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In Opposition to LD 880

An Act Regarding Nondiscrimination in Financial Services
Committee on Health Coverage, Insurance and Financial Services
March 15, 2025

Good Afternoon, Senator Bailey, Representative Gramlich, and distinguished members of the Committee on Health Coverage, Insurance and Financial Services. I am Representative Jack Ducharme, proudly serving the citizens of Maine House District 71, Madison, Norridgewock, and Cornville.

I have cosponsored this bill in two successive sessions because I do not believe that banks should be using ESG scores when making credit decisions for their borrowers. I believe that the sponsor truly has the best interest of Maine people in mind in bringing this measure forward. When presented this bill for cosponsorship, the sponsor told me that they had removed the problem language in the bill as presented in the 131st.

'ESG' stands for Environmental, Social and Governance. Each component represents a group of factors against which a business can assess its actions and behaviors, and on which some (and perhaps soon to be most) businesses are required to report. The three factors are currently considered to be a driver of value for organizations in terms of access to capital, regulatory compliance and customer satisfaction and cover issues as broad as climate change and pollution to community and customer relations, customer satisfaction, Diversity, Equity and Inclusion, ethics, compliance and corporate transparency. There have been efforts to include these in a credit scoring model that would help lenders with quantifiable value in this area.

When the final language came out, I reviewed the new language. I quickly realized that this bill would still effectively eliminate two areas that are critical to the decision-making process of credit analysis. The 5 C's of credit analysis are character, capacity, capital, collateral, and conditions. The changes in language made would not mitigate the significant impairment of a lender's ability to use character or conditions in the credit decision.

Capacity means the ability to pay. Can they pay? Easily quantifiable. Capital demonstrates the borrowers commitment to the transaction. What are they committing to the transaction for a down payment. How much skin do they have in the game? Easily measurable. Collateral is that asset value that the borrower pledges to secure the transaction as guarantee for the loan. If they don't pay, what can I get in return to offset my loss. Again, easy to measure. Conditions are the terms of the loan, interest rate and term plus the general conditions of the economy.

District 71
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Character summarizes the borrower's overall trustworthiness, personality and credibility. These two are more judgement calls made by the lender.

Conditions and character are not easily numerically quantifiable as LD 880 appears to require. As a former lender for a community bank, I made many loans for people that may not have hit the bank numerical benchmarks for Capacity, Capital or Collateral. However, as a long time community banker, I knew them; knew their families and their business; knew their personal character and made a judgement as to whether they would keep their promise to ME and to the Bank to repay the loan requested. Further, sometimes a slight change in loan conditions could mitigate any deficiency in other C's of credit. Many small businesses will likely not get credit if the language contained in this bill is approved. A new business cannot demonstrate quantifiable financial information that can be relied on to make a loan. Sometimes the lender must accept the risk based on non-tangible factors.

Many of the factors included in the Environmental, Social and Governmental (ESG) discussion are, in fact, Character and Conditions. This bill, if passed would set a bar for loan approval and in fact, deposit product approval that most Maine community banks and credit unions would be unable to meet on many loans thus denying many great people the access to banking services that they need.

If LD 880 would, as I originally thought, simply prohibit Maine banks and credit unions from using "ESG Scoring" as an underwriting tool to make loan decisions, I would urge your support. However, I urge you to vote "ought not to pass" on this measure. The language in this bill would prohibit Community bankers and Credit Unions across the state from using their judgement of local borrowers to make good loans to good Maine people. The language would cripple the lending industry in Maine and effectively drive good loans to out-of-state banks that would not be subject to this regulation.

Thank you for your time.

Cordially,



Jack Ducharme