



Legislative Bulletin December 3, 2012

Contents:

H.R. 5817 – Eliminate Privacy Notice Confusion Act

**H.R. 5817 – Eliminate Privacy Notice Confusion Act
(Luetkemeyer, R-MO)**

Order of Business: The legislation is scheduled to be considered under suspension of the rules on Monday, December 3, 2012. The bill will require two-thirds majority vote for passage, and provides forty minutes of debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services.

Summary: H.R. 5817 would amend the Gramm-Leach-Bliley Act to provide an exception to the annual privacy notice requirement. The legislation would eliminate the requirement that financial institutions send annual privacy notices to their customers, under certain circumstances. The legislation would allow the exception for a financial institution that:

- provides nonpublic personal information only in accordance with the provisions of this act,
- does not share information with affiliates under section 603(d)(2)(A) of the Fair Credit Reporting Act, and
- has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this legislation.

The legislation would allow for the exceptions for those firms until such time as the financial institution fails to comply with any criteria described above. A financial institution shall not be required to provide any disclosure under this section if:

- the financial institution is licensed by a State and is subject to existing regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, or any territory of the United States; or

- the financial institution is licensed by a State and becomes subject to future regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, or any territory of the United States.

Background: The 1999 Gramm-Leach-Bliley Act required that financial institutions such as banks, securities companies, and insurance companies, provide customers with a privacy notice that explains what personal and financial information the institution collects and how it is used, shared, and protected when a customer begins a relationship with a covered financial institution. The privacy notices are required to be provided to customers every year and anytime an institution changes its privacy policy.

Committee Action: H.R. 5817 was introduced by Rep. Blaine Luetkemeyer (R-MO) on May 17, 2012 and referred to the House Committee on Financial Services. On July 11, 2012 the legislation was referred to the Subcommittee on Financial Institutions and Consumer Credit, which took no public action

Administration Position: A Statement of Administration Policy has not been released.

Cost to Taxpayers: A CBO report was unavailable.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No, the legislation reforms a private sector mandate by providing an exception for a financial institution.

Does the Bill Contain any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:
No.

Constitutional Authority: According to the statement of Constitutional Authority provided by Rep. Luetkemeyer, “Congress has the power to enact this legislation pursuant to the following: The constitutional authority on which this bill rests is the explicit power of Congress to regulate commerce in and among the states, as enumerated in Article 1, Section 8, Clause 3, the Commerce Clause, of the United States Constitution. Additionally, Article 1, Section 7, Clause 2 of the Constitution allows for every bill passed by the House of Representatives and the Senate and signed by the President to be codified into law; and therefore implicitly allows Congress to repeal any bill that has been passed by both chambers and signed into law by the President.”

RSC Staff Contact: Ja’Ron Smith, ja’ron.smith@mail.house.gov, (202) 226-2076.
