



# Maine Credit Union League

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In Opposition to LD 1705

## **An Act to Give Consumers Control over Sensitive Personal Data by Requiring Consumer Consent Prior to Collection of Data**

*Committee on Judiciary*

May 22, 2022

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, my name is Ellen Parent and I serve as the Director of Compliance for the Maine Credit Union League. I am here to provide testimony on behalf of the League in opposition to LD 1705, An Act to Give Consumers Control over Sensitive Personal Data by Requiring Consumer Consent Prior to Collection of Data. The Maine Credit Union League is the trade association for Maine's 50 credit unions with over 725,000 members statewide.

The credit union system takes our commitment to protect the personal information of our members very seriously. This commitment is rooted in both our responsibility to our member-owners and perhaps more importantly in today's context, in accordance with the Gramm-Leach-Bliley Act of 1999 (GLBA).<sup>1</sup> Though the GLBA already applies to all federally chartered credit unions, Maine's Title 9-B also applies this strict privacy framework to state financial institutions assuring a strong proactive approach to data privacy and security.<sup>2</sup> Emerging biometric technology, such as fingerprints and voice recognition are growing in popularity and are a useful tool to verify an individual's identity. Biometrics technology is now a mainstream identity protection service offered at nearly every financial institution. We are concerned that the harsh punishments proposed in this bill will chill the use and expanded adoption of these important consumer friendly security measures, in effect leaving account holders less protected than they are today.

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<sup>1</sup> 15 U.S.C. §§ 6801-6809, §§ 6821-6827

<sup>2</sup> 9-B M.R.S. §241(13)

Financial institutions are one of the heaviest regulated industries in the United States. Credit unions go through extensive examinations by regulators on at least an eighteen-month basis. Among the many things examined are the security and protection of the data and private information held within the credit union. The federal government has mandated clear requirements and expectations on how credit unions must protect personal information, along with clear consequences for failing to do so. In adherence with the GLBA, as well as the extensive examinations, federal and state regulators provide exceptional review of credit unions and protection of their members private information. Credit unions can be penalized or even closed should they fail to comply with these very strict and important regulatory mandates. Financial institutions may not sell nonpublic personal information and may only share it with their contracted partners in narrow and specific circumstances.

The League surmises that the direct and comprehensive regulatory protection is what led the Illinois legislature to offer their financial institutions an exemption in the biometric privacy law they enacted in 2008.<sup>3</sup> We would encourage the committee to consider such an exemption. Financial institutions use biometric data as a means of protecting the assets of their members. As even savvy consumers can be conned into giving away their security questions, voice identification and fingerprint scans are useful tools in verifying identity. In addition, the Federal Financial Institution Examination Council issued a guidance letter encouraging the incorporation of biometric data into their multifactor authentication guidance.<sup>4</sup>

While the financial service regulatory environment creates a proactive and frequently reviewed approach to data security and privacy, LD 1705 creates a punitive environment that is only used after harm has been done. This bill provides a private right of action for violations, with penalties up to \$5,000 per violation and attorney's fees. Credit unions are financial cooperative organizations with a not-for-profit status, income generated by a credit union is returned to the members to their accounts through improved rates, reduced fees, and small dividends. Any financial penalty is borne by the entire membership of the credit union.

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<sup>3</sup> (740 ILCS 14/) Biometric Information Privacy Act, State Of Illinois

<sup>4</sup>Federal Financial Institution Examination Council. "Authentication and Access to Financial Institution Services and Systems" <https://www.ffiec.gov/press/PDF/Authentication-and-Access-to-Financial-Institution-Services-and-Systems.pdf>

Though LD 1705 correctly identifies that data security and privacy is an important issue that needs policymakers time and attention, this issue would be best addressed through a comprehensive bill such as LD 1973, also being heard today. In addition, there seem to be significant sections of LD 1705 that do not conform with the usual methods of definition in Maine law and would create additional confusion. In addition, the private right of action would engender more lawsuits in our already burdened court system.

In closing, it is important that this committee consider that the use of nonpublic personal information is not exclusive to the private sector, in-fact public sector institutions frequently use it as well. Those who would abuse, steal, or otherwise harm consumers by gaining access to their personal and biometric information do not care what entity is holding this sensitive personal information. In this regard Maine public entities that either utilize, or will utilize nonpublic personal information in the future, should be held to the same standards.

The League appreciates the opportunity to present this testimony to the Committee today. We would urge the Committee that should you decide to pursue LD 1705 further that you strongly consider adding a full exemption for Maine's financial institutions, though we strongly prefer the framework proposed in LD 1973. The League stands ready to work with the Committee and other interested parties on this important issue.