

HOUSE BILL NO. 1038

Introduced by

Legislative Council

(Family Law Committee)

1 A BILL for an Act to amend and reenact sections 6-08.1-01 and 6-08.1-02 of the North Dakota
2 Century Code, relating to financial institution customer privacy definitions and exceptions.

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

4 **SECTION 1. AMENDMENT.** Section 6-08.1-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

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

- 7 1. "Customer" means any person ~~who~~ that, regardless of the state of residence or
8 domicile, has transacted or is transacting business with; or has used or is using the
9 services of; a financial institution, or for ~~whom~~ which a financial institution has
10 acted as a fiduciary with respect to trust property.
- 11 2. "Customer information" means either of the following:
- 12 a. Any original or any copy of any records held by a financial institution
13 pertaining to a customer's relationship with the financial institution.
- 14 b. Any information derived from a record described in this subsection.
- 15 3. "Financial institution" means any organization that is physically located in the state
16 which is authorized to do business under state or federal laws relating to financial
17 institutions, including, without limitation, a bank, including the Bank of North
18 Dakota, a savings bank, a trust company, a savings and loan association, or a
19 credit union.
- 20 4. "Financial institution regulatory agency" means any of the following:
- 21 a. The federal deposit insurance corporation.
- 22 b. The federal savings and loan insurance corporation.
- 23 c. The national credit union administration.
- 24 d. The federal reserve board.

e. The United States comptroller of the currency.

f. The department of 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. AMENDMENT. Section 6-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

6-08.1-02. Exemptions. This chapter does not apply to any of the following:

1. The preparation, examination, handling, or maintenance of any customer information by any officer, employee, or agent of a financial institution having custody of such information or the examination of such information by an accountant engaged by the financial institution to perform an audit.

2. The examination of any customer information by, or the furnishing of customer information to, any officer, employee, or agent of a financial institution regulatory agency solely for use in the exercise of that person's duties.

3. The publication of data derived from customer information where the data cannot be identified to any particular customer or account.

4. Any acts required of the financial institution by the Internal Revenue Code.

5. Disclosures permitted under the Uniform Commercial Code concerning the dishonor of any negotiable instrument.

6. The exchange in the regular course of business of customer credit information between a financial institution and other financial institutions or commercial entities, directly, or through a customer reporting agency.

7. The release by the industrial commission, in its capacity as the managing body of the Bank of North Dakota, of either of the following:

- 1 a. The name of any person who, either directly or indirectly, has obtained
- 2 financing through the Bank of North Dakota.
- 3 b. The amount of any financing obtained either directly or indirectly through the
- 4 Bank of North Dakota.
- 5 8. An examination, handling, or maintenance of any customer information by any
- 6 governmental agency or law enforcement agency for purposes of verifying
- 7 information necessary in the licensing process, provided prior consent is obtained
- 8 from the licensee and customer.
- 9 9. Disclosure of customer information to a law enforcement agency or governmental
- 10 agency pursuant to a search warrant or subpoena duces tecum issued in
- 11 accordance with applicable statutes or the North Dakota Rules of Criminal
- 12 Procedure.
- 13 10. Disclosure by a financial institution to the agriculture commissioner that it has given
- 14 a customer notice of the availability of the North Dakota agricultural mediation
- 15 service.
- 16 11. The disclosure by a financial institution to any financial institution or other entity
- 17 that controls, is controlled by, or is under common control with the financial
- 18 institution if the financial institution or other entity receiving the information
- 19 complies with section 6-08.1-03.
- 20 12. The disclosure of customer information by a financial institution to a nonaffiliated
- 21 third party:
- 22 a. As necessary to effect, administer, or enforce a transaction that is requested
- 23 or otherwise authorized by the customer;
- 24 b. In connection with servicing or processing a financial product or financial
- 25 service that is requested or otherwise authorized by the customer;
- 26 c. In connection with maintaining or servicing the customer's account with the
- 27 financial institution;
- 28 d. In connection with maintaining or servicing the customer's account with
- 29 another person as part of a private label credit card program or as part of
- 30 some other extension of credit on behalf of that other person; or
- 31 e. At the direction or with the consent of the customer.