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TESTIMONY OF WILLIAM N. LUND, SUPERINTENDENT

BUREAU OF CONSUMER CREDIT PROTECTION

Neither for nor against LD 1691 “An Act to Stop Unlicensed Loan Transactions”

Before the Committee on Insurance and Financial Services
Thursday, January 30, 2014; 1:00 PM
Room 220, Cross Building

Senator Gratwick, Representative Treat and members of the Joint Standing Committee on Insurance and Financial Services:

Good afternoon. My name is Will Lund, and I serve as Superintendent of the Bureau of Consumer Credit Protection at the Department of Professional and Financial Regulation. I appear before you to testify neither for nor against LD1651.

Hundreds of Mainers, desperate for cash, fall victim to internet-based payday lenders each year. In 2013, 65 consumers wrote to the Bureau seeking help with payday advances, since they were unable to make payments on the loans, which burdened these consumers with excessive interest rates ranging from 300% APR and 600% APR.

Additionally, more than 100 other consumers contacted the Bureau because they were subject to abusive or harassing debt collection tactics when they could not afford to repay payday loans in which the balances often double within two months and triple within four months.



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These lenders are not located in Maine and not licensed here. They operate unlawfully in our State. They have not posted a bond, as the law dictates. They do not provide truth-in-lending disclosures, so borrowers are not aware in advance how much it will cost them to pay back the loans.

And predictably, when consumers cannot repay the rapidly-multiplying interest rates, these payday lenders turn the accounts over to unlicensed debt collectors, who utilize extreme tactics (including threatening arrest and criminal prosecution; repeatedly contacting employers; and calling on the phone posing as court clerks or court officers) to intimidate Maine consumers into paying these illegal fees and charges.

However, finding these companies to prosecute them for violating Maine's lending and collection laws, has proven almost impossible. They are all out-of-state; often offshore or in Canada. That's because the transactions are all electronic, and these lenders use a series of "middlemen," or processors, to funnel the loan proceeds into the consumers' accounts, and then use those same processors to debit funds back out of the consumers' accounts.

Vermont lawmakers took an innovative step last year when they targeted these middlemen, or processors, as a way of stemming the flow of illegal loans into that state. The bill before you is based on the Vermont statute, with the exception that financial institutions (banks and credit unions, both state and federally-chartered) are expressly exempted from the bill's provisions. I agree with this approach of excluding financial institutions, since I believe those institutions are already sufficiently regulated at the state and federal level.

As I read the bill, it contains four major provisions:

- Subsection 1 of the new proposed section provides definitions, including a specific exemption for banks;
- Subsection 2 establishes as an unfair trade practice and a violation of the Code for making a loan unless the lender has a license or unless the lender is exempt from licensing;

-- Subsection 3 would make it illegal for a processor to handle loans unless the lender for whom it is working is either licensed or exempt from licensing; and

-- Subsection 4 would make it illegal to aid or abet an unlicensed, illegal lender from making loans, if the person or company knows or should know the loans are from an unlicensed lender.

If the Committee is inclined to act favorably on this bill, I recommend that the definition of "lender" in Section 1 be amended such that it is limited to the lending of *money*, by deleting the phrase, "credit, goods or things in action," since that change would make the meaning consistent with the Consumer Credit Code's existing definitions of what constitutes licensable lending activity.

This bill, if enacted, could provide a tool to help the Bureau of Consumer Credit Protection and the Attorney General's office assist consumers by slowing the flow into this state of extremely high-interest loans from unlicensed lenders, which are then frequently referred upon default to unlicensed, abusive collectors for collection.

Thank you for your attention. I would be pleased to answer any questions you may have.