

BUREAU OF BANKING

Department of Professional and Financial Regulation

State of Maine

June 29, 1990

BULLETIN #50 CONFIDENTIALITY STATUTES AND CONSUMER CREDIT  
REPORTS

To the Chief Executive Officer Addressed:

The Bureau has been asked whether the confidentiality provisions of the Maine Banking Code prohibit a financial institution from reporting a customer's deposit account information to a centralized agency similar to a credit reporting agency which would then furnish information specific to an individual upon the request of another financial institution. The information to be reported would include the customer's name, address, social security number, and the reason for closing the account. After much research and discussion, we have come to the conclusion that this practice would be permitted under Title 9-B M.R.S.A. Section 161(2)(F).

The Fair Credit Reporting Act defines "consumer report" as "any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, debts, check-writing experience, insurability, character, general reputation, personal characteristics, including, but not limited to, information regarding the consumer's medical history or condition, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor: ... (5) In a business transaction involving the consumer primarily for personal, family or household purposes where the recipient has a legitimate business need for the information." (Emphasis supplied.) At least one court has held that "reports of previous issuances of unpayable checks bear on consumer's creditworthiness and that a check is 'essentially, an instrument of credit.' *Greenway v. Information Dynamics, Ltd.*; 399 F. Supp.

1902 (D.Ariz.1974), aff'd per curiam, 524 F.2d 1145 (9th Cir. 1975), cert. denied, 424, U.S. 936 (1976)."

Furthermore, the federal bank regulatory agencies have jointly determined that a financial institution may obtain a consumer report "on a consumer who wishes to establish a checking account in the financial institution."

The Bureau is of the opinion that the deposit account information to be provided to a centralized agency is credit information and thus, the exchange of this

information would be permitted under the Title 9-B Section 161(2)(F) exemption for the exchange of credit information.

The central reporting agency is a consumer reporting agency and the financial institution is a user of the consumer report as defined by the Fair Credit Reporting Act and both then become bound to all aspects of the Fair Credit Reporting Act.

As you are aware, the Bureau of Consumer Credit Protection administers the Fair Credit Reporting Act in this state. Because the transmittal of deposit account information is considered subject to that Act, Superintendent Will Lund has indicated that the following requirements must be taken into consideration with respect to this service:

1. Users (financial institutions) must provide denial notices to those consumers who are prevented from opening accounts based on information received from the central reporting agency. The denial notice must contain the name, address, and phone number of the centralized agency.
2. The centralized agency must adopt procedures to comply with its responsibilities under the Act. It must have a system to address and respond to consumer challenges within the ten (10) business day period set by Maine law.
3. The centralized agency and user financial institutions must institute procedures for maintaining the confidentiality of all account information. The penalties for dissemination to all but those with a demonstrated legitimate business need are severe under the Act. Additionally, the Maine Banking Code provides for fines of up to \$1,000 against the employee (not the financial institution) responsible for the unauthorized disclosure of confidential information.
4. The centralized agency must adopt time limits after which obsolete information is deleted. It must also allow disclosure of all information on file to consumers upon request, charging no more than the statutory \$2.00 fee, and must provide the information free if the consumer has been denied the ability to transact business with the financial institution because of the adverse information contained in the report.

If you have any questions concerning Bulletin #50, please contact Christine Pearson or Colette Mooney at the Bureau of Banking.

/s/ H. Donald DeMatteis  
Superintendent

