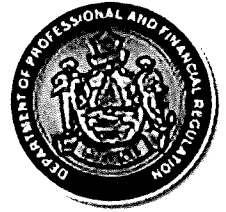




STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION
BUREAU OF FINANCIAL INSTITUTIONS



Janet T. Mills
Governor

Lloyd P. LaFountain, III
Superintendent

Joan F. Cohen
Commissioner

February 4, 2025

Senator Bailey
Representative Mathieson
Joint Standing Committee on Health Coverage, Insurance, and Financial Services
100 State House Station
Augusta, ME 04333

RE: LD 142, An Act to Prohibit Financial Institutions from Charging Multiple Fees
for Attempted Withdrawals Involving Insufficient Funds

Dear Senator Bailey, Representative Mathieson, and members of the Committee:

The Bureau of Financial Institutions provides this letter expressing a “neither for nor against” position with respect to LD 142, An Act to Prohibit Financial Institutions from Charging Multiple Fees for Attempted Withdrawals Involving Insufficient Funds. This bill would amend the banking code (Title 9-B) by preventing a bank or credit union located in Maine from charging more than one insufficient funds fee on a single transaction, even if more than one attempt is made to complete the withdrawal.

Payment transactions, such as the use of a check or debit card, may fail on the first attempt due to insufficient funds in the checking account. The check or debit may be processed a second time in an effort to determine if funds were placed into the account to cover the transaction. A financial institution may impose a fee on the account holder who issued the check (or debit payment) for each failed attempt by a third party to obtain payment. (Payment processors generally set a maximum of two resubmissions.)

While insufficient funds fees serve a legitimate purpose of inducing a person to accurately manage (balance) their checking accounts, there has been recent guidance by federal regulators that multiple fees on the same check or debit transaction can be unfair under certain circumstances. This is often because the account holder has no control over when a check will be presented again and is unable to know if an intervening deposit will cover the transaction and any additional fees.

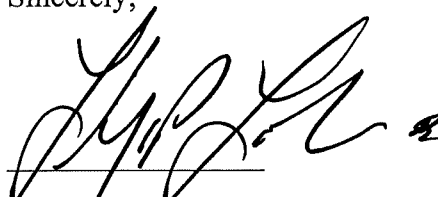
Offices located at 76 Northern Avenue, Gardiner, Maine 04345
Mailing Address: 36 State House Station, Augusta, Maine 04333
www.maine.gov/pfr/financialinstitutions

Federal regulators have taken recent action to discourage multiple insufficient funds fee charges warning both state and federal institutions that such fees can be unfair and lead to litigation risks or regulatory enforcement actions.

If the committee wishes to proceed with the bill, the Bureau notes that there are some limitations on the reach of the proposal. As this Committee is aware, there are limits on a state's authority over the powers of nationally-chartered financial institutions. The proposed law is not likely to reach all financial institutions engaged with Maine consumers, therefore skewing the operating environment for Maine-chartered institutions. The Maine-chartered institutions would be clearly subject to a statutory prohibition on multiple insufficient funds fees while nationally-chartered counterparts would be subject only to federal agency guidance against such fees.

Thank you for considering the general information above. If we can be of further assistance, please let us know.

Sincerely,



Lloyd P. LaFountain, III, Superintendent
Bureau of Financial Institutions



Printed on Recycled Paper

Offices Located at 76 Northern Avenue, Gardiner, Maine 04345

www.maine.gov/pfr/financialinstitutions

Phone: (207) 624-8470

TTY: Please Call Maine Relay 711

Consumer Assistance: 1-800-965-5235

Fax: (207) 624-8500