

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

The Bureau of Financial Institutions and the Bureau of Consumer Protection are proposing a Student Loan Rule that will allow banks, credit unions and supervised lenders to provide non-guaranteed loans to college and university students on repayment terms that will accommodate students' academic commitments. Please find attached the proposed Student Loan Rule." Comments on the proposed rule should be directed to Christian Van Dyck, Attorney, Bureau of Financial Institutions, 36 State House Station, Augusta, Maine 04333-0036. The deadline for comments is June 2, 2008.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030	BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 600	029	BUREAU OF FINANCIAL INSTITUTIONS CHAPTER 145 (REG. 45)
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STUDENT LOANS

**SECTION 1: Summary**

1. This Chapter allows subject lenders to provide to student borrowers loans that provide for a schedule of payments of principal and/or interest pursuant to which payments are not substantially equal to all other payments or pursuant to which the intervals between consecutive payments differ substantially. This Chapter also allows subject lenders to provide to student borrowers loans that provide for the deferral of periodic payments and the accrual of interest and costs during the deferral period.

2. This Chapter is promulgated jointly by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection because it pertains to financial institutions authorized to do business in this State as defined by Title 9-B § 131(17-A), credit unions authorized to do business in this State as defined by

Title 9-B § 131(12-A), and supervised lenders, as defined in Title 9-A § 1-301(39). This Chapter only pertains to loans provided to student borrowers by subject lenders.

## **SECTION 2: Authority**

1. Pursuant to Title 9-A M.R.S.A. § 8-104(4), the Administrator may by rule exempt from all or part of Title 9-A any class of transactions (other than transactions involving a mortgage described in § 8-103, sub-§ 1-A, paragraph P) for which, in the determination of the Administrator, coverage under all or part of Title 9-A M.R.S.A. does not provide a meaningful benefit to consumers in the form of useful information or protection. In determining which classes of transactions to exempt in whole or in part under Title 9-A M.R.S.A. § 8-104(4), the Administrator shall consider the following factors:

A. The amount of the loans and whether the disclosures, right of rescission and other provisions provide a benefit to the consumers who are parties to such transactions, as determined by the Administrator;

B. The extent to which the requirements of Title 9-A M.R.S.A. complicate, hinder or make more expensive the credit process for the class of transactions;

C. The status of the borrowers, including:

1) Any related financial arrangements of the borrowers, as determined by the Administrator;

2) The financial sophistication of the borrowers relative to the type of transaction; and

3) The importance to the borrowers of the credit, related supporting property and coverage under Title 9-A M.R.S.A., as determined by the Administrator;

D. Whether a loan is secured by the principal residence of the consumer; and

E. Whether the goal of consumer protection would be undermined by such an exemption.

2. Title 9-A M.R.S.A. § 6-104(1) paragraph E permits the Administrator to

adopt, amend, and repeal rules to carry out the specific provisions of Title 9-A M.R.S.A.

3. Title 9-A M.R.S.A. §§ 6-103 and 1-301(2) state that, except in cases in which a supervised financial organization is the creditor, the Administrator is the Superintendent of the Bureau of Consumer Credit Protection. In cases in which a supervised financial organization is the creditor, the Administrator is the Superintendent of the Bureau of Financial Institutions.

4. Title 9-B M.R.S.A. § 215 permits the Superintendent of the Bureau of Financial Institutions to implement rules relating to the supervision of financial institutions or their subsidiaries, or financial institution holding companies or their subsidiaries.

### **SECTION 3: Purpose**

1. The purpose of this Chapter is to provide a limited exemption from Title 9-A M.R.S.A. §§ 3-308(1) and 3-308(3) to enable lenders to provide student loans to student borrowers that are not insured, guaranteed, subsidized or made directly by the federal government, a state, a nonprofit private loan guaranty or organization, by an institution of higher education itself or through an endowment or trust fund affiliated with such institution of higher education.

2. This exemption supersedes the following provisions of the Consumer Credit Code.

A. Title 9-A M.R.S.A. § 3-308(1) provides that "... no creditor may contract for or receive payments of principal and/or interest pursuant to a schedule of payments under which any one payment is not substantially equal to all other payments, excluding any down payment receivable by the creditor or under which the intervals between any consecutive payments differ substantially."

B. Title 9-A M.R.S.A. § 3-308(3) provides that, "A schedule of payments may provide for the deferral of the first periodic payment subsequent to any down payment for a period of not more than 12 months, except that interest or costs may not accrue in connection with the deferral of the first periodic payment if the deferral is for a period of time in excess of 90 days."

3. Title 9-A M.R.S.A. §§ 3-308(1) and 3-308(3) do not allow for payment schedules common to student lending. This Chapter allows lenders to receive payments pursuant to which payments are not substantially equal and to delay repayment of principal and/or interest on loans to student borrowers while they are still in school on at least a half-time schedule. The student loans remain

subject to all other protections related to consumer lending found in the Consumer Credit Code, including without limitation Title 9-A M.R.S.A. § 3-204.

#### **SECTION 4: Definitions**

1. For the purpose of this Chapter, the following terms have the following meanings:

A. "Cost of attendance" has the same meaning as set forth in 20-A M.R.S.A. § 11413(6) and means the tuition and fees applicable to a student, together with an estimate of other expenses reasonably related to cost of attendance at an institution of higher education, including, without limitation, the cost of room and board, transportation, books and supplies.

B. "Institution of higher education" has the same meaning as set forth in 20-A M.R.S.A. § 11459(3) and means an accredited post-secondary institution of higher education located within the United States.

C. "Lender" means a financial institution authorized to do business in this State as defined in 9-B M.R.S.A. § 131(17-A), a credit union authorized to do business in this State as defined by 9-B M.R.S.A. § 131(12-A), and a supervised lender, as defined in 9-A M.R.S.A. §1-301(39).

D. "Student loan" means a loan to a student borrower who has attained the age of 18 and who is enrolled at least half time in an institution of higher education, the proceeds of which are used to pay for the cost of attendance at an institution of higher education.

#### **SECTION 5: General Provisions**

1. When providing student loans to student borrowers, a lender is exempt from the provisions of 9-A M.R.S.A. § 3-308 to the extent that a lender may do any of the following:

A. Contract for or receive payments of principal and/or interest pursuant to a schedule of payments under which any one payment is not substantially equal to all other payments or under which the intervals between any consecutive payments differ substantially; and

B. Contract for the deferral of periodic payments and for the accrual of interest and costs during the deferral period.

2. When a student borrower is no longer enrolled at least half-time in an institution of higher education, the terms of the student loan must provide for payments to begin within nine months after enrollment ends.

3. If a student borrower completes or terminates enrollment at least half-time in an institution of higher education, but then resumes enrollment at least half time in an institution of higher education, the lender may contract for or receive payments in accordance with paragraphs 5(1)(A) and 5(1)(B) of this Chapter.

4. When making student loans, the lender shall require written verification that the student borrower is 18 years or older at the time of making the loan and is enrolled at least half time in an institution of higher education.

5. When making student loans, the lender shall require student borrowers to notify the lender when they are no longer enrolled at least half time at an institution of higher education.

6. Student loans, and lenders that offer such loans, are otherwise subject to the applicable provisions and prohibitions set forth in Titles 9-A and 9-B M.R.S.A., and regulations promulgated by the Bureau of Financial Institutions and the Bureau of Consumer Credit Protection.