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BUREAU OF CONSUMER CREDIT PROTECTION
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

IN OPPOSITION TO

LD 992, An Act To Prevent the Denial or Revocation of a Professional or Business License for a Violation Not Related to That Profession or Business

SPONSORED BY REPRESENTATIVE DAN NEWMAN

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

Public Hearing: April 8, 2021

Senator Curry, Representative Roberts, and Members of the Committee – my name is Will Lund, and I am the Superintendent of the Bureau of Consumer Credit Protection. I am here today on behalf of the Department of Professional and Financial Regulation to speak in opposition to LD 992, An Act To Prevent the Denial or Revocation of a Professional or Business License for a Violation Not Related to That Profession or Business.

This bill would prohibit our Commissioner, or any bureau, board or commission within or affiliated with the Department, from denying or revoking a professional or occupational license, if the denial or revocation is for a violation unrelated to the practice of the licensed profession or occupation.

It sounds logical to propose that a bureau, board or commission should stay within its own narrow professional licensing standards. However, there are very good reasons why most of our department's laws authorizing the granting of licenses contain some



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language giving discretion to the licensing authority, when such discretion is necessary to protect the public. For example, the mortgage company licensing laws administered by my agency require that we find that the “financial responsibility, character and fitness of the applicant are such as to warrant a belief that the business will be operated honestly and fairly” within the purposes of the Maine Consumer Credit Code.

I had a real-life experience that will help illustrate why it’s important to allow that level of discretion. On February 10, 2006, I served as hearing officer in an administrative hearing in which my agency’s staff alleged that a Portland loan broker had neglected his customers, misappropriated consumer funds, failed to pay appraisers, and failed to pay his own employees. After the hearing, but before I had issued an order, the loan broker shot and killed another loan broker, and buried the body at his father’s farm in West Baldwin.

Our loan broker law did not specifically prohibit a license-holder from killing another person. In the course of the administrative hearing, my staff had proven by a preponderance of the evidence that this individual’s professional misconduct as a loan broker made him unsuitable to hold a license. But what if they had not succeeded in meeting that burden? Should I have been required to allow the individual to remain licensed, where he could correctly claim to customers that he held a professional license issued by the State of Maine?

This is an extreme example, but it points out the significant responsibility that falls to each agency within the department – if a person holds a Maine-issued license, then not only is the person qualified as a physician, an electrician, a psychologist or a plumber – but also, members of the public are able to entrust their health, their safety and their finances to that individual.

Other agencies and boards within our department are likewise opposed to this bill, and I encourage you to evaluate for yourself the extent to which the provisions of this proposal could negatively impact their abilities to protect the public.

For example, the Maine Office of Securities licenses individuals to sell investments to Maine consumers. Before granting a license, that office reviews an applicant’s background, not only for securities violations, but also for prior convictions for embezzlement, forging signatures, theft, fraud, and other similar white-collar crimes that may have occurred outside the securities industry, but which call into question the applicant’s judgment, competence and character to be entrusted with managing the retirement and other investment assets of Maine citizens.

Similarly, the Bureau of Insurance looks beyond the narrow grounds of past insurance violations when deciding whether to license an applicant. Specifically, if an applicant has been convicted of fraud, dishonesty, coercive practices, or financial misconduct in Maine or in another state, the Superintendent can deny a license if a determination is made that the individual is not sufficiently rehabilitated to warrant the public trust.

And what if an applicant for an insurance license has been convicted of committing identity theft? Insurance agents review personal information, including health information; they visit consumers in their homes (including elderly and disabled populations); and they handle consumer funds. The public should be able to have confidence that the Bureau has performed a careful review of applicants, and of existing licensees, before granting or renewing licenses.

For these reasons, on behalf of the professional and financial regulatory agencies within the Department, I respectfully request that you vote this measure “Ought not to pass.”

I would be pleased to respond to questions, now or at the work session.