

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1081/1dn  
RJM:cmh&jlg:jf

December 14, 1999

Representative Schneider:

1. I applied the same forfeiture to a violation of this amendment as is provided in 1999 AB-101. Please let me know if you desire any changes.

2. Although it is difficult to predict how a court would hold, this amendment may unconstitutionally impair existing contracts that require financial institutions to furnish personal customer information. Because the disclosure of customer information by financial institutions is not heavily regulated, a court may hold that this bill causes an unforeseeable, substantial impairment of existing contracts. See *Chrysler Corp. v. Kolosso Auto Sales, Inc.*, 148 F.3d 892 (7th Cir. 1998). To avoid this possibility, you may want to consider an initial applicability provision that, in effect, exempts existing contracts from the requirements of this amendment.

3. Portions of the federal Gramm-Leach-Bliley Act (P.L. 106-102), which will take effect approximately six months after the promulgation of certain federal regulations, will regulate the manner in which financial institutions may disclose personal customer information to nonaffiliates. Among other things, P.L. 106-102 will generally require financial institutions to permit customers to opt out of these types of disclosures. Upon taking effect, these provisions may preempt the enforcement of this amendment against federal financial institutions.

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