

HOUSE BILL No. 4687

April 28, 2005, Introduced by Reps. Polidori, Farrah, Zelenko, Clack, Anderson, Meisner, Vagnozzi, Waters, Gonzales, Leland, Spade, Jones, Hopgood, Plakas, Wojno, Condino, Bieda, Kolb, Hood, Lipsey, Lemmons, Jr., McConico, Dillon, Bennett, Accavitti, Gleason, Hune, Byrnes, Garfield, Sak and Tobocman and referred to the Committee on Banking and Financial Services.

A bill to amend 1980 PA 307, entitled
"Savings and loan act of 1980,"
(MCL 491.102 to 491.1202) by adding sections 1136, 1137, and 1138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1136. (1) AN ASSOCIATION SHALL USE REASONABLE CARE TO
2 SECURE NONPUBLIC PERSONAL FINANCIAL INFORMATION FROM UNAUTHORIZED
3 ACCESS.

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

9 (3) AN ASSOCIATION SHALL DISCLOSE NONPUBLIC PERSONAL FINANCIAL

1 INFORMATION TO WHICH SUBSECTION (2) DOES NOT APPLY ONLY IF THE
2 PERSON TO WHOM THE DISCLOSURE IS MADE AGREES TO PROTECT AND USE THE
3 DISCLOSED INFORMATION ONLY IN THE MANNER AUTHORIZED BY THE
4 ASSOCIATION UNDER SECTION 1137. THIS SUBSECTION DOES NOT APPLY TO A
5 DISCLOSURE MADE TO THE SUPERVISOR, 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, AN ASSOCIATION SHALL DISCLOSE THE INFORMATION TO THAT
10 PERSON ONLY IF THE PERSON AGREES NOT TO RELEASE THE INFORMATION TO
11 ANOTHER PERSON WITHOUT ANOTHER PRIOR AND SPECIFIC INFORMED CONSENT
12 FROM THE INDIVIDUAL, IN WRITING, AUTHORIZING THE ADDITIONAL
13 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 1137:

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 AN ASSOCIATION TO OBTAIN
8 A FINANCIAL PRODUCT OR SERVICE FROM THE ASSOCIATION.

9 (ii) INFORMATION ABOUT A CONSUMER RESULTING FROM ANY
10 TRANSACTION INVOLVING A FINANCIAL PRODUCT OR SERVICE BETWEEN AN
11 ASSOCIATION AND A CONSUMER.

12 (iii) INFORMATION AN ASSOCIATION OTHERWISE OBTAINS ABOUT A
13 CONSUMER IN CONNECTION WITH PROVIDING A FINANCIAL PRODUCT OR
14 SERVICE TO THAT CONSUMER.

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

23 (i) THE ASSOCIATION HAS TAKEN STEPS TO DETERMINE THAT THE
24 INFORMATION IS OF THE TYPE THAT IS AVAILABLE TO THE GENERAL PUBLIC.

25 (ii) IF AN INDIVIDUAL CAN DIRECT THAT THE INFORMATION NOT BE
26 MADE AVAILABLE TO THE GENERAL PUBLIC, THAT THE ASSOCIATION'S
27 CONSUMER HAS NOT DIRECTED THAT THE INFORMATION NOT BE MADE

1 AVAILABLE TO THE GENERAL PUBLIC.

2 SEC. 1137. AN ASSOCIATION SHALL ESTABLISH AND MAKE PUBLIC A
3 POLICY REGARDING THE PROTECTION OF PRIVACY AND THE CONFIDENTIALITY
4 OF NONPUBLIC PERSONAL FINANCIAL INFORMATION. THE POLICY SHALL DO AT
5 LEAST ALL OF THE FOLLOWING:

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

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

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

21 (D) ESTABLISH THE CONTRACTUAL OR OTHER CONDITIONS UNDER WHICH
22 THE ASSOCIATION MAY RELEASE NONPUBLIC PERSONAL FINANCIAL
23 INFORMATION.

24 (E) PROVIDE THAT ENROLLMENT APPLICATIONS AND CLAIM FORMS
25 DEVELOPED BY THE ASSOCIATION SHALL CONTAIN AN INDIVIDUAL'S CONSENT
26 TO THE RELEASE OF DATA AND INFORMATION THAT IS LIMITED TO THE DATA
27 AND INFORMATION NECESSARY FOR THE PROPER REVIEW AND PAYMENT OF

1 CLAIMS, AND SHALL REASONABLY NOTIFY INDIVIDUALS OF THEIR RIGHTS
2 UNDER THE ASSOCIATION'S POLICY AND APPLICABLE LAW.

3 SEC. 1138. SECTIONS 1136 AND 1137 DO NOT LIMIT ACCESS TO
4 RECORDS OR ENLARGE OR DIMINISH THE INVESTIGATIVE AND EXAMINATION
5 POWERS OF GOVERNMENTAL AGENCIES AS PROVIDED FOR BY LAW.