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WILLIAM N. LUND
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March 9, 2021

Senator Heather Sanborn, Chair
Representative Denise Tepler, Chair
Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
Augusta, ME 04333

Re: LD 522 "An Act to Cap Interest Rates for Consumer Debt"

Dear Senator Sanborn, Representative Tepler, and members of the Committee:

The Bureau of Consumer Credit Protection and the Bureau of Financial Institutions provide this letter expressing a "neither for nor against" position with respect to LD 522, An Act to Cap Interest Rates for Consumer Debt.

This bill would amend the Maine Consumer Credit Code (Title 9-A) by imposing a 15% interest rate cap on consumer credit sales and consumer loans (including credit cards) that are subject to the state's jurisdiction.

While the Bureaus take a "neither for nor" position on this bill, there are a number of limitations on the reach of the proposal and potential consequences to consumer lending in Maine that are important for the Committee to evaluate as it weighs policy changes.

1. Federal preemption of State law. The interest rate cap proposed by the bill would apply to Maine's state-chartered banks and credit unions, but not to out-of-state, state and federally-chartered institutions. It is established law that banks located in other states (such as South Dakota) need only to comply with the laws (or lack of laws) of their "home states," and can "export" terms allowed in their home states, to residents of distant states like Maine. If passed, Maine consumers would still face higher rates on lending and the bill would create an uneven playing field between Maine-chartered financial institutions and their out-of-state, state and federal counterparts.

2. Reversal of business development policy. In the mid-1990s, this Committee removed the cap on credit card fees for the stated purpose of promoting economic development of the financial sector in Maine (see 9-B MRS §2-402(5) in section 8 of current bill). Given exportation of interest rates from other states, it was argued that because

proportionally few Mainers held cards subject to Maine interest rate caps (likely still the case), the potential for job creation should be the paramount concern. The bill was supported by the Department of Economic and Community Development in an effort to create jobs by retaining and attracting credit card service centers similar to the MBNA service centers that used to be located in Camden/Belfast. While a significant number of Maine banks do not issue and underwrite their own cards at this time, imposing a new cap on rates would foreclose the opportunity for credit card related growth in the financial sector. Further, those that do issue cards that are competitive with national providers may see a reduction in revenue, devaluing Maine's financial institution charter.

3. Decreased lending. An assumption by proponents of rate caps is that lending would continue as it is now, but at lower rates. That is not necessarily true. Lenders use a concept called "risk-based lending," meaning that they charge higher rates to those whose credit scores indicate a greater chance of default. In other words, there's a chance that lower rates would reduce credit opportunities for higher-risk borrowers.

4. Higher costs for small loans reflect lending challenges. Adopting a single percentage cap ignores the fact that it may be nearly as expensive to make a small loan as a larger one – the same credit checks must be made, the same types of calculations need to be made, and the same paperwork and disclosures must be prepared – but imposing an interest rate cap does not account for those "fixed costs" of making a loan, regardless of size. Current law contains a "step rate" for consumer loans, in which the first $2,000 of a loan can be assessed a rate of 30% APR; the next $2,000 can be assessed a rate of 24%; and amounts above that are subject to a 18% cap. With respect to credit sales, currently, we estimate nearly 100% of older-model used car sales in Maine (often sold by "buy-here, pay-here" dealers) involve contracts calling for the current maximum 18% interest rate. We do not know whether that credit would remain available to consumers if a lower cap were imposed. Current Maine rate caps on small dollar loans are lower than many states. Maine has seen unsuccessful attempts to raise rates for payday and short term loans in Maine.

5. Consumers can shop elsewhere with fewer local protections. Consumers desperate for credit have options for accessibility to credit, including internet-based non-bank lenders and unlicensed payday lenders. If loans from Maine lenders are restricted, we may see residents turn more frequently to these other types of loans – which are much more difficult to regulate.

Thank you for considering the general information found above. If we can be of further assistance, please let us know.

Sincerely,

William N. Lund
Superintendent
Bureau of Consumer Credit Protection

Sincerely,

Lloyd P. LaFountain III
Superintendent
Bureau of Financial Institutions