

HOUSE BILL NO.

Introduced by

Representative Mahoney

1 A BILL for an Act to amend and reenact subsections 1 and 2 of section 6-08.1-01 and section
2 6-08.1-02 of the North Dakota Century Code, relating to definitions of customer and customer
3 information and disclosure of customer information by financial institutions; to repeal section
4 6-08.1-03.1 of the North Dakota Century Code, relating to privacy of financial institutions'
5 agricultural and commercial accounts; to provide an effective date; and to provide an expiration
6 date.

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

8 **SECTION 1. AMENDMENT.** Subsections 1 and 2 of section 6-08.1-01 of the 2001
9 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 10 1. "Customer" means, ~~with respect to a financial institution, any individual or~~
11 ~~authorized representative of an individual to whom~~ person who has transacted or is
12 transacting business with, or has used or is using the services of, a financial
13 ~~institution provides a product or service for personal, family, or household use,~~
14 ~~including that of acting, or for whom a financial institution has acted as a fiduciary~~
15 with respect to trust property.
- 16 2. "Customer information" means ~~nonpublic personal information maintained by or for~~
17 ~~a financial institution which is derived from a customer relationship between the~~
18 ~~financial institution and a customer of the financial institution and is identified with~~
19 ~~the customer~~ either of the following:
- 20 a. Any original or any copy of any records held by a financial institution
21 pertaining to a customer's relationship with the financial institution.
- 22 b. Any information derived from a record described in this subsection.

23 **SECTION 2. AMENDMENT.** Section 6-08.1-02 of the 2001 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

- 1 **6-08.1-02. Exemptions.** This chapter does not apply to any of the following:
- 2 1. The preparation, examination, handling, or maintenance of any customer
- 3 information by any officer, employee, or agent of a financial institution having
- 4 custody of such information or the examination of such information by an
- 5 accountant engaged by the financial institution to perform an audit.
- 6 2. The examination of any customer information by, or the furnishing of customer
- 7 information to, any officer, employee, or agent of a financial institution regulatory
- 8 agency solely for use in the exercise of that person's duties.
- 9 3. The publication of data derived from customer information where the data cannot
- 10 be identified to any particular customer or account.
- 11 4. Any acts required of the financial institution by the Internal Revenue Code.
- 12 5. Disclosures permitted under the Uniform Commercial Code concerning the
- 13 dishonor of any negotiable instrument.
- 14 6. The exchange in the regular course of business of customer credit information
- 15 between a financial institution and other financial institutions or commercial entities,
- 16 directly, or through a customer reporting agency.
- 17 7. The release by the industrial commission, in its capacity as the managing body of
- 18 the Bank of North Dakota, of either of the following:
- 19 a. The name of any person who, either directly or indirectly, has obtained
- 20 financing through the Bank of North Dakota.
- 21 b. The amount of any financing obtained either directly or indirectly through the
- 22 Bank of North Dakota.
- 23 8. An examination, handling, or maintenance of any customer information by any
- 24 governmental agency or law enforcement agency for purposes of verifying
- 25 information necessary in the licensing process, provided prior consent is obtained
- 26 from the licensee and customer.
- 27 9. Disclosure of customer information to a law enforcement agency or governmental
- 28 agency pursuant to a search warrant or subpoena duces tecum issued in
- 29 accordance with applicable statutes or the North Dakota Rules of Criminal
- 30 Procedure.

1 10. Disclosure by a financial institution to the agriculture commissioner that it has given
2 a customer notice of the availability of the North Dakota agricultural mediation
3 service.

4 11. The disclosure by a financial institution to any financial institution or other entity
5 that controls, is controlled by, or is under common control with the financial
6 institution if the financial institution or other entity receiving the information
7 complies with section 6-08.1-03.

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

12 **SECTION 3. REPEAL.** Section 6-08.1-03.1 of the North Dakota Century Code is
13 repealed.

14 **SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** This Act becomes effective
15 immediately upon its filing with the secretary of state and is effective until the official certification
16 by the secretary of state of the result of the June 11, 2002, referral vote on 2001 Senate Bill
17 No. 2191, and thereafter is ineffective.