

## **CHAPTER 13-02-21**

### **DISCLOSURE OF CUSTOMER INFORMATION BY FINANCIAL INSTITUTIONS**

#### **Section**

13-02-21-01	Definitions
13-02-21-02	Authorization
13-02-21-03	Joint Marketing
13-02-21-04	Customer Direction

#### **13-02-21-01. Definitions.**

As used in this chapter, the terms "customer", "customer information", and "financial institution" have the same meaning as is given to them in North Dakota Century Code section 6-08.1-01.

**History:** Effective June 1, 2004.

**General Authority:** NDCC 6-01-04

**Law Implemented:**

#### **13-02-21-02. Authorization.**

A financial institution that has not received a customer's express consent or opt-in election may disclose customer information to a third party only as provided by subsections 1 through 11 of North Dakota Century Code section 6-08.1-02, North Dakota Century Code section 6-08.1-03, and as follows:

1. To effect, administer, or enforce a transaction requested or authorized by the customer or in connection with servicing or processing a financial product or service requested or authorized by the customer;
2. To maintain or service the customer's account with the financial institution or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;
3. In connection with a proposed or actual securitization, secondary market sale, including sales of servicing rights, or a similar transaction related to a transaction of the customer;
4. With the consent or at the direction of the customer;
5. To protect the confidentiality or security of the financial institution's records pertaining to the customer, the service or product, or the transaction therein;
6. To protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;
7. For required institutional risk control or for resolving customer disputes or inquiries;
8. To persons holding a legal or beneficial interest relating to the customer;
9. To persons acting in a fiduciary or representative capacity on behalf of the customer;
10. To provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the institution's compliance with industry standards, and the institution's attorneys, accountants, and auditors;
11. To the extent specifically permitted or required under other provisions of North Dakota law, federal law, and in accordance with the Right to Financial Privacy Act of 1978, to federal law enforcement agencies, including a federal functional regulator, the secretary of the treasury with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91-508 [12 U.S.C. 1951-1959], a state insurance authority, or the federal

trade commission, self-regulatory organizations, or for an investigation on a matter related to public safety;

12. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act or from a consumer report reported by a customer reporting agency;
13. In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure concerns solely customers of such business or unit; or
14. To comply with federal, state, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by federal, state, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

A financial institution may make a disclosure of necessary customer information under this section even though a customer has advised the financial institution that the customer does not consent to the disclosure.

**History:** Effective June 1, 2004.

**General Authority:** NDCC 6-01-04

**Law Implemented:**

#### **13-02-21-03. Joint marketing.**

A financial institution may not disclose customer information to a nonaffiliated third party under a "joint marketing agreement" as that term is defined by section 502(b)(2) of the federal Financial Services Modernization Act of 1999 [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802(b)(2)] unless the financial institution has first obtained its customer's written consent for the disclosure. A customer's written consent is not required for marketing that is undertaken by a financial institution on its own behalf or in conjunction with a nonaffiliated party where the financial institution does not share customer information with a nonaffiliated party.

**History:** Effective June 1, 2004.

**General Authority:** NDCC 6-01-04

**Law Implemented:**

#### **13-02-21-04. Customer direction.**

A financial institution that has received a customer's "opt-in" election after the financial institution has notified the customer of its information sharing practices and policies as required by the federal Financial Services Modernization Act of 1999 [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802(b)(1)] has obtained the customer's direction to share customer information in accordance with and as limited by the customer's opt-in election. This section does not limit the means by which a financial institution may obtain a customer's direction to share customer information with a third party.

**History:** Effective June 1, 2004.

**General Authority:** NDCC 6-01-04

**Law Implemented:**