

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

Introduced by

Senators Krebsbach, Traynor

1 A BILL for an Act to create and enact two new subsections to section 6-08.1-01, a new
2 subsection to section 6-08.1-02, a new section to chapter 10-04, and a new section to chapter
3 26.1-02 of the North Dakota Century Code and to create and enact a new section to Senate Bill
4 No. 2127, as approved by the fifty-seventh legislative assembly, relating to disclosure of
5 financial information by financial institutions and the effective date of section 1 of Senate Bill
6 No. 2127; to amend and reenact section 6-08.1-01 of the North Dakota Century Code, relating
7 to the definitions relating to disclosure of customer information; to provide an effective date; to
8 provide an expiration date; and to declare an emergency.

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

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

12 **6-08.1-01. Definitions.** As used in this chapter:

- 13 1. "Customer" means any person who has transacted or is transacting business with,
14 or has used or is using the services of, a financial institution, or for whom a
15 financial institution has acted as a fiduciary with respect to trust property.
- 16 2. "Customer information" means ~~either of the following:~~
- 17 a. ~~Any original or any copy of any records held by a financial institution~~
18 ~~pertaining to a customer's relationship with the financial institution.~~
- 19 b. ~~Any information derived from a record described in this subsection~~ any
20 nonpublic, personally identifiable financial information of a customer which is
21 obtained by the financial institution by any means, except for information that
22 is otherwise publicly available.
- 23 3. "Financial institution" means any organization authorized to do business under
24 state or federal laws relating to financial institutions, including, without limitation, a

bank, including the Bank of North Dakota, a savings bank, a trust company, a savings and loan association, or a credit union.

4. "Financial institution regulatory agency" ~~means any of the following~~ includes:

- a. The federal deposit insurance corporation.
- b. The federal savings and loan insurance corporation.
- c. The national credit union administration.
- d. The federal reserve board.
- e. The United States comptroller of the currency.
- f. The department of banking and financial institutions.
- g. The federal home loan bank board.

5. "Governmental agency" means any agency or department of this state, or any authorized officer, employee, or agent of an agency or department of this state.

6. "Law enforcement agency" means any agency or department of this state or of any political subdivision of this state authorized by law to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.

~~7. "Person" means any individual, partnership, corporation, limited liability company, association, trust, or other legal entity.~~

SECTION 2. Two new subsections to section 6-08.1-01 of the 1999 Supplement to the North Dakota Century Code are created and enacted as follows:

"Affiliate" means any company that controls, is controlled by, or is under common control with another company.

"Nonaffiliated third party" means any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution.

The term does not include a joint employee of such a financial institution.

SECTION 3. A new subsection to section 6-08.1-02 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

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

1 **SECTION 4.** A new section to chapter 10-04 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Disclosing customer information.** Every dealer, agent, investment adviser, federal
4 covered adviser, and investment adviser representative is a financial institution for purposes of
5 chapter 6-08.1, relating to disclosure of customer information. The commissioner shall enforce
6 compliance with this section.

7 **SECTION 5.** A new section to chapter 26.1-02 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Disclosing customer information.** Every insurance company, nonprofit health service
10 corporation, and health maintenance organization is a financial institution for purposes of
11 chapter 6-08.1, relating to disclosure of customer information. The commissioner shall enforce
12 compliance with this section.

13 **SECTION 6.** A new section to Senate Bill No. 2127, as approved by the fifty-seventh
14 legislative assembly, is created and enacted as follows:

15 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on August 1,
16 2003.

17 **SECTION 7. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 4, 5, 6, 7, and 8 of
18 this Act become effective on July 1, 2001, and sections 2 and 3 of this Act become effective on
19 August 1, 2003. Sections 4 and 5 of this Act are effective through July 31, 2003, and after that
20 date are ineffective.

21 **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.