

MAINE BUREAU OF FINANCIAL INSTITUTIONS
MAINE BUREAU OF CONSUMER CREDIT PROTECTION
SUPERINTENDENT'S
NOTICE TO INTERESTED PARTIES

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

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| 030 | BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 550 | 029 | BUREAU OF FINANCIAL INSTITUTIONS CHAPTER 144 (REG. 44) |
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GUIDELINES FOR DETERMINING TANGIBLE NET BENEFIT AND ABILITY TO
PAY
STATEMENT OF IMPACT ON SMALL BUSINESS

Prepared pursuant to 5 MRSA §8052, sub-§5-A

- A. Identification of the types and an estimate of the number of the small businesses subject to the proposed joint rule, Chapter 550 (Bureau of Consumer Credit Protection) and Chapter 144 (Bureau of Financial Institutions):

The types of small businesses subject to the proposed joint rule are mortgage lenders, mortgage brokers, banks and credit unions. The estimated number of mortgage lenders and mortgage brokers subject to the proposed joint rule with 20 or fewer employees is 450. The estimated number of banks and credit unions subject to the proposed joint rule with 20 or fewer employees is four.

- B. Projected Reporting, record-keeping and other administrative costs required for compliance with proposed joint rule, Chapter 550 (Bureau of Consumer Credit Protection) and Chapter 144 (Bureau of Financial Institutions), including the type of professional skill necessary for preparation of the report or record:

The proposed rule does not provide for any additional projected reporting by the industry. The proposed rule provides additional recordkeeping to the extent that, if a creditor enters into a new residential mortgage loan with a consumer on the third anniversary of or within three years of a consumer having entered into a previous residential mortgage loan, it must complete and maintain a tangible net benefit form, substantially similar to the form provided for in the

rule. It is anticipated that the administrative costs associated with completing and maintaining a Tangible Net Benefit Form will not be significant. Lenders and mortgage brokers should already have the requisite skills for completing this form.

C. Brief statement of the probable impact on affected small businesses:

If a significant impact on small business is to be attributed, it would derive from the Act to Protect Maine Homeowners from Predatory Lending, and not from the proposed rule which is prescribed by the Act. The proposed rule provides for clear "bright-line" tests and methods for the industry to use in determining (a) whether or not a consumer is receiving a reasonable tangible net benefit when making a loan on the third anniversary of or within three years of making a residential mortgage loan, and (b) whether a reasonable creditor would believe that a consumer is able to repay a subprime mortgage loan. It is therefore arguable that the proposed rule, while ensuring consumer protection against predatory lending, may also serve to diminish the regulatory burden on small businesses and the industry in general that would otherwise have been imposed by the Act itself.

D. Description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of proposed joint rule, Chapter 550 (Bureau of Consumer Credit Protection) and Chapter 144 (Bureau of Financial Institutions):

The Bureau of Financial Institutions and Office of Consumer Credit Regulation are required by the Act to Protect Maine Homeowners from Predatory Lending to adopt this proposed rule. The proposed rule clarifies the methods to be used in calculating a borrower's ability to repay a subprime loan and provides a safe harbor to lenders and mortgage brokers that use a form to demonstrate when a borrower is receiving a reasonable tangible net benefit from a residential mortgage loan. Though requiring a new form at closing is an additional burden, it relieves the lender of another burden of assembling other demonstrative evidence in an effort to comply with the new law.