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In Opposition to L.D. 612

“AN ACT to Recognize Occupational Licenses and Certifications from Other States to Attract New Residents and Businesses to Maine”

Sponsored by Representative John Andrews

BEFORE THE JOINT STANDING COMMITTEE ON INNOVATION, DEVELOPMENT,
ECONOMIC ADVANCEMENT AND BUSINESS

Public Hearing March 16, 2021

Senator Curry, Representative Roberts, and members of the Committee, my name is Judith Shaw. I am the Securities Administrator at the Office of Securities, and I am here to testify in opposition to L.D. 612, an Act to Recognize Occupational Licenses and Certifications from Other States to Attract New Residents and Businesses to Maine.

Office of Securities Licensing

The mission of the Maine Office of Securities is to protect Maine investors through fair and balanced regulation of the securities industry. We accomplish that mission, in part, by utilizing a uniform national system of licensure for all applicants. The existing licensing system uses uniform examination and licensing standards to license securities professionals in Maine and across the country. Under the existing system, applicants can submit a single application for licensure in multiple jurisdictions, demonstrate passing scores on examinations (also an automated process), pay the appropriate fees, and, for most applicants, receive almost immediate licensure.

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In 2020, the Office of Securities received 23,695 applications for licensure as a broker-dealer agent, and the office automatically licensed 21,496 of those individuals. Additionally, another 2,079 licenses were issued within 24-48 hours of submission to applicants whose licensing history required additional review. Of the 23,695 applications, only 120 applications required additional scrutiny.

The title of the bill suggests its intent is to provide relief to individuals who would like to work in Maine but who are discouraged by the occupational licensing process, but I can say with confidence that no such problem exists in the securities industry in Maine. In 2018, there were 629,544 individuals licensed nationally with the Financial Industry Regulatory Authority (“FINRA”) as broker-dealer agents, and 114,070 of those agents were licensed in Maine. With Maine’s population being approximately 1.35 million, that means there was nearly one broker-dealer agent licensed in the state for every 11 Maine residents. These numbers reflect that the demand to be licensed in the securities industry in Maine is high and that people are getting licensed.

Licensure Under L.D. 612

L.D. 612 proposes to allow applicants to choose to be licensed under an alternative system based on their current licensure in another state. Although simple in theory, the bill would create new paths to licensure that would require new and burdensome processes to evaluate applicants’ credentials.

In order to be licensed under the requirements proposed by the bill, an applicant would have to hold a license in another state for a “similar” scope of practice; to have held the license for at least one year; to have passed an examination or meet education, training, or experience standards “substantially similar” to those required in Maine; to be in good standing with the other state; to pay the appropriate fees; and the applicant must not have a criminal record that would disqualify licensure, must not have had a license revoked by any other state, must not have surrendered a license due to professional conduct in any other state, and must not have a pending complaint, allegation, or investigation pending in any other state.

L.D. 612 would also provide the opportunity for licensure based on work experience in another state or on private certification in another state, both under certain conditions requiring

specific evaluation. The bill would allow the office to require an applicant to pass an examination specific to the laws of Maine that regulate the profession for which the applicant seeks licensure, another well-intentioned provision but one that would be difficult and expensive to implement.

Applications filed under L.D. 612's proposed criteria would have to be reviewed manually, which would require either additional staff to perform or a new and costly automated system to be developed and implemented. The number of criteria listed for licensure, some of them subjective, could make a single application review a demanding process. Given the numbers of applications submitted to the office each year, a manual review process could be easily overwhelmed if even a small fraction of applicants choose to be licensed under the bill's proposed criteria.

Furthermore, some of the information needed to apply the standards of L.D. 612 can be difficult to obtain. If not volunteered by the applicant, criminal history records and licensing histories from every potential state of licensure are unavailable or not easily discovered. Moreover, the Model Uniform Securities Act adopted by many states, including Maine, makes information concerning pending complaints, allegations, and investigations nonpublic.

Just creating these additional paths to licensure would make Maine an outlier in what is a successful, functioning national licensing system that would require, among other accommodations, new systems to communicate with other jurisdictions about the application and licensure status of those who choose to be licensed under an alternative licensing process. It is conceivable that applicants will file one application for licensure in Maine and one uniform application for all states other than Maine.

Investor Protection

As I mentioned, the Office of Securities' mission is to protect Maine investors. L.D. 612 threatens to weaken those protections by narrowing our ability to evaluate and apply professional judgment to the applications not automatically approved. The office receives many applications that indicate a licensing or criminal history record that requires additional review before licensure. Again, most of those additional reviews are resolved and licenses are issued within 24-48 hours of application. In those cases, an applicant's imperfect history may be accepted or it

may lead to a conditional license that, for example, provides additional professional oversight from an employer to protect against future problems. In rare cases, an applicant is deemed not qualified to be licensed.

L.D. 612 narrows the office's ability to apply its judgment at the expense of Maine investors and, at times, the expense of the applicant. There are many problematic professional histories or criminal history records that neither led to revocation or surrender of a license or, in the case of a criminal history record, would disqualify an applicant. However, problematic histories that did not lead to those most serious consequences would be accepted under L.D. 612. It is conceivable that some of these alternative applicants will have sought licensure in a state that is lenient regarding an applicant's history in order to attain licensure in Maine through L.D. 612's system.

In other cases, an applicant may have professional histories that would disqualify them from licensure in Maine under L.D. 612 when there are tools the office commonly applies to allow those applicants to be licensed while ensuring investor protections are not compromised. I believe it would be a mistake to remove the opportunity for the office to apply its professional judgment to keep Maine investors safe while treating applicants fairly.

Conclusion

Thank you for the opportunity to testify today. I want to stress that the primary reason the Office of Securities is opposed to L.D. 612 is because the current national securities licensing system utilized in Maine is highly functioning and efficient, and I believe the measures proposed by L.D. 612 threaten to disrupt that system, potentially at great cost. In the event the bill moves forward, I would ask that occupations regulated by the Office of Securities be specifically excepted like those regulated by the Supreme Judicial Court under the current language of the bill. I would be happy to try to answer any questions from the committee now or at the work session.