

**FIRST ENGROSSMENT with
House Amendments - Majority Report**
ENGROSSED SENATE BILL NO. 2191

Introduced by

Senators Krebsbach, Traynor

1 A BILL for an Act to create and enact a new subsection to section 6-08.1-02 and a new section
2 to chapter 6-08.1 of the North Dakota Century Code, relating to disclosure of financial
3 information by financial institutions and notification of privacy policies; to amend and reenact
4 section 6-08.1-01 of the North Dakota Century Code, relating to the definition of a customer
5 and customer information; to provide an effective date; to provide an expiration date; and to
6 declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 6-08.1-01 of the 1999 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **6-08.1-01. Definitions.** As used in this chapter:

- 11 1. "Customer" means, with respect to a financial institution, any person who has
12 transacted or is transacting business with, or has used or is using the services of,
13 individual or authorized representative of an individual to whom a financial
14 institution, or for whom a financial institution has acted provides a product or
15 service for personal, family, or household use, including that of acting as a
16 fiduciary with respect to trust property.
- 17 2. "Customer information" means ~~either of the following:~~
- 18 a. ~~Any original or any copy of any records held by a financial institution~~
19 ~~pertaining to a customer's relationship with the financial institution.~~
- 20 b. ~~Any information derived from a record described in this subsection~~ nonpublic
21 personal information maintained by or for a financial institution which is
22 derived from a customer relationship between the financial institution and a
23 customer of the financial institution and is identified with the customer.

- 1 3. "Financial institution" means any organization authorized to do business under
- 2 state or federal laws relating to financial institutions, including, without limitation, a
- 3 bank, including the Bank of North Dakota, a savings bank, a trust company, a
- 4 savings and loan association, or a credit union.
- 5 4. "Financial institution regulatory agency" means any of the following:
- 6 a. The federal deposit insurance corporation.
- 7 b. The federal savings and loan insurance corporation.
- 8 c. The national credit union administration.
- 9 d. The federal reserve board.
- 10 e. The United States comptroller of the currency.
- 11 f. The department of banking and financial institutions.
- 12 g. The federal home loan bank board.
- 13 5. "Governmental agency" means any agency or department of this state, or any
- 14 authorized officer, employee, or agent of an agency or department of this state.
- 15 6. "Law enforcement agency" means any agency or department of this state or of any
- 16 political subdivision of this state authorized by law to enforce the law and to
- 17 conduct or engage in investigations or prosecutions for violations of law.
- 18 7. "Person" means any individual, partnership, corporation, limited liability company,
- 19 association, trust, or other legal entity.

20 **SECTION 2.** A new subsection to section 6-08.1-02 of the 1999 Supplement to the
21 North Dakota Century Code is created and enacted as follows:

22 A disclosure of customer information by a financial institution to a nonaffiliated third
23 party, if the disclosure is subject to federal law on the date of the disclosure and
24 the financial institution complies with applicable federal law in making the
25 disclosure.

26 **SECTION 3.** A new section to chapter 6-08.1 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Agricultural and commercial accounts.**

- 29 1. A financial institution shall notify the financial institution's agricultural and
30 commercial customers in this state of the financial institution's privacy policies and
31 practices relating to agricultural and commercial accounts.

1 2. If the financial institution discloses nonpublic information about agricultural or
2 commercial accounts to nonaffiliated third parties, the financial institution shall
3 annually allow agricultural and commercial customers to not agree to disclosing
4 that information. An agricultural or commercial customer also may agree to the
5 disclosure of nonpublic information.

6 3. The exceptions in section 502(b)(2) of the Gramm Leach Bliley Financial Service
7 Modernization Act [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802] and section
8 6-08.1-02 apply to agricultural and commercial accounts.

9 **SECTION 4. EFFECTIVE DATE.** This Act becomes effective on July 1, 2001.

10 **SECTION 5. EXPIRATION DATE.** Section 3 of this Act is effective through July 31,
11 2003, and after that date is ineffective.

12 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.