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 Credit Protection have proposed amending Chapter 143 (Bureau of Financial Institutions) and Rule 120 (Bureau of Consumer Credit Protection), last promulgated in 2005, so that its provisions are consistent PL 2007, Chapter 7, which changes the standard by which maximum garnishment ratios are computed. Previously, the Code limited garnishment arising from a consumer credit transaction to the lesser of 25% of the individual's disposable earnings or the amount by which the individual's disposable earnings for a week exceeded 40 times the federal minimum hourly wage. The new law sets the benchmark at the federal minimum wage or the state's minimum wage, whichever is greater.

Notice of this proposed Rule is being published by the Secretary of State. Interested parties may submit written comments or request for a hearing to the Bureau of Financial Institutions, 36 State House Station, Augusta, Maine 04333-0036 or the Bureau of Consumer Credit Protection, 35 State House Station, Augusta, Maine 04333-0035 by November 12, 2007. Electronic comments or requests for a hearing may be submitted by accessing the Internet Home Page of the Bureau of Financial Institutions at http://www.maine.gov/pfr/financialinstitutions/index.shtml or the Home Page of the Bureau of Consumer Credit Protection at http://www.maine.gov/pfr/consumercredit/index.shtml.

Gardiner, Maine
October 10, 2007

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

30	BUREAU OF CONSUMER CREDIT PROTECTION CHAPTER 120	029	BUREAU OF F INSTITUTIONS CHAPTER 143

MULTIPLE OF THE STATE OR FEDERAL MINIMUM WAGE

Summary

This Rule provides the method for calculating the portion of earnings that are subject to garnishment when an individual is not paid on a weekly basis.

Rule 120, last promulgated in 2005, provides guidance for those seeking to abide by the statutory limitations on garnishment found in the Maine Consumer Code ("the Code"). It is amended following enactment of P.L. 2007, Chapter 7, which changes the standard by which maximum garnishment ratios are computed. Previously, the Code limited garnishment arising from a consumer credit transaction to the lesser of 25% of the individual's disposable earnings for that week or the amount by which the individual's disposable earnings for that week exceeded 40 times the federal minimum hourly wage. The new law makes the State minimum hourly wage an alternative to the federal minimum hourly wage in the calculation, requires that comparison with disposable earnings be based on the higher of the State or federal minimum wage, and requires that maximum garnishment for a pay period other than a week be "equivalent in effect" to that for a week.

SECTION 1: Authority

Title 9-A M.R.S.A. § 6-104 permits the Administrator to adopt, amend, and repeal rules to carry out the specific provisions of the Code.

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.

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.

Title 9-A M.R.S.A. § 5-105(2)(B) requires the Administrator to prescribe by rule a means of calculating the disposable income that is subject to garnishment when an individual is not paid on a weekly basis.

SECTION 2: Purpose

The purpose of this Rule is to amend the previous joint rule to include language changing the method for computing maximum garnishment ratios required by 9-A M.R.S.A. § 5-105(2)(B) as amended by P.L. 2007, Chapter 7.

Both the Bureau of Consumer Credit Protection and the Bureau of Financial Institutions have oversight responsibilities with respect to the Code.

SECTION 3: Definitions

For purposes of this Rule, the following terms have the following meanings:

A. "Administrator" has the same meaning as in 9-A M.R.S.A. §1-301(2);

B. "Consumer Credit Transaction" has the same meaning as in 9-A M.R.S.A. §1-301(12);

C. "Disposable Earnings" has the same meaning as in 9-A M.R.S.A. § 5-105(1)(A);

D. "Federal minimum hourly wage" is that wage prescribed by Section 6(a)(1) of the Fair Labor Standards Act of 1938, 29 U.S.C. §206(a)(1) in effect at the time earnings are payable, pursuant to 9-A M.R.S.A. §5-105(1)(B); and

E. "Garnishment" has the same meaning as in 9-A M.R.S.A. §5-105(1)(B).

F. "State minimum hourly wage" is that wage prescribed by 26 M.R.S.A. § 664 in effect at the time the earnings are payable.

SECTION 4: General Provisions

1. Limitations on Garnishment of Earnings for Pay Periods Other Than a Week

   The maximum part of the aggregate disposable earnings of an individual for any pay period other than a week that is subjected to garnishment to enforce payment of a judgment arising from a consumer credit transaction may not exceed:

   A. Twenty-five percent of the individual's disposable earnings for that pay period;

   B. For those employees paid for a two week period, the amount by which the individual's disposable earnings exceed 40 times the federal minimum hourly wage or State minimum hourly wage, whichever is higher, in effect at the time the earnings are payable, multiplied by 2;

C. For those employees paid monthly, the amount by which the disposable earnings exceed 40 times the federal minimum hourly wage or State minimum hourly wage, whichever is higher, in effect at the time the earnings are payable, multiplied by 4 1/3; or

D. For those employees paid twice monthly, the amount by which the disposable earnings exceed 40 times the federal minimum hourly wage or State minimum hourly wage, whichever is higher, in effect at the time the earnings are payable, multiplied by 4 1/3 and then divided by 2.

EFFECTIVE DATE: December 3, 2007