Overview

This bill deals with privacy of consumer financial data. It is closely related to the federal Gramm-Leach-Bliley Financial Services Modernization Act, recently enacted by Congress. That act imposes new data privacy requirements on financial institutions. Those requirements are that they disclose to consumers their policies with respect to consumer data privacy and that they offer consumers an opportunity to "opt-out" of disclosure of consumer data to entities that are not affiliated with the financial institution. Federal regulations to flesh out the act are being written by several federal regulatory agencies.

This bill enacts into state law, with state enforcement, the requirement that financial institutions comply with the federal law. This would allow for state penalties, in addition to federal penalties, for noncompliance, and for state enforcement in cases where the federal regulators choose not to enforce. It also goes beyond the federal act by requiring that consumers be provided with a convenient, easy-to-use method by which to opt-out of disclosure of personal data to nonaffiliates.

1 Privacy of financial data.

Subd. 1. Financial data privacy requirement. Requires under state law that financial institutions comply with the new federal requirements involving giving consumers the right to opt-out of data disclosure to nonaffiliates of the financial institutions and disclosing to consumers the financial institution's data privacy policies. The new federal requirements are contained in the federal Gramm-Leach-Bliley Act, including any federal regulations interpreting the referenced sections of that act. "Financial institution" is defined here consistently with the definition in the federal act, which is a broad definition.

Subd. 2. Provision of convenient opt-out form required. Requires that financial institutions, when complying with the federal opt-out requirement, provide a convenient way for consumers to opt-out. Paragraphs (b) to (e) provide alternative ways for a financial institution to satisfy that "convenient opt-out" requirement, with paragraph (e) permitting greater flexibility if approved.
by the commissioner of commerce. Paragraph (f) provides that this subdivision does not apply to the extent that it is determined to be preempted by the federal act, using the preemption determination procedure specified under the federal act. The requirement in this subdivision is not in the federal act, although the pending federal rules could, when issued, possibly contain a similar requirement.

**Subd. 3. Enforcement.** Requires the commissioner of commerce to enforce this act under the commissioner's standard enforcement powers. Provides that the enforcement responsibility and powers extend to entities included in the federal act's definition of "financial institution," that are not currently regulated by the commissioner. Provides that the administrative penalties imposed under state law are in addition to any penalties that may be imposed by federal regulators for the same offenses.

**Subd. 4. Consistency; federal law.** Provides that this section does not require compliance with the federal act before federal law requires compliance. Provides that this section does not require compliance in a different manner than under federal law, except as expressly provided in this section. (Subdivision 2 does so expressly provide.)

**Subd. 5. Definitions.** Provides that the terms "consumer" and "financial institution" have the same meaning in this section as in the federal act, including any federal regulations issued under that act.