



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL
REGULATION
BUREAU OF FINANCIAL INSTITUTIONS



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132nd Maine Legislature, First Regular Session

Joint Standing Committee on Health Coverage, Insurance, and Financial Services

March 18, 2025 at 1:00pm

**Testimony of Chase Hewitt, Staff Attorney
Bureau of Financial Institutions
Department of Professional and Financial Regulation
In Opposition to L.D. 880
An Act Regarding Nondiscrimination in Financial Services**

Senator Bailey, Representative Gramlich, and Members of the Committee:

My name is Chase Hewitt and I am the Staff Attorney for the Maine Bureau of Financial Institutions. On behalf of the Bureau and the Administration, I am here to testify against L.D. 880, An Act Regarding Nondiscrimination in Financial Services.

L.D. 880 proposes to create a new section of law within the Banking Code requiring financial institutions, which are defined in the bill to include all banks and credit unions, as well as insurance companies and investment service providers, to provide fair access to the financial services they offer.

The bill limits corporate decision making.

The bill attempts to legislate fair access by requiring the banking, insurance, and securities industries to provide their services in a nondiscriminatory manner based solely on quantitative, impartial, risk-based standards. Further, providers may not deny services if the denial would disadvantage a person or business in various ways.

Currently, credit discrimination is already prohibited against individuals under the Maine Human Rights Act and the Equal Credit Opportunity Act, which prevent discrimination based on characteristics including race, color, age or religion. In effect, the proposed bill seeks to prohibit discrimination by requiring quantitative, impartial, risk-based standards in providing financial services. This means that a financial institution would be discriminating against an individual or business if it denied access to credit based on a borrower's character. This would impede a historically common practice of banks evaluating character as part of the 5 C's of credit review- Character, Capacity, Capital, Collateral and Conditions.

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The Bureau opposes this bill because it has not been Maine's practice to dictate who a bank or credit union engages in business with, as long as they do not discriminate against individuals based on such traits as race, religion, or age. These are business decisions left to the board of directors and management of each financial institution. Banks and credit unions pursue certain opportunities and turn down others according to their internal business planning, and the bill would interfere with this fundamental business practice.

Bill language needs clarity and consistency.

The Bureau also notes that the prohibitions in the bill are broadly drafted and lack clarity and guidance, complicating regulatory enforcement efforts. For example, as written, any denial of a loan or account could violate the proposed law because it would arguably disadvantage a business in some way from competing in a market. Thus, many denials would require regulatory review, and every denial could raise the threat of enforcement. Worse, a business could use the law as a threat, and try to force banks into making loans to avoid enforcement activities against them. This would have a chilling effect on financial services in Maine and stifle free enterprise.

Additionally, the Bureau respectfully notes that there is inconsistent language in the bill. The bill requires that decisions to provide financial services be based solely on impartial, quantitative standards, but then requires financial institutions to disclose their non-financial subjective standards to the Bureau and customers. This could include disclosure of non-traditional or subjective criteria such as: environmental, social, and governance scores; or diversity, equity and inclusion policies. These sections when read together (section 2(B) and section 3 of the bill) appear to both prohibit a practice, and then create rules to implement the prohibited activity. If moving forward with the bill, the Bureau recommends that the Committee clarify its intentions with respect to a complete prohibition of nonfinancial criteria.

Supervisory authority over insurance and investment services should remain with primary regulators.

Lastly, the bill broadly defines financial institutions subject to the law, placing the Bureau of Financial Institutions in charge of the regulation and enforcement of businesses it does not currently supervise, including insurance and securities firms, nationally chartered banks, and federally chartered credit unions. Federal law would likely preempt enforcement of the proposed bill against any nationally chartered banks or credit unions, thus rendering it inapplicable to such institutions. If the bill moves forward, the Bureau suggests that the committee assign enforcement responsibilities to the appropriate state agencies.

Thank you for the opportunity to testify before you today. I would be happy to answer any questions now or at the work session.



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