



MEMORANDUM OF OPPOSITION

H.B. 1331

Developers and Deployers of Artificial Intelligence Systems

February 28, 2025

The Receivables Management Association International (RMAI), a national trade association of over 600 members composed of banks, credit unions, non-bank lenders, debt purchasers and the companies that serve them, respectfully opposes H.B. 1331. However, we believe amendments would avoid harm to consumers and industry.

AI is rapidly becoming a natural part of how businesses operate, compete and grow. In the case of financial institutions, it serves to ensure compliance and enhance the accuracy and integrity of financial products and services. H.B. 1331 would capture a broad range of business, from the largest social media companies to pet stores. Unlike financial institutions, these businesses are not subject to an existing framework of federal data privacy and anti-discrimination laws. H.B. 1331's "one-size-fits-all" approach is harmful to both the financial services industry and consumers.

Exempt Financial Institutions Subject to Existing Federal Anti-Discrimination and Privacy Laws

H.B. 1331 either conflicts, contradicts or confuses the requirements imposed upon financial institutions under the following federal data security, privacy and anti-discrimination laws:

- The **Gramm-Leach-Bliley Act (GLBA)** is a federal privacy law. It covers a broad number of financial institutions that includes banks and credit unions, but also non-bank lenders, service providers, loan brokers, financial advisers and debt collectors. It requires annual disclosures on the use of consumer information.
- The GLBA imposes stringent data security requirements on these financial institutions through the Federal Trade Commission's "**Safeguards Rule**."¹ States that have adopted privacy laws have recognized the broad coverage of the GLBA and exempted GLBA covered entities from coverage.
- The **Equal Credit Opportunity Act (ECOA)** and the **Fair Housing Act (FHA)**. Both laws protect consumers from discrimination in lending decisions based on race, color, religion, sex, marital status, and more.²
- The **Fair Credit Reporting Act (FCRA)** requires covered financial institutions to provide the reasons for credit denials when using AI.³

These laws already provide a consumer protection framework against discriminatory practices occasioned by AI as pointed out in 2023 guidance issued from the federal Consumer Financial Protection Bureau ("CFPB").⁴ In fact, in 2022, the CFPB issued guidance that **creditors "who use complex**

¹ <https://www.ftc.gov/legal-library/browse/rules/safeguards-rule>

² <https://www.occ.treas.gov/topics/consumers-and-communities/consumer-protection/fair-lending/index-fair-lending.html>, archived at <https://perma.cc/BM75-WGXV>

³ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-acts-to-protect-the-public-from-black-box-credit-models-using-complex-algorithms/>, archived at <https://perma.cc/CQ47-KNNN>

⁴ <https://www.consumerfinance.gov/compliance/circulars/circular-2023-03-adverse-action-notification-requirements-and-the-proper-use-of-the-cfpbs-sample-forms-provided-in-regulation-b/>, archived at <https://perma.cc/DM2D-CFKF>

algorithms—including artificial intelligence or machine learning technologies—to engage in credit decisions must still provide a notice that discloses the specific, principal reasons for taking adverse actions.”⁵

We ask that H.B. 1331 exempt financial institutions already subject to the GLBA which would cover all the referenced federal laws and regulations.

The Private Right of Action Invites Frivolous Lawsuits

Our second concern is the private right of action. As proposed, H.B. 1331 provides for an award of attorney’s fees by making a violation subject to an action under 13-301. Section 13-302 allows such an action “. . . whether or not any consumer in fact has been misled, deceived, or damaged as a result of that practice.” Further, 13-408 permits a court to award attorney’s fees. It is our experience such language is *an incentive* for plaintiffs’ attorneys to file lawsuits against our members alleging the most ridiculous claims. Although these cases are routinely dismissed, the plaintiff’s bar knows the cost to settle these claims is far less than our members’ cost to have them dismissed. We believe H.B. 1331 will open a floodgate concerning whether our members ordinary business operations use AI and whether the AI is used in an impermissible manner. Attorneys General do not act the same way. They investigate before bringing claims. Therefore, we feel it is appropriate that all enforcement actions should be limited to those taken by the Attorney General’s Office.

H.B. 1331 is very similar to the 2024 Colorado legislation⁶ which *does not* contain a private right of action. We believe this is for the reasons outlined above.

RMAI’s Proposal

We propose the amendments in the attached redline. RMAI is ready to work with the sponsor in the hopes of addressing these concerns. For additional information, please reach David Reid at dreid@rmaintl.org or call (916) 903-6031.

Encl.

⁵ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-acts-to-protect-the-public-from-black-box-credit-models-using-complex-algorithms/>, archived at <https://perma.cc/CQ47-KNNN>

⁶ https://leg.colorado.gov/sites/default/files/2024a_205_signed.pdf

(2) REGULATIONS ADOPTED BY THE ATTORNEY GENERAL.

(C) (1) THE ATTORNEY GENERAL MAY, IN A FORM AND MANNER PRESCRIBED BY THE ATTORNEY GENERAL, REQUIRE A DEVELOPER OR DEPLOYER TO PROVIDE DISCLOSURES OTHERWISE REQUIRED UNDER THIS SUBTITLE FOR PURPOSES OF EVALUATING THE DISCLOSURE'S COMPLIANCE WITH THIS SUBTITLE.

(2) A DEVELOPER OR DEPLOYER MAY DECLINE TO PROVIDE THE ATTORNEY GENERAL WITH INFORMATION THAT WOULD REQUIRE THE DISCLOSURE OF TRADE SECRETS OR INFORMATION OTHERWISE PROTECTED BY STATE OR FEDERAL LAW.

(3) INFORMATION PROVIDED TO THE ATTORNEY GENERAL UNDER THIS SUBSECTION IS NOT SUBJECT TO DISCLOSURE UNDER THE MARYLAND PUBLIC INFORMATION ACT.

(4) DISCLOSURE OF INFORMATION UNDER THIS SUBSECTION THAT IS SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK-PRODUCT PROTECTION DOES NOT WAIVE THAT PRIVILEGE OR PROTECTION.

14-5008.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A VIOLATION OF THIS SUBTITLE IS:

(1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

(2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT FOR § 13-408 OF THIS ARTICLE.

(B) THIS SECTION DOES NOT PREVENT A CONSUMER FROM PURSUING ANY OTHER REMEDY PROVIDED BY LAW.

14-5009.

THIS SUBTITLE DOES NOT APPLY TO A DEVELOPER, A DEPLOYER, OR ANY OTHER PERSON WHO IS A COVERED ENTITY UNDER THE GRAMM-LEACH-BLILEY ACT, 15 U.S.C. §§ 6801-6809, §§ 6821-6827, AND THE CORRESPONDING FEDERAL REGULATIONS.

SUBTITLE 51. AGREEMENTS CONCERNING VOICE AND LIKENESS CLONES.

14-5101.