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DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF CONSUMER CREDIT PROTECTION
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**Testimony of Linda Conti, superintendent
Bureau of Consumer Credit Protection
Against LD 2110
An Act to Amend the Laws Governing Payroll Processors**

Good afternoon Senator Bailey, Representative Perry and members of the HCIFS Committee. My name is Linda Conti and I am the Superintendent of the Bureau of Consumer Credit Protection. I am here today to testify against L. D. 2110.

The National Mortgage Licensing System (NMLS) is an electronic licensing database operated by the Conference of State Bank Supervisors, (CSBS) for the benefit of its members, the states. It is efficient and very cost effective for the states to use the NMLS for its licensing programs. The NMLS was originally created for non-bank mortgage lenders as part of the fallout from the financial crisis of 2008. Since then, it has grown and many states, like Maine are transferring all of their licenses onto this database. I need to emphasize that it is only a licensing database. The Bureau is the entity that sets the licensing criteria and issues the licenses.

A bill to allow the Bureau of Consumer Credit Protection to use of NMLS was first introduced in the 129th Legislature as LD 1994. The bill had a public hearing and a work session but was never acted on because of Covid and died when the session ended. No one testified against the bill at the public hearing.

The bill was presented again in the 130th Legislature as LD 1466. Again, no one testified against the bill on behalf of payroll processors at the public hearing. The bill was ultimately enacted and in 2023 the Bureau promulgated a rule implementing this new law. This rule went through the required APA process and as a part of that process was approved by the Attorney General as to form and legality.

The problem, as I understand it, is that the payroll processor trade association is fearful of being labeled a "money transmitter," which may have a regulatory impact under other states' and federal law. This is because there are several other states that are trying to license payroll processors as money transmitters. However, Maine is one of the few—if not only—states whose Bureau of Consumer Credit Protection licenses payroll processors. Indeed, due to some notorious cases of theft several years ago, Maine has an established history of licensing payroll processors. Because of Maine's history of licensing payroll processors as a separate category of licensee, the Bureau exempted them from LD 2112, the bill that implements the Model Money Transmitter Act. In other words, and I want to make this point clear, in Maine payroll processors are, by statute and definition, not money transmitters. They are exempt from the Model Money Transmitter Act.

This bill thus appears to be a response to what *other* states are doing, which has nothing to do with Maine. Maine should not be prevented from modernizing its licensing system simply because other states may seek to license payroll processors as money transmitters through the same licensing system. It appears that they are concerned that Maine's use of the NMLS system could be used as evidence in other states that they are money transmitters. We believe this fear is unfounded. The BCCP has made clear, and we are happy to make clear in any way necessary, that payroll processors are not money transmitters in Maine.

Separately, they claim that NMLS is requiring them to complete requirements that are not otherwise required by the State of Maine. The only requirements that NMLS can impose are related to the management of the database and are not substantive requirements. Maine laws regarding payroll processor licensing are unchanged and clear: payroll



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processors are not money transmitters.

As of today, 104 (slightly more than one half) of Maine payroll processors have successfully completed the transition to NMLS. The impact of this bill cannot be overstated: if payroll processors were exempted from the NMLS it would place an unnecessary administrative burden on our office and impact our staff's time to focus on our public protection mission. The BCCP is trying to modernize Maine's licensing processing by getting online and streamlining the process. Adopting this bill would push us back into paper applications and a time consuming and archaic process.

I am happy to take questions although I may need advice of counsel as I understand the payroll processor trade association has filed a litigation against the BCCP and myself on this very subject matter.