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**Testimony of Frank D'Alessandro, Maine Equal Justice,  
In Opposition to LD 1982**

**" An Act To Protect Consumers' Privacy by Giving Them Greater Control of Their Data  
and To Establish Consumer Protections Regarding Small Dollar Loans"**

Good afternoon, Senator Sanborn, Representative Tepler, and members of the Committee on Health Coverage, Insurance and Financial Services. My name is Frank D'Alessandro, and I am the Litigation and Policy Director of Maine Equal Justice. We are a civil legal services and economic justice organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation.

Thank you for the opportunity to offer written testimony to you in opposition to LD 1982.

**What This Bill Does**

This bill would eliminate consumer protections that just went into effect in October 2021 that ensure that people who lend in Maine have to abide by Maine laws.

**Why Maine Equal Justice's Consumer Law Practice**

A significant portion of Maine Equal Justice's work centers around ensuring that laws are in place to protect consumers from predatory lending practices. Maine Equal Justice has successfully advocated for changes in Maine law that accomplish this goal.

These include passage of

- An Act to Establish a Student Loan Bill of Rights to License and Regulate Student Loan Servicers (9-A MRS § 14-101 to 14-111)
- An Act to Provide Relief to Survivors of Economic Abuse (10 MRS § 1310-H, 19-A MRS § 4002, 4007; 32 MRS § 11014)
- An Act to Require Residential Mortgage Loan Servicers to Act in Good Faith in Dealings with Homeowners (14 MRS § 6113, 6321-A)
- An Act to Reduce the Duration of Execution Liens, (14 MRSA § 4651-A, (9))
- An Act To Increase Protections for Option Contracts for the Purchase of Real Property or Rent-to-own Real Property (14 MRSA § 6203-F; 14 MRSA § 6203-H; 33 MRSA § 483)
- An Act To Improve the Efficiency of Certain Consumer Credit Protection Laws (32 MRS § 11013)

through 11024)

- An Act To Increase the Value of Property Exempt from Attachment and Execution (14 MRS §3126-A, 14 MRS § 4422)
- An Act to Expand Protections of Maine Student Loan Bill of Rights (9-A MRS § 15-101-104)
- An Act To Correct Inconsistencies in the Laws Governing Mortgage Foreclosure (14 MRS § 6113, 6321-A)
- An Act To Limit Utility Terminations (35-A MRS § 717)
- An Act to Make the Arrearage Management Program Permanent (35-A MRS § 3214 (2-A))
- An Act To Cap Interest Rates for Consumer Debt (9-A MRS, Art. 2)

Maine Equal Justice also is involved in litigation around issues impacting Maine consumers.

Our legal services team works daily to help very low-income people in Maine navigate the social safety net to figure out how they are going to pay this month's rent, afford a visit to the doctor, or figure out how to put food on the table for their family's next meal. We work every day with families and individuals who are surviving on the edge financially. Just one high-cost loan could be devastating to our clients and that is because these loans are rarely paid off with just one loan, but instead turn into multiple, repeat loans with increasing amounts of fees and interest. When people living in poverty have to pay usurious rates of interest, they go without meeting their basic needs. The financial pressure from these rates subject our clients to even greater risk of hunger and homelessness.

### **Why Maine Equal Justice Opposes LD 1982**

Last year this Legislature took an important step to prevent some of the worst predatory lending practices by passing Public Law 297 which added important consumer protections by making it a violation of Maine law for a lender to engage in practices to evade the protections provided to Mainers under the Maine Consumer Credit Code. This law just went into effect in October 2021. In particular, the legislator enacted 19-A MRS § 2-701 which states:

**Engaging in pretense to evade requirements of this Article prohibited.** An entity covered by this Article may not engage in any device, subterfuge or pretense to evade the requirements of this Article, including, but not limited to, making a loan disguised as a personal property sale and leaseback transaction, disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services or making, offering, assisting or arranging a debtor to obtain a loan with a greater rate of interest, consideration or charge than is permitted by this Article through any method. A loan made in violation of this Part is void and uncollectible as to any principal, fee, interest or charge.

Part B of the LD 1982 significantly limits the protections offered to Maine consumers by this law by removing the provisions from Maine law that now prohibit a lender from making, offering, assisting or arranging a debtor to obtain a loan with a greater rate of interest, consideration or charge than is permitted by this Article through any method.

It is critical that this language remain in Maine law to prevent non-bank predatory lenders from evading the requirements of Maine law by entering into “rent-a-bank” schemes with a few, rogue banks.

Banks are largely exempt from state rate caps, and through these schemes, the non-bank predatory lender launders loans through the bank to claim that state interest rate limits do not apply. These lenders charge triple-digit interest rates, target the financially vulnerable and communities of color, and trap consumers in devastating cycles of debt.

The Legislature passed this law just last year to prevent this predatory practice from occurring in Maine. Maine law limits interest rates to protect its residents from predatory lending. Under Maine law a two-year \$2,000 loan is limited to 30% APR. But without the protections currently provided in Maine law, FDIC-supervised banks can front loans for high-cost lenders to help them evade Maine law and make loans with interest rates over 100% that are illegal in Maine. Banks are exempt from state rate caps, and a few rogue banks are helping predatory lenders disguise their loans as bank loans so they can charge triple-digit interest rates.

Predatory rent-a-bank lending hurts consumers and disabled veterans.

For example, EasyPay Finance uses Utah-based TAB Bank to evade the law of Maine and other states so it can make loans at 130% to 189% through pet stores, auto mechanics, and furniture stores. Hundreds of consumers across the country have complained about EasyPay loans, including complaints about predatory puppy loans.

In 2021, Congress, on a bipartisan basis, passed a resolution to override a regulation that would have exempted predatory rent-a-bank schemes from state regulation. President Biden, when signing the resolution, said: “rent-a-bank schemes ... allow lenders to prey on veterans, seniors, and other unsuspecting borrowers tapping in the – trapping them into a cycle of debt.” Rent-a-bank schemes are of questionable legality and have been challenged in court. But a few, rogue FDIC-supervised banks are still helping predatory lenders evade state laws.

It is important to note that this action did not prevent lenders from engaging in “rent a bank” practices—it only allows states to regulate this practice.

Therefore, it is critical for the Legislature to protect Maine consumers with laws prohibiting this practice in Maine. The Legislature must not remove the existing protection for Maine consumers, especially amidst a global pandemic that has hit low- and moderate-income families and communities of color, especially Black, Latinx, and Native American communities, particularly hard due to underlying health and socioeconomic disparities. These high-cost loans do not promote financial inclusion. Instead, they exacerbate financial exclusion. They cannot be justified as providing “access to credit.” Instead, they trap borrowers in destructive debt cycles, leaving borrowers with ruined credit and unable to borrow at lower interest rates in the future.

## **Conclusion**

Maine Equal Justice strongly urges you to vote ought not to pass on LD 1982.

Thank you for the opportunity to testify on this bill and I am happy to answer any questions.

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