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Judicial Branch testimony neither for nor against LD 1466, An Act to Improve the Efficiency of Certain Consumer Credit Protection Laws:

Senator Carney, Representative Harnett, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide additional information regarding this bill.

The Judicial Branch supports the exclusion of debt collection actions from Small Claims Court. Small Claims Court provides “simple speedy and informal court procedure” to resolve small claims. The defendant is not even required to file an answer, but may simply appear at the hearing and speak to the claim. The court proceeding is informal and the Maine Rules of Evidence **do not apply** in Small Claims Court.

The requirements for debt buyer and other collection actions, under current 32 M.R.S. § 11019 and proposed § 11020, **do require evidence that comports with the Maine Rules of Evidence**. The necessary proof and documentation in these cases is complicated making Small Claims Court a suboptimal forum.

Proposed § 11020 removes only credit card and student loan collection cases from the small claims docket. It is unclear if this distinction was made intentionally for public policy reasons. However, it may result in uneven and inconsistent exclusion of collection cases from Small Claims Court, leaving that venue open to many cases in which the Maine Rules of Evidence should apply, significant documentation is needed, and a simple, informal procedure is not possible. The Committee may want to consider that the exclusion from Small Claims Court be made a **separate section** in this chapter to make clear that all collection actions are excluded from small claims. Examples of debt collection actions other than credit card and student loan debt are auto loans, hospital debt, and utility debt.

With respect to Judicial Branch case management, we note that the proposed limited applicability of § 11020 to student loan and credit card debt cases raises concerns about implementation of the procedural and other requirements in that section. With regard to court process, implementation would be more straightforward and administratively easier to apply if the new requirements applied to collection actions across the board. To the extent that the Legislature intends to limit the applicability of § 11020 for policy reasons, the Judicial Branch does not make a recommendation. Rather, we note the impact on court process.

Finally, Part G of the bill is nearly identical to Section 2 of LD 483, which was voted out of the Judiciary Committee on Friday with a divided Ought-To-Pass-As-Amended report.

Thank you for your time. I would be happy to answer any questions.