STATE OF MAINE
121ST LEGISLATURE
FIRST REGULAR SESSION

Final Report of the COMMITTEE TO STUDY THE REVENUE SOURCES OF THE OFFICE OF CONSUMER CREDIT REGULATION

February 2004

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EXECUTIVE SUMMARY

The Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation was established in the First Regular Session of the 121st Legislature by P.L. 2003, Chapter 462. The Committee was co-chaired by Senator Lynn Bromley and Representative Guy Duprey and was composed of 14 members representing the Legislature, the credit industry, the general public and state agencies that regulate consumer credit. The Committee was charged with studying the regulatory duties of the Office of Consumer Credit Regulation, the resources needed to perform those duties, the sources and amounts of revenue collected by the Office and the relationship between the actual costs of administering the Office and the amount of revenue collected by the Office.

The Committee convened in November of 2003 to begin its review of the Office of Consumer Credit Regulation. The Committee reviewed the duties of the Office, particularly responding to consumer complaints, conducting compliance examinations and conducting outreach and education. The Committee also reviewed the resources required to perform the Office's duties and the revenue collected by the Office, particularly volume fees, license fees and exam reimbursement.

At its last meeting, the Committee made the following recommendations:

A. Recommendation Related to Education and Outreach

> ***Recommendation: The Committee recommends that the Office of Consumer Credit Regulation focus more on education and outreach. In particular, the Office should add more educational material to the Office's internet site and use some of the money that is currently in the Office's dedicated revenue account to hire consultants to work on the web site or to visit high schools and colleges to provide direct education.***

B. Recommendation Related to Volume Fees

> ***Recommendation: To provide for a more consistent level of funding for the Office of Consumer Credit Regulation, the Office should have the flexibility to adjust volume fees. The Committee recommends that the Legislature enact legislation that caps the volume fees at the current level, but permits the Office to adjust the volume fee rate under the cap by regulation. Draft legislation to implement this recommendation is attached as Appendix D.***

C. Recommendation Related to License and Registration Fees

> ***Recommendation: In addressing future revenue needs of the Office of Consumer Credit Regulation, the Office should look at the equity of the current licensing and registration fees. In addition, if the Office reduces volume fees pursuant to Recommendation B above, the Office should not reconsider raising those volume fees***

until after the Office considers raising license and registration fees. Furthermore, the Committee recommends that the Office be directed to review the license and registration fees assessed by the Office in order to establish a rational and equitable formula. Following the review, a report should be submitted to the joint standing committees of the Legislature having jurisdiction over business matters and banking matters by January 5, 2005. Draft legislation to implement this recommendation is attached as Appendix D.

D. Recommendation Related to Compliance Examination Costs

Recommendation: The Committee recommends that the Office of Consumer Credit Regulation review its policy for assessing entities for compliance examinations to more closely match the hourly cost of conducting these examinations. The Committee also recommends that the Office explore the potential for regulated entities to submit reports via mail in lieu of Office staff performing compliance examinations in person.

E. Recommendation Related to Collection of Investigation Costs

Recommendation: The Committee recommends that the Office of Consumer Credit Regulation review its policy for assessing entities for investigation costs incurred by the Office, including the cost of holding hearings.

I. INTRODUCTION

A. Establishment and Charge to the Committee

The Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation (hereinafter “the Committee”) was established in the First Regular Session of the 121st Legislature by P.L. 2003, Chapter 462. A copy of Chapter 462 is attached as Appendix A.

The Committee was composed of 14 members: 2 members of the Joint Standing Committee on Business, Research and Economic Development, one who is a member of the Senate and one who is a member of the House of Representatives; 2 members of the Joint Standing Committee on Insurance and Financial Services, one who is a member of the Senate and one who is a member of the House of Representatives; the Commissioner of Professional and Financial Regulation; the director of the Office of Consumer Credit Regulation; 1 representative of the nonbank mortgage lending industry; 1 representative of automobile dealers; 1 representative of debt collectors; 1 representative of credit reporting agencies; 1 representative of mortgage loan servicers; 1 representative of credit services organizations or loan brokers; and 2 members of the general public who have utilized the services of the Office of Consumer Credit Regulation. The Committee was co-chaired by Senator Lynn Bromley and Representative Guy Duprey. A list of Committee members is included as Appendix B.

The charge to the Committee was specified in Chapter 462. The Committee was charged with reviewing: 1) the regulatory duties of the Office of Consumer Credit Regulation (hereinafter “the Office”); 2) the resources needed to perform those duties; 3) the sources and amounts of revenue collected by the Office; and 4) the relationship between the actual costs of administering the Office and the amount of revenue collected by the Office.

B. Meetings

The Committee was convened on November 20, 2003. In addition to this first meeting, the Committee held 2 other meetings. These meetings were held on December 12, 2003 and January 7, 2004.

C. Report and Legislation

Chapter 462 established December 3, 2003 as the date by which the Committee was to complete its work and submit its report to the Legislature. However, the Committee requested and received authorization from the Legislative Council to extend the reporting date to January 9, 2004. Chapter 462 authorized the Committee to submit a bill to the Legislature to implement its recommendations.

II. BACKGROUND; OVERVIEW OF ISSUES

A. Duties of the Office of Consumer Credit Regulation

The Office of Consumer Credit Regulation is a division within the Department of Professional and Financial Regulation. It regulates supervised lenders, new and used car dealers, mobile home dealers, insurance premium finance companies, rent to own merchants, pawnbrokers, other retail creditors such as hardware stores, loan servicers, sales finance companies, collection agencies, loan brokers (credit services organizations), credit reporting agencies, money order issuers, non-bank ATM terminals, credit counselors (debt management service providers) and check cashers/foreign currency exchangers.

The primary duties of the Office include: responding to consumer complaints; conducting compliance examinations; licensing regulated companies and individuals; responding to companies' requests for information, interpretations and rulings; legislative activities; conducting enforcement actions against both licensed and unlicensed companies; and conducting outreach and education.

1. Complaint resolution within the Office of Consumer Credit Regulation

a) Amount of time spent on complaints that are not within the Office's jurisdiction.

The Office estimates that 25% of staff time is spent on responding to consumer complaints. Given this high percentage, the Committee reviewed how much of that time is spent on complaints regarding entities that are not within the Office's jurisdiction.

An analysis of 200 complaints received by the Office revealed that approximately 15% of complaints are forwarded by the Office to another state or federal regulatory entity (Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Association, the Maine Attorney General's Office, the Maine Bureau of Insurance, the Bureau of Financial Institutions) after they are reviewed by the Office. Additionally, another 15% of complaints are complaints in which only the activity, but not the specific entity, is within the agency's jurisdiction. In these cases, the Office pursues a remedy on behalf of the consumer in spite of the fact that the company is not required to be licensed. In addition, another 3% of complaints involve fraudulent companies, or companies that should have Maine licenses but do not. In these cases, the Office pursues a remedy for the consumer and also requires that the company either obtain a license or cease and desist further business with Maine consumers.

b) Effectiveness of complaint resolution.

In the past ten years, the Office has closed more than 4,000 formal written complaints and has returned more than $1.3 million to Maine consumers. In resolving complaints, the Office achieves a wide variety of remedies. The remedy requested in more than half of the formal complaints does not involve a request for a refund. Each complaint received by the Office is analyzed, the Office gathers additional information, and the complaint and the Office's detailed analysis are then provided to the company.

The Office provided the Committee with a voluminous analysis of 333 separate formal written complaints closed during a 27-week period, from January 1 through June 10, 2003. The report also reviewed the Office resources required to resolve the complaints and the outcome of each complaint. The report showed that 106 of the 333 complaints were concerning debt collectors, 71 were regarding supervised lenders, 31 were concerning banks and credit unions, 27 were concerning retail creditors, 26 were concerning credit reporting agencies, 12 were concerning sales finance companies, 9 were concerning loan brokers, 9 were concerning mortgage loan servicers, 7 were concerning auto dealers, 2 were concerning credit card companies, 2 were concerning debt management service providers, 2 were concerning rent-to-own companies, 1 was regarding repossession companies, and 28 were concerning miscellaneous entities.

2. Outreach and education performed by the Office of Consumer Credit Regulation

In the past, the Office conducted more outreach and education than is currently being performed. Resources that were once directed toward this function have been reallocated to complaint resolution because the number of complaints has increased dramatically, with 219 formal complaints received in 1999 and 697 formal complaints received in 2002.

A strong argument can be made that a consumer whose financial literacy has been enhanced through educational programs is less likely to get involved in situations that are difficult and expensive to remedy after the fact. The Office indicated a willingness to discuss this issue further and is willing to explore ways in which education can occur efficiently through available outlets, such as use of the Office's website and updating existing publications. As indicated in the Committee's findings and recommendations (Section III, subsection A), the Committee issued a unanimous statement to the Office that consumer education must be a priority.

B. Resources Required to Perform those Duties

In general, the Office estimates that the staff time spent on each duty is as follows:

- Responding to consumer complaints – 25%
- Conducting compliance examinations – 20%
- Licensing regulated companies and individuals – 15%
- Responding to companies' requests for information, interpretations and rulings 15%
- Legislative activities – 10%
- Conducting formal enforcement actions – 10%
- Conducting outreach and education – 5%

In addition, the Office estimates that, in general, the major responsibilities of the Office require the following manpower allocations in terms of full-time employees:

- Complaint response functions – 3.0 FTEs
- Compliance examinations and reports for creditors – 2.5 FTEs
- Licensing and registration for companies and business locations under the Office's jurisdiction – 2.0 FTEs
- Enforcement actions – 1.75 FTEs
- Responses to creditor requests and inquiries – 1.5 FTEs
- Fractional percentages are required for tasks such as legislative activities and conducting outreach and consumer education functions.

C. Revenue Collected

The Office is funded entirely through dedicated revenues, including volume fees, licensing and registration fees, compliance examination reimbursements and other miscellaneous fees. The various fees and formulas are fixed in statute and cannot be adjusted by the Office. The inflexibility has led to various degrees of fiscal stability at different times in the Office's history. While the state's budgeting system is based on a fiscal year (July 1 – June 30), the Office's revenue is derived on a calendar year cycle, with the majority of revenues being received in January and early February of each year. Therefore, at the end of the state's fiscal year, the Office must retain sufficient revenues to carry it for an additional 7 months, until the following January and February. In addition, revenues are closely linked to economic cycles of the regulated industries. Because of the linkage, the Office's fund balance varies greatly over the years.

Volume fees constitute the largest source of revenue for the Office. The volume fee formula is modeled after the funding mechanism in the Uniform Consumer Credit Code. It was enacted into Maine's Code in 1975 and revised in the 1990's and applies an assessment formula tied to the total dollar volume of loans made or credit extended. Under this system, large-volume creditors and lenders pay larger assessments than do smaller-volume companies. The amount of revenue received by the Office in FY 03 for each source of revenue is as follows:

• Volume Fee (Supervised Lenders)	$633, 100
• Volume Fee (Refunds to Supervised Lenders)	- ($102,620)***
• Volume Fee (Auto Dealers)	$31,900
• Transfer from Bureau of Financial Institutions regarding auto contracts assigned to banks and credit unions	$108,000
• Volume Fee (Sales finance companies, general creditors)	$185,600
• License Fees (Supervised Lenders)	$126,800
• License Fees (Debt Collectors)	$97,600
• Examination reimbursement	$55,360
• License Fees (Loan Brokers)	$29,700
• License Fees – Money Order Issuers	$21,500
• Notification Fees	$23,300
• Investigative cost reimbursement	$2,020
Total :	$1,210,240

(***When the proceeds of a new loan are partially used to pay off the balance on a prior loan made by the same lender, the lender owes volume fees for the second transaction only on the "new" money loaned. The rationale is that lenders already paid volume fees once on the "old" money, and need not pay a second time. Because the Office suspected that overpayments may have occurred when the most recent refinancing boom got underway, the Office sent all lenders a memo of explanation and invited them to file "amended" notification forms, requesting refunds for amounts overpaid in January of 2003 and January of 2002. The Office refunded $102,620 in response to the filing of those amended volume fee forms.)

1. Volume fees and licensing fees

a) Review of how fees are structured in other states.

The Committee received a general overview of several states that assess volume fees. The overview revealed that Maine is the only New England state that collects volume fees. Information from the following states was also included in the overview: Colorado, Indiana, Iowa, Kansas, Oklahoma, Utah, Wisconsin and Wyoming. It appears that at least some of these states do not charge volume fees to supervised lenders.

For those states that do not assess volume fees, many rely on license fees or other fees to raise revenue that is necessary to fund regulation. In addition, applicants in other states sometimes face additional expenses that are not incurred by their Maine counterparts. For example, many states require lenders to take an expensive course of study before applying for a license. In addition, applicants in many states must pay a test fee and pass a written test to qualify for a license. Furthermore, most other states require successful applicants to take and pay for "continuing education" classes.

b) Volume and licensing fees in Maine.

The chart attached as Appendix C identifies the number of regulated entities that are registered or licensed by the Office as of June 30, 2003 and the applicable fees for each type of entity.

c) Flexibility to adjust volume fees.

Currently, the Office does not have the authority to adjust the level of volume fees that it collects. As discussed in other sections of this report, this has led to a large carry over in the Office's dedicated account.

The majority of boards, commissions, bureaus and offices within the Department of Professional and Financial Regulation have the authority to establish, within a statutory cap, a level of assessment necessary to fund operations. The Committee discussed draft legislation that caps the volume fees at the current level, but permits adjustment beneath those caps by regulation. (See section III. Findings and Recommendations.)

2. Examination reimbursement

Maine law directs the Office to recoup costs expended in connection with examinations of regulated entities. 9-A MRSA, section 6-106, subsection 6 provides that:

> *The expenses of the administrator necessarily incurred in the examination or investigation of any person engaged in conduct governed by this Act must be chargeable to that person …. [T]hat person must be assessed for the actual expenses incurred by the administrator, including but not necessarily limited to travel expenses and the proportionate share of salaries and expenses of examiners engaged in the examination or investigation…*

Examination fees are generally assessed based on the actual costs expended in conducting an examination, but the Office does not always assess the full actual costs of the examination to a creditor. For example, the Office does not assess many small creditors the full costs of the examination, especially if a large component of the cost is travel time to distant locations with the state. The statute allows for a discount on travel time in 9-A MRSA section 6-106, subsection 6 which provides that:

> *Notwithstanding this subsection, for a person other than a supervised financial organization, the administrator may adjust the examination*

assessments to make more equitable travel-related costs that result from a creditor's location in this State.

The Office assesses companies who are located far from Augusta the cost of a maximum of 2 hours travel time. As indicated in the Committee's findings and recommendations (Section III, subsection D), the Committee found that the cost of conducting examinations is approximately $150,000 but only approximately $55,360 is collected by the Office.

In addition, the Office limits increases in cost from one examination to the next. The Office has also initiated de facto caps for the first examinations of very small creditors to a standard $150 for initial examinations.

3. How money flows between the Office and the Bureau of Financial Institutions

The only monies transferred from the Bureau of Financial Institutions to the Office are certain volume fees collected from banks. These fees represent credit sale contracts that are entered into between auto dealers and consumers and that are subsequently assigned to Maine-chartered banks or credit unions. The interagency contract referenced in 9-A MRSA section 6-203, subsection 6 allocates those funds on a 25% (Bureau of Financial Institutions), 75% (Office of Consumer Credit Regulation) basis. The most recent yearly payment from the Bureau of Financial Institutions to the Office was made on May 20, 2003 in the amount of $108,225.

4. Overview of the fees assessed by the Bureau of Financial Institutions on its regulated industries

For comparison purposes, Superintendent Howard R. Gray, Jr. provided the Committee with information regarding fees assessed to state chartered financial institutions by the Bureau of Financial Institutions. Since 1996, the Bureau of Financial Institutions has had the regulatory responsibility to enforce the Maine Consumer Credit Code for banks and credit unions. Banks are one of the most heavily regulated providers of financial services. State chartered banks must comply with several state laws as well as numerous federal laws.

Superintendent Gray stated that the Bureau's operations are funded through a dedicated revenue account. Revenue sources are categorized as follows:

a) Assessment fees: Assessment fees are assessed on total assets held by state chartered banks, credit unions, and nondepository trust companies and are paid to the Bureau on a quarterly basis. For deposit-taking institutions, the fee is $0.07 per $1,000 of average assets and for specialty institutions, the fee is $0.06 per $10,000 of assets under custody, care and management.

b) Examination fees: Examination fees are collected from each financial institution that is examined. The fees primarily cover the cost of the examination staff (salary, benefits, travel and training). A formula is utilized to develop a per day Examiner cost. The per day examiner cost is applied to all financial institutions equally.

c) Volume fees. Volume fees are collected from each financial institution that is engaged in consumer lending in Maine. These fees support the enforcement and administration of the Maine Consumer Credit Code, the Bureau's consumer outreach services and the staff to support these efforts. Excluding first mortgages, the fee is $20 per $100,000 of consumer credit transactions. The fee is payable annually.

d) Miscellaneous fees. Primarily includes fees collected in conjunction with applications filed with the Bureau. The fee level depends on the type of transaction and is a one-time event for each transaction.

D. Costs vs. Revenues

The following chart tracks actual revenue, expenses and carry forward balances of the Office for 1996 to 2003:

FISCAL YEAR	REVENUE	EXPENSES	CARRY FORWARD
1996	**$665,233**	**$800,140**	**$339,173**
1997	**$669,194**	**$681,348**	**$357,019**
1998	**$796,830**	**$701,008**	**$452,841**
1999	**$1,090,522**	**$813,224**	**$730,138**
2000	**$858,644**	**$697,577**	**$891,000**
2001	**$947,545**	**$746,035**	**$1,092,716**
2002	**$1,131,016**	**$902,937**	**$1,320,795**
2003	**$1,256,304**	**$945,907**	**$1,480,640**

In addition to normal operating expenses, the Office makes payments each year as are required by law or by the structure of the Department of Professional and Financial Regulation. For example, the Office makes payments each year as part of the statewide cost-sharing system called STACAP, which funds general state expenses such as Capital Security and statewide data networks. The Office also makes payments to the Office of the Attorney General for representation ($17,389 in FY 03). The Office makes payments toward the expenses of operating the Department of Professional and Financial Regulation, including office rent, computer network and development costs, the costs of the commissioner's office and staff, and the costs of the administrative staff. Occasionally, balances in dedicated revenue accounts, including the Office's, are transferred by law to the General Fund to help relieve statewide budget crises.

III. FINDINGS AND RECOMMENDATIONS

A. Education and Outreach

Findings: The Committee endorses the work being done by the Office of Consumer Credit Regulation. The Office regulates over 2,800 entities and is also responsible for accomplishing a variety of duties, including responding to consumer complaints, conducting compliance examinations, responding to companys' requests for information, participating in legislative activities, conducting enforcement actions and conducting outreach and education.

The Committee finds that over the years, as the number of complaints has increased, the amount of time the Office has allocated to consumer education and outreach has decreased. However, the Committee believes that the number of complaints may decrease if consumers are better educated about credit issues and hence less likely to find themselves in difficult credit situations. The Committee finds that consumer education and outreach must be a priority of the Office.

Recommendation: The Committee recommends that the Office of Consumer Credit Regulation focus more on education and outreach. In particular, the Office should add more educational material to the Office's internet site and use some of the money that is currently in the Office's dedicated revenue account to hire consultants to work on the web site or to visit high schools and colleges to provide direct education.

B. Volume Fees

Findings: The Maine Consumer Credit Code provides for volume fees based on a rate applied to each $100,000 of credit extended or loans made. The purpose of the funding mechanism was to provide that the creditors and lenders who were generally benefiting from this sort of economic activity paid for the cost of regulation. The current rate at which volume fees are paid has not changed over the last several years.

The Committee recognizes that there is a connection between general economic trends and the volume of lending activity. When the economy is bad and interest rates are high, there is generally a decrease in lending activity, resulting in less volume fee revenue to the Office. During those bad economic times when revenue to the Office is low, the Office has experienced a higher number of consumer complaints and other regulatory enforcement actions.

However, the current historically low interest rate environment has precipitated a surge in mortgage refinancing which, in turn, has resulted in an increase in volume fee revenue to the Office and a correspondingly increased balance in the dedicated revenue account. The dedicated revenue account has shown a surplus for the past 6 fiscal years, resulting in a carry forward of $1,480,460 in fiscal year 2003. Based on the amount of home refinancing and purchasing activity that have occurred over the past year, it is likely that the dedicated account will be greater in the current fiscal year than the past year.

Recommendation: To provide for a more consistent level of funding for the Office of Consumer Credit Regulation, the Office should have the flexibility to adjust volume fees. The Committee recommends that the Legislature enact legislation that caps the volume fees at the current level, but permits the Office to adjust the volume fee rate under the cap by regulation. Draft legislation to implement this recommendation is attached as Appendix D.

C. Study of License and Registration Fees

Findings: The Committee recognizes that federal law prevents the State from regulating federally chartered institutions. Therefore, federally chartered banks, including those that have large volume mortgage banking operations in Maine do not pay fees to the Office. The Committee recognizes that as state chartered institutions moved from state chartered regulation to federally chartered regulation, the burden to fund the Office, as well as the Bureau of Financial Institutions, has fallen more heavily on Maine state businesses. A large portion of that funding is through volume fees. Increasing license and registration fees of the entities regulated by the Office could offset some of the hardship to those companies that pay volume fees.

Recommendation: In addressing future revenue needs of the Office of Consumer Credit Regulation, the Office should look at the equity of the current licensing and registration fees. In addition, if the Office reduces volume fees pursuant to Recommendation B above, the Office should not reconsider raising those volume fees until after the Office considers raising license and registration fees. Furthermore, the Committee recommends that the Office be directed to review the license and registration fees assessed by the Office in order to establish a rational and equitable formula. Following the review, a report should be submitted to the joint standing committees of the Legislature having jurisdiction over business matters and banking matters by January 5, 2005. Draft legislation to implement this recommendation is attached as Appendix D.

D. Compliance Examination Costs.

Findings: Under Maine statute, the Office must charge regulated entities for the costs incurred by the Office in connection with compliance examinations. However, the Office does not always assess regulated entities for the full costs of compliance examinations. The statute does allow the Office to adjust the examination costs for travel-related costs. Based on information provided to the Committee, the Committee finds that revenue generated by charges for examinations is approximately $55,360, while the cost to the Office for conducting compliance examinations is approximately $150,000. Accordingly, roughly $100,000 is not being recovered.

Recommendation: The Committee recommends that the Office of Consumer Credit Regulation review its policy for assessing entities for compliance examinations to more closely match the hourly cost of conducting these examinations. The Committee also recommends that the Office explore the potential for regulated entities to submit reports via mail in lieu of Office staff performing compliance examinations in person.

E. Collection of Investigation Costs.

Findings: The Office currently has the authority to charge violators for the costs incurred by the Office in connection with investigations. However, the Office does not always assess regulated entities for the full costs of enforcement actions.

Recommendation: The Committee recommends that the Office of Consumer Credit Regulation review its policy for assessing entities for investigation costs incurred by the Office, including the cost of holding hearings.

APPENDIX A

Authorizing legislation, PL 2003, Ch. 462

CHAPTER 462

S.P. 310 - L.D. 969

An Act To Ensure Equity in Mortgage Volume Fees

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation is required to submit its report to the Legislature in December 2003; and

Whereas, the committee must begin its meetings as soon as possible in order to complete its work by December; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-A MRSA §6-203, sub-§2, as amended by PL 1993, c. 268, §1, is further amended to read:

2. Persons required to file notification who are sellers, lessors or lenders shall pay an additional fee, at the time and in the manner stated in subsection 1, of $25 for each $100,000, or part thereof, of the original unpaid balances arising from consumer credit transactions entered into in this State within the preceding calendar year and held either by the seller, lessor or lender for more than 30 days after the inception of the sale, lease or loan giving rise to the obligations, or by an assignee who has not filed notification. ~~A refinancing of a sale, lease or loan resulting in an increase in the amount of an obligation is considered a new sale, lease or loan to the extent of the amount of the increase.~~

Sec. 2. 9-A MRSA §6-203, sub-§2-A is enacted to read:

2-A. For purposes of assessing fees under this section, a refinancing of a sale, lease or loan made by the original creditor of the obligation that results in an increase in the amount of an obligation over the unpaid principal balance of the prior sale, lease or loan is considered a new sale, lease or loan to the extent of the amount of the increase, and volume fees must be paid on the amount of the increase. Volume fees must be paid on the full amount of a refinancing of a sale, lease or loan made by a creditor other than the original creditor.

Sec. 3. Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation. The Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation, referred to in this section as "the committee," is established.

1. Membership. The committee consists of 14 members, as follows:

A. Two members of the Joint Standing Committee on Business, Research and Economic Development, one who is a member of the Senate appointed by the President of the Senate and one who is a member of the House of Representatives appointed by the Speaker of the House of Representatives;

B. Two members of the Joint Standing Committee on Insurance and Financial Services, one who is a member of the Senate appointed by the President of the Senate and one who is a member of the House of Representatives appointed by the Speaker of the House of Representatives;

C. The Commissioner of Professional and Financial Regulation or the commissioner's designee;

D. The director of the office;

E. Four persons appointed by the Speaker of the House of Representatives as follows: one person who represents the nonbank mortgage lending industry, one person who represents automobile dealers or automobile sales finance companies, one person who represents debt collectors and one person who represents credit reporting agencies; and

F. Four persons appointed by the President of the Senate as follows: one person who represents mortgage loan servicers, one person who represents credit services organizations or loan brokers and 2 members of the general public who have utilized the services of the office.

All appointments required by this subsection must be made no later than 30 days following the effective date of this Act. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. Within 15 days after appointment of all members, the chairs shall call and convene the first meeting of the committee.

2. Chairs. The first-named Senator is the Senate chair of the committee and the first-named member of the House is the House chair of the committee.

3. Duties. The committee shall study the following issues:

A. The duties associated with regulating the various types of businesses and individuals whose activities come within the jurisdiction of the Department of Professional and Financial Regulation, Office of Consumer Credit Regulation, referred to in this section as "the office";

B. The resources of time and expenditures required to perform those duties under paragraph A, including a review of the costs of administering laws and regulations applicable to licensed and registered companies and the costs of regulating unlicensed or unregistered companies; the costs of receiving, analyzing and resolving consumer complaints and conducting compliance examinations; responding to requests from regulated parties for information, interpretations and rulings; participating in the legislative process; responding to legislative initiatives; and conducting consumer education and outreach activities. The analysis of consumer complaints must include an evaluation of the number and sources of complaints filed with the office over the most recent 5-year period, the time taken to resolve those complaints and the outcome of the complaints;

C. The sources and amounts of revenue collected by the office, including a review of the current creditor and nonbank lender volume fee structure, as well as the various license and registration fees, compliance examination reimbursement assessments, investigatory cost reimbursement assessments and all other sources of revenue; and

D. The relationship over the most recent 10-year period between the actual costs of administering the office and the amount of revenue collected by the office. That analysis must include a review of the unexpended balances carried forward by the office in each fiscal year and the amount and purposes of any transfers from the office's budget to other state agencies for overhead or other administrative purposes.

The committee may make recommendations in its report on any issue in this subsection, including recommendations on amending the existing creditor and nonbank lender volume fee structure.

4. Staffing and meetings. Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide staffing services to the committee. The committee is authorized to meet 3 times to conduct the duties set forth in subsection 1 and to prepare the report referenced in subsection 6.

5. Compensation. Members of the committee who are Legislators are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the committee. Other members of the committee who are not otherwise compensated by their employers or other entities that they represent are entitled to receive reimbursement of necessary expenses and, upon a demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of the committee.

6. Report. The committee shall submit its report to the Second Regular Session of the 121st Legislature no later than December 3, 2003. The committee may submit a bill to the Legislature to implement its recommendations at the time of submission of its report. If the committee requires a limited extension of time to complete its report, it may apply to the Legislative Council, which may grant the extension.

7. Funding. All costs of the committee are funded using unobligated Other Special Revenue funds within the office.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

LEGISLATURE

Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation

Initiative: Provides for the allocation of funds to authorize operating expenditures to support the costs of the committee. These funds are derived from unobligated dedicated funds that will be transferred from the Office of Consumer Credit Regulation in the Department of Professional and Financial Regulation to the Legislature at the beginning of the fiscal year.

Other Special Revenue Funds	**2003-04**	**2004-05**
Personal Services	$660	$0
All Other	2,550	0
Other Special Revenue Funds Total	$3,210	$0

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

APPENDIX B

Membership list, Committee to Study the Revenue Sources of the Office of Consumer Credit Regulation

COMMITTEE TO STUDY THE REVENUE SOURCES OF THE OFFICE OF CONSUMER CREDIT REGULATION
PL 2003, Ch 462

<u>Membership List</u>

Appointments by the President of the Senate
Sen. Lynn Bromley, Senate Chair
Sen. Arthur F. Mayo, III
James Blum, Bangor, Maine
Emma Bodwell, Highland Mortgage Company, Bridgton, Maine
Richard Maltz, Bangor Savings Bank, Bangor, Maine
Robin Poland, Skowhegan, Maine

Appointments by the Speaker of the House
Rep. Guy J. Duprey, Jr., House Chair
Rep. Richard G. Woodbury
Anthony Armstrong, Maine Home Mortgage, Portland, Maine
Thomas T. Brown, Jr., Maine Automobile Dealer’s Association, Portland, Maine
Dallas Lagerquist, Credit Bureau Services of New England, Bedford, NH
Michael Wing, Thomas Agency, Portland, Maine

Robert E. Murray, Jr., Commissioner, Dept. of Professional and Financial Regulation
Will Lund, Director, Office of Consumer Credit Regulation

APPENDIX C

Number of Entities Registered/Licensed and Applicable Fees

01/06/04

Office of Consumer Credit Regulation
Numbers of Entities Registered/Licensed as of June 30, 2003, and Applicable Fees

Category	Number	Fees (Annualized)
Supervised Lenders		
Main offices:	347	$250 per year initial license fee;
Branch offices:	454	$100 per year renewal license fee;
Total	801	$100 per year branch license fee; plus volume fee of $20 per $100,000 loaned
Other Creditors		
New Car Dealers	136	No license fees; $20 annual registration fee, plus $25 per $100,000 volume fees
Used Car Dealers	181	
Mobile Home Dealers	29	
Insurance Premium Finance Companies	7	
Rent to Own Merchants	44	
Pawnbrokers	47	
Other retail creditors (hardware stores, etc.)	300	
Total	744	
Loan Servicers	29	$20 annual registration fee (no volume fees)
Sales Finance Companies	90	$20 annual registration fee, plus volume fees for credit sales on which original creditor has not paid
Collection Agencies		
Main offices:	289	$200 per year license fees
Branch offices:	188	$100 per year license fees
Total	477	
Loan Brokers (Credit Services Organizations)	180	$200 per year initial fee; $100 per year renewal fee; $100 per year branch office licenses

Office of Consumer Credit Regulation
Numbers of Entities Registered/Licensed as of June 30, 2003, and Applicable Fees Cont.
Page Two

Category	Number	Fees (Annualized)
Credit Reporting Agencies	27	$100 per year registration fee
Money Order Issuers	18	$500 per year initial fee; $250 per year renewal fee; $50 per delegate; Maximum $2,500
Non-bank ATM Terminals	443	$50 for 1st terminal from each operator; $25 for additional terminals owned by the same operator
Credit Counselors (Debt Management Service Providers)	22	$500 per year initial registration fee; $250 per year renewal fee
Check Cashers/Foreign Currency Exchangers	2	$250 per year registration fee; $250 per year renewal fee; $100 per year branch fee

Overall total of regulated entities: 2,833

APPENDIX D

Draft legislation

COMMITTEE TO STUDY THE REVENUE SOURCES OF THE OFFICE OF CONSUMER CREDIT REGULATION

DRAFT LEGISLATION

Title: An Act to Implement the Recommendations of the Committee to Study the Revenue Sources of the Office of Consumer Credit

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-A MRSA, section 6-203, subsection 3-C is enacted to read:

<u>3-C. The administrator may adjust the volume fees set out in subsections 2, 3, and 3-B by rule not more frequently than annually. In setting the fees, the administrator shall consider the reasonable costs of regulation of all aspects of such transactions and the staffing levels required to administer the responsibilities of the Office of Consumer Credit Regulation. The fee assessed pursuant to subsections 2 and 3 may not exceed $25 per $100,000, and the fee assessed pursuant to subsection 3-B may not exceed $20 per $100,000. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</u>

Sec. 2. Report. The Department of Professional and Financial Regulation, Office of Consumer Credit Regulation shall review the various license and registration fees assessed by the office and make recommendations on how to assess those fees in an equitable manner. The recommendations must be submitted to the joint standing committee of the Legislature having jurisdiction over business matters and the joint standing committee of the Legislature having jurisdiction over banking matters on or before January 5, 2005. Nothing in this section prohibits the Director of the Office of Consumer Credit Regulation from adjusting volume fees pursuant to the Maine Revised Statutes, Title 9-A, section 6-203, subsection 3-C prior to a review under this section.

SUMMARY

This bill permits the Director of the Office of Consumer Credit Regulation within the Department of Professional and Financial Regulation to adjust the volume fee rate for creditors and lenders by regulation, subject to a rate cap at the current statutory levels. The bill also directs the Office of Consumer Credit Regulation to review the license and registration fees assessed by the office and to report to the Joint Standing Committee on Business, Research and Economic Development and the Joint Standing Committee on Banking and Financial Institutions.