6 April 2018

The 128th Legislature of the State of Maine
State House
Augusta, ME

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 389, “An Act To Promote Access to Financial Institutions by Entities That Are Authorized under State Law.”

This bill would allow a credit union organized under the laws of the State of Maine to obtain private share insurance in lieu of share insurance provided by the National Credit Union Administration (NCUA). The intent of the bill is to expand the availability of financial services for marijuana-related businesses and their employees.

When I took the oath of office as Maine’s Governor, I swore to uphold the Constitution of the United States and the Constitution of the State of Maine. Marijuana remains illegal under federal law and I cannot in good conscience support this bill because it would serve to facilitate illegal activity.

It has not become easier for financial institutions to work with marijuana businesses. The current U.S. Attorney General recently rescinded Obama-era guidance that provided financial institutions some protection from prosecution when offering marijuana-related accounts. A privately-insured marijuana credit union would operate under this threat of federal criminal prosecution. This is an inappropriate level of risk for a state-chartered financial institution. Federal prosecution of the credit union, or its members, could end with the failure of the institution.

Currently, Maine credit unions with NCUA insurance are co-regulated by state and federal authorities, who examine credit unions for safety and soundness and compliance with applicable laws. The NCUA has strong and tested federal liquidation authority to protect credit union members in the event of a credit union failure, which would not be available to members with a privately insured credit union.

Further, there is no guarantee that a credit union with private share insurance would be able to operate in Maine. Credit unions need a Master Account at the Federal Reserve Bank in order to gain access to the federal payments system. Without access to a Master Account, a financial
institution is unable to conduct the business of banking. A marijuana-focused credit union organized in Colorado attempted to gain access to the federal payments system two years ago, only to be denied a Master Account on the grounds that its plans to handle marijuana proceeds would violate federal law. It was only after the credit union changed its business model to exclude deposits from marijuana growers and retailers that it was allowed access to a Master Account. LD 389 is unlikely to solve the problem marijuana businesses have in accessing financial services. It is clear that a true solution to the problem resides with the federal government.

For these reasons, I return LD 389 unsigned and vetoed. I strongly urge the Legislature to sustain this veto.

Sincerely,

Paul R. LePage
Governor