

Legislative Analysis



TRANSFER OF PERSONAL IDENTIFYING INFORMATION BY BANKS AND CREDIT UNIONS

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House Bill 6106

Sponsor: Rep. Lorence Wenke

House Bill 6107

Sponsor: Rep. Shanelle Jackson

Committee: Banking and Financial Services

Complete to 5-19-08

A SUMMARY OF HOUSE BILLS 6106 AND 6107 AS INTRODUCED 5-8-08

The bills would regulate the manner in which banks and credit unions transfer an individual's personal identifying information to another person or entity. Before the information could be sold or transferred, a notice would have to be given to the individual as prescribed in the bills. The bills are part of a larger package addressing the problem of identity theft and are tie-barred to each other and to the other bills in the package (House Bills 6099-6105).

"Personal identifying information" would mean that term as defined in Section 3 of the Identity Theft Protection Act. That act defines the term to mean a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person's financial accounts, including, but not limited to, a person's name, address, telephone number, driver license or state personal identification card number, social security number, place of employment, employee identification number, employer or taxpayer identification number, government passport number, health insurance identification number, mother's maiden name, demand deposit account number, savings account number, financial transaction device account number or the person's account password, stock or other security certificate or account number, credit card number, vital record, or medical records or information.

Under the bills, before a bank or credit union could sell or otherwise transfer any personal identifying information concerning an individual with an account at that institution, the institution would have to provide notice to the individual indicating what identifying information would be transferred and why, who the information was being transferred to, and a telephone number or other contact information with which the individual could contact the institution to notify it of any errors in his or her personal identifying information. The institution would have to wait at least 10 days after providing the notice before it could sell or transfer the information.

A bank or credit union would be in compliance with the bills if it provided a notice by one or more of the following to the recipient:

- A written notice sent to the recipient's postal address in the records of the institution.
- Written notice sent electronically to the recipient if he or she expressly consented to receive electronic notice; the institution conducts its business primarily through Internet account transactions or on the Internet; or the institution had an existing business relationship with the recipient that included periodic emails and so reasonably believed that it had the recipient's current email address.
- If not prohibited by state or federal law, a telephone message if the notice was not given in whole or in part by use of a recorded message and the recipient expressly consented to receive notice by telephone, or, if the recipient had not consented to receive phone messages, the institution also provided notice by mail or email if the telephone message did not result in a live conversation between the institution and the recipient within three business days of the telephone notice.

Further, a written notice sent by post or email would have to be written in a clear and conspicuous manner and contain the information required by the bills (what information is being transferred, why, to whom, and contact information for the transferring institution). A notice provided by telephone would have to clearly communicate the required information.

House Bill 6106 would add the new language to the Banking Code (MCL 487.13914) and House Bill 6107 would add the language to the Credit Union Act (MCL 490.388).

FISCAL IMPACT:

The bills would have no fiscal impact on the state or local units of government.

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