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OFFICE HOURS (E.S.T.):  
Monday to Friday 8:30AM -5:00PM

April 14, 2021

The Honorable Anne Carney  
Senate Chair  
Joint Standing Committee on the Judiciary

The Honorable Thomas Hartnett  
House Chair  
Joint Standing Committee on the Judiciary

RE: LD 737, An Act to Increase the Value of Property Exempt from Attachment and Execution

Dear Senator Carney, Representative Harnett, and Members of the Judiciary Committee:

I am writing to oppose LD 737. Thank you for the opportunity to present my testimony.

I have been a practicing attorney in Maine since 2005. A significant portion of my practice has been consumer and commercial debt collection. I have been representing creditors of all walks of life throughout my years of practice. The creditors I have represented include banks, credit unions, trucking companies, hardware stores, local creators/manufacturers, contractors, appliance stores, local insurance companies, small medical practices, hospitals, advertisers, educational institutions, veterinarians, and individuals. All have been owed money, for amounts from a few hundred dollars to hundreds of thousands, for a wide variety of reasons.

No matter the client, the cause of action, or the amount of a debt, I seek to make my client whole and recover their losses from the liable party. Once a court has decided who the prevailing party is in a lawsuit, a judgment is issued in the amount of damages determined to be just by the court. It is then my job to pursue recovery of the amounts determined to be owed to my client.

While I support the idea of exemptions of property from attachment and execution, the increases included in LD 737 are too extreme.

The proposed increase in the exemption of a judgment debtor's residence would remove almost all residences in Maine as a source of funds for satisfaction of a judgment. The increase proposed will more than quadruple the current base exemption of \$47,500 which was put in place in 2007. That does not even include the 2% of municipal value plus the tax from the prior year added to the exemption. It is important to remember that the value sheltered from attachment not only includes the exemption amount, but the amount due on any mortgages on the real property. Very few Mainers have more than \$225,00 in equity in their residence. All but the wealthiest of Mainers' residences will be beyond the reach of judgment creditors.

The purpose of a residential exemption is to provide a certain level of value to allow for a fresh start or protect a consumer of limited assets. It is supposed to be a safety net, not to allow a judgment debtor to remain in a certain residence, or shelter entirely what is typically a person's largest asset from the damages assessed against them by a court of law. LD 737 goes well beyond that purpose. This is further illustrated by the elimination of the distinction between the base exemption and the increased exemption for the disabled and those over the age of 60. Title 14, Section 4422(1) currently has an elevated exemption for more vulnerable Mainers, which is eliminated by LD 737.

The proposal concerning residential exemptions also includes an annual adjustment based on the "median home price" but does not indicate how that figure is to be determined, or from what source. Who will calculate these figures and from what data?

Similar to the increase in the residential exemption, LD 737 seeks to more than double the exemption in a motor vehicle. Like the residential exemption, it is important to remember that this exemption protects \$15,000 of a judgment debtor's equity in a vehicle. Given the length and amount of the average car loan, this will keep the vast majority of vehicles out of the reach of creditors seeking to collect on a judgment they are owed.

LD 737 also seeks to amend the maximum amount of earnings subject to an installment payment order at a disclosure hearing. At a disclosure hearing the court determines the amount, if any, of installment payments that will be ordered to be paid to a judgment creditor to satisfy a judgment. Per the statute, the court weighs such factors as the reasonable expenses of the judgment debtor and their dependents, any other payments they are required to make, their income, and "any other factors the court considers material and relevant." Due to the many variables that apply to any particular judgment debtor's circumstances, a substantial increase in the maximum amount of earnings subject to an installment payment order is not warranted. Leaving in place the current maximum amount, determined by 40 times the federal minimum wage, gives judges greater latitude to craft an installment payment order determined by the individual circumstances of the judgment debtor. The current figures allow the court flexibility in deciding an appropriate payment without overly restricting the court's ability to weigh all of the factors in an individual judgment debtor's case.

The increases proposed by LD 737 are too extreme and will harm to Mainers who have obtained a judgment and are trying to make themselves whole for the losses they have suffered.

For these reasons I urge the committee to vote LD 737 ought not to pass.

Very truly yours,

Kate E. Conley, Esq.