

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

On Tuesday, January 8th, 2008, the Maine Legislature passed LD 2125, "An Act Relating to Mortgage Lending and Credit Availability" and Governor Baldacci signed this bill into law. This new law makes various amendments to the recently enacted "Act to Protect Maine Homeowners from Predatory Lending." This new law amends the current prohibition on "flipping" residential mortgage loans by limiting the prohibition to subprime mortgage loans only. This change will allow creditors to make prime mortgage loans without undertaking the "tangible net benefit analysis" required by the prohibition on "flipping." Subprime mortgage loans are defined in the "Act to Protect Maine Homeowners from Predatory Lending" as a nontraditional mortgage or a rate spread home loan. A nontraditional mortgage has the same meaning as those mortgages described in the "Interagency Guidance on Nontraditional Mortgage Product Risks" except that only mortgages described therein having features that defer repayment of principal or interest are included. A rate spread home loan is any loan for which a rate spread must be reported under HMDA or any loan that meets the criteria of a high rate high fee mortgage. For more details, please refer to these definitions found in the law. In addition, the new law makes various technical corrections and clarifies certain provisions of the anti-predatory lending law. This new law will be retroactive to January 1, 2008.

Because the "tangible net benefit" analysis is now limited to subprime mortgage loans, the Bureau also wishes to bring to your attention our [Joint Advisory Ruling # 111](#), issued with the Bureau of Consumer Credit Protection on December 17th, 2007, regarding the exclusion of certain HELOCs from the definition of a "subprime mortgage loan." In the Advisory Ruling, the Bureaus conclude that HELOCs are not included in the definition of a subprime mortgage loan, except to the extent that a HELOC is a Simultaneous Second Lien Loan as defined in the "Interagency Guidance on Nontraditional Mortgage Product Risks," or meets the criteria of a high-rate, high-fee mortgage under section 8-103(1-A)(V). Please note that, under the anti-predatory lending law, a "nontraditional mortgage" is further defined to mean only those nontraditional loans that defer repayment of principal or interest.

The Bureaus will provide further guidance with respect to LD 2125 in the near future.

/s/ Lloyd P. LaFountain III
Superintendent

Gardiner, Maine
January 10, 2008