STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF CONSUMER CREDIT PROTECTION

Janet T. Mills
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Testimony of Linda Conti
Superintendent
Bureau of Consumer Credit Protection
Department of Professional and Financial Regulations
In Opposition to LD 381

"An Act to Enable Mortgage Portability and Promote Housing Affordability in the State"

Presented by
Before the Committee on Health Coverage, Insurance and Financial Services

Wednesday, March 5, 2025; 10:00 AM

Senator Bailey, Representative Mathieson and Members of the Committee on Health Coverage, Insurance and Financial Services, I am Linda Conti and I serve as the Superintendent of the Bureau of Consumer Credit Protection (BCCP). I am here today to express concerns and to testify in opposition to LD 381.

This bill authorizes mortgage porting, which is the process by which a mortgagor transfers the terms, outstanding balance and interest rate of an existing mortgage loan secured against a single-family dwelling or a dwelling that consists of no more than 4 units that is the principal residence of the mortgagor to another principal residence. The Bureau of Consumer Credit Protection has significant concerns about the implementation and impact of this bill.

Firstly, as written, LD 381 applies to non-bank mortgage creditors and not banks or credit unions. This disparate treatment among lenders creates anomalous results. For example, even though a mortgage loan may be originated, closed and funded by a non-bank mortgage creditor, if that same loan was sold to a federally chartered financial institution on the secondary market, that purchaser of the mortgage note would be exempt from porting. For this reason, we expect that very few actual mortgage loans would qualify for portability. Determining which loans qualify for portability will be difficult to determine as will be difficult for lenders and regulators.

Second, because mortgage lending in the United States is highly uniform, it is unlikely that mortgage loans with portability features would be as fungible as standard mortgage loans that do not have portability features – that could mean that mortgage loans originated in Maine may suffer price adjustments on the secondary market resulting in higher interest rates because of the risk that a Maine mortgage loan could be subject to portability.

According to the Financial Stability Oversight Counsel's 2024 *Report on Nonbank Mortgage Servicing*, "[i]n 2022, [non-bank lenders] originated approximately [66%] of mortgages in the United States. Those non-bank originated mortgage loans were then packaged into mortgage-backed securities and sold to various institutional investors – those investors demand uniformity in the underlying mortgage notes that make up the mortgage-backed securities. This process of mortgage securitization and structured finance has resulted in mortgage loans being very uniform in the United States, and our secondary mortgage market efficiency has allowed American borrowers to enjoy some of the lowest interest rates in the industrialized world. Interestingly, the 30-year fixed-rate mortgage loan, which is the lynchpin mortgage product in America, is not readily available in other parts of the world.

Finally, as part of the Bureau's review of LD 381, we were noted that Canadian, Australian and British mortgage markets allowed mortgage "porting," however, in those same markets, 30-year fixed-rate mortgage loans are rare or unavailable. In addition, the mortgage markets that allowed mortgage porting were not markets where structured finance was as common as in the United States. It's possible to draw the conclusion that the nature of those overseas markets may allow mortgage porting because of the absence of uniform 30-year fixed-rate mortgage loans, and if Maine law creates mortgage loans that could require portability, then it is possible those same loans could be excluded from mortgage backed securitization pools.

Thank you for your time and I would be happy to answer any questions now or at the work session.