

HOUSE BILL No. 5412

September 17, 2009, Introduced by Reps. Geiss, Switalski, Tlaib, Durhal, Roberts, Robert Jones, Liss, Kennedy, Nathan and Jackson and referred to the Committee on Banking and Financial Services.

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
10 FINANCIAL INFORMATION TO WHICH SUBSECTION (2) DOES NOT APPLY ONLY

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

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

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

16 (6) A DOMESTIC CREDIT UNION SHALL NOT REFUSE TO EXTEND OR
17 CONTINUE CREDIT TO, REFUSE TO OPEN OR CONTINUE AN ACCOUNT FOR, DENY
18 MEMBERSHIP TO OR TERMINATE THE MEMBERSHIP OF, REFUSE TO PROVIDE ANY
19 BENEFITS OF MEMBERSHIP TO, OR OTHERWISE UNFAIRLY RETALIATE OR
20 DISCRIMINATE AGAINST AN INDIVIDUAL BECAUSE THAT INDIVIDUAL REFUSES
21 OR FAILS TO CONSENT TO DISCLOSURE OF HIS OR HER NONPUBLIC PERSONAL
22 FINANCIAL INFORMATION UNDER SUBSECTION (2).

23 (7) AS USED IN THIS SECTION AND SECTION 389:

24 (A) "NONPUBLIC PERSONAL FINANCIAL INFORMATION" MEANS
25 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION AND ANY LIST,
26 DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND PUBLICLY AVAILABLE
27 INFORMATION PERTAINING TO THEM THAT IS DERIVED USING ANY PERSONALLY

1 IDENTIFIABLE FINANCIAL INFORMATION THAT IS NOT PUBLICLY AVAILABLE.
2 NONPUBLIC PERSONAL FINANCIAL INFORMATION DOES NOT INCLUDE ANY OF
3 THE FOLLOWING:

4 (i) FINANCIAL INFORMATION OTHERWISE PROTECTED BY STATE OR
5 FEDERAL LAW.

6 (ii) PUBLICLY AVAILABLE INFORMATION.

7 (iii) ANY LIST, DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND
8 PUBLICLY AVAILABLE INFORMATION PERTAINING TO THEM THAT IS DERIVED
9 WITHOUT USING ANY PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION
10 THAT IS NOT PUBLICLY AVAILABLE.

11 (B) "PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION" MEANS ANY
12 OF THE FOLLOWING:

13 (i) INFORMATION A CONSUMER PROVIDES TO A DOMESTIC CREDIT UNION
14 TO OBTAIN A FINANCIAL PRODUCT OR SERVICE FROM THE DOMESTIC CREDIT
15 UNION.

16 (ii) INFORMATION ABOUT A CONSUMER RESULTING FROM ANY
17 TRANSACTION INVOLVING A FINANCIAL PRODUCT OR SERVICE BETWEEN A
18 DOMESTIC CREDIT UNION AND A CONSUMER.

19 (iii) INFORMATION A DOMESTIC CREDIT UNION OTHERWISE OBTAINS
20 ABOUT A CONSUMER IN CONNECTION WITH PROVIDING A FINANCIAL PRODUCT
21 OR SERVICE TO THAT CONSUMER.

22 (C) "PUBLICLY AVAILABLE INFORMATION" MEANS ANY INFORMATION
23 THAT A DOMESTIC CREDIT UNION HAS A REASONABLE BASIS TO BELIEVE IS
24 LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE,
25 OR LOCAL GOVERNMENT RECORDS BY WIDE DISTRIBUTION BY THE MEDIA OR BY
26 DISCLOSURES TO THE GENERAL PUBLIC THAT ARE REQUIRED TO BE MADE BY
27 FEDERAL, STATE, OR LOCAL LAW. A DOMESTIC CREDIT UNION HAS A

1 REASONABLE BASIS TO BELIEVE THAT INFORMATION IS LAWFULLY MADE
2 AVAILABLE TO THE GENERAL PUBLIC IF BOTH OF THE FOLLOWING APPLY:

3 (i) THE DOMESTIC CREDIT UNION HAS TAKEN STEPS TO DETERMINE THAT
4 THE INFORMATION IS OF THE TYPE THAT IS AVAILABLE TO THE GENERAL
5 PUBLIC.

6 (ii) IF AN INDIVIDUAL CAN DIRECT THAT THE INFORMATION NOT BE
7 MADE AVAILABLE TO THE GENERAL PUBLIC, THAT THE DOMESTIC CREDIT
8 UNION'S CONSUMER HAS NOT DIRECTED THAT THE INFORMATION NOT BE MADE
9 AVAILABLE TO THE GENERAL PUBLIC.

10 SEC. 389. A DOMESTIC CREDIT UNION SHALL ESTABLISH AND MAKE
11 PUBLIC A POLICY REGARDING THE PROTECTION OF PRIVACY AND THE
12 CONFIDENTIALITY OF NONPUBLIC PERSONAL FINANCIAL INFORMATION. THE
13 POLICY SHALL DO AT LEAST ALL OF THE FOLLOWING:

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

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

27 (C) ASSURE THAT NO PERSON HAS ACCESS TO NONPUBLIC PERSONAL

1 FINANCIAL INFORMATION EXCEPT ON THE BASIS OF A NEED TO KNOW.

2 (D) ESTABLISH THE CONTRACTUAL OR OTHER CONDITIONS UNDER WHICH
3 THE CREDIT UNION MAY RELEASE NONPUBLIC PERSONAL FINANCIAL
4 INFORMATION.

5 (E) PROVIDE THAT ENROLLMENT APPLICATIONS AND CLAIM FORMS
6 DEVELOPED BY THE CREDIT UNION SHALL CONTAIN AN INDIVIDUAL'S CONSENT
7 TO THE RELEASE OF DATA AND INFORMATION THAT IS LIMITED TO THE DATA
8 AND INFORMATION NECESSARY FOR THE PROPER REVIEW AND PAYMENT OF
9 CLAIMS, AND SHALL REASONABLY NOTIFY INDIVIDUALS OF THEIR RIGHTS
10 UNDER THE CREDIT UNION'S POLICY AND APPLICABLE LAW.

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