

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1447

Introduced by

Representatives Kasper, Devlin, Keiser, M. Klein

Senators Fischer, Klein

1 A BILL for an Act to provide for consumer privacy protection of information in financial
2 institution records; and to provide a contingent effective clause.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

- 5 1. "Consumer" has the same meaning provided in section 509 of the Federal
6 Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L. 106-102; 113
7 Stat. 1443; 15 U.S.C. 6809].
- 8 2. "Financial activities" includes lending, trust, and other banking activities; insurance
9 activities; financial or economic advice or services; pooled investments; and
10 securities underwriting and dealing.
- 11 3. "Financial institution" has the same meaning as provided in section 509 of the
12 Federal Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L.
13 106-102; 113 Stat. 1443; 15 U.S.C. 6809]. The term includes any institution
14 engaging in financial activities.
- 15 4. "Nonaffiliated third party" has the same meaning provided in section 509 of the
16 Federal Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L.
17 106-102; 113 Stat. 1443; 15 U.S.C. 6809].
- 18 5. "Nonpublic personal information" has the same meaning provided in section 509 of
19 the Federal Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L.
20 106-102; 113 Stat. 1443; 15 U.S.C. 6809].

21 **SECTION 2. Privacy of financial data - Exceptions.** Except as expressly provided in
22 this Act, every financial institution doing business in this state shall comply with the privacy
23 provisions in title V of the Federal Gramm-Leach-Bliley Financial Services Modernization Act
24 [Pub. L. 106-102, title V, sec. 501 et seq.; 113 Stat. 1436 et seq.; 15 U.S.C. 6801 et seq.].

- 1 1. In the case of a financial institution regulated under chapter 6-08.1, the provisions
- 2 relating to disclosure of customer information under chapter 6-08.1 supersede this
- 3 Act.
- 4 2. In the case of a financial institution not regulated under chapter 6-08.1, the
- 5 financial institution may not disclose nonpublic personal information about a
- 6 consumer to any nonaffiliated third party, including a disclosure described in
- 7 section 502(b)(2) of the Federal Gramm-Leach-Bliley Financial Services
- 8 Modernization Act [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802], unless the
- 9 disclosure is made pursuant to a consent granted by the consumer as provided
- 10 under this Act. However, a financial institution regulated under this subsection
- 11 may disclose nonpublic personal information about a consumer without a consent
- 12 granted by the consumer if the disclosure is made:
- 13 a. Pursuant to one of the general exceptions in section 502(e) of the Federal
- 14 Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L. 106-102;
- 15 113 Stat. 1437; 15 U.S.C. 6802];
- 16 b. For the purpose of reporting a suspected violation of law or rule to the
- 17 appropriate state agency or law enforcement agency; or
- 18 c. For the purpose of complying with state law or rule, including the sharing of
- 19 information between the department of banking and financial institutions,
- 20 insurance commissioner, and securities commissioner in the course of official
- 21 duties.

22 **SECTION 3. Privacy of financial data - Exceptions.** Except as expressly provided in
23 this Act, every financial institution doing business in this state shall comply with the privacy
24 provisions in title V of the Federal Gramm-Leach-Bliley Financial Services Modernization Act
25 [Pub. L. 106-102, title V, sec. 501 et seq.; 113 Stat. 1436 et seq.; 15 U.S.C. 6801 et seq.]. A
26 financial institution may not disclose nonpublic personal information about a consumer to any
27 nonaffiliated third party, including a disclosure described in section 502(b)(2) of the Federal
28 Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L. 106-102; 113 Stat. 1437; 15
29 U.S.C. 6802], unless the disclosure is made pursuant to a consent granted by the consumer as
30 provided under this Act. However, a financial institution may disclose nonpublic personal

information about a consumer without a consent granted by the consumer if the disclosure is made:

1. Pursuant to one of the general exceptions in section 502(e) of the Federal Gramm-Leach-Bliley Financial Services Modernization Act [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802];
2. For the purpose of reporting a suspected violation of law or rule to the appropriate state agency or law enforcement agency; or
3. For the purpose of complying with state law or rule, including the sharing of information between the department of banking and financial institutions, insurance commissioner, and securities commissioner in the course of official duties.

SECTION 4. Consent. Consent or waiver may not be required as a condition of doing business with any financial institution, and any consent or waiver obtained from a consumer as a condition of doing business with a financial institution is not consent granted by the consumer.

SECTION 5. Form. To be valid, a consent must be in writing and signed by the consumer. The consent signed by the consumer must be contained on a separate page that clearly and conspicuously discloses:

1. The time during which the consent will operate, not exceeding two years;
2. Specification of each category of consumer information to be disclosed, including the account number, account balance, credit limit, amount or date of any transaction, identity of persons to whom the consumer's checks are made payable, and the identity of any merchant or other person honoring the consumer's credit card; and
3. The nonaffiliated third parties to which disclosure may be made.

SECTION 6. Scope. This Act does not limit any right or remedy protecting the privacy of information which is available under other law.

SECTION 7. CONTINGENT EFFECTIVE CLAUSE. If Senate Bill No. 2191 fails to become effective, section 2 of this Act becomes effective on the effective date of this Act and section 3 of this Act does not become effective. If Senate Bill No. 2191 is passed by the fifty-seventh legislative assembly and becomes effective, section 3 of this Act becomes effective on the effective date of this Act and section 2 of this Act does not become effective.