

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Mahoney

1 A BILL for an Act to create and enact a new section to chapter 6-08.1 of the North Dakota
2 Century Code, relating to exceptions to the financial privacy law; to amend section 6-08.1-03 of
3 the North Dakota Century Code, relating to exceptions to the financial privacy law; and to repeal
4 section 6-08.1-02 of the North Dakota Century Code, relating to exceptions to the financial
5 privacy law.

6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7 **SECTION 1.** A new section to chapter 6-08.1 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Exceptions - Limitations.**

- 10 1. The customer consent requirements under section 6-08.1-03 do not apply to a
11 disclosure of customer information made:
- 12 a. As necessary to effect, administer, or enforce a transaction requested or
13 authorized by the customer.
 - 14 b. In connection with servicing or processing a financial product or service
15 requested or authorized by the customer.
 - 16 c. In connection with maintaining or servicing the customer's account with the
17 financial institution.
 - 18 d. In connection with maintaining or servicing the customer's account with
19 another entity as part of a private label credit card program or other extension
20 of credit on behalf of such entity.
 - 21 e. In connection with a proposed or actual securitization; secondary market sale,
22 including sales of servicing rights; or similar transaction related to a
23 transaction of the customer.

- f. To protect the confidentiality or security of the financial institution's records pertaining to the customer, the service or product, or the transaction.
- g. To protect against or prevent actual or potential fraud, unauthorized transactions, or other liability.
- h. For required institutional risk control.
- i. For resolving customer disputes or customer inquiries.
- j. To a person holding a legal or beneficial interest relating to the customer.
- k. To provide information to insurance rate advisory organizations.
- l. To provide information to guaranty funds or agencies.
- m. To provide information to applicable rating agencies of the financial institution.
- n. To provide information to persons assessing the financial institution's compliance with industry standards.
- o. To provide information to the financial institution's attorneys, accountants, and auditors.
- p. 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 consumers of such business or unit.
- q. To a consumer reporting agency in accordance with the Fair Credit Reporting Act or from a consumer report reported by a consumer reporting agency.
- r. To provide an exchange in the regular course of business of customer credit information to a financial institution or other commercial entity.
- s. To law enforcement agencies, self-regulatory organizations, and persons investigating matters related to public safety to the extent specifically permitted or required for compliance with federal, state, and local laws and rules.
- t. As permitted under or as required to comply with federal, state, or local laws, rules, and other legal requirements.
- u. To a person to comply with a valid legal process, including properly authorized civil, criminal, regulatory, or administrative investigation, subpoena, subpoena duces tecum, search warrant, or summons.

1 v. To respond to judicial process or governmental regulatory authorities having
2 jurisdiction over the financial institution for examination, compliance, or other
3 purpose as authorized by law.

4 w. To publish data derived from customer information in which the data cannot
5 be identified to any particular customer or account.

6 x. To an affiliate of the financial institution.

7 y. For the purpose of notifying the agriculture commissioner that a financial
8 institution has notified a customer of the availability of the North Dakota
9 agricultural mediation service.

10 z. As part of the disclosure made of deposits of public corporations with financial
11 institutions in the security pledge schedule verified by the custodian of
12 securities pursuant to section 21-04-09.

13 aa. For purposes of reporting suspected exploitation of a disabled adult or
14 vulnerable elderly adult as defined by section 12.1-31-07. This subdivision
15 does not impose upon a financial institution a duty to investigate an alleged or
16 suspected exploitation of a disabled adult or vulnerable elderly adult or to
17 make any report to a government agency or law enforcement agency.

18 bb. By the release by the industrial commission, in its capacity as the managing
19 body of the Bank of North Dakota, of the name of any person who, directly or
20 indirectly, has obtained financing through the Bank of North Dakota; or the
21 amount of any financing obtained directly or indirectly through the Bank of
22 North Dakota.

23 2. In the case of disclosure of customer information to an affiliate, the financial
24 institution shall enter a contractual agreement with the affiliate which requires that
25 the affiliate maintain the confidentiality of the customer information. In the case of
26 disclosure of customer information to a nonaffiliated third party for the performance
27 of services for or function on behalf of the financial institution, the financial
28 institution shall enter a contractual agreement with the nonaffiliated third party
29 which requires that the nonaffiliated third party maintain the confidentiality of the
30 customer information. Except as otherwise provided, a nonaffiliated third party that
31 received customer information under this section may not directly or through an

1 affiliate of the receiving third party, disclose the customer information to any other
2 person that is a nonaffiliated third party of both the financial institution and the
3 receiving third party unless the disclosure would be lawful if made directly to the
4 other person by the financial institution.

5 **SECTION 2. AMENDMENT.** Section 6-08.1-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **6-08.1-03. Duty of confidentiality.** A financial institution may not disclose customer
8 information to any person, ~~governmental agency, or law enforcement agency~~ unless the
9 disclosure is made ~~in accordance with any of the following:~~

- 10 4. ~~Pursuant pursuant~~ to consent granted by the customer in accordance with this
11 chapter, at the direction of the customer, or pursuant to an exception provided
12 under this chapter.
- 13 2. ~~To a person other than a governmental agency or law enforcement agency~~
14 ~~pursuant to valid legal process.~~
- 15 3. ~~To a governmental agency or law enforcement agency pursuant to valid legal~~
16 ~~process in accordance with this chapter.~~
- 17 4. ~~For the purpose of reporting a suspected violation of the law in accordance with~~
18 ~~this chapter.~~
- 19 5. ~~For the purpose of notifying the agriculture commissioner that a financial institution~~
20 ~~has notified a customer of the availability of the North Dakota agricultural mediation~~
21 ~~service.~~
- 22 6. ~~As part of the disclosure made of deposits of public corporations with financial~~
23 ~~institutions in the security pledge schedule verified by the custodian of securities~~
24 ~~pursuant to section 21-04-09.~~
- 25 7. ~~For purposes of reporting suspected exploitation of a disabled adult or vulnerable~~
26 ~~elderly adult as defined by section 12.1-31-07. Nothing in this subsection may be~~
27 ~~construed to impose upon a financial institution a duty to investigate an alleged or~~
28 ~~suspected exploitation of a disabled adult or vulnerable elderly adult or to make~~
29 ~~any report to a government agency or law enforcement agency.~~

30 **SECTION 3. REPEAL.** Section 6-08.1-02 of the North Dakota Century Code is
31 repealed.