

Introduced by

Representatives Kasper, Ruby, Tieman

Senators Mutch, Tollefson

1 A BILL for an Act to create and enact a new section to chapter 10-04 of the North Dakota
2 Century Code, relating to securities privacy of information; and to amend and reenact section
3 26.1-02-27 of the North Dakota Century Code, relating to insurance privacy of information.

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

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

7 **Disclosing nonpublic personal information.**

- 8 1. As used in this section, "customer" means any person that is a resident of or is
9 domiciled in this state and that has transacted or is transacting business with, or
10 has used or is using the services of a person regulated under subsection 2.
- 11 2. A registered agent, a dealer, a federal covered adviser, an investment adviser, an
12 investment adviser representative, or an issuer registered in this state may not
13 disclose a customer's nonpublic personal information contrary to the provisions of
14 title V of the Gramm-Leach-Bliley Act [Pub. L. 106-102; 113 Stat. 1436] or contrary
15 to the rules adopted by the commissioner under this section.
- 16 3. The commissioner shall adopt rules necessary to implement this section.
- 17 a. The rules must provide for a customer opt-in for the sharing of a customer's
18 nonpublic personal information that is not otherwise exempted under federal
19 law.
- 20 b. The rules must provide that a person regulated under subsection 2 must have
21 a customer's consent before disclosing the customer's information to a
22 nonaffiliated third party under a joint marketing agreement, as defined under
23 section 502(b)(2) of the federal Financial Services Modernization Act of 1999
24 [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802(b)(2)].

1 4. This section does not create a private right of action.

2 **SECTION 2. AMENDMENT.** Section 26.1-02-27 of the North Dakota Century Code is
3 amended and reenacted as follows:

4 **26.1-02-27. Disclosing nonpublic personal information.**

5 1. As used in this section, "customer" means any person that is a resident of or is
6 domiciled in this state and that has transacted or is transacting business with, or
7 has used or is using the services of a person regulated under subsection 2.

8 2. An insurance company, nonprofit health service corporation, or health maintenance
9 organization may not disclose a customer's nonpublic personal information
10 contrary to the provisions of title V of the Gramm-Leach-Bliley Act
11 [Pub. L. 106-102; 113 Stat. 1436] or contrary to the rules adopted by the
12 commissioner under this section.

13 3. The commissioner ~~may~~ shall adopt rules ~~as may be necessary to carry out~~
14 implement this section.

15 a. The rules must provide for a customer opt-in for the sharing of a customer's
16 nonpublic personal information that is not otherwise exempted under federal
17 law.

18 b. The rules must provide that a person regulated under subsection 2 must have
19 a customer's consent before disclosing the customer's information to a
20 nonaffiliated third party under a joint marketing agreement, as defined under
21 section 502(b)(2) of the federal Financial Services Modernization Act of 1999
22 [Pub. L. 106-102; 113 Stat. 1437; 15 U.S.C. 6802(b)(2)].

23 c. With the exception of the provisions under this section, the rules must be
24 consistent with and not more restrictive than the model regulation adopted by
25 the national association of insurance commissioners entitled "Privacy of
26 Consumer Financial and Health Information Regulation".

27 4. This section does not create a private right of action.