

# SENATE BILL No. 430

April 26, 2005, Introduced by Senators PRUSI, JACOBS, BASHAM, THOMAS, CHERRY, OLSHOVE, BERNERO, SCOTT, LELAND, EMERSON, SCHAUER, CLARK-COLEMAN, BRATER, BARCIA and CLARKE and referred to the Committee on Banking and Financial Institutions.

A bill to amend 2003 PA 215, entitled  
"Credit union act,"  
(MCL 490.101 to 490.601) by adding sections 388, 389, and 390.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 388. (1) A DOMESTIC CREDIT UNION SHALL USE REASONABLE  
2 CARE TO SECURE NONPUBLIC PERSONAL FINANCIAL INFORMATION FROM  
3 UNAUTHORIZED ACCESS.

4           (2) A DOMESTIC CREDIT UNION SHALL NOT DISCLOSE NONPUBLIC  
5 PERSONAL FINANCIAL INFORMATION TO A PERSON WITHOUT THE PRIOR AND  
6 SPECIFIC INFORMED CONSENT, IN WRITING, OF THE INDIVIDUAL TO WHOM  
7 THE NONPUBLIC PERSONAL FINANCIAL INFORMATION PERTAINS. THIS  
8 SUBSECTION DOES NOT APPLY IF THE DISCLOSURE IS REQUIRED BY LAW.

9           (3) A DOMESTIC CREDIT UNION SHALL DISCLOSE NONPUBLIC PERSONAL

1 FINANCIAL INFORMATION TO WHICH SUBSECTION (2) DOES NOT APPLY ONLY  
2 IF THE PERSON TO WHOM THE DISCLOSURE IS MADE AGREES TO PROTECT AND  
3 USE THE DISCLOSED INFORMATION ONLY IN THE MANNER AUTHORIZED BY THE  
4 CREDIT UNION UNDER SECTION 389. THIS SUBSECTION DOES NOT APPLY TO A  
5 DISCLOSURE MADE TO THE COMMISSIONER, ANOTHER GOVERNMENTAL AGENCY OR  
6 ENTITY, OR A COURT.

7 (4) IF AN INDIVIDUAL AUTHORIZES THE RELEASE OF NONPUBLIC  
8 PERSONAL FINANCIAL INFORMATION UNDER SUBSECTION (2) TO A SPECIFIC  
9 PERSON, A DOMESTIC CREDIT UNION SHALL DISCLOSE THE INFORMATION TO  
10 THAT PERSON ONLY IF THE PERSON AGREES NOT TO RELEASE THE  
11 INFORMATION TO ANOTHER PERSON WITHOUT ANOTHER PRIOR AND SPECIFIC  
12 INFORMED CONSENT FROM THE INDIVIDUAL, IN WRITING, AUTHORIZING THE  
13 ADDITIONAL RELEASE.

14 (5) THIS SECTION DOES NOT PRECLUDE THE RELEASE OF INFORMATION  
15 PERTAINING TO AN INDIVIDUAL TO THAT INDIVIDUAL BY TELEPHONE IF THE  
16 IDENTITY OF THE INDIVIDUAL IS VERIFIED.

17 (6) AS USED IN THIS SECTION AND SECTION 389:

18 (A) "NONPUBLIC PERSONAL FINANCIAL INFORMATION" MEANS  
19 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION AND ANY LIST,  
20 DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND PUBLICLY AVAILABLE  
21 INFORMATION PERTAINING TO THEM THAT IS DERIVED USING ANY PERSONALLY  
22 IDENTIFIABLE FINANCIAL INFORMATION THAT IS NOT PUBLICLY AVAILABLE.  
23 NONPUBLIC PERSONAL FINANCIAL INFORMATION DOES NOT INCLUDE ANY OF  
24 THE FOLLOWING:

25 (i) FINANCIAL INFORMATION OTHERWISE PROTECTED BY STATE OR  
26 FEDERAL LAW.

27 (ii) PUBLICLY AVAILABLE INFORMATION.

1           (iii) ANY LIST, DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND  
2 PUBLICLY AVAILABLE INFORMATION PERTAINING TO THEM THAT IS DERIVED  
3 WITHOUT USING ANY PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION  
4 THAT IS NOT PUBLICLY AVAILABLE.

5           (B) "PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION" MEANS ANY  
6 OF THE FOLLOWING:

7           (i) INFORMATION A CONSUMER PROVIDES TO A DOMESTIC CREDIT UNION  
8 TO OBTAIN A FINANCIAL PRODUCT OR SERVICE FROM THE DOMESTIC CREDIT  
9 UNION.

10           (ii) INFORMATION ABOUT A CONSUMER RESULTING FROM ANY  
11 TRANSACTION INVOLVING A FINANCIAL PRODUCT OR SERVICE BETWEEN A  
12 DOMESTIC CREDIT UNION AND A CONSUMER.

13           (iii) INFORMATION A DOMESTIC CREDIT UNION OTHERWISE OBTAINS  
14 ABOUT A CONSUMER IN CONNECTION WITH PROVIDING A FINANCIAL PRODUCT  
15 OR SERVICE TO THAT CONSUMER.

16           (C) "PUBLICLY AVAILABLE INFORMATION" MEANS ANY INFORMATION  
17 THAT A DOMESTIC CREDIT UNION HAS A REASONABLE BASIS TO BELIEVE IS  
18 LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE,  
19 OR LOCAL GOVERNMENT RECORDS BY WIDE DISTRIBUTION BY THE MEDIA OR BY  
20 DISCLOSURES TO THE GENERAL PUBLIC THAT ARE REQUIRED TO BE MADE BY  
21 FEDERAL, STATE, OR LOCAL LAW. A DOMESTIC CREDIT UNION HAS A  
22 REASONABLE BASIS TO BELIEVE THAT INFORMATION IS LAWFULLY MADE  
23 AVAILABLE TO THE GENERAL PUBLIC IF BOTH OF THE FOLLOWING APPLY:

24           (i) THE DOMESTIC CREDIT UNION HAS TAKEN STEPS TO DETERMINE THAT  
25 THE INFORMATION IS OF THE TYPE THAT IS AVAILABLE TO THE GENERAL  
26 PUBLIC.

27           (ii) IF AN INDIVIDUAL CAN DIRECT THAT THE INFORMATION NOT BE

1 MADE AVAILABLE TO THE GENERAL PUBLIC, THAT THE DOMESTIC CREDIT  
2 UNION'S CONSUMER HAS NOT DIRECTED THAT THE INFORMATION NOT BE MADE  
3 AVAILABLE TO THE GENERAL PUBLIC.

4 SEC. 389. A DOMESTIC CREDIT UNION SHALL ESTABLISH AND MAKE  
5 PUBLIC A POLICY REGARDING THE PROTECTION OF PRIVACY AND THE  
6 CONFIDENTIALITY OF NONPUBLIC PERSONAL FINANCIAL INFORMATION. THE  
7 POLICY SHALL DO AT LEAST ALL OF THE FOLLOWING:

8 (A) PROVIDE FOR THE CREDIT UNION'S IMPLEMENTATION OF THE  
9 REQUIREMENTS OF THIS ACT AND OTHER APPLICABLE LAWS RESPECTING  
10 COLLECTION, SECURITY, USE, RELEASE OF, AND ACCESS TO NONPUBLIC  
11 PERSONAL FINANCIAL INFORMATION.

12 (B) IDENTIFY THE ROUTINE USES OF NONPUBLIC PERSONAL FINANCIAL  
13 INFORMATION BY THE CREDIT UNION; PRESCRIBE THE MEANS BY WHICH  
14 INDIVIDUALS WILL BE NOTIFIED REGARDING THOSE USES; AND PROVIDE FOR  
15 NOTIFICATION REGARDING THE ACTUAL RELEASE OF NONPUBLIC PERSONAL  
16 FINANCIAL INFORMATION THAT MAY BE IDENTIFIED WITH, OR THAT MAY  
17 CONCERN, AN INDIVIDUAL, UPON SPECIFIC REQUEST BY THAT INDIVIDUAL.  
18 AS USED IN THIS SUBDIVISION, "ROUTINE USE" MEANS THE ORDINARY USE  
19 OR RELEASE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION COMPATIBLE  
20 WITH THE PURPOSE FOR WHICH THE INFORMATION WAS COLLECTED.

21 (C) ASSURE THAT NO PERSON HAS ACCESS TO NONPUBLIC PERSONAL  
22 FINANCIAL INFORMATION EXCEPT ON THE BASIS OF A NEED TO KNOW.

23 (D) ESTABLISH THE CONTRACTUAL OR OTHER CONDITIONS UNDER WHICH  
24 THE CREDIT UNION MAY RELEASE NONPUBLIC PERSONAL FINANCIAL  
25 INFORMATION.

26 (E) PROVIDE THAT ENROLLMENT APPLICATIONS AND CLAIM FORMS  
27 DEVELOPED BY THE CREDIT UNION SHALL CONTAIN AN INDIVIDUAL'S CONSENT

1 TO THE RELEASE OF DATA AND INFORMATION THAT IS LIMITED TO THE DATA  
2 AND INFORMATION NECESSARY FOR THE PROPER REVIEW AND PAYMENT OF  
3 CLAIMS, AND SHALL REASONABLY NOTIFY INDIVIDUALS OF THEIR RIGHTS  
4 UNDER THE CREDIT UNION'S POLICY AND APPLICABLE LAW.

5 SEC. 390. SECTIONS 388 AND 389 DO NOT LIMIT ACCESS TO RECORDS  
6 OR ENLARGE OR DIMINISH THE INVESTIGATIVE AND EXAMINATION POWERS OF  
7 GOVERNMENTAL AGENCIES AS PROVIDED FOR BY LAW.