

Some Servicing Entities May be Required to Obtain Licenses Following Maine's SP 444

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The Maine legislature recently enacted a law requiring mortgage servicers to hold a supervised lender license in order to engage in mortgage servicing activity with respect to residents of Maine.

In Senate Paper (SP) 444, the Maine legislature modified the supervised lender license requirement to require a license for any person or entity engaged in "servicing mortgage loans," including first lien mortgage loans made to finance or refinance the acquisition of real estate or initial construction of a dwelling. SP 444 §§ 4, 10 and 11 (to be codified as Me. Stat. tit. 9-A, §§ 2-301(3), 9-101, 9-201.).

The definition of a "creditor" under the Maine Uniform Consumer Credit Code has also been amended to include a mortgage loan servicer. SP 444 § 1 (to be codified as Me. Stat. tit. 9-A, § 1-301(17)). The definition of "mortgage loan servicer," in turn, has been defined to include a person or organization that undertakes direct collection of payments from or enforcement of rights against debtors arising from a supervised loan secured by a dwelling. SP 444 § 2 (to be codified as Me. Stat. tit. 9-A, § 1-301(24-C)).

Maine law currently requires mortgage lenders to hold a supervised lender license due to the inclusion of real estate secured loans in the definition of supervised loans and provisions in Article 9 of the Maine Consumer Credit Code that impose supervised lender licensing requirements on first lien mortgage loans made to finance or refinance the acquisition of real estate or initial construction of a dwelling. See Me. Stat. tit. 9-A, §§ 1-301(40), 9-101, 9-201. As a result, entities engaged in both lending and servicing activity should not see a change to their licensing requirements as a result of SP 444. However, entities engaged solely in mortgage servicing activities, or that conduct multiple types of activities other than mortgage origination, should review SP 444 to determine whether they would require a license.

SP 444 was enacted on May 30, 2017 and has a projected effective date of September 19, 2017 based upon Maine's procedural rules relating to the effective dates of legislation that does not include a specific effective date, such as SP 444.

Please contact one of the authors of this alert or another member of the firm's Consumer Financial Services Group for questions regarding the impact of SP 444 on your organization.

Related people

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