

NDBA is proposing amendments to sections 6-01-07.1 and 54-10-22.1 of the North Dakota Century Code, which relate to the confidentiality of facts and information about bank owners, borrowers, or customers obtained by the commissioner or the department of financial institutions.

Background

The confidentiality of customer records at financial institutions are guarded by several federal and state laws (*i.e.*, Gramm-Leach-Bliley Act, Fair Credit Reporting Act, etc.).

Financial institutions are highly regulated by federal and state agencies. The North Dakota Department of Financial Institutions (“DFI”) is responsible for chartering, regulating, and examining North Dakota state-chartered banks, credit unions, and trust companies. As a result, DFI obtains and maintains information about banking data and customer information, including, but not limited to:

- Examination Records
- Financial information of borrowers
- Financial information of bank directors and officers
- Loan information
- Bank employee records, including salaries and background checks.

The Issue

There are laws in place to protect the foregoing confidential and sensitive information from disclosure. Specifically, section 6-01-07.1 of the North Dakota Century Code broadly regulates the confidentiality of facts and information obtained by DFI. There are, however, several exceptions which allow or require the commissioner to furnish said information. In addition, other statutes that provide state agencies access to information have been read broadly to gain access to confidential information. One such statute is section 54-10-22.1, which allows the state auditor access to

“inspect any state agency’s books, papers, accounts, or records that may be relevant to an ongoing audit of any other state agency or computer system audit.” This has been read to give the auditor’s office full access to banking data and customer information, which is in direct conflict of both federal and state laws protecting banking and customer information.

The Amendments

The proposed amendments include the following changes to sections 6-01-07.1 and 54-10-22.1, N.D.C.C.:

- Includes not only information obtained by the commissioner, but *created* by the commissioner.
- Includes as confidential complaints or comments from the public.
- Gives the commissioner more discretion in furnishing information to other state agencies.
- Limits disclosures to documents “directly relevant to the inquiry at issue”.
- Adds information protected under 6-01-07.1 as an exception to the information accessible to the state auditor.

The new language will more strongly protect confidential bank information obtained by DFI, and thereby protect confidential banking information and customer data.