

HOUSE BILL No. 5229

January 21, 2016, Introduced by Reps. Runestad, Moss, Lucido, Singh and Derek Miller and referred to the Committee on Financial Services.

A bill to amend 1999 PA 276, entitled
"Banking code of 1999,"
(MCL 487.11101 to 487.15105) by adding sections 3914, 3915, and
3916.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3914. (1) A BANK SHALL USE REASONABLE CARE TO SECURE AN
2 INDIVIDUAL'S NONPUBLIC PERSONAL FINANCIAL INFORMATION FROM
3 UNAUTHORIZED ACCESS.

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

1 SUBSECTION (2), THE BANK SHALL DISCLOSE NONPUBLIC PERSONAL
2 FINANCIAL INFORMATION ONLY IF THE PERSON AGREES TO PROTECT AND USE
3 THE DISCLOSED INFORMATION ONLY IN THE MANNER AUTHORIZED BY THE BANK
4 UNDER SECTION 3915. THIS SUBSECTION DOES NOT APPLY TO A DISCLOSURE
5 MADE TO THE DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES, THE
6 DIRECTOR OF THAT DEPARTMENT, ANOTHER GOVERNMENTAL AGENCY OR ENTITY,
7 OR A COURT.

8 (4) IF AN INDIVIDUAL AUTHORIZES THE RELEASE OF NONPUBLIC
9 PERSONAL FINANCIAL INFORMATION UNDER SUBSECTION (2) TO A SPECIFIC
10 PERSON, A BANK SHALL DISCLOSE THE INFORMATION TO THAT PERSON ONLY
11 IF THE PERSON AGREES NOT TO RELEASE THE INFORMATION TO ANOTHER
12 PERSON WITHOUT ANOTHER PRIOR AND SPECIFIC INFORMED CONSENT FROM THE
13 INDIVIDUAL, IN WRITING, AUTHORIZING THE 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 BANK SHALL NOT REFUSE TO EXTEND OR CONTINUE CREDIT TO,
18 REFUSE TO OPEN OR CONTINUE AN ACCOUNT FOR, TERMINATE OR REFUSE TO
19 CREATE A CUSTOMER OR DEPOSITOR RELATIONSHIP WITH, REFUSE TO PROVIDE
20 ANY BENEFITS TO WHICH CUSTOMERS OR DEPOSITORS ARE ENTITLED TO, OR
21 OTHERWISE UNFAIRLY RETALIATE OR DISCRIMINATE AGAINST AN INDIVIDUAL
22 BECAUSE THAT INDIVIDUAL REFUSES OR FAILS TO CONSENT TO DISCLOSURE
23 OF HIS OR HER NONPUBLIC PERSONAL FINANCIAL INFORMATION UNDER
24 SUBSECTION (2).

25 (7) AS USED IN THIS SECTION AND SECTION 3915:

26 (A) "NONPUBLIC PERSONAL FINANCIAL INFORMATION" MEANS
27 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION AND ANY LIST,

DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND PUBLICLY AVAILABLE INFORMATION PERTAINING TO THEM THAT IS DERIVED USING ANY PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION THAT IS NOT PUBLICLY AVAILABLE. NONPUBLIC PERSONAL FINANCIAL INFORMATION DOES NOT INCLUDE ANY OF THE FOLLOWING:

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

(ii) PUBLICLY AVAILABLE INFORMATION.

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

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

(i) INFORMATION A CONSUMER PROVIDES TO A BANK TO OBTAIN A FINANCIAL PRODUCT OR SERVICE FROM THE BANK.

(ii) INFORMATION ABOUT A CONSUMER RESULTING FROM ANY TRANSACTION INVOLVING A FINANCIAL PRODUCT OR SERVICE BETWEEN A BANK AND A CONSUMER.

(iii) INFORMATION A BANK OTHERWISE OBTAINS ABOUT A CONSUMER IN CONNECTION WITH PROVIDING A FINANCIAL PRODUCT OR SERVICE TO THAT CONSUMER.

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

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

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

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

10 SEC. 3915. A BANK SHALL ESTABLISH AND MAKE PUBLIC A POLICY
11 REGARDING THE PROTECTION OF PRIVACY AND THE CONFIDENTIALITY OF
12 NONPUBLIC PERSONAL FINANCIAL INFORMATION. THE POLICY SHALL DO AT
13 LEAST ALL OF THE FOLLOWING:

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

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

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

10 SEC. 3916. SECTIONS 3914 AND 3915 DO NOT LIMIT ACCESS TO
11 RECORDS OR ENLARGE OR DIMINISH THE INVESTIGATIVE AND EXAMINATION
12 POWERS OF GOVERNMENTAL AGENCIES AS PROVIDED FOR BY LAW.

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