

HOUSE BILL No. 5227

January 21, 2016, Introduced by Reps. Moss, Lucido, Irwin, Runestad, Singh and Derek Miller and referred to the Committee on 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 AN INDIVIDUAL'S NONPUBLIC PERSONAL FINANCIAL
3 INFORMATION FROM UNAUTHORIZED ACCESS.

4 (2) UNLESS THE DISCLOSURE IS REQUIRED BY LAW, A DOMESTIC
5 CREDIT UNION SHALL NOT DISCLOSE AN INDIVIDUAL'S NONPUBLIC PERSONAL
6 FINANCIAL INFORMATION TO A PERSON WITHOUT THE PRIOR AND SPECIFIC
7 INFORMED CONSENT, IN WRITING, OF THE INDIVIDUAL, AND THE INDIVIDUAL
8 MAY WITHDRAW HIS OR HER CONSENT AT ANY TIME.

9 (3) IF AN INDIVIDUAL HAS CONSENTED TO THE DISCLOSURE OF
10 NONPUBLIC PERSONAL FINANCIAL INFORMATION TO A PERSON UNDER
11 SUBSECTION (2), THE DOMESTIC CREDIT UNION SHALL DISCLOSE NONPUBLIC

1 PERSONAL FINANCIAL INFORMATION ONLY IF THE PERSON TO AGREES TO
2 PROTECT AND USE THE DISCLOSED INFORMATION ONLY IN THE MANNER
3 AUTHORIZED BY THE CREDIT UNION UNDER SECTION 389. THIS SUBSECTION
4 DOES NOT APPLY TO A DISCLOSURE MADE TO THE DEPARTMENT OF INSURANCE
5 AND FINANCIAL SERVICES, THE DIRECTOR OF THAT DEPARTMENT, ANOTHER
6 GOVERNMENTAL AGENCY OR 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) A DOMESTIC CREDIT UNION SHALL NOT REFUSE TO EXTEND OR
18 CONTINUE CREDIT TO, REFUSE TO OPEN OR CONTINUE AN ACCOUNT FOR, DENY
19 MEMBERSHIP TO OR TERMINATE THE MEMBERSHIP OF, REFUSE TO PROVIDE ANY
20 BENEFITS OF MEMBERSHIP TO, OR OTHERWISE UNFAIRLY RETALIATE OR
21 DISCRIMINATE AGAINST AN INDIVIDUAL BECAUSE THAT INDIVIDUAL REFUSES
22 OR FAILS TO CONSENT TO DISCLOSURE OF HIS OR HER NONPUBLIC PERSONAL
23 FINANCIAL INFORMATION UNDER SUBSECTION (2).

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

25 (A) "NONPUBLIC PERSONAL FINANCIAL INFORMATION" MEANS
26 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION AND ANY LIST,
27 DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND PUBLICLY AVAILABLE

1 INFORMATION PERTAINING TO THEM THAT IS DERIVED USING ANY PERSONALLY
2 IDENTIFIABLE FINANCIAL INFORMATION THAT IS NOT PUBLICLY AVAILABLE.
3 NONPUBLIC PERSONAL FINANCIAL INFORMATION DOES NOT INCLUDE ANY OF
4 THE FOLLOWING:

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

7 (ii) PUBLICLY AVAILABLE INFORMATION.

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

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

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

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

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

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

1 FEDERAL, STATE, OR LOCAL LAW. A DOMESTIC CREDIT UNION HAS A
2 REASONABLE BASIS TO BELIEVE THAT INFORMATION IS LAWFULLY MADE
3 AVAILABLE TO THE GENERAL PUBLIC IF BOTH OF THE FOLLOWING APPLY:

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

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

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

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

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

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

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

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

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

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.