

Testimony of Jonathan Selkowitz, Esq.

Pine Tree Legal Assistance, Inc.

Testimony in Support of LD 522 “An Act To Cap Interest Rates for Consumer Debt”  
Before the Committee on Health Coverage, Insurance and Financial Services.

March 9, 2021

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

My name is Jonathan Selkowitz. I am a staff attorney at Pine Tree Legal Assistance, and I have been asked to share Pine Tree’s perspective on LD 522. My testimony will focus on Pine Tree’s support of the adoption of LD 522, as amended by Senator Richard Bennett, which will prohibit non-bank lenders from making loans with an effective annual percentage rate that is greater than the interest rate caps in place currently.

The Maine Consumer Credit Code provides a tiered annual interest rate cap for consumer loans, including a top rate of 30% for loans of \$2,000 or less. 9-A M.R.S. § 2-401(2). But because the Code allows lenders to exclude various origination fees when calculating the finance charge, 9-A M.R.S. § 1-301(19), or alternatively allows lenders to charge a flat fee in lieu of interest, 9-A M.R.S. § 2-401(7), the Code as currently written permits loans with an effective annual percentage rate—i.e., the true cost of the credit paid by the consumer—that can be over 300%. These extreme APRs arise in short-term, small dollar loans, including “payday loans.”

Crushing consumer debt is an unfortunately common trait among Pine Tree’s client population. These clients often become ensnared in a cycle of debt that prevents them from using the benefits of the consumer credit market to help accumulate wealth and shed the burdens of poverty. Pine Tree has observed how overwhelming consumer debt prevents Mainers from affording reliable vehicles to get to work, purchase a home, make rent, and improve their earning capacity.

Payday loans have a well-documented history of perpetuating this very cycle. [Pew Charitable Trusts examined the impact of payday lending](#) and found payday loan borrowers are indebted on average for 5 months per year due to their inability to get out from under the significant finance charges. Pew noted that, according to the Federal Reserve Bank of Kansas, “the profitability of payday lenders depends on repeat borrowing.”

While a segment of online payday lenders claims to be exempt from Maine’s Consumer Credit Code due to tribal affiliation, those claims are legally false, and the Code contains provisions to protect borrowers from such lenders’ spurious claims. Furthermore, [Pew](#) found that states with strong payday lending protections experienced significantly lower payday loan usage by borrowers. Moreover, at the time of Pew’s study in 2012, such protections did not appear to drive borrowers to online lenders. Thus, while strengthening borrower protections in Maine may drive some Maine consumers to unscrupulous, unlicensed lenders, that risk is outweighed by the

benefit of enshrining these protections in Maine statutory law, and the overall consumer-protection impact this legislation will have on the Maine market.

In 2017, the federal Consumer Financial Protection Bureau (CFPB) issued rules aimed at limiting harmful lending practices while encouraging lenders to make affordable small-dollar installment loans. However, in July 2020, the CFPB rescinded a key component of these protections – the “ability-to-repay” rule – opening the door to unaffordable loan-making.

### **Conclusion**

While the Maine Consumer Credit Code ostensibly caps interest on small dollar loans at 30%, loopholes permit payday lenders to make loans with APRs of over 300%. LD 522 will close those loopholes and require small-dollar lenders to abide by the rate caps set out in the Code. It will also help foster the market for affordable small-dollar installment loans.

For these reasons, and those shared by Senator Bennett and other consumer advocates today, I ask you to support LD 522. Thank you for your consideration, and I welcome any questions I can answer.