

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

Please find attached the Bureau of Financial Institution's and Bureau of Consumer Credit Protection's proposed re-promulgated Regulation Z-2 incorporating the phase 3 credit card rules, the Notice of Agency Rule-making Proposal setting forth the reasons for the re-promulgation, and the Small Business Impact Statement.

Please also find attached a draft "strike-through" version of the rule showing changes made to it since the May 2010 re-promulgation.

The comment deadline is October 4, 2010:

/s/ Lloyd P. LaFountain III  
Superintendent of Financial Institutions  
Gardiner, Maine  
August 24, 2010

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030	BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 240	029	BUREAU OF FINANCIAL INSTITUTIONS CHAPTER 138 (REG. 38)
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TRUTH IN LENDING; REGULATION Z-2

**Summary**

This rule was originally promulgated in 1981 and re-promulgated in 1986, 1989, 1992, 1997, 1998, 2002 and May 2010 (with an effective date of August 1, 2010). This joint re-promulgation, which repeals and replaces both Bureau of Financial Institution Rules, Chapter 138, and Bureau of Consumer Credit Protection Rules, Chapter 240, adopts the latest federal Truth-in-Lending

regulations by reference so as to implement Article VIII of the Maine Consumer Credit Code.

## SECTION 1. AUTHORITY

This rule is being adopted pursuant to 9-A M.R.S. §§ 1-102, 6-104 and 8-104 by the Bureau of Consumer Credit Protection and the Bureau of Financial Institutions, as the agencies responsible for the administration of the Maine Consumer Credit Code for supervised lenders and supervised financial organizations.

## SECTION 2. PURPOSE

This rule mandates how the cost of credit and leases are to be disclosed to consumers and how billing errors are to be resolved in open-end credit.

## SECTION 3. DEFINITIONS

1. "Administrator" means a person as defined in 9-A M.R.S. § 1-301(2).
2. "Code" means the Maine Consumer Credit Code, Title 9-A M.R.S.

## SECTION 4. GENERAL PROVISIONS

Except as provided below, the Administrators hereby adopt all final provisions of federal Regulation Z (12 Code of Federal Regulations, Part 226) adopted through June 29, 2010, including all appendices, and all provisions of federal Regulation M (12 Code of Federal Regulations, Part 213) adopted through June 29, 2010 by the Board of Governors of the Federal Reserve System pursuant to Title I (Truth-in-Lending Act) and Title V (General Provisions) of the Consumer Credit Protection Act (15 U.S.C. § 1601 et seq).

The following provisions of Regulations Z and M are not adopted:

1. Reg. Z, § 226.1(e) concerning enforcement and liability, to the extent that additional effects of violations and liabilities are set forth in the Code, including §§ 5-201, 8-206-E, 8-208 and 8-209 of the Code;
2. Reg. Z, § 226.2(a)(6), the definition of the term "business day," to the extent that the definition of "business day" in § 1-301(6-A) of the Code also excepts Patriots' Day, which falls on the third Monday of April;
3. Reg. Z, § 226.2(a)(14), the definition of the term "credit," to the extent that it differs from the definition of "credit" in § 1-301(15) of the Code;
4. Reg. Z, § 226.2(a)(16), the definition of the term "credit sale," to the extent

that it differs from the definition of "consumer credit sale" in § 1-301(11) of the Code;

5. Reg. Z, § 226.3(b), which exempts credit (other than credit secured by real property) over \$25,000, to the extent that there is conflict with § 1-301(11)(A)(vi) (which extends the provisions of the Code to debts secured by manufactured housing and to motor vehicle sales in which the amount financed does not exceed \$ 35,000) and § 1-301(14)(A)(iv)(b) (which extends the provisions of the Code to unsecured loans not exceeding \$35,000 if made by a supervised lender other than a supervised financial organization);

6. Reg. Z, § 226.4(d)(1)(ii), concerning the form of disclosure of the cost of credit insurance, to the extent that additional substantive and disclosure requirements are imposed by § 4-104 of the Code;

7. Reg. Z, § 226.5a(b)(1)(i), which sets forth the requirements for disclosure of the variable rate feature of a credit or charge card plan, to the extent that its provisions are more limited than those contained in § 3-310(D) of the Code;

8. Reg. Z, § 226.5a(b)(5), which sets forth the requirements for disclosure of a credit card plan's "grace period," to the extent that it contemplates grace periods shorter than the minimum 25-day requirements of §§ 2-202(5) and 2-402(4) of the Code;

9. Reg. Z, §§ 226.5a(b)(9) and 226.5a(b)(10), which set forth the requirements for disclosure of late payment fees and over-the-limit fees, to the extent that such fees are not expressly authorized by § 2-501 of the Code for transactions other than those involving unsecured lender credit cards, for which late payment fees and over-the-limit fees are authorized in § 2-501(4);

10. Reg. Z, § 226.5a(g), which defines various balance computation or calculation methods, to the extent that it contemplates methods other than the "average daily balance (excluding new purchases)," the "average daily balance (including new purchases)," and the "adjusted balance" methods, which are the only methods permitted by §§ 2-202(2) and 2-402(2) of the Code;

11. Reg. Z, § 226.9(c)(1), concerning the 15-day notice requirement for changes in terms for home equity plans and other forms of open-end credit that are not credit card accounts, to the extent that there is a conflict with the 30-day notice requirement in § 3-204 of the Code;

12. Reg. Z, § 226.12(f) concerning discounts, to the extent that sellers in sales transactions are also prohibited from imposing a surcharge on a card holder who elects to use a card in lieu of payment by cash, check or similar means as set forth in § 8-303(2) of the Code;

13. Reg. Z, § 226.17(c)(5) and Official Staff Commentary to Reg. Z, §

226.17(c)(1)-17 to the extent that there is a conflict with §§8-103 (1-A)(EE) and 8-106(6) of the Code;

14. Reg. Z, § 226.19(a)(2)(ii), concerning the receipt of corrected disclosures, to the extent that additional disclosure requirements regarding prepayment penalties are imposed by § 8-206(3)(B) of the Code;

15. Reg. Z, § 226.24(i)(4), to the extent that there is a conflict with § 241(15) of Title 9-B, the Maine Banking Code;

16. Reg. Z, § 226.32 concerning requirements for certain closed-end home mortgages referred to in the Code as high-rate, high-fee mortgages, as a result of this section being supplanted by the provisions of §§ 8-206-A and 8-206-H of the Code, including terms used in §§ 8-206-A and 8-206-H of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

17. Reg. Z, § 226.34, concerning prohibited acts or practices in connection with certain closed-end home mortgages referred to in the Code as high-rate, high-fee mortgages, as a result of this section being supplanted by the provisions of §§ 8-206-A, 8-206-H and 8-206-I of the Code, including terms used in §§ 8-206-A, 8-206-H and 8-206-I of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

18. Reg. Z, § 226.35, concerning prohibited acts or practices in connection with higher-priced mortgage loans, as a result of this section being supplanted by the provisions of § 8-206-I of the Code, including terms used in § 8-206-I of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

19. Reg. Z, § 226.36, concerning prohibited acts or practices in connection with credit secured by a consumer's principal dwelling, as a result of this section being supplanted by § 8-206-J of the Code, including terms used in § 8-206-J of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

20. Reg. Z, § 226.52(a)(2), concerning the limitations on fees, to the extent that § 2-501(4)(D) imposes a limit on attorney's fees of not more than 15% of the unpaid debt incurred in connection with a legal action brought by an attorney who is not a salaried employee of the creditor;

21. Reg. Z, Appendices G-1, sub-§§ (b),(e) and (f), and G-1(A), sub-§§ (b),(e) and (f), to the extent that there is a conflict with §§ 2-202(2) and 2-402(2) of the Code;

22. Reg. M, § 213.4(m)(2) concerning the value of the leased property upon expiration of the lease, to the extent that there is a conflict with §3-401 of the Code; and

23. Reg. M, § 213.4(o) and Official Staff Commentary to Reg. M, § 213.4(o)-3, to the extent that there is a conflict with Title 11 M.R.S. § 2-1221(2)(b).

The Administrators shall follow the interpretations set forth in the Official Commentaries to Regulations Z and M issued by the Board of Governors of the Federal Reserve System, except for the Official Staff Commentary to provisions for which an exception has been made under this rule or unless the Administrators issue either a rule or advisory ruling, which explains a conflict between Maine law and federal Regulation Z or M and establishes the interpretation of the Administrators. However, the Administrators shall follow the Official Staff Commentaries relating to §§ 226.32, 226.34, 226.35 and 226.36 of federal Regulation Z, even though these sections have been excepted from this Regulation Z-2 in their entirety, to the extent that these Official Staff Commentaries relate to language that is identical or substantially similar to State law.

EFFECTIVE DATE: November 1, 2010. The effective and mandatory compliance dates in Federal Regulation Z as of June 29, 2010 will be followed to the extent that any may occur after November 1, 2010.

Drafting Note: These provisions include the final rule found in 75 FR 37526 published by the Federal Register on June 29, 2010, generally requiring that penalty fees must be reasonable and proportional and that rate increases must be re-evaluated, which implements provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009. Copies of 12 CFR Part 226 may be obtained at cost from either the Bureau of Financial Institutions or the Bureau of Consumer Credit Protection, or from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, MA 02106 tel. (617) 973-3000. In addition, a copy may be obtained via the Internet at <http://www.federalreserve.gov/Regulations/RegRef.htm#z>.

Drafting Note: Copies of 12 CFR Part 213 may be obtained at cost from the Bureau of Financial Institutions or from the Bureau of Consumer Credit Protection, or from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, MA 02106 tel. (617) 973-3000. In addition, a copy may be obtained via the Internet at <http://www.federalreserve.gov/Regulations/RegRef.htm#m>.

Drafting Note: The "ability to repay" provisions in federal and Maine law are substantially the same, but for the provision in 12 CFR § 226.34(a)(4)(ii)(B) not found in Maine law.

## DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030 BUREAU OF CONSUMER  
CREDIT PROTECTION  
CHAPTER 240

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

### TRUTH IN LENDING; REGULATION Z-2 – STRIKETHROUGH VERSION

#### **Summary**

This rule was originally promulgated in 1981 and re-promulgated in 1986, 1989, 1992, 1997, 1998, and 2002 and May 2010 (with an effective date of August 1, 2010). This joint re-promulgation, which repeals and replaces both Bureau of Financial Institution Rules, Chapter 138, and Bureau of Consumer Credit Protection Rules, Chapter 240, adopts the latest federal Truth-in-Lending regulations by reference so as to implement Article VIII of the Maine Consumer Credit Code.

#### SECTION 1. AUTHORITY

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#### SECTION 3. DEFINITIONS

1. "Administrator" means a person as defined in 9-A M.R.S. § 1-301(2).
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#### SECTION 4. GENERAL PROVISIONS

Except as provided below, the Administrators hereby adopt all final provisions of federal Regulation Z (12 Code of Federal Regulations, Part 226) adopted through June 29, ~~February 22,~~ 2010, including all appendices, and all provisions of federal Regulation M (12 Code of Federal Regulations, Part 213) adopted through June 29 ~~February 22,~~ 2010 by the Board of Governors of the Federal Reserve System pursuant to Title I (Truth-in-Lending Act) and Title V (General Provisions) of the Consumer Credit Protection Act (15 U.S.C. § 1601 et seq.

The following provisions of Regulations Z and M are not adopted:

1. Reg. Z, § 226.1(e) concerning enforcement and liability, to the extent that additional effects of violations and liabilities are set forth in the Code, including §§ 5-201, 8-206-E, 8-208 and 8-209 of the Code;
2. Reg. Z, § 226.2(a)(6), the definition of the term "business day," to the extent that the definition of "business day" in § 1-301(6-A) of the Code also excepts Patriots' Day, which falls on the third Monday of April;
3. Reg. Z, § 226.2(a)(14), the definition of the term "credit," to the extent that it differs from the definition of "credit" in § 1-301(15) of the Code;
4. Reg. Z, § 226.2(a)(16), the definition of the term "credit sale," to the extent that it differs from the definition of "consumer credit sale" in § 1-301(11) of the Code;
5. Reg. Z, § 226.3(b), which exempts credit (other than credit secured by real property) over \$25,000, to the extent that there is conflict with § 1-301(11)(A)(vi) (which extends the provisions of the Code to debts secured by manufactured housing and to motor vehicle sales in which the amount financed does not exceed \$ 35,000) and § 1-301(14)(A)(iv)(b) (which extends the provisions of the Code to unsecured loans not exceeding \$35,000 if made by a supervised lender other than a supervised financial organization);
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8. Reg. Z, § 226.5a(b)(5), which sets forth the requirements for disclosure of a credit card plan's "grace period," to the extent that it contemplates grace periods shorter than the minimum 25-day requirements of §§ 2-202(5) and 2-402(4) of the Code;

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10. Reg. Z, § 226.5a(g), which defines various balance computation or calculation methods, to the extent that it contemplates methods other than the "average daily balance (excluding new purchases)," the "average daily balance (including new purchases)," and the "adjusted balance" methods, which are the only methods permitted by §§ 2-202(2) and 2-402(2) of the Code;

11. Reg. Z, § 226.9(c)(1), concerning the 15-day notice requirement for changes in terms for home equity plans and other forms of open-end credit that are not credit card accounts, to the extent that there is a conflict with the 30-day notice requirement in § 3-204 of the Code;

12. Reg. Z, § 226.12(f) concerning discounts, to the extent that sellers in sales transactions are also prohibited from imposing a surcharge on a card holder who elects to use a card in lieu of payment by cash, check or similar means as set forth in § 8-303(2) of the Code;

13. Reg. Z, § 226.17(c)(5) and Official Staff Commentary to Reg. Z, § 226.17(c)(1)-17 to the extent that there is a conflict with §§ 8-103 (1-A)(EE) and 8-106(6) of the Code;

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15. Reg. Z, § 226.24(i)(4), to the extent that there is a conflict with § 241(15) of Title 9-B, the Maine Banking Code;

16. Reg. Z, § 226.32 concerning requirements for certain closed-end home mortgages referred to in the Code as high-rate, high-fee mortgages, as a result of this section being supplanted by the provisions of §§ 8-206-A and 8-206-H of the Code, including terms used in §§ 8-206-A and 8-206-H of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

17. Reg. Z, § 226.34, concerning prohibited acts or practices in connection with certain closed-end home mortgages referred to in the Code as high-rate, high-fee mortgages, as a result of this section being supplanted by the provisions of §§ 8-206-A, 8-206-H and 8-206-I of the Code, including terms used in §§ 8-206-A, 8-206-H and 8-206-I of the Code and defined in § 8-103(1-A) and

elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

18. Reg. Z, § 226.35, concerning prohibited acts or practices in connection with higher-priced mortgage loans, as a result of this section being supplanted by the provisions of § 8-206-I of the Code, including terms used in § 8-206-I of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

19. Reg. Z, § 226.36, concerning prohibited acts or practices in connection with credit secured by a consumer's principal dwelling, as a result of this section being supplanted by § 8-206-J of the Code, including terms used in § 8-206-J of the Code and defined in § 8-103(1-A) and elsewhere in the Code, to the extent that there is a conflict with terms defined in federal Regulation Z;

20. Reg. Z, § 226.52(a)(2), concerning the limitations on fees, to the extent that § 2-501(4)(D) imposes a limit on attorney's fees of not more than 15% of the unpaid debt incurred in connection with a legal action brought by an attorney who is not a salaried employee of the creditor;

21. Reg. Z, Appendices G-1, sub-§§ (b),(e) and (f), and G-1(A), sub-§§ (b),(e) and (f), to the extent that there is a conflict with §§ 2-202(2) and 2-402(2) of the Code;

22. Reg. M, § 213.4(m)(2) concerning the value of the leased property upon expiration of the lease, to the extent that there is a conflict with §3-401 of the Code; and

23. Reg. M, § 213.4(o) and Official Staff Commentary to Reg. M, § 213.4(o)-3, to the extent that there is a conflict with Title 11 M.R.S. § 2-1221(2)(b).

The Administrators shall follow the interpretations set forth in the Official Commentaries to Regulations Z and M issued by the Board of Governors of the Federal Reserve System, except for the Official Staff Commentary to provisions for which an exception has been made under this rule or unless the Administrators issue either a rule or advisory ruling, which explains a conflict between Maine law and federal Regulation Z or M and establishes the interpretation of the Administrators. However, the Administrators shall follow the Official Staff Commentaries relating to §§ 226.32, 226.34, 226.35 and 226.36 of federal Regulation Z, even though these sections have been excepted from this Regulation Z-2 in their entirety, to the extent that these Official Staff Commentaries relate to language that is identical or substantially similar to State law.

EFFECTIVE DATE: ~~August 1, 2010.~~ November 1, 2010. The effective and mandatory compliance dates in Federal Regulation Z as of June 29 ~~February 22,~~

2010 will be followed to the extent that any may occur after November 1, 2010 ~~August 1, 2010~~.

Drafting Note: These provisions include the final rule found in 75 FR 37526 ~~7658~~ published by the Federal Register on June 29 ~~February 22~~, 2010, which implements provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009. Copies of 12 CFR Part 226 may be obtained at cost from either the Bureau of Financial Institutions or the Bureau of Consumer Credit Protection, or from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, MA 02106 tel. (617) 973-3000. In addition, a copy may be obtained via the Internet at <http://www.federalreserve.gov/Regulations/RegRef.htm#z>.

Drafting Note: Copies of 12 CFR Part 213 may be obtained at cost from the Bureau of Financial Institutions or from the Bureau of Consumer Credit Protection, or from the Federal Reserve Bank of Boston, 600 Atlantic Avenue, Boston, MA 02106 tel. (617) 973-3000. In addition, a copy may be obtained via the Internet at <http://www.federalreserve.gov/Regulations/RegRef.htm#m>.

Drafting Note: The "ability to repay" provisions in federal and Maine law are substantially the same, but for the provision in 12 CFR § 226.34(a)(4)(ii)(B) not found in Maine law.

## NOTICE OF AGENCY RULE-MAKING PROPOSAL

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AGENCY: 02 Department of Professional and Financial Regulation

CHAPTER NUMBER AND TITLE: Chapter 138 (Bureau of Financial Institutions) and Chapter 240 (Bureau of Consumer Credit Protection); Title: Truth-in-Lending, Regulation Z-2.

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

CONTACT PERSON FOR THIS FILING: Christian D. Van Dyck, Attorney, Maine Bureau of Financial Institutions.

Contact information:

Bureau of Financial Institutions

36 State House Station

Augusta, ME 04333-0036

[Christian.d.vandyck@Maine.gov](mailto:Christian.d.vandyck@Maine.gov)

telephone: 624-8574

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

PUBLIC HEARING (if any): None proposed, unless requested by 5 or more interested parties.

COMMENT DEADLINE: October 4, 2010

BRIEF \*SUMMARY: This proposed amended rule, like previous versions, adopts the Federal Truth-in-Lending regulations by reference, so as to implement Article VIII of the Maine Consumer Credit Code. The proposed amended rule will incorporate by reference the final "phase 3" provisions of Federal Truth-in-Lending regulations relating to reasonable and proportional late fees and re-evaluation of rate increases for credit cards. Copies of the rule may be obtained from Christian D. Van Dyck. A more detailed summary may be found on the Bureau of Financial institution's website: [www.maine.gov/financialinstitutions](http://www.maine.gov/financialinstitutions).

IMPACT ON MUNICIPALITIES OR COUNTIES (if any)

None.

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STATUTORY AUTHORITY FOR THIS RULE: 9-A MRSA, sections 1-102, 6-104 and 8-104.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): N/A.

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON:  
[Christian.d.vandyck@Maine.gov](mailto:Christian.d.vandyck@Maine.gov)

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The Small Business Impact Statement may be found at:  
[www.maine.gov/financialinstitutions](http://www.maine.gov/financialinstitutions).

\* 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.

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

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
*(authorized signature)*

FUND	AGENCY	ORG	APP	JOB	OBJT
	AMOUNT				
014	02A	1020	012		4946
014	02A	1030	012		4946

## **Notice of Agency Rule-making Proposal**

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### DETAILED BASIS STATEMENT / SUMMARY:

This Rule amends a joint rule issued by Bureau of Financial Institutions' Chapter 138, Regulation 38 and the Bureau of Consumer Credit Protection's Chapter 240, Regulation Z-2, effective August 1, 2010, which in turn supplanted versions effective July 28, 2002, July 7, 1998, May 28, 1997, May 4, 1992, December 18, 1989, May 22, 1986 and September 7, 1981. The purpose of this Rule is to update various sections of the rule and provide guidance to creditors who are subject to Maine's Truth-in-Lending Law (Article VIII of the Maine Consumer Credit Code), and to maintain the State's delegation of authority from the Federal Reserve Board, which was granted pursuant to §123 of Title I of the Federal Truth-in-Lending Act, 15 U.S.C. § 1633. In order to protect Maine's exemption, this State's regulations interpreting truth-in-lending laws must be substantially similar to those imposed under the Federal Truth-in-Lending Act and there is adequate provision for enforcement.

Regulation Z-2 was last amended by the Bureaus in May 2010 (with an effective date of August 1, 2010). The Bureaus have accordingly considered the amendments that have been made to federal Regulation Z since this time, known as the "phase 3" amendments to federal Regulation Z following passage of the Credit Card Accountability Responsibility and Disclosure Act of 2009. These "phase 3" amendments generally provide that credit card penalty fees must be reasonable and proportional and that rate increases must be re-evaluated.

When the rule was last re-promulgated in May 2010, the Bureaus provided guidance relating to high-rate, high-fee mortgage loans, higher priced mortgage loans and residential mortgage loans, as set forth in § 226.32 and §§ 226.34 to 226.36 of federal Regulation Z. This guidance is still relevant and has thus been retained in this re-promulgation. The Bureaus determined that, because the federal Regulation Z amendments relating to these types of

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loans were incorporated into the Code pursuant to Public Law 2009, Chapter 362, "An Act to Conform State Mortgage Laws with Federal Laws," the legislative intent behind Public Law 2009, Chapter 362 was to create a "stand alone" body of state law relating to the regulation of these types of loans. Readers were thus directed to seek guidance directly from the provisions of the Code (and, to the extent applicable, Bureau of Consumer Credit Protection's Chapter 550/Bureau of Financial Institutions' Chapter 144 and the Bureaus' advisory rulings) on questions relating to these types of loans. Thus, § 226.32 of federal Regulation Z is supplanted by §§ 8-206-A and 8-206-H of the Code; § 226.34 of federal Regulation Z is supplanted by §§ 8-206-A, 8-206-H and 8-206-I of the Code; § 226.35 of federal Regulation Z is supplanted by § 8-206-I of the Code; and § 226.36 is supplanted by § 8-206-J of the Code. To the extent that these provisions of federal and state law are identical or substantially similar, the Bureaus further determined that they would follow the Official Staff Commentary relating to these provisions.

## DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

030	BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 240	029	BUREAU OF FINANCIAL INSTITUTIONS CHAPTER 138 (REG. 38)
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### TRUTH IN LENDING; REGULATION Z-2 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 240 (Bureau of Consumer Credit Protection) and Chapter 138 (Bureau of Financial Institutions):

*The types of small businesses subject to the proposed amended joint rule are creditors providing consumer loans, including mortgage lenders, mortgage brokers, banks and credit unions. The estimated number of non-bank creditors subject to the proposed joint rule with 20 or fewer employees is 375. The estimated number of banks and credit unions subject to the proposed joint rule with 20 or fewer employees is four.*

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- B. Projected Reporting, record-keeping and other administrative costs required for compliance with proposed joint rule, Chapter 240 (Bureau of Consumer Credit Protection) and Chapter 138 (Bureau of Financial Institutions), including the type of professional skill necessary for preparation of the report or record:

*If new federal requirements in federal Regulation Z relating to reasonable and proportional late fees and re-evaluation of rate increases are not incorporated into Maine's Regulation Z-2, Maine arguably risks losing its exemption from federal Regulation Z under Maine's Consumer Credit Code, Title 9-A, section 8-107. This would result in small businesses having to comply directly with the new federal Regulation Z requirements. Thus, small businesses will be subject to the new federal Regulation Z requirements, whether or not these new federal requirements are incorporated into Maine's Regulation Z-2. In light of this, the proposed amendments do not require any additional reporting, record-keeping or other administrative costs required for compliance.*

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

*The proposed amendments provide clarity to small businesses regarding truth-in-lending requirements by incorporating the new federal requirements relating to late fees and rate increases.*

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

*In order to maintain their exemption from federal Regulation Z, the Bureau of Financial Institutions and Bureau of Consumer Credit Protection are required to have laws that are "substantially similar to" or "afford greater protection than" federal law. The proposed amendments represent the least intrusive and least costly method of maintaining this exemption, thereby achieving the purposes of Title 9-A, Maine's Consumer Credit Code.*

