



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF FINANCIAL INSTITUTIONS
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GOVERNOR

LLOYD P. LAFOUNTAIN III
SUPERINTENDENT

September 28, 2009

Hon. Lawrence Bliss, Senate Chair
Hon. Charles Priest, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Re: 2009, chapter 230 (LD 1183) An Act to Prevent Predatory Marketing Practices Against Minors.

Dear Senator Bliss and Representative Priest:

The Maine Legislature made an important effort to protect young consumers when it passed the Act to Prevent Predatory Marketing Practices Against Minors. Unfortunately, the broad language of the Act created uncertainty among various businesses, including banks and credit unions, as to scope of the new law and the extent of any potential liability for noncompliance.

The Bureau of Financial Institutions respectfully provides the following response to the Committee's request for comments and for suggested solutions to the issues raised by the new law.

Issue: Banks and credit unions must be able to establish and service accounts for minors and communicate with them in the normal course of business operations. This would include the ability to process checks, applications and other transactions, whether internally or using external servicers or processors.

Suggested solution: Create an exception to any new prohibition on predatory marketing that will allow for the collection and transfer of a minor's personal information as necessary to effect, administer, or enforce a transaction that a minor or guardian requests or authorizes, or in connection with servicing, processing, maintaining or securitizing a minor's account at a financial institution. Such an exception would be similar to the exceptions to nondisclosure of nonpublic personal information found in federal privacy law at 12 CFR 216.14.

Thank you for seeking feedback on this important issue. If you have any questions, do not hesitate to contact me.

Sincerely,

Lloyd P. LaFountain III

Cc: Margaret Reinsch, OPLA
Hon. Elizabeth Schneider