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**TESTIMONY OF WILL LUND, SUPERINTENDENT  
BUREAU OF CONSUMER CREDIT PROTECTION  
Neither for nor against the Sponsor's Amendment to  
LD 365  
"An Act to Protect Consumers from Surprise Medical Bills"  
Sponsored by Representative Josh Morris  
Before the Joint Standing Committee on Health Coverage, Insurance and Financial  
Services  
Wednesday April 21, 2021; 11 a.m.**

Senator Sanborn, Representative Tepler and members of the Committee – I am Will Lund, Superintendent of the Bureau of Consumer Credit Protection. I appear before you to speak neither for nor against the sponsor's amendment to LD 365.

In its current form, the bill would prohibit a credit reporting agency from reporting a medical debt under certain circumstances.

The concept of this bill is a laudable one – an insured person should not be penalized if their insurance does not cover a medical debt resulting from a health emergency.

The problem, however, is that this bill attempts to tell credit reporting agencies what they can and cannot put in consumers' credit reports. In addition to state credit reporting law, there is a national Fair Credit Reporting Act, and that federal law puts limits on what states can do in certain areas. In other words, states are preempted in certain areas.

One of those preemption areas relates to a state's efforts to put restrictions on what can be listed in a consumer's credit report. Congress's apparent thinking is that credit reporting is a national business, so certain basic rules must be consistent from state to state. For example, if this bill became law and a Florida resident with a medical debt on his or her report moved to Maine, would this law apply?



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This preemption issue is not abstract, but it is very real. This committee in 2020 considered LD 110, titled “An Act Regarding Credit Ratings Related to Overdue Medical Expenses.” That bill became law, PL 2020, Ch. 77. The operative language in that law requires credit reporting agencies to treat medical debts as if they were a retail credit card debt, and to report the debts as “current” or that consumers are “paying as agreed” if the consumers are making regular payments the debts.

Soon after that bill became law, Attorney General Frey and I were sued in federal court by the Consumer Data Industry Association (CDIA) CDIA argued that this law and another one were preempted by the federal Fair Credit Reporting Act. On October 8, 2020, Judge Singal entered judgment for CDIA, concluding that the law was preempted. The state has appealed to the First Circuit, and oral argument will be scheduled soon.

Part of my job as a state official is to let you know the likely outcome if a bill were to become law, so that’s the information I am attempting to convey with this testimony.

I would be happy to respond to any questions.