-2. 9-A MRS §1-301, sub-§17, as amended by PL 2017, c. 106, §1, is further amended to read:

17. "Creditor" means a person who both:

A. Regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit that is payable by agreement in more than 4 installments or for which the payment of a finance charge is or may be required; and

B. Is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement; except that, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount that is a finance charge are creditors.

For the purpose of the requirements imposed under Article 8-A for credit billing pursuant to 15 United States Code, Section 1666 et seq. and for open-end consumer credit pursuant to 15 United States Code, Section 1637(a)(5), (a)(6), (a)(7), (b)(1), (b)(2), (b)(3), (b)(8) and (b)(10), "creditor" also includes card issuers whether or not the amount due is payable by agreement in more than 4 installments or the payment of a finance charge is or may be required and the administrator shall by regulation apply these requirements to those card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.

For the purposes of this Title, "creditor" also includes any person who originates 2 or more mortgages referred to as high-cost mortgage loans under Article 8-A, section 8-506 in any 12-month period or any person who originates one or more such mortgage loans through a mortgage broker as defined in Article 8-A, section 8-506, subsection 1, paragraph J, or a loan broker as defined in Article 10.

COMMITTEE AMENDMENT

1 For purposes of this Title, "creditor" also includes a private educational lender as that
2 term is defined in 15 United States Code, Section 1650.

3 A Except with respect to credit sales of automobiles, a person regularly extends consumer
4 credit only if the person extended credit other than credit subject to high-cost mortgage
5 loan requirements more than 25 times or more than 5 times for transactions secured by a
6 dwelling in the preceding calendar year. With respect to credit sales of automobiles, a
7 person regularly extends consumer credit if the person extended credit more than 15
8 times in the preceding calendar year. If a person did not meet these numerical standards
9 in the preceding calendar year, the numerical standards must be applied to the current
10 calendar year.

11 "Creditor" includes a mortgage loan servicer.'

12 Amend the bill in Part A by striking out all of section 5 and inserting the following:

13 '**Sec. A-5. 9-A MRSA §6-203, sub-§3-D** is enacted to read:

14 **3-D.** Notwithstanding subsection 3-C, the administrator may by rule adjust the fees
15 paid with respect to creditors that are not supervised financial organizations making
16 residential mortgage loans to support the costs of compliance and staff attorney positions.
17 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
18 chapter 375, subchapter 2-A.'

19 Amend the bill in Part A by striking out all of sections 9 and 10.

20 Amend the bill by striking out all of Part B.

21 Amend the bill in Part D by striking out all of section 2 and inserting the following:

22 '**Sec. D-2. 14 MRSA §6111, sub-§3-B,** as enacted by PL 2009, c. 402, §13, is
23 amended to read:

24 **3-B. Report.** ~~On a quarterly~~ an annual basis, the Department of Professional and
25 Financial Regulation, Bureau of Consumer Credit Protection shall report to the joint
26 standing committee of the Legislature having jurisdiction over insurance and financial
27 services matters on the number of notices received pursuant to subsection 3-A. To the
28 extent information is available, the report must also include information on the number of
29 foreclosure filings based on data collected from the court and the Department of
30 Professional and Financial Regulation, Bureau of Financial Institutions and on the types
31 of lenders that are filing foreclosures.'

32 Amend the bill in Part D by striking out all of section 3.

33 Amend the bill in Part D by striking out all of section 4 and inserting the following:

34 '**Sec. D-4. 14 MRSA §6112, sub-§5,** as enacted by PL 2009, c. 402, §15, is
35 amended to read:

36 **5. Report.** ~~Beginning January 1, 2010, the~~ The Department of Professional and
37 Financial Regulation, Bureau of Consumer Credit Protection shall report ~~every 6 months~~
38 annually on the revenues received pursuant to subsection 4, the expenditures made to
39 carry out the purposes of this section, any financial orders submitted by the bureau and
40 any updated assumptions related to the bureau's revenues and expenditures in accordance
41 with this section. The report must be submitted to the joint standing committee of the

1 Legislature having jurisdiction over appropriations and financial affairs and the joint
2 standing committee of the Legislature having jurisdiction over insurance and financial
3 services matters.'

4 Amend the bill by inserting after Part D the following:

5 **'PART E**

6 **Sec. E-1. 32 MRSA §11013, sub-§11** is enacted to read:

7 **11. Collection action prohibited on debt from medical expenses if eligible for**
8 **free or charity care.** A debt collector may not collect or attempt to collect a debt from
9 medical expenses against a consumer who has been determined to be qualified for free or
10 charity care under guidelines adopted pursuant to Title 22, section 1716, or against a
11 consumer who would have been determined to be qualified for free or charity care under
12 guidelines adopted pursuant to Title 22, section 1716 but did not apply for good cause.

13 **PART F**

14 **Sec. F-1. 32 MRSA §11019, sub-§1**, as enacted by PL 2017, c. 216, §6, is
15 amended to read:

16 **1. Complaint; required allegations.** A debt buyer may not initiate a collection
17 action against a consumer, ~~including an action brought in small claims court pursuant to~~
18 ~~Title 14, chapter 738~~, unless the debt buyer alleges all of the following information in the
19 complaint:

- 20 A. The information described in section 11013, subsection 9, including that the debt
21 buyer possesses the documentation described in section 11013, subsection 9;
- 22 B. The basis for any interest and fees described in section 11013, subsection 9;
- 23 C. The basis for the request for attorney's fees, if applicable;
- 24 D. That the debt buyer is the current owner of the debt; and
- 25 E. That the cause of action is filed within the applicable statute of limitations period.

26 **Sec. F-2. 32 MRSA §11020** is enacted to read:

27 **§11020. Collection action to collect credit card and student loan debts; additional**
28 **requirements for collection action**

29 **1. Applicability.** This section applies to any collection action against a consumer to
30 collect a credit card or student loan debt initiated by a debt collector.

31 **2. Commencement of collection action.** A collection action may not be
32 commenced in small claims court pursuant to Title 14, chapter 738. A collection action is
33 commenced upon the filing or serving of a complaint that provides notice of the
34 complaint in the same manner as other civil complaints and satisfies the requirements of
35 this section.

36 **3. Notice of complaint.** In a collection action subject to this section, the debt
37 collector shall attach to the front of the complaint a one-page form notice to the consumer

1 as developed by the Department of Professional and Financial Regulation, Bureau of
2 Consumer Credit Protection. The form notice must be written in language that is plain
3 and readily understandable by the general public and, at a minimum, must contain the
4 following:

5 A. A statement that failure to answer the complaint may result in entry of judgment
6 in the amount demanded by the debt collector; and

7 B. A sample answer and an explanation that the consumer may fill out the form and
8 return it to the court as the answer to the complaint. If the consumer returns the form
9 to the court, the consumer does not need to file a more formal answer or responsive
10 pleading.

11 **4. Entry of judgment.** A court may not enter judgment unless it specifically finds
12 that all the requirements of this section and all other applicable requirements of this
13 chapter are met, including, but not limited to, whether the plaintiff has produced evidence
14 that is admissible pursuant to the Maine Rules of Evidence on all required elements of its
15 claim.

16 **5. Default judgment.** If the defendant has failed to plead or otherwise defend, the
17 plaintiff may apply for entry of default and a default judgment. The court is responsible
18 for entering a default and a default judgment, not the clerk of the court. Regardless of
19 whether the defendant appears in the action or the judgment is based on a proposed order
20 concerning a settlement, the court may not enter judgment in favor of the plaintiff unless
21 the court determines that all the requirements of this section and all other applicable
22 requirements of this chapter are met, including, but not limited to, whether the plaintiff
23 has produced evidence admissible pursuant to the Maine Rules of Evidence on all
24 required elements of its claim.

25 **6. Exclusion.** This section does not apply to any collection action brought by a
26 supervised financial organization as defined in Title 9-A, section 1-301, subsection 38-A.

27 **7. Rules.** The court may adopt rules necessary to implement the provisions of this
28 section.

29 **Sec. F-3. 32 MRSA §11031, sub-§2,** as amended by PL 2009, c. 243, §6, is
30 further amended to read:

31 **2. Licenses.** Licenses granted by the superintendent under this section are for a
32 period of 2 years and expire on July 31st or at such other times as the superintendent may
33 designate. Each license may be renewed biennially as long as the superintendent regards
34 the business as responsible and safe, but in all cases terminate unless renewed by the
35 expiration date. Each license must plainly state the name and business address of the
36 licensee and be posted in a conspicuous place in the office where the business is
37 transacted. The fee for each biennial license is \$600. When the unexpired license term of
38 an applicant is or will be less than one year at a time of licensure, the license fee may not
39 exceed 1/2 the biennial license fee. The superintendent may permit affiliated companies
40 to be under a single license and subject to a single examination as long as all of the
41 affiliated company names are listed on the license. The superintendent may adopt rules to
42 determine what constitutes an affiliated company. Rules adopted pursuant to this
43 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
44 If a licensee desires to carry on business in more than one place, the licensee shall

1 procure a branch office license for each additional place where the business is to be
2 conducted. The fee for each biennial branch office license is \$300. Notwithstanding
3 other remedies available under this chapter, applications received after the due date are
4 subject to an additional fee of \$100.'

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

7 **SUMMARY**

8 This amendment is the majority report of the committee. The amendment removes
9 from the bill that section of Part A that amends the definition of "debt buyer" and
10 removes all of Part B, which repeals mortgage lending restrictions applicable to nonbank
11 mortgage lenders, and makes corresponding changes. The amendment also removes a
12 provision in Part A that authorizes the Superintendent of Consumer Credit Protection
13 within the Department of Professional and Financial Regulation to lower or suspend fees
14 by order.

15 The amendment makes changes to Part D of the bill to change the timeline for the
16 required reports from quarterly or semiannually to annually. The bill proposes to
17 eliminate the reporting requirements. The amendment also removes language in Part D
18 related to the consolidation of accounts within the Bureau of Consumer Credit Protection.

19 The amendment adds Part E, which makes it a violation of the Maine Fair Debt
20 Collection Practices Act to collect or attempt to collect a debt from medical expenses
21 against an individual eligible for free or charity care.

22 The amendment also adds Part F to the bill. Part F adds requirements relating to
23 collection actions for credit card debt and student loan debt. Part F also authorizes the
24 Superintendent of Consumer Credit Protection to permit affiliated companies to be under
25 a single debt collector license.

26 **FISCAL NOTE REQUIRED**

27 **(See attached)**