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DATE: May 12, 2023

TO: Distinguished Members of the Judiciary Committee

FROM: Samuel M. Sherry, Esq., Representing Broad Reach Property Management, LLC

RE: **Opposition to LD 1710** – An Act to Establish the Maine Rental Assistance and Guarantee Program and Amend the Laws Regarding Tenants

I am the only lawyer in Maine who is nationally Board-Certified in Creditors Rights Law. There are other lawyers who do the work and do it well, but no-one else has received the national accreditation. Although much of my practice is about representing landlords my remarks today are only about Sec. 18 of LD 1710, which alters the Fair Debt Collection Practices Act.

In short, LD 1710 risks losing Maine control over collection in Maine and it is unnecessary too.

**A. Variation From The Federal FDCPA Jeopardizes Maine Control:** Almost everywhere in the US, consumer collection is governed by the Federal Fair Debt Collection Act and regulated by the Federal Trade Commission in Washington, DC. Through the hard work of Mr. Will Lund, Maine's Bureau of Consumer Credit Regulation was able to obtain and renew a waiver to allow debt collection in Maine to be regulated locally by Maine's BCCP.

That waiver is based primarily on two points: First, that Maine's FDCPA is substantially similar to the Federal FDCPA, and second, that Maine's BCCP is able to do the work required. In one long sentence Sec. 18 of LD 1710 undercuts both of those points.

It would be incorrect to say that any divergence between Maine's FDCPA and the Federal law mandates revocation of the waiver. However, every variation makes it harder to renew the exemption. If you want to guaranty that the BCCP continues its excellent work regulating consumer collection in Maine, don't enact LD 1710. If you want to find out whether the Federal Trade Commission decides not to renew Maine's exemption, and decides to move that function back to Washington, DC, vote 'yes,' sit back and see what happens.

**B. LD 1710 Has Administrative and Financial Costs Not Appearing In The Fiscal Note.** People and businesses collecting their own debt are generally not subject to the FDCPA – it is intended to govern third-party collectors and businesses posing as third-party collectors. LD 1710 turns that on its head, creating a class of people and businesses who are sometimes

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“landlords collecting their own debts” and are sometimes “debt collectors subject to the Maine FDCPA” – *and they don't find out which until months after the letters go out.* **It's probably unconstitutional on that basis alone.** I expect that the number of Maine landlords and property managers is many times larger than the BCCP's entire regulatory load right now.

As the BCCP gears up to educate, supervise and regulate that gigantic bunch of people it only has two choices. It can either use its current, excellent staff and delay all the rest of its current workload accordingly. Doing that makes it harder for BCCP to show that it is able to get its work done the next time it seeks a renewal of Maine's Federal waiver. Or, BCCP can try to expand its staff – but LD 1710's fiscal note ignores that point.

**C. Sec. 18 Is Unnecessary Because Maine Law Already Has Robust Protections.**  
Maine's existing statutes and Civil Rules already set out a broad variety of protections for tenants if they believe that their landlord is evicting based on rent which is not owed. Sec. 18 of LD 1710 creates a problem which does not exist, then risks the end of a highly-valued Maine resource to correct it.

In sum, the law before you carries risks which are not worth the so-called benefits. Please vote against LD 1710.