

Chairwoman Delores Kelley  
3 East  
Miller Senate Office Building  
Annapolis, MD 21040

**SB957: Maryland Online Consumer Protection Act**  
**Testimony on Behalf of MD|DC Credit Union Association**  
**Position: Oppose**

Chairwoman Kelley, Vice-Chair Feldman and Members of the Committee,

On behalf of the MD| DC Credit Union Association and the 84 Credit Unions and their 1.9 million members that we represent in the State of Maryland, we appreciate the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives whose mission is to promote thrift and provide access to credit for provident and productive purposes for our members. **Without our requested amendment, we cannot support this bill.**

**1. We request the following amendment:**

A business that is subject to and in compliance with § 501(b) of the federal Gramm-Leach-Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines Establishing Information Security Standards, and the federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice, and any revisions, additions, or substitutions, shall be deemed to be in compliance with this subtitle.

An affiliate that complies with § 501(b) of the federal Gramm-Leach-Bliley Act, 15 U.S.C. § 6801, § 216 of the federal Fair and Accurate Credit Transactions Act, 15 U.S.C. § 1681w, the federal Interagency Guidelines Establishing Information Security Standards, and the federal Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice, and any revisions, additions, or substitutions, shall be deemed to be in compliance with this subtitle.

**2. The federal Gramm-Leach-Bliley Act already establishes several safeguards for consumers**

First and foremost, the safety and needs of our members come first. However, this bill is drafted in a way that will make it duplicative and overly burdensome to comply since we already comply with Gramm-Leach-Bliley. Credit unions, like all financial institutions, have to comply with the Gramm-Leach-Bliley Act, which implements many safeguards to protect a consumer's non-public information (NPI). We request a Gramm-Leach-Bliley exemption to this law, as is the case with most, if not all, other Maryland consumer protection statutes that apply to financial institutions.

**(A) Under Gramm-Leach-Bliley, financial institutions must give the following notification:**

- give their customers - and in some cases, their consumers - a "clear and conspicuous" written notice describing their privacy policies and practices.

- This notice must include:
  - Categories of information collected.
  - Categories of information disclosed.
  - Categories of affiliates and nonaffiliated third parties to whom you disclose the information.
  - Categories of information disclosed and to whom under the joint marketing/ service provider exception in section 313.13 of the Privacy Rule.
  - If you are disclosing NPI to nonaffiliated third parties, and that disclosure does not fall within any of the exceptions in sections 313.14 and 313.15, an explanation of consumers' and customers' right to opt-out of these disclosures.
  - Any disclosures required by the Fair Credit Reporting Act and
  - Policies and practices with respect to protecting the confidentiality and security of NPI

**(B) And, protect the information under the Safeguards Rule, which requires:**

- Companies must develop a written information security plan that describes their program to protect customer information. The plan must be appropriate to the company's size and complexity, the nature and scope of its activities, and the sensitivity of the customer information it handles.
  - As part of its plan, each company must:
    - **Designate** one or more employees to coordinate its information security program;
    - Identify and assess the risks to customer information in each relevant area of the company's operation, and evaluate the effectiveness of the current safeguards for controlling these risks;
    - **Design** and implement a safeguards program, and regularly monitor and test it;
    - **Select** service providers that can maintain appropriate safeguards, make sure your contract requires them to maintain safeguards, and oversee their handling of customer information; and
    - **Evaluate** and adjust the program in light of relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring.

**(C) Also, specific to Credit Unions, NCUA Part 748, we are required to:**

- § 748.0 Security program.
  - (a) Each federally insured credit union will develop a written security program within 90 days of the effective date of insurance.
  - (b) The security program will be designed to:
    - ...(2) **Ensure** the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;
    - (3) **Respond** to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member;
    - (4) **Assist** in the identification of persons who commit or attempt such actions and crimes, and

- (5) **Prevent** the destruction of vital records, as defined in 12 CFR part 749.
- (c) Each federal credit union, as part of its information security program, must properly dispose of any consumer information the Federal credit union maintains or otherwise possesses, as required under § 717.83 of this chapter.

**(D) Finally, Gramm-Leach-Bliley also already has an opt-out provision:**

- Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. § 6802) forbids any financial institution from sharing "nonpublic personal information" with a "nonaffiliated third party" unless the relevant consumer is given notice and an opportunity to opt-out of the sharing.
- (b) Opt-out
  - (1) In general, A financial institution may not disclose nonpublic personal information to a non-affiliated third party unless—
    - (A) such financial institution clearly and conspicuously discloses to the consumer, in writing or in electronic form or other form permitted by the regulations prescribed under section 6804 of this title, that such information may be disclosed to such third party;
    - (B) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and
    - (C) the consumer is given an explanation of how the consumer can exercise that nondisclosure option.

**Without this amendment, we cannot support this bill.** Please do not hesitate to contact me at 443-325-0774 or [jbratsakis@mddccua.org](mailto:jbratsakis@mddccua.org), or our VP of Advocacy, Rory Murray at [rmurray@mddccua.org](mailto:rmurray@mddccua.org) should you have any questions. Thank you for your consideration.

Sincerely,



John Bratsakis  
President/CEO  
MD|DC Credit Union Association