



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

March 5, 2025

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

RE: LD 580, An Act to Protect Maine Consumers by Prohibiting Fees  
Charged for Receiving Paper Statements from Financial Institutions and  
Credit Card Issuers.

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 580, An Act to Protect Maine Consumers by Prohibiting Fees Charged for Receiving Paper Statements from Financial Institutions and Credit Card Issuers.

The bill would prevent banks and credit unions authorized to do business in Maine from charging a fee for paper statements. It would also prohibit any card issuers (bank and nonbank) from charging a fee for paper statements.

The Bureau understands that, while electronic statements create less waste and cost less for financial institutions, some consumers prefer paper statements for record keeping or because of limited digital access.

**Background- Existing Maine law pertaining to paper statements excludes banks and credit unions:**

In 2011, a paperless billing provision was added to the Uniform Electronic Transaction Act, 10 M.R.S. § 9420, that prevents customers from being charged for requesting paper “billing” statements. Depository institutions (banks and credit unions) were specifically exempted from the requirement to provide free paper statements. The proposal in LD 580 would put banks and credit unions under restrictions similar to restrictions applying to businesses subject to 10 M.R.S. § 9420.

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**Possible federal preemption issue:**

If the committee wishes to proceed with the bill, the Bureau notes that there are some limitations on the reach of the proposal. The bill seeks to impose requirements on nationally-chartered banks and credit unions. As this Committee is aware, there are limits on a state's authority over the powers of nationally-chartered institutions. As such, the proposed law may not apply to all financial institutions engaged with Maine consumers, therefore skewing the operating environment for Maine-chartered institutions.

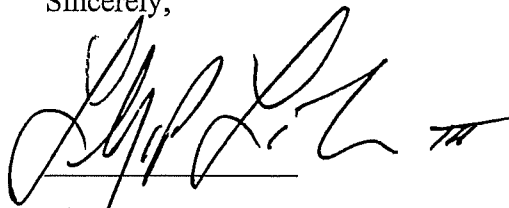
**Possible free speech issue:**

While not controlling authority in Maine, a lower federal court in New York deemed a similar law an unconstitutional restriction on first amendment commercial speech. In short, the court stated that by allowing a bank the option to offer consumers a credit for receiving electronic statements, a bank could also *deprive* consumers of a credit for receiving paper statements. Because the bank could not label that deprivation as a fee, the law improperly restricted the bank's communication (speech) with consumers. See *Manship v. T.D Bank, N.A.* 2021 U.S. Dist. Lexis 48909. Accordingly, if adopted, LD 580 could be open to future constitutional challenges.

The court also found that the New York law was not preempted by federal law indicating that it was a law of "general application" to all businesses, not just financial institutions, and that it did not significantly interfere with the national bank's exercise of its powers granted by federal law.

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



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