

MAINE BANKERS

Association

October 17, 2023

Testimony to the 131st Maine Legislature Committee on Judiciary

Good morning, Senator Carney, Representative Moonen, and honorable members of the Committee. My name is Josh Steirman and I am the Director of Government Relations for the Maine Bankers Association. We are testifying today in opposition to L.D. 1977, *An Act to Create the Data Privacy and Protection Act*, and in opposition to L.D. 1705, *An Act to Give Consumers Control over Sensitive Personal Data by Requiring Consumer Consent Prior to Collection of Data*. Separately, we are testifying in support of L.D. 1973, *An Act to Enact the Maine Consumer Privacy Act*.

The Maine Bankers Association is the state-wide trade association representing thirty banks in Maine, active across our entire state. The association advocates for Maine's banks and their critical role in a vibrant, stable, and inclusive economy. Our banks employ over 9,000 Mainers, provide safe and secure deposit services for our communities, and are a critical source of financing for home-ownership and small businesses. Last year, our banks provided over \$4.7 billion in business loans, another \$4.6 billion in residential real estate loans, and bank employees volunteered over 70,000 hours to charitable causes. Our members are embedded in the fabric of virtually every community in our state.

Banks believe it is critical that we speak about the importance of customer data privacy and security. Trust between banks and customers is at the core of our work as financial institutions – trust and security are the foundation of everything we do. Because of this deep trust, protecting customer data and safeguarding deposits is essential for banks, and we take that trust very seriously.

To protect vital information online, banks seek to use as many technological tools as possible, and this includes biometric identifiers such as voice recognition, fingerprints, and facial recognition. In fact, our customers (your constituents), are demanding these services. Use of these identifiers with multi-factor authentication is much safer than passwords alone, and helps create the robust cyber security that customers demand. These are services that customers choose to opt into, and a vast majority of customers choose to use them, selecting the highest available standard of safety and security for their personal data. In fact, most biometric identification systems used by banks do not store or even directly interact with biometric markers at all, but use a “digital handshake” to validate identity and calculate the probability of a positive match.

We are concerned that some of the proposed legislation would restrict banks' ability to use these biometric identifiers to keep customer data safe. Banks are already one of the most heavily regulated industries in the nation, regularly subjected to financial examinations, consumer protection laws, and compliance audits, continually from a wide variety of federal and state regulatory agencies, including: Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Maine Bureau of Financial Institutions, Federal Reserve System, Financial Crimes Enforcement Network, and the Consumer

Financial Protection Bureau. Additional state regulation could not only be duplicative, but also counterproductive. Perhaps most concerning is the possibility of a private right of action: the threat of unchecked and unwarranted litigation would have a dramatic chilling effect on our state's business climate, without providing any true relief to consumers.

Our priority in these bills is to maintain a full entity-level exemption for financial institutions which are already regulated under the Gramm-Leach-Bliley Act. This existing federal law already provides strong consumer protections from several state and federal regulators. In fact, this twenty-five-year-old law prohibits banks from ever selling or misusing customer data. Of the approximately twelve other states which have passed similar data privacy laws, all have included an exemption for financial institutions covered by Gramm-Leach-Bliley, in order to avoid a patchwork of divergent state laws. We applaud this coordinated and balanced approach that recognizes industry-specific regulations. For banks, our industry-specific regulations and oversight have proven to be very effective protecting customer data privacy.

In conclusion, we urge caution, deliberation, and moderation when considering new privacy regulations. Piecemeal state regulation would threaten the availability of necessary security features and ultimately harm consumers. Banks are incited to dearly safeguard customer information, and furthermore, longstanding federal law holds banks to that demanding standard. New legislation directed at banks will not improve customer protections, but new legislation might introduce legal threats which would remove essential biometric security tools that customers increasingly demand. Data security and trust are imperative to the viability of our business, and we ask for the flexibility to meet those customer demands with the best available data security measures. We can ensure these goals by maintaining the nonapplicability for financial institutions subject to the Gramm-Leach-Bliley Act, as referenced on page 4 of L.D. 1973 discussing Nonapplicability, section 9602.2.E.

My testimony will be followed by two bankers who are senior executives at Maine-based community banks. Each has deep experience serving local customers, with a particular focus at the intersection of bank operations, risk, and technology. They can speak with great expertise about how this technology is applied at banks in Maine, and I encourage you to give strong consideration to their testimony.

Thank you for your consideration, I am happy to answer any questions.

Respectfully Submitted,
Joshua Steirman