

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

The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection are proposing the promulgation of Regulation Z-3, truth-in-lending. Please find attached the Notice of Proposed Rulemaking, the proposed rule and the Small Business Impact Statement. Contained therein are the background, rationale and authorities for this rulemaking.

The deadline for comments is September 23, 2013.

Gardiner, Maine
August 20, 2013

NOTICE OF AGENCY RULE-MAKING PROPOSAL

AGENCY: 02 Department of Professional and Financial Regulation
029 Bureau of Financial Institutions and 030 Bureau of Consumer Protection

CHAPTER NUMBER AND TITLE:

JOINT RULE

030 BUREAU OF CONSUMER CREDIT PROTECTION Chapter 240

029 BUREAU OF FINANCIAL INSTITUTIONS Chapter 138 (Regulation 38)

Truth-in-Lending, Regulation Z-3

PROPOSED RULE NUMBER (*leave blank; assigned by Secretary of State*):

CONTACT PERSON FOR OBTAINING ADDITIONAL INFORMATION OR A PRINTED VERSION OF THE PROPOSED RULE:

Christian D. Van Dyck, Attorney
Bureau of Financial Institutions
36 State House Station
Augusta, ME 04333-0035
Christian.d.vandyck@Maine.gov
624-8574

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): N/A.

PUBLIC HEARING (if any): None proposed. One may be requested by contacting Christian D. Van Dyck at Christian.d.vandyck@Maine.gov.

COMMENT DEADLINE: Data, views or arguments must be submitted by Monday, September 23, 2013 to Christian D. Van Dyck at Christian.d.vandyck@Maine.gov.

BRIEF *SUMMARY:

This promulgation, which will become known as Regulation Z-3, requires creditors to comply with the regulations issued by the CFPB in 12 C.F.R. Part 1026 and 12 C.F.R. Part 1013, including those Regulation Z and Regulation M rules issued since July 21, 2011, the majority of which become effective in January 2014.

A copy of the proposed rule and statement of impact on small business may be obtained at www.maine.gov/pfr/financialinstitutions .

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None.

STATUTORY AUTHORITY FOR THIS RULE: 9-A M.R.S. §§ 1-102, 6-104 and 8-504, and 8-507

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): CFPB 12 CFR Parts 1026 and 1013

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON:

Christian.d.vandyck@Maine.gov

* *Check one of the following two boxes.*

The above summary is for use in both the newspaper and website notices.

The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT _____ DATE: _____

(authorized signature)

FUND	AGENCY AMOUNT	ORG	APP	JOB	OBJT
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Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY:

This regulation is part of the State of Maine's ongoing efforts to harmonize State truth-in-lending laws with federal truth-in-lending laws. It requires creditors to comply with federal Regulation Z, now codified at 12 C.F.R. Part 1026, and federal Regulation M, now codified at 12 C.F.R. Part 1013, issued by the Consumer Financial Protection Bureau (CFPB). It will thus provide additional consumer credit protections to Maine consumers, ease compliance burdens on Maine creditors, and preserve the Bureaus' ability to enforce truth-in-lending laws applicable to Maine-chartered and Maine licensed lenders.

In 2011, Maine enacted P.L. ch. 427, "An Act to Amend the Maine Consumer Credit Code to Conform with Federal Law" (Maine Conforming Act). Among other things, the Maine Conforming Act provides that, "[n]otwithstanding any other law, a creditor shall comply with the Federal Truth in Lending Act ... and its implementing regulations, Regulation Z ... and Regulation M ... including any final regulations issued on or before July 21, 2011." The purpose of enactment was, in part, to harmonize Maine's truth-in-lending laws with federal truth-in-lending laws in order to ensure the preservation of Maine's exemption under Regulation Z pursuant to law now codified at 12 C.F.R. §1026.29, thereby allowing for the continuation of state enforcement of truth-in-lending laws applicable to State-chartered and State-licensed lenders. The Maine Conforming Act also makes creditors that are not supervised financial organizations or the MaineHousing subject to certain enhanced restrictions set forth in 9-A, M.R.S. §8-506, in addition to the requirements now set forth in federal Regulation Z, 12 C.F.R. Part 1026, and federal Regulation M, 12 C.F.R. Part 1013. Shortly after the effective date of the Maine Conforming Act, the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection repealed their joint rule known as Truth-in-

Lending, Regulation Z-2, because it had been superseded by the new State law.

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203 (Dodd-Frank Act) created the CFPB and gave it responsibility over the federal Truth-in-Lending Act and the Consumer Leasing Act. Using its new authority, the CFPB re-codified Regulation Z (Truth-in-Lending) and Regulation M (Consumer Leasing) as 12 C.F.R. Parts 1026 and 1013, respectively, and began modifying those regulations consistent with the requirements of the Dodd-Frank Act.

This promulgation, which will become known as Regulation Z-3, requires creditors to comply with the regulations issued by the CFPB in 12 C.F.R. Part 1026 and 12 C.F.R. Part 1013, including those Regulation Z and Regulation M rules issued since July 21, 2011, the majority of which become effective in January 2014.

The CFPB's new regulations include:

- 76 FR 79768, establishing a new and discrete codification of Regulation Z;
 - 76 FR 78500, establishing a new and discrete codification of Regulation M;
 - 78 FR 11280, implementing requirements and restrictions concerning loan originator compensation, qualifications of, and registration or licensing of loan originators, compliance procedures for depository institutions, mandatory arbitration, and financing of single-premium credit insurance;
 - 78 FR 10902, regarding mortgage loan servicing;
 - 78 FR 10368, requiring appraisals for "high-risk mortgages";
 - 78 FR 6856, expanding the types of mortgage loans subject to the Home Ownership and Equity Protections Act of 1994 (HOEPA);
 - 78 FR 6408, delineating requirements for creditors to determine a consumer's ability to repay consumer credit transactions secured by a dwelling, establishing protections from liability for "qualified mortgages," and limiting prepayment penalties;
 - 78 FR 4726, lengthening the time for which mandatory escrow accounts established for higher-priced mortgage loans must be maintained;
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- 78 FR 25818 which amends the ability to pay requirements for credit card accounts;
 - 78 FR 30739 which clarifies and makes technical amendments to 78 FR 4726, the final rule which, among other things, lengthens the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained;
 - 78 FR 32547 regarding loan originator compensation requirements, prohibition on financing credit insurance premiums and the delay of effective date; and
 - 78 FR 35430 providing an exemption from the ability to pay requirements for creditors with certain designations, loans pursuant to certain programs, certain non-profit creditors, and mortgage loans made in connection with certain federal emergency economic stabilization programs; providing an additional definition of a qualified mortgage for certain loans made and held in portfolio by small creditors; providing a temporary definition of a qualified mortgage for balloon loans, and; modifying the requirements regarding the inclusion of loan originator compensation in the points and fees calculation.
 - 78 FR 44686 which clarifies the implementation dates for the adjustable rate mortgage provisions of Regulation Z, and clarifies that construction, bridge and reverse mortgages are not subject to its requirements regarding repayment abilities and prepayment penalties for higher priced mortgage loans.

This regulation also directs creditors subject to the enhanced restrictions in 9-A M.R.S. § 8-506 to comply with the restrictions in 9-A M.R.S. § 8-506 using as authority 12 C.F.R. Part 1026 rather than 12 C.F.R. Part 226.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
029 BUREAU OF FINANCIAL INSTITUTIONS CHAPTER 138 (REG. 38)
030 BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 240
TRUTH-IN-LENDING, REGULATION Z-3

BACKGROUND AND SUMMARY:

This regulation is part of the State of Maine's ongoing efforts to harmonize State truth-in-lending laws with federal truth-in-lending laws. It requires creditors to comply with federal Regulation Z, now codified at 12 C.F.R. Part 1026, and federal Regulation M, now codified at 12 C.F.R. Part 1013, issued by the Consumer Financial Protection Bureau (CFPB). It will thus provide additional consumer credit protections to Maine consumers, ease compliance burdens on Maine creditors, and preserve the Bureaus' ability to enforce

truth-in-lending laws applicable to Maine-chartered and Maine licensed lenders.

In 2011, Maine enacted P.L. ch. 427, "An Act to Amend the Maine Consumer Credit Code to Conform with Federal Law" (Maine Conforming Act). Among other things, the Maine Conforming Act provides that, "[n]otwithstanding any other law, a creditor shall comply with the Federal Truth in Lending Act ... and its implementing regulations, Regulation Z ... and Regulation M ... including any final regulations issued on or before July 21, 2011." The purpose of enactment was, in part, to harmonize Maine's truth-in-lending laws with federal truth-in-lending laws in order to ensure the preservation of Maine's exemption under Regulation Z pursuant to law now codified at 12 C.F.R. §1026.29, thereby allowing for the continuation of state enforcement of truth-in-lending laws applicable to State-chartered and State-licensed lenders. The Maine Conforming Act also makes creditors that are not supervised financial organizations or the MaineHousing subject to certain enhanced restrictions set forth in 9-A, M.R.S. §8-506, in addition to the requirements now set forth in federal Regulation Z, 12 C.F.R. Part 1026, and federal Regulation M, 12 C.F.R. Part 1013. Shortly after the effective date of the Maine Conforming Act, the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection repealed their joint rule known as Truth-in-Lending, Regulation Z-2, because it had been superseded by the new State law.

In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203 (Dodd-Frank Act) created the CFPB and gave it responsibility over the federal Truth-in-Lending Act and the Consumer Leasing Act. Using its new authority, the CFPB re-codified Regulation Z (Truth-in-Lending) and Regulation M (Consumer Leasing) as 12 C.F.R. Parts 1026 and 1013, respectively, and began modifying those regulations consistent with the requirements of the Dodd-Frank Act.

This promulgation, which will become known as Regulation Z-3, requires creditors to comply with the regulations issued by the CFPB in 12 C.F.R. Part 1026 and 12 C.F.R. Part 1013, including those Regulation Z and Regulation M rules issued since July 21, 2011, the majority of which become effective in January 2014.

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institutions, mandatory arbitration, and financing of single-premium credit insurance;

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- 78 FR 4726, lengthening the time for which mandatory escrow accounts established for higher-priced mortgage loans must be maintained;
- 78 FR 25818 which amends the ability to pay requirements for credit card accounts;
- 78 FR 30739 which clarifies and makes technical amendments to 78 FR 4726, the final rule which, among other things, lengthens the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained;
- 78 FR 32547 regarding loan originator compensation requirements, prohibition on financing credit insurance premiums and the delay of effective date; and
- 78 FR 35430 providing an exemption from the ability to pay requirements for creditors with certain designations, loans pursuant to certain programs, certain non-profit creditors, and mortgage loans made in connection with certain federal emergency economic stabilization programs; providing an additional definition of a qualified mortgage for certain loans made and held in portfolio by small creditors; providing a temporary definition of a qualified mortgage for balloon loans, and; modifying the requirements regarding the inclusion of loan originator compensation in the points and fees calculation.
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This regulation also directs creditors subject to the enhanced restrictions in 9-A M.R.S. § 8-506 to comply with the restrictions in 9-A M.R.S. § 8-506 using as authority 12 C.F.R. Part 1026 rather than 12 C.F.R. Part 226.

SECTION 1. AUTHORITY

The Bureau of Financial Institutions and the Bureau of Consumer Credit Protection are promulgating this regulation under their authority set forth in 9-A M.R.S. §§ 1-102, 6-104, 8-504 and 8-507, pursuant to which the Bureaus may adopt rules substantially similar to or that afford more protection for consumers than those codified in federal truth-in-lending laws, notwithstanding any other law. Alignment with CFPB Regulation Z and CFPB Regulation M is consistent with 9-A M.R.S. §8-504 wherein the Bureaus are authorized to issue rules that are consistent with the purposes of Title X and Title XIV of the Dodd-Frank Act and with the purposes set forth in 9-A M.R.S. §§1-102 and 8-502.

Pursuant to 9-A M.R.S. §8-504(2) specifically, the Bureaus' administrators may make rules containing differentiations and adjustments for a class of transactions that in the judgment of the administrators are necessary and proper to effectuate the purposes of 9-A M.R.S. and to facilitate compliance with 9-A M.R.S. In exercising that authority, the Bureaus have specifically considered whether there is a substantial impact on consumer protection before adopting provisions affecting compliance with 9-A M.R.S. §8-506 and have determined that the provisions will provide greater protection to consumers.

SECTION 2. PURPOSES

The purposes of this regulation are to:

- A. Provide additional credit protections to Maine consumers by requiring creditors subject to Article 8-A of 9-A M.R.S. to comply with Regulation Z and Regulation M issued by the CFPB using its discrete codifications (12 C.F.R. Part 1026, Regulation Z and 12 C.F.R. Part 1013, Regulation M) and by requiring creditors subject to Article 8-A of 9-A M.R.S. to comply with truth-in-lending and consumer leasing regulations issued by the CFPB since July 21, 2011.
- B. Ease compliance by creditors subject to Article 8-A of 9-A M.R.S. with truth-in-lending laws; and
- C. Preserve Maine's exemption from federal Regulation Z and thereby allow for the continuation of State enforcement of truth-in-lending laws applicable to creditors subject to Article 8-A of 9-A M.R.S.

SECTION 3. DEFINITIONS

Unless the context otherwise indicates, any word or phrase used herein that is defined in 9-A M.R.S. shall have the meaning set forth in 9-A M.R.S., and any word or phrase that is not defined in 9-A M.R.S. but that is defined in 12

C.F.R. Part 1026^{*} or 12 C.F.R. Part 2013^{**} shall have the meaning set forth in those federal regulations.

SECTION 4. GENERAL PROVISIONS

- A. Creditors subject to Article 8-A of 9-A M.R.S. shall comply with federal truth-in-lending regulations issued by the CFPB, 12 C.F.R. Part 1026, up to and including the effective date of this regulation.^{***}
- B. Creditors subject to Article 8-A of 9-A M.R.S. shall comply with federal consumer leasing regulations issued by the CFPB, 12 C.F.R. Part 1013, up to and including the effective date of this regulation.
- C. Creditors subject to the enhanced restrictions in 9-A M.R.S. § 8-506 shall comply with subsections 4(A) and 4(B) of this regulation, and shall comply with the enhanced restrictions in 9-A M.R.S. § 8-506 with reference to 12 C.F.R. Part 1026 where any provision of 12 C.F.R. Part 226 is cited in § 8-506.
- D. Creditors subject to Article 8-A of 9-A M.R.S. shall comply with federal truth-in-lending and consumer leasing regulations by the mandatory compliance deadlines set forth in those federal regulations, as applicable.
- E. Creditors subject to Article 8-A of 9-A M.R.S. may comply with federal truth-in-lending and consumer leasing regulations prior to the mandatory compliance deadlines set forth in those federal regulations, as applicable.

EFFECTIVE DATE: [].

* Copies of 12 CFR Part 1026 may be obtained at cost from the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection, or from the CFPB at www.consumerfinance.gov.

**Copies of 12 CFR Part 1013 may be obtained at cost from the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection, or from the CFPB at www.consumerfinance.gov.

*** The adjustments to the threshold dollar amounts for consumer loans and consumer leases are automatically adjusted pursuant to the Maine Conforming Act, now codified in 9-A, M.R.S. §1-301(11).

PRIMARY SOURCES OF INFORMATION RELIED UPON: Pursuant to 5 M.R.S. §8057-A(4), the Bureaus are required to provide citations for primary sources

of information relied up in adopting the regulation. The Bureaus rely upon Public Law 2011, Chapter 427, "An Act to Amend the Maine Consumer Credit Code to Conform with Federal Law", and 12 C.F.R. § 1026.29 of Regulation Z setting forth the requirements for the exemption from federal truth-in-lending laws

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030 BUREAU OF CONSUMER
CREDIT PROTECTION
CHAPTER 240

029 BUREAU OF FINANCIAL
INSTITUTIONS
CHAPTER 138 (REG. 38)

REGULATION Z-3

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 Regulation Z-3, Chapter 240 (Bureau of Consumer Credit Protection) and Chapter 138 (Bureau of Financial Institutions):

The types of small businesses subject to the proposed Regulation Z-3 are mortgage lenders, mortgage brokers, banks and credit unions. The estimated number of non-bank creditors subject to the proposed rule with 20 or fewer employees is 375. The estimated number of banks and credit unions subject to the proposed repeal with 20 or fewer employees is four.

- B. Projected reporting, record-keeping and other administrative costs required for compliance with proposed Regulation Z-3, including the type of professional skill necessary for preparation of the report or record:

To the extent that the proposed rule conforms State truth-in-lending requirements to federal requirements, record-keeping and other administrative costs will likely be reduced.

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

The proposed rule substantially conforms state truth-in-lending requirements to federal law thereby easing compliance burdens and having a positive impact on small businesses.

D. Description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of proposed Regulation Z-3, Chapter 240 (Bureau of Consumer Credit Protection) and Chapter 138 (Bureau of Financial Institutions):

None.