



## NEW CREDIT LAWS EFFECTIVE SEPTEMBER 13

September 13, 2003 is the effective date for most of the bills enacted by the 121st Legislature, First Regular Session. The full text of each new public law will be available in September at the website <http://janus.state.me.us/legis/>; go to "Constitution, Statutes and Session Laws of Maine," and click on the "Session Laws" link.

- 1. Consumers entitled to free annual credit report.** Public Law (P.L.) 118 requires credit reporting agencies to provide a free report to consumers once each year upon request and also requires that such reports be accompanied by instructions on how to correct any errors. Credit reporting agencies may charge up to \$5 for a second copy requested within the same year; however, consumers remain entitled to additional free reports under the circumstances listed in existing state and federal law (e.g., if they are turned down for credit, if they are the victims of fraud or identity theft, if they are receiving public assistance or if they are unemployed and actively seeking employment). [See sample credit report request form, page 5.]
- 2. Anti-predatory lending provisions enacted.** P.L. 49 enacts anti-predatory lending provisions applicable to high-rate, high-fee loans, including restrictions on late fees and pre-paid finance charges, new standards for sale of credit insurance, and other measures. Although most of the law's provisions are effective September 13, one section (requiring that creditors offering credit life, accident, health, disability or unemployment insurance permit consumers to pay premiums monthly, as opposed to all at once, in advance) applies to mortgages made beginning January 1, 2004. [See page 3 for related story.]
- 3. Mortgage escrow interest amended, and bank-issued second mortgages deregulated.** P.L. 263 permits banks and credit unions to charge reasonable prepayment fees on 2nd mortgages. (The Superintendent of Financial Institutions is required to establish by regulation what charges are considered "reasonable.") For all mortgage lenders, including mortgage companies, the law establishes a new method of calculating the minimum interest that must be paid on a consumer's mandatory mortgage escrow account, requiring that lenders pay at least 50% of the rate paid on 1-year U.S. Treas-

ury notes or a comparable index.

- 4. Debit and credit card receipts: consumer account numbers to be "truncated."** Enacted in 2002 by the 120th Legislature as Public Law, Chapter 527, but with a delayed effective date of January 1, 2004, this new section of law (10 MRSA § 1149) prohibits merchants from giving consumers credit or debit card receipts that list the consumer's full account number and expiration date. Most vendors are complying with this requirement by printing receipts that use x's or asterisks to obscure all but the last 4 or 5 account numbers, such as "\*\*\*\*-\*\*\*\*\_\*\*\*\*-0238."
- 5. Consumers to be notified of the impact of repossessions.** Starting January 1, 2004, P.L. 98 requires that all "Notices of Right to Cure Default" for auto credit sales and loans include a sentence warning consumers of their potential liability for deficiency balances following voluntary or involuntary repossession. The specific language, which must be inserted just before the final paragraph in the current notice, is as follows:  
  
*The rights we may exercise under law include repossession of the motor vehicle securing this debt. If the motor vehicle is repossessed, either voluntarily or involuntarily, it may be sold and you may owe the difference between the net proceeds from the sale and the remaining balance due under the contract.*
- 6. Late fees allowed on simple interest transactions.** P.L. 100 permits creditors to charge late fees on consumer credit transactions in which the "simple interest" method is used to compute finance charges. The fee is limited to the lesser of 5% of the late payment, or \$10.
- 7. Maine's "late fee" language amended to match federal Truth in Lending Act.** P.L. 135 makes technical amendments to the Consumer Credit Code's "late fee" language to match that found in federal law and Regulation Z, Truth-in-Lending. The new language retains the current prohibition against charging a late fee if the only unpaid portion of a previous installment is an earlier late fee.
- 8. Penalty for late submission of auto title applications.** P.L. 235 establishes a penalty fee of \$125 for creditors who fail to deliver titles or title application documents to the Secretary of State within 20 days of a transfer of ownership.

*continued on page 4*

<p><b>Mailing Address</b> Office of Consumer Credit Regulation 35 State House Station Augusta, Maine 04333-0035 Tel (207) 624-8527 Fax (207) 582-7699</p>	<p><b>Inside:</b> Disciplinary Action..... 2 Quotes..... 3 Predatory Lending Bill..... 3 Student Loan Collections..... 4 Requesting Your Credit Report..... 5</p>	<p><b>Office Location</b> Gardiner Annex 122 Northern Ave., Gardiner, ME 04345</p> <hr/> <p>World Wide Website <a href="http://www.MaineCreditReg.org">www.MaineCreditReg.org</a></p>
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# Record of Disciplinary Action

July 1, 2002 - August 31, 2003

(Excluding auto dealer advertising violations)

DATE	NAME	TYPE OF ACTION
07-15-02	National Capital Funding	Cease & Desist - unlicensed collection agency
07-19-02	DEBTicated Consumer Counseling, Inc.	Cease & Desist - unregistered debt management company
08-02-02	CAMCO	Cease & Desist - unlicensed collection agency
08-16-02	PinnFund USA	Consent Agreement-revocation of license-supervised lender
08-04-02	Barwaqo	Cease & Desist - unregistered money transmitter
09-10-02	Creative Financial Solutions (Shellie Robinson)	Cease & Desist - Order of Restitution - unregistered loan broker
09-18-02	Equity Direct Mortgage Corp.	Assurance of Discontinuance; funded settlement act-supervised lender
10-24-02	EMCC Inc.	Assurance of Discontinuance - lapsed debt collector license
10-30-02	Medical Bureau of Economics, Inc.	Assurance of Discontinuance - lapsed debt collector license
10-30-02	MAXIMUS, Inc.	Assurance of Discontinuance - lapsed debt collector license
11-19-02	MAGNA Financial Group	Cease & Desist - unlicensed consumer lending
12-18-02	Bershop Brokers Ltd	Cease & Desist - unregistered loan broker
12-19-02	National Check Control	Cease & Desist - unlicensed debt collection
12-30-02	Global Financial	Cease & Desist - unregistered loan broker
01-06-03	Nationwide Business Services	Assurance of Discontinuance - unlicensed debt collection
01-27-03	Debt Management Center	Assurance of Discontinuance - unregistered debt management
01-27-03	American Debt Consolidation Group	Assurance of Discontinuance - unregistered debt management
02-03-03	National Asset Recovery Services, Inc. d/b/a LOGS Financial Services, Inc.	Assurance of Discontinuance - lapsed debt collector license

DATE	NAME	TYPE OF ACTION
02-04-03	Benefits Plus	Assurance of Discontinuance - unregistered loan broker
02-07-03	Debt Management Center	Assurance of Discontinuance - unregistered debt management
02-25-03	Consumer Protection Publications	Assurance of Discontinuance - unregistered loan broker
03-19-03	Express Consolidation, Inc.	Assurance of Discontinuance - unregistered debt management
04-10-03	Star Recovery & Adjustment Services	Cease & Desist - unlicensed debt collection
04-10-03	Consumer Debt Solutions a/k/a Debtrite.com	Cease & Desist - unregistered debt management
04-11-03	Universal Debt Reduction	Cease & Desist - unregistered debt management
04-17-03	Maine Capital Mortgage	Assurance of Discontinuance - Truth-in-Lending
05-06-03	Melissa Newbury d/b/a Common Sense Lending	Findings & Order - revocation of loan broker registration; restitution order; bond called
05-20-03	Colonial Mortgage and Aaron Lewis	Consent Agreement; lender's license revoked; restitution ordered
06-10-03	Genesis Financial Solutions, Inc.	Assurance of Discontinuance - lapsed debt collector license
08-13-03	JBC & Associates	Cease & Desist - unlicensed debt collection
08-13-03	Chek Systems	Cease & Desist - unlicensed debt collection

**STATE OF MAINE  
OFFICE OF CONSUMER  
CREDIT REGULATION**

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 Principal Examiner . . . . . Del Pelton  
 Principal Examiner . . . . . Richard Howard  
 Principal Examiner/Research/Outreach . . . . . David Stetson  
 Research/Outreach . . . . . David Leach  
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 Clerk/Typist IV . . . . . Lorna Plaisted  
 Clerk/Typist II . . . . . Emilie Sinclair

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# Noteworthy Quotes

“I’m a 64-year old man, and I was talking with a much younger man at the Midwestern finance company. I said ‘Listen, Son, I paid the amount listed on the bill.’ He responded, ‘Well, Slick, don’t call me “Son.”’ I said, ‘Oh, I can’t call you “Son” but you can call me “Slick”?’ Later, his supervisor called me ‘Stupid’ so I called him ‘a moron from Milwaukee.’ The conversation began deteriorating at that point.”

– A Gray, Maine man’s complaint against a national lender. Instead of the usual mortgage payment of \$250, the lender had mistakenly billed the consumer just \$25, which the thrifty Yankee had immediately paid.

“As a nun, I am very upset about being billed for calls someone else made to an adult entertainment telephone line. I will pray for the bill collector to repent his evil ways, but in the meantime, I will press charges.”

– A Lewiston-area “woman of the cloth.” Upon our agency’s intervention, the collector quickly dropped the claim.

“It’s not my job to volunteer information to a debt collector. If I’m gonna volunteer information, I’m gonna get paid for it.”

– An Augusta-area resident, asked by a collection agency to disclose the whereabouts of his father, who owed several debts

“A debt collector is harassing us about a huge phone bill. It turns out that my daughter used my calling card to pay for lengthy telephone conversations with her probation officer.”

– A Lewiston consumer, learning the joys of parenthood.

“Those ‘baby carrots’ they’ve got at the supermarket . . . are they really baby carrots, or just long, skinny ones that got cut up and turned on a lathe?”

– A Maine consumer’s question. He was given the address and phone number of the Maine Department of Agriculture.

“Thou shalt not sleaze people.”

– A “universal regulatory standard” which if enacted, would permit the repeal of all other financial consumer protection laws and regulations, according to Maine attorney and former insurance regulator Alice Knapp.

## New Anti-Predatory Lending Law Goes Beyond Minimum HOEPA Standards

Maine Public Law 2003, Chapter 49 is titled “An Act to Enhance Consumer Protections in Relation to Certain Mortgages.” The legislation contains six sections, each relating to “high rate, high fee loans,” also known federally as “Section 32 Loans,” because the rules governing such transactions are found in subsection 32 of Section 226, federal Regulation Z.

Section 1 provides that the state’s definition of “high rate, high fee mortgage” will now conform exactly to the federal definition, even if components such as the federal triggering amounts (recently raised to \$499) are amended from time to time.

Section 2 limits late fees on such loans to 5% of the amount in default.

Section 3 requires that both favorable and unfavorable payment histories of borrowers be reported at least annually to a national credit reporting agency. Proponents testified that this provision will prevent selective reporting that results in a distorted credit report, which lenders can use to prevent a consumer from refinancing with another lender, effectively “trapping” the consumer into staying with an existing, high-interest loan.

Section 4 prevents a lender from charging “points” for a straight refinancing of a loan made by the same lender within 18

months of the loan. In addition, a lender cannot charge a fee to modify or extend a high rate, high fee mortgage unless the consumer truly benefits from the modification.

Section 5:

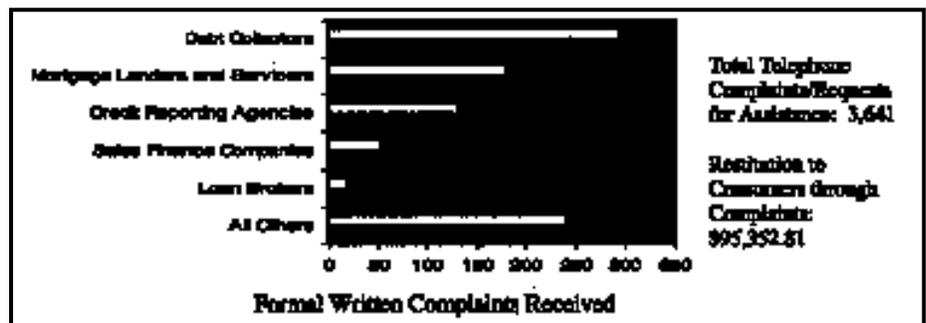
- a) Prohibits a lender from advertising that consolidating several smaller loans into a single, high cost loan will lower a consumer’s resulting payment without also disclosing that the term of the new loan will be much longer than the previous loan’s term;
- b) Prevents a lender from encouraging a consumer to default on an existing loan; and
- c) [Starting January 1, 2004] requires lenders who sell credit insurance to permit consumers to pay premiums monthly, and to cancel at any time for a refund of unearned premiums.

Section 6 prohibits “demand” notes that can be “called” by a high rate, high fee lender without notice. In addition, this final section prohibits a political subdivision of the state (e.g., a county, city, or town) from enacting additional restrictions concerning high-cost, high-fee loans made by any lender that is licensed or chartered by the state or federal government.

### CONSUMER COMPLAINT REPORT

July 1, 2002 - June 30, 2003

By OCCR Consumer Outreach Staff



## Delinquent Student Loan Borrowers Face Powerful Collection Tools

In most consumer cases in Maine, a creditor or a debt collector cannot add the costs of collection to the balance owed. In addition, neither a creditor nor a collector can garnish a consumer's wages without first obtaining a judgment in court.

Unless, of course, the debt results from a federally guaranteed student loan.

When Congress enacted the standards for collection of educational loans, its members were told anecdotal stories of doctors and lawyers who failed to pay their low-cost student loans, despite earning six-figure salaries.

When such loans are guaranteed by the federal government, lawmakers were told, tax dollars are being expended to reimburse schools for the unpaid balances.

Outraged by these tales of fiscal irresponsibility, Congress passed laws permitting harsh penalties not available in any other type of consumer debt collection:

- ★ Under the Higher Education Act, when a student loan debt is referred to a collector, a collection fee of 25% can be automatically added to the balance. If the former student makes payments, the funds are applied first to this added contingency fee, then to interest and finally to principal.
- ★ Also under that federal law, the Department of Education was initially authorized to administratively (i.e., without going to court) garnish the paychecks of former students up to 10% of their disposable salaries. The "Debt Collection Improvement Act of 1996" increased this amount to 25% of disposable income. Tax refunds can also be administratively withheld to satisfy student debts.
- ★ Finally, the statute of limitations for collection of student loans was removed, and a former student's ability to discharge such debts in bankruptcy was severely curtailed.

Although some wealthy medical or legal professionals with unpaid student debts may have been impacted by these powerful collection tools, the consumers we hear from most often are in far less affluent straits: single mothers who attempted to return to school but could not continue, and who now find themselves subject to collection; and low-income workers who neglected to keep up their student loan payments after they left school, and on whose student loans interest and penalties have been accumulating for years.

Consumers subject to collection should be aware that collectors can employ powerful methods to encourage repayments. However, Maine's Fair Debt Collection Practices Act applies to collection of these debts, and abusive practices are not tolerated. In addition, guarantee agencies and student loan collectors are usually willing to work with consumers to get them back on track with reasonable repayment plans.

## Notice to mortgage lenders and brokers: "Honor thy rate locks"

For planning purposes, most consumers want to know what interest rate they'll be paying on a mortgage for which they have applied. To meet this demand, many lenders and brokers offer consumers the ability to "lock in" a certain rate for a certain period of time, such as 45 or 60 days.

In times of steady or decreasing interest rates, expiration of a rate lock is not critical, since funds remain available at the same or lower cost. However, when (as now) rates increase rapidly, expiration of a rate lock can be a very expensive proposition. Maine consumers who thought in May or June of this year they were going to get a mortgage for 5½% are now looking at a full point or more higher, which can mean a difference of thousands of dollars over the life of their loans.

As our office has done each time over the years when interest rates have risen quickly, regulators at the Office of Consumer Credit Regulation remind lenders and brokers that the state will take action to enforce rate locks if those locks expire through no fault of the consumer. Even in cases in which the delay is caused by a third party hired by the lender (appraiser, surveyor, etc.), such rate locks will be enforced. We believe that between the two parties (lender and consumer), it is the lending or brokerage professional who has the expertise and experience in matters of this nature, and we feel that the risk of delay is properly allocated to the lender or broker that offered the rate lock to the consumer.

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### *New Laws, continued from page 1*

9. **Professional licenses may be suspended for failure to pay fines.** P.L. 193 provides that failure to pay any fine is grounds for suspension of a professional license. This provision will primarily affect sole proprietors with licenses in their own names.
10. **Mortgage volume fees to be studied.** P.L. 462 creates study group to review the volume fee assessment process and fund balance history of the Office of Consumer Credit Regulation. In addition, the law clarifies that if a lender refinances its own earlier transaction, volume fees are owed only on the "new money" lent in the second transaction.
11. **Debt management law expanded.** P.L. 172 expands the definition of "debt management services" to include those credit counselors who exercise control over consumers' monies without actually taking possession of the funds.
12. **Lienholders of titled vehicles to be notified before lien expires.** P.L. 295, which took effect when it was signed May 27, 2003, requires Secretary of State to notify holders of liens older than 66 months, before automatically releasing those liens.
13. **Titling of mobile homes to be studied.** Resolve #12 calls for an interest group organized by the Secretary of State to study the titling of mobile homes, boats, ATVs and snowmobiles, with a report due January 15, 2004.

**Maine Consumers' Credit Report Request Form**

Use this form to request copies of your free credit reports under the new provisions of the Maine Fair Credit Reporting Act, 10 Maine Revised Statutes Annotated, section 1316, subsection 2-B.

Complete and mail to:

**Trans Union:** Credit Bureau Services of Upstate New York, P.O. Box 1370, Buffalo, NY 14231-1370

**Experian:** Experian Consumer Assistance Center, P.O. Box 2002, Allen, TX 75013-2002

**Equifax:** Equifax Information Services, LLC, P.O. Box 103873, Atlanta, GA 30348

Please mail me a free copy of my credit report under the provisions of 10 Maine Revised Statutes Annotated, section 1316, subsection 2-B.

Full name (including middle name, Jr., III, etc.):

\_\_\_\_\_

Address (including zip code):

\_\_\_\_\_

\_\_\_\_\_

Social Security number:

\_\_\_\_\_

Date of birth: \_\_\_\_\_

Former addresses for the past 5 years (if any):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*I certify that I am the Maine consumer identified above.*

Signature \_\_\_\_\_

(Each request must contain an original signature)

Note:

- 1) If this request is made jointly, then both parties' information and signatures must be included.
- 2) If you have been the victim of a severely mixed file or identity theft, then a credit reporting agency may legally request additional proof of your identity, including (for example) a photocopy of your driver's license, an insurance or bank statement, or a utility bill. In these cases it will save time to include this additional information with this request form.

**DO NOT attempt to obtain someone else's credit report; to do so is a serious crime.**

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## Examination Summary July 1, 2002 through June 30, 2003

by Del Pelton, Principal Examiner

Total Exams (including 226 in-house exams): . . . . . 476

*By Business Type:*

Supervised Lenders . . . . .	183
Auto Dealers . . . . .	87
Leasing Companies . . . . .	54
Debt Collectors . . . . .	36
Rental Purchase Agencies . . . . .	36
Mortgage Brokers . . . . .	31
Pawn Brokers . . . . .	17
Sales Finance Companies . . . . .	14
Retail Merchants . . . . .	11
Credit Reporting Agency . . . . .	03
Money Transmitters . . . . .	01
Check Casher . . . . .	01
Loan Servicer . . . . .	01
Payday Lender . . . . .	01

Total Restitution: . . . . . \$6,285.80

*Most common violations:*

Auto Dealers: Incomplete truth-in-lending disclosures . . .	156
Mortgage Brokers: Incomplete or no contract provided . . .	103
Auto Dealers: No disclosure provided . . . . .	79
Supervised Lenders: No attorney notice provided . . . . .	63
Auto dealers: No privacy notice provided . . . . .	59
Supervised Lenders: Incomplete or no broker contract provided . . . . .	56
Leasing Companies: Incomplete or incorrect disclosures . . .	54
Pawn Brokers: No privacy notice provided . . . . .	41
Supervised Lenders: Incorrect and/or incomplete truth-in-lending disclosures . . . . .	34
Auto Dealers: Credit insurance disclosed incorrectly . . . . .	33

## Soldiers and Sailors Relief Act Casts Wide, Helpful Net for Active Duty Debtors

Lawyers at Boston's National Consumer Law Center (NCLC) recently issued a reminder<sup>1</sup> to creditors, and to active duty military debtors and their families, about the benefits available under the federal Soldiers and Sailors Relief Act.<sup>2</sup> Because of the large number of Maine military personnel, National Guardsmen and reservists taking part in military activity around the world, the credit community should become familiar with the basic provisions of the law.

The federal law reduces the interest rate for all credit obligations incurred by the debtor before he or she was called to active duty, to 6% per year for as long as the member of the armed services is on active duty. This is an absolute reduction in the interest owed; it is not simply a deferral. This relief is required even if there are cosigners on the obligation.

According to the NCLC, the mandatory reduction to 6% applies to a wide variety of obligations, "including car loans, mortgages, credit cards, business debts, [and even credit contracts] where a corporation is the primary obligor, as long as the service member is personally liable."<sup>3</sup>

The Soldiers and Sailors Relief Act also has ramifications for repossessions (generally prohibited); leases (the service person can apply for relief from the lease obligation during active duty, and leases may be broken with permission from a court); and cosigners (a court in its discretion may extend a stay to cosigners).

For more information, creditors should check with their attorneys. Additional resources are available on the web from the US military, [www.jagnet.army.mil/TJAGSA](http://www.jagnet.army.mil/TJAGSA); look for booklet JA 260 under "legal assistance"; "publications."

<sup>1</sup> NCLC Reports, Debt Collection and Repossession Edition, "Special military issue," Volume 21, May - June 2003, published by National Consumer Law Center, Boston.

<sup>2</sup> 50 U.S. Code App., Section 501 et seq.

<sup>3</sup> NCLC Reports (see footnote 1, above); page 21.