

SENATE BILL No. 431

April 26, 2001, Introduced by Senator BULLARD and referred to the Committee on Financial Services.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 5

PRIVACY OF FINANCIAL INFORMATION

SEC. 501. (1) THIS CHAPTER APPLIES TO THE TREATMENT OF NON-PUBLIC PERSONAL FINANCIAL INFORMATION ABOUT INDIVIDUALS WHO OBTAIN OR ARE CLAIMANTS OR BENEFICIARIES OF PRODUCTS OR SERVICES PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES FROM LICENSEES WHETHER THROUGH AN INDIVIDUAL OR GROUP PLAN. THIS CHAPTER DOES NOT APPLY TO INFORMATION ABOUT COMPANIES OR ABOUT INDIVIDUALS WHO OBTAIN PRODUCTS OR SERVICES FOR BUSINESS, COMMERCIAL, OR AGRICULTURAL PURPOSES.

1 (2) THIS CHAPTER DOES NOT MODIFY, LIMIT, OR SUPERSEDE
2 STATUTE OR RULES GOVERNING THE CONFIDENTIALITY OR PRIVACY OF
3 INDIVIDUALLY IDENTIFIABLE HEALTH AND MEDICAL INFORMATION, INCLUD-
4 ING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

5 (A) SECTION 2157 OF THE REVISED JUDICATURE ACT OF 1961, 1961
6 PA 236, MCL 600.2157.

7 (B) SECTION 1750 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL
8 330.1750.

9 (C) SECTIONS 2631, 2637, 6111, 6521, 17078, 17752, 18117,
10 18237, 20175, 20201, 21515, AND 21743 OF THE PUBLIC HEALTH CODE,
11 1978 PA 368, MCL 333.2631, 333.2637, 333.6111, 333.6521,
12 333.17078, 333.17752, 333.18117, 333.18237, 333.20175, 333.20201,
13 333.21515, AND 333.21743.

14 (D) SECTION 406 OF THE NONPROFIT HEALTH CARE CORPORATION
15 REFORM ACT, 1980 PA 350, MCL 550.1406.

16 (E) SECTIONS 410 AND 492A OF THE MICHIGAN PENAL CODE, 1931
17 PA 328, MCL 750.410 AND 750.492A.

18 (F) SECTION 13 OF THE FREEDOM OF INFORMATION ACT, 1976 PA
19 442, MCL 15.243.

20 (G) SECTION 34 OF THE THIRD PARTY ADMINISTRATOR ACT, 1984 PA
21 218, MCL 550.934.

22 SEC. 503. AS USED IN THIS CHAPTER:

23 (A) "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS CON-
24 TROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY.

25 (B) "ANNUAL NOTICE" MEANS THE PRIVACY NOTICE REQUIRED IN
26 SECTION 513.

1 (C) "CLEAR AND CONSPICUOUS" MEANS THAT A NOTICE IS
2 REASONABLY UNDERSTANDABLE AND DESIGNED TO CALL ATTENTION TO THE
3 NATURE AND SIGNIFICANCE OF THE INFORMATION IN THE NOTICE.

4 (D) "COLLECT" MEANS TO OBTAIN INFORMATION THAT THE LICENSEE
5 ORGANIZES OR CAN RETRIEVE BY THE NAME OF AN INDIVIDUAL OR BY
6 IDENTIFYING NUMBER, SYMBOL, OR OTHER IDENTIFYING PARTICULAR
7 ASSIGNED TO THE INDIVIDUAL, IRRESPECTIVE OF THE SOURCE OF THE
8 UNDERLYING INFORMATION.

9 (E) "COMPANY" MEANS ANY CORPORATION, LIMITED LIABILITY COM-
10 PANY, BUSINESS TRUST, GENERAL OR LIMITED PARTNERSHIP, ASSOCIA-
11 TION, SOLE PROPRIETORSHIP, OR SIMILAR ORGANIZATION.

12 (F) "CONSUMER" MEANS AN INDIVIDUAL, OR THE INDIVIDUAL'S
13 LEGAL REPRESENTATIVE, WHO SEEKS TO OBTAIN, OBTAINS, OR HAS
14 OBTAINED AN INSURANCE PRODUCT OR SERVICE FROM A LICENSEE THAT IS
15 TO BE USED PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD
16 PURPOSES. AS USED IN THIS CHAPTER:

17 (i) "CONSUMER" INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE
18 FOLLOWING:

19 (A) AN INDIVIDUAL WHO PROVIDES NONPUBLIC PERSONAL INFORMA-
20 TION TO A LICENSEE IN CONNECTION WITH OBTAINING OR SEEKING TO
21 OBTAIN FINANCIAL, INVESTMENT, OR ECONOMIC ADVISORY SERVICES
22 RELATING TO AN INSURANCE PRODUCT OR SERVICE. AN INDIVIDUAL IS A
23 CONSUMER UNDER THIS SUBPARAGRAPH REGARDLESS OF WHETHER THE
24 LICENSEE ESTABLISHES AN ONGOING ADVISORY RELATIONSHIP.

25 (B) AN APPLICANT FOR INSURANCE PRIOR TO THE INCEPTION OF
26 INSURANCE COVERAGE.

1 (C) A BENEFICIARY OF A LIFE INSURANCE POLICY UNDERWRITTEN BY
2 THE LICENSEE.

3 (D) A CLAIMANT UNDER AN INSURANCE POLICY ISSUED BY THE
4 LICENSEE.

5 (E) AN INSURED UNDER AN INSURANCE POLICY OR AN ANNUITANT
6 UNDER AN ANNUITY ISSUED BY THE LICENSEE.

7 (F) A MORTGAGOR OF A MORTGAGE COVERED UNDER A MORTGAGE
8 INSURANCE POLICY.

9 (G) AN INDIVIDUAL ABOUT WHICH THE LICENSEE DISCLOSES NONPUB-
10 LIC PERSONAL FINANCIAL INFORMATION TO A NONAFFILIATED THIRD PARTY
11 OTHER THAN AS PERMITTED UNDER SECTIONS 535, 537, AND 539.

12 (ii) UNLESS OTHERWISE SPECIFICALLY PROVIDED, "CONSUMER" DOES
13 NOT INCLUDE AN INDIVIDUAL SOLELY BECAUSE HE OR SHE MEETS 1 OF THE
14 FOLLOWING:

15 (A) IS A PARTICIPANT OR A BENEFICIARY OF AN EMPLOYEE BENEFIT
16 PLAN THAT THE LICENSEE ADMINISTERS OR SPONSORS OR FOR WHICH THE
17 LICENSEE ACTS AS A TRUSTEE, INSURER, OR FIDUCIARY.

18 (B) IS COVERED UNDER A GROUP OR BLANKET INSURANCE POLICY OR
19 GROUP ANNUITY CONTRACT ISSUED BY THE LICENSEE.

20 (C) IS A BENEFICIARY IN A WORKER'S COMPENSATION PLAN.

21 (D) IS A BENEFICIARY OF A TRUST FOR WHICH THE LICENSEE IS A
22 TRUSTEE.

23 (E) HAS DESIGNATED THE LICENSEE AS TRUSTEE FOR A TRUST.

24 (G) "CONSUMER REPORTING AGENCY" HAS THE SAME MEANING AS IN
25 SECTION 603(f) OF THE FEDERAL FAIR CREDIT REPORTING ACT, TITLE VI
26 OF THE CONSUMER CREDIT ACT, PUBLIC LAW 90-321, 15 U.S.C. 1681a.

1 (H) "CONTROL", FOR THE PURPOSE OF THIS CHAPTER ONLY, MEANS 1
2 OR MORE OF THE FOLLOWING:

3 (i) OWNERSHIP, CONTROL, OR POWER TO VOTE 25% OR MORE OF THE
4 OUTSTANDING SHARES OF ANY CLASS OF VOTING SECURITY OF THE COM-
5 PANY, DIRECTLY OR INDIRECTLY, OR ACTING THROUGH 1 OR MORE OTHER
6 PERSONS.

7 (ii) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY
8 OF THE DIRECTORS, TRUSTEES, OR GENERAL PARTNERS OR INDIVIDUALS
9 EXERCISING SIMILAR FUNCTIONS OF THE COMPANY.

10 (iii) THE POWER TO EXERCISE, DIRECTLY OR INDIRECTLY, A CON-
11 TROLLING INFLUENCE OVER THE MANAGEMENT OR POLICIES OF THE COM-
12 PANY, AS THE COMMISSIONER DETERMINES.

13 (I) "CUSTOMER" MEANS A CONSUMER WHO HAS A CUSTOMER RELATION-
14 SHIP WITH A LICENSEE. CUSTOMER DOES NOT INCLUDE A THIRD PARTY
15 CONSUMER SOLELY BY VIRTUE OF HIS OR HER STATUS AS A THIRD PARTY
16 CONSUMER.

17 (J) "CUSTOMER RELATIONSHIP" MEANS A CONTINUING RELATIONSHIP
18 BETWEEN A CONSUMER AND A LICENSEE UNDER WHICH THE LICENSEE PRO-
19 VIDES 1 OR MORE INSURANCE PRODUCTS OR SERVICES TO THE CONSUMER
20 THAT ARE TO BE USED PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD
21 PURPOSES.

22 (K) "INITIAL NOTICE" MEANS THE PRIVACY NOTICE REQUIRED IN
23 SECTION 507.

24 (L) "INSURANCE PRODUCT OR SERVICE" MEANS ANY PRODUCT OR
25 SERVICE THAT IS OFFERED BY A LICENSEE PURSUANT TO THE INSURANCE
26 LAWS OF THIS STATE. INSURANCE SERVICE INCLUDES A LICENSEE'S
27 EVALUATION, BROKERAGE, OR DISTRIBUTION OF INFORMATION THAT THE

1 LICENSEE COLLECTS IN CONNECTION WITH A REQUEST OR AN APPLICATION
2 FROM A CONSUMER FOR AN INSURANCE PRODUCT OR SERVICE.

3 (M) "LICENSEE" MEANS A LICENSED INSURER OR PRODUCER, AND
4 OTHER PERSONS LICENSED OR REQUIRED TO BE LICENSED, AUTHORIZED OR
5 REQUIRED TO BE AUTHORIZED, REGISTERED OR REQUIRED TO BE REGIS-
6 TERED, OR HOLDING OR REQUIRED TO HOLD A CERTIFICATE OF AUTHORITY
7 UNDER THIS ACT. LICENSEE INCLUDES A NONPROFIT HEALTH CARE CORPO-
8 RATION OPERATING PURSUANT TO THE NONPROFIT HEALTH CARE CORPORA-
9 TION REFORM ACT, 1980 PA 350, MCL 550.1101 TO 550.1704. LICENSEE
10 INCLUDES AN UNAUTHORIZED INSURER WHO PLACES BUSINESS THROUGH A
11 LICENSED SURPLUS LINE AGENT OR BROKER IN THIS STATE, BUT ONLY FOR
12 THE SURPLUS LINE PLACEMENTS PLACED UNDER CHAPTER 19.

13 (N) "NONAFFILIATED THIRD PARTY" MEANS ANY PERSON EXCEPT A
14 LICENSEE'S AFFILIATE OR A PERSON EMPLOYED JOINTLY BY A LICENSEE
15 AND ANY COMPANY THAT IS NOT THE LICENSEE'S AFFILIATE.
16 NONAFFILIATED THIRD PARTY INCLUDES THE OTHER COMPANY THAT JOINTLY
17 EMPLOYS A PERSON WITH A LICENSEE. NONAFFILIATED THIRD PARTY ALSO
18 INCLUDES ANY COMPANY THAT IS AN AFFILIATE SOLELY BY VIRTUE OF THE
19 DIRECT OR INDIRECT OWNERSHIP OR CONTROL OF THE COMPANY BY THE
20 LICENSEE OR ITS AFFILIATE IN CONDUCTING MERCHANT BANKING OR
21 INVESTMENT BANKING ACTIVITIES OF THE TYPE DESCRIBED IN SECTION
22 4(k)(4)(H) OF THE BANK HOLDING COMPANY ACT OF 1956, CHAPTER 240,
23 70 STAT. 135, 12 U.S.C. 1843, OR INSURANCE COMPANY INVESTMENT
24 ACTIVITIES OF THE TYPE DESCRIBED IN SECTION 4(k)(4)(I) OF THE
25 BANK HOLDING COMPANY ACT OF 1956, CHAPTER 240, 70 STAT. 135, 12
26 U.S.C. 1843.

1 (O) "NONPUBLIC PERSONAL FINANCIAL INFORMATION" MEANS
2 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION AND ANY LIST,
3 DESCRIPTION, OR OTHER GROUPING OF CONSUMERS AND PUBLICLY AVAIL-
4 ABLE INFORMATION PERTAINING TO THEM THAT IS DERIVED USING ANY
5 PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION THAT IS NOT PUB-
6 LICLY AVAILABLE. NONPUBLIC PERSONAL FINANCIAL INFORMATION DOES
7 NOT INCLUDE ANY OF THE FOLLOWING:

8 (i) HEALTH INFORMATION.

9 (ii) PUBLICLY AVAILABLE INFORMATION.

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

14 (P) "OPT OUT" MEANS A DIRECTION BY THE CONSUMER THAT THE
15 LICENSEE NOT DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION
16 ABOUT THAT CONSUMER TO A NONAFFILIATED THIRD PARTY, OTHER THAN AS
17 PERMITTED BY SECTIONS 535, 537, AND 539.

18 (Q) "PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION" MEANS
19 ANY OF THE FOLLOWING:

20 (i) INFORMATION A CONSUMER PROVIDES TO A LICENSEE TO OBTAIN
21 AN INSURANCE PRODUCT OR SERVICE FROM THE LICENSEE.

22 (ii) INFORMATION ABOUT A CONSUMER RESULTING FROM ANY TRANS-
23 ACTION INVOLVING AN INSURANCE PRODUCT OR SERVICE BETWEEN A
24 LICENSEE AND A CONSUMER.

25 (iii) INFORMATION THE LICENSEE OTHERWISE OBTAINS ABOUT A
26 CONSUMER IN CONNECTION WITH PROVIDING AN INSURANCE PRODUCT OR
27 SERVICE TO THAT CONSUMER.

1 (R) "PRODUCER" MEANS A PERSON REQUIRED TO BE LICENSED UNDER
2 THIS ACT TO SELL, SOLICIT, OR NEGOTIATE INSURANCE.

3 (S) "PUBLICLY AVAILABLE INFORMATION" MEANS ANY INFORMATION
4 THAT A LICENSEE HAS A REASONABLE BASIS TO BELIEVE IS LAWFULLY
5 MADE AVAILABLE TO THE GENERAL PUBLIC FROM FEDERAL, STATE, OR
6 LOCAL GOVERNMENT RECORDS BY WIDE DISTRIBUTION BY THE MEDIA OR BY
7 DISCLOSURES TO THE GENERAL PUBLIC THAT ARE REQUIRED TO BE MADE BY
8 FEDERAL, STATE, OR LOCAL LAW. A LICENSEE HAS A REASONABLE BASIS
9 TO BELIEVE THAT INFORMATION IS LAWFULLY MADE AVAILABLE TO THE
10 GENERAL PUBLIC IF BOTH OF THE FOLLOWING APPLY:

11 (i) THE LICENSEE HAS TAKEN STEPS TO DETERMINE THAT THE
12 INFORMATION IS OF THE TYPE THAT IS AVAILABLE TO THE GENERAL
13 PUBLIC.

14 (ii) IF AN INDIVIDUAL CAN DIRECT THAT THE INFORMATION NOT BE
15 MADE AVAILABLE TO THE GENERAL PUBLIC, THAT THE LICENSEE'S CON-
16 SUMER HAS NOT DIRECTED THAT THE INFORMATION NOT BE MADE AVAILABLE
17 TO THE GENERAL PUBLIC.

18 (T) "REVISED NOTICE" MEANS THE PRIVACY NOTICE REQUIRED IN
19 SECTION 525.

20 SEC. 505. (1) A LICENSEE THAT IS A PRODUCER IS SUBJECT TO
21 ALL THE REQUIREMENTS OF THIS CHAPTER, EXCEPT AS FOLLOWS:

22 (A) IF THE PRODUCER IS EMPLOYED BY A LICENSEE AS A COMMON
23 LAW EMPLOYEE OR A STATUTORY EMPLOYEE AS DEFINED UNDER SECTION
24 3121 OF THE FEDERAL INSURANCE CONTRIBUTIONS ACT, SUBCHAPTER C OF
25 CHAPTER 21 OF SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986, 26
26 U.S.C. 3121.

1 (B) IF THE PRODUCER DISCLOSES NONPUBLIC PERSONAL FINANCIAL
2 INFORMATION ON BEHALF OF OR AT THE DIRECTION OF A LICENSEE.

3 (2) A LICENSEE IS NOT REQUIRED TO PROVIDE THE NOTICE AND OPT
4 OUT REQUIREMENTS FOR NONPUBLIC PERSONAL FINANCIAL INFORMATION
5 UNDER THIS CHAPTER IF THE LICENSEE IS AN EMPLOYEE, AGENT, OR
6 OTHER REPRESENTATIVE OF A PRINCIPAL AND ALL OF THE FOLLOWING ARE
7 MET:

8 (A) THE PRINCIPAL IS ANOTHER LICENSEE.

9 (B) THE PRINCIPAL OTHERWISE COMPLIES WITH AND PROVIDES THE
10 NOTICES REQUIRED BY THIS CHAPTER.

11 (C) THE LICENSEE DOES NOT DISCLOSE ANY NONPUBLIC PERSONAL
12 INFORMATION TO ANY PERSON OTHER THAN THE PRINCIPAL OR ITS AFFILI-
13 ATES AS PROVIDED IN THIS CHAPTER.

14 (3) A SURPLUS LINES BROKER OR SURPLUS LINES INSURER IS CON-
15 SIDERED TO BE IN COMPLIANCE WITH THE NOTICE AND OPT OUT REQUIRE-
16 MENTS FOR NONPUBLIC PERSONAL FINANCIAL INFORMATION UNDER THIS
17 CHAPTER IF ALL OF THE FOLLOWING ARE MET:

18 (A) THE BROKER OR INSURER DOES NOT DISCLOSE NONPUBLIC PER-
19 SONAL INFORMATION OF A CONSUMER OR A CUSTOMER TO NONAFFILIATED
20 THIRD PARTIES FOR ANY PURPOSE, INCLUDING JOINT SERVICING OR MAR-
21 KETING UNDER SECTION 535, EXCEPT AS PERMITTED BY SECTION 537 OR
22 539.

23 (B) THE BROKER OR INSURER DELIVERS A NOTICE TO THE CONSUMER
24 AT THE TIME A CUSTOMER RELATIONSHIP IS ESTABLISHED ON WHICH THE
25 FOLLOWING IS PRINTED IN 16-POINT TYPE:

PRIVACY NOTICE

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"NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW."

SEC. 507. (1) BEGINNING JULY 1, 2001, A LICENSEE SHALL PROVIDE A CLEAR AND CONSPICUOUS NOTICE THAT ACCURATELY REFLECTS ITS PRIVACY POLICIES AND PRACTICES TO ALL OF THE FOLLOWING:

(A) AN INDIVIDUAL WHO ON OR AFTER JULY 1, 2001 BECOMES THE LICENSEE'S CUSTOMER, NOT LATER THAN WHEN THE LICENSEE ESTABLISHES A CUSTOMER RELATIONSHIP, EXCEPT AS PROVIDED IN SECTION 511.

(B) AN INDIVIDUAL WHO WAS THE LICENSEE'S CUSTOMER BEFORE JULY 1, 2001, AT THE NEXT REGULARLY SCHEDULED CONTACT WITH THAT CUSTOMER BUT NOT LATER THAN JULY 1, 2002, SO LONG AS THE LICENSEE DOES NOT DISCLOSE ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION, WHICH DISCLOSURE THE CUSTOMER MAY OPT OUT OF UNDER THIS CHAPTER.

(C) A CONSUMER, BEFORE THE LICENSEE DISCLOSES ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT THE CONSUMER TO ANY NONAFFILIATED THIRD PARTY, IF THE LICENSEE MAKES SUCH A DISCLOSURE OTHER THAN AS AUTHORIZED BY SECTIONS 537 AND 539.

(2) A LICENSEE IS NOT REQUIRED TO PROVIDE AN INITIAL NOTICE TO A CONSUMER UNDER SUBSECTION (1) IF THE LICENSEE MEETS ANY OF THE FOLLOWING:

(A) THE LICENSEE DOES NOT DISCLOSE ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT THAT CONSUMER TO ANY NONAFFILIATED THIRD PARTY, OTHER THAN AS AUTHORIZED BY SECTIONS 537 AND 539,

1 AND THE LICENSEE DOES NOT HAVE A CUSTOMER RELATIONSHIP WITH THE
2 CONSUMER.

3 (B) A NOTICE HAS BEEN PROVIDED TO THAT CONSUMER BY AN AFFIL-
4 IATED LICENSEE, AS LONG AS THE NOTICE CLEARLY IDENTIFIES ALL
5 LICENSEES TO WHOM THE NOTICE APPLIES AND IS ACCURATE WITH RESPECT
6 TO THE LICENSEE AND THE OTHER INSTITUTIONS.

7 SEC. 509. (1) A LICENSEE ESTABLISHES A CUSTOMER RELATION-
8 SHIP AT THE TIME THE LICENSEE AND THE CONSUMER ENTER INTO A CON-
9 TINUING RELATIONSHIP. A CONTINUING RELATIONSHIP INCLUDES, BUT IS
10 NOT LIMITED TO, ALL OF THE FOLLOWING:

11 (A) FOR AN INSURER, WHEN THE CONSUMER RECEIVES THE DELIVERY
12 OF AN INSURANCE POLICY OR CONTRACT.

13 (B) FOR A PRODUCER, WHEN THE CONSUMER OBTAINS INSURANCE
14 THROUGH THAT LICENSEE.

15 (C) WHEN THE CONSUMER AGREES TO OBTAIN FINANCIAL, ECONOMIC,
16 OR INVESTMENT ADVISORY SERVICES RELATING TO INSURANCE PRODUCTS OR
17 SERVICES FOR A FEE FROM THE LICENSEE.

18 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, WHEN AN
19 EXISTING CUSTOMER OBTAINS A NEW INSURANCE PRODUCT OR SERVICE FROM
20 A LICENSEE THAT IS TO BE USED PRIMARILY FOR PERSONAL, FAMILY, OR
21 HOUSEHOLD PURPOSES, THE LICENSEE SHALL PROVIDE A REVISED PRIVACY
22 NOTICE THAT MEETS THE REQUIREMENTS OF SECTION 525 AND THAT COVERS
23 THE CUSTOMER'S NEW INSURANCE PRODUCT OR SERVICE. IF THE INITIAL,
24 REVISED, OR ANNUAL NOTICE THAT THE LICENSEE MOST RECENTLY PRO-
25 VIDED TO THAT CUSTOMER UNDER THIS CHAPTER IS ACCURATE WITH
26 RESPECT TO THE NEW INSURANCE PRODUCT OR SERVICE, THE LICENSEE

1 DOES NOT NEED TO PROVIDE A NEW PRIVACY NOTICE UNDER THIS
2 SUBSECTION.

3 SEC. 511. (1) A LICENSEE MAY PROVIDE THE INITIAL NOTICE
4 WITHIN A REASONABLE TIME AFTER THE LICENSEE ESTABLISHES A CUS-
5 TOMER RELATIONSHIP IF ESTABLISHING THE CUSTOMER RELATIONSHIP IS
6 NOT AT THE CUSTOMER'S ELECTION OR PROVIDING NOTICE NOT LATER THAN
7 WHEN THE LICENSEE ESTABLISHES A CUSTOMER RELATIONSHIP WOULD SUB-
8 STANTIALY DELAY THE CUSTOMER'S TRANSACTION AND THE CUSTOMER
9 AGREES TO RECEIVE THE NOTICE AT A LATER TIME.

10 (2) WHEN A LICENSEE IS REQUIRED TO DELIVER AN INITIAL NOTICE
11 UNDER THIS SECTION, THE LICENSEE SHALL DELIVER IT ACCORDING TO
12 SECTION 527. IF THE LICENSEE USES A SHORT-FORM INITIAL NOTICE
13 FOR NONCUSTOMERS ACCORDING TO SECTION 517, THE LICENSEE MAY
14 DELIVER ITS PRIVACY NOTICE ACCORDING TO SECTION 517(3).

15 SEC. 513. (1) A LICENSEE SHALL PROVIDE A CLEAR AND CONSPIC-
16 UOUS NOTICE TO CUSTOMERS THAT ACCURATELY REFLECTS ITS PRIVACY
17 POLICIES AND PRACTICES NOT LESS THAN ANNUALLY DURING THE CONTINU-
18 ATION OF THE CUSTOMER RELATIONSHIP. AS USED IN THIS SECTION,
19 "ANNUALLY" MEANS AT LEAST ONCE IN ANY PERIOD OF 12 CONSECUTIVE
20 MONTHS DURING WHICH THAT CUSTOMER RELATIONSHIP EXISTS. A
21 LICENSEE MAY DEFINE THE 12-CONSECUTIVE-MONTH PERIOD, BUT THE
22 LICENSEE SHALL APPLY IT TO THE CUSTOMER ON A CONSISTENT BASIS.

23 (2) A LICENSEE IS NOT REQUIRED TO PROVIDE AN ANNUAL NOTICE
24 UNDER SUBSECTION (1) TO A FORMER CUSTOMER.

25 SEC. 515. (1) THE INITIAL, ANNUAL, AND REVISED NOTICES
26 SHALL INCLUDE EACH OF THE FOLLOWING ITEMS OF INFORMATION, IN
27 ADDITION TO ANY OTHER INFORMATION THE LICENSEE WISHES TO PROVIDE,

1 THAT APPLY TO THE LICENSEE AND TO THE CONSUMERS TO WHOM THE
2 LICENSEE SENDS ITS PRIVACY NOTICE:

3 (A) THE CATEGORIES OF NONPUBLIC PERSONAL FINANCIAL INFORMA-
4 TION THAT THE LICENSEE COLLECTS.

5 (B) THE CATEGORIES OF NONPUBLIC PERSONAL FINANCIAL INFORMA-
6 TION THAT THE LICENSEE DISCLOSES.

7 (C) THE CATEGORIES OF AFFILIATES AND NONAFFILIATED THIRD
8 PARTIES TO WHOM THE LICENSEE DISCLOSES NONPUBLIC PERSONAL FINAN-
9 CIAL INFORMATION, OTHER THAN THOSE PARTIES TO WHOM THE LICENSEE
10 DISCLOSES INFORMATION UNDER SECTIONS 537 AND 539.

11 (D) THE CATEGORIES OF NONPUBLIC PERSONAL FINANCIAL INFORMA-
12 TION ABOUT THE LICENSEE'S FORMER CUSTOMERS THAT THE LICENSEE DIS-
13 CLOSURES AND THE CATEGORIES OF AFFILIATES AND NONAFFILIATED THIRD
14 PARTIES TO WHOM THE LICENSEE DISCLOSES NONPUBLIC PERSONAL FINAN-
15 CIAL INFORMATION ABOUT THE LICENSEE'S FORMER CUSTOMERS, OTHER
16 THAN THOSE PARTIES TO WHOM THE LICENSEE DISCLOSES INFORMATION
17 UNDER SECTIONS 537 AND 539.

18 (E) IF A LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
19 INFORMATION TO A NONAFFILIATED THIRD PARTY UNDER SECTION 535 AND
20 NO OTHER EXCEPTION IN SECTION 537 OR 539 APPLIES TO THAT DISCLO-
21 SURE, A SEPARATE DESCRIPTION OF THE CATEGORIES OF INFORMATION THE
22 LICENSEE DISCLOSES AND THE CATEGORIES OF THIRD PARTIES WITH WHOM
23 THE LICENSEE HAS CONTRACTED.

24 (F) AN EXPLANATION OF THE CONSUMER'S RIGHT UNDER SECTION 529
25 TO OPT OUT OF THE DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL
26 INFORMATION TO NONAFFILIATED THIRD PARTIES, INCLUDING THE METHOD
27 BY WHICH THE CONSUMER MAY EXERCISE THAT RIGHT AT THAT TIME.

1 (G) ANY DISCLOSURES THAT THE LICENSEE MAKES UNDER SECTION
2 603(d)(2)(A)(iii) OF THE FAIR CREDIT REPORTING ACT, TITLE VI OF
3 THE CONSUMER CREDIT PROTECTION ACT, PUBLIC LAW 90-321, 15
4 U.S.C. 1681a.

5 (H) THE LICENSEE'S POLICIES AND PRACTICES WITH RESPECT TO
6 PROTECTING THE CONFIDENTIALITY AND SECURITY OF NONPUBLIC PERSONAL
7 FINANCIAL INFORMATION.

8 (I) ANY DISCLOSURE THAT THE LICENSEE MAKES UNDER SUBSECTION
9 (2).

10 (2) IF A LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
11 INFORMATION AS AUTHORIZED UNDER SECTIONS 537 AND 539, THE
12 LICENSEE IS NOT REQUIRED TO LIST THOSE EXCEPTIONS IN THE INITIAL
13 OR ANNUAL NOTICES. WHEN DESCRIBING THE CATEGORIES OF PARTIES TO
14 WHOM DISCLOSURE IS MADE, THE LICENSEE IS REQUIRED TO STATE ONLY
15 THAT IT MAKES DISCLOSURES TO OTHER AFFILIATED OR NONAFFILIATED
16 THIRD PARTIES, AS APPLICABLE, AS PERMITTED BY LAW.

17 SEC. 517. (1) A LICENSEE MAY SATISFY THE INITIAL NOTICE
18 REQUIREMENTS IN SECTIONS 507 AND 519(3) FOR A CONSUMER WHO IS NOT
19 A CUSTOMER BY PROVIDING A SHORT-FORM INITIAL NOTICE AT THE SAME
20 TIME AS THE LICENSEE DELIVERS AN OPT OUT NOTICE AS REQUIRED IN
21 SECTION 519.

22 (2) A SHORT-FORM INITIAL NOTICE UNDER SUBSECTION (1) SHALL
23 BE CLEAR AND CONSPICUOUS, STATE THAT THE LICENSEE'S PRIVACY
24 NOTICE IS AVAILABLE UPON REQUEST, AND EXPLAIN A REASONABLE MEANS
25 BY WHICH THE CONSUMER MAY OBTAIN THAT NOTICE.

26 (3) THE LICENSEE SHALL DELIVER ITS SHORT-FORM INITIAL NOTICE
27 ACCORDING TO SECTION 527. THE LICENSEE IS NOT REQUIRED TO

1 DELIVER ITS PRIVACY NOTICE WITH ITS SHORT-FORM INITIAL NOTICE AND
2 MAY PROVIDE THE CONSUMER A REASONABLE MEANS TO OBTAIN ITS PRIVACY
3 NOTICE. IF A CONSUMER WHO RECEIVES THE LICENSEE'S SHORT-FORM
4 NOTICE REQUESTS THE LICENSEE'S PRIVACY NOTICE, THE LICENSEE SHALL
5 DELIVER ITS PRIVACY NOTICE ACCORDING TO SECTION 527.

6 (4) THE LICENSEE'S SHORT-FORM INITIAL NOTICE UNDER SUBSEC-
7 TION (1) MAY INCLUDE CATEGORIES OF NONPUBLIC PERSONAL FINANCIAL
8 INFORMATION THAT THE LICENSEE RESERVES THE RIGHT TO DISCLOSE IN
9 THE FUTURE BUT DOES NOT CURRENTLY DISCLOSE, AND CATEGORIES OF
10 AFFILIATES OR NONAFFILIATED THIRD PARTIES TO WHOM THE LICENSEE
11 RESERVES THE RIGHT IN THE FUTURE TO DISCLOSE BUT TO WHOM THE
12 LICENSEE DOES NOT CURRENTLY DISCLOSE, NONPUBLIC PERSONAL FINAN-
13 CIAL INFORMATION.

14 SEC. 519. (1) IF A LICENSEE IS REQUIRED TO PROVIDE AN OPT
15 OUT NOTICE UNDER SECTION 529, IT SHALL PROVIDE A CLEAR AND CON-
16 SPICUOUS NOTICE TO EACH OF ITS CONSUMERS THAT ACCURATELY EXPLAINS
17 THE RIGHT TO OPT OUT UNDER THAT SECTION. THE NOTICE SHALL STATE
18 ALL OF THE FOLLOWING:

19 (A) THAT THE LICENSEE DISCLOSES OR RESERVES THE RIGHT TO
20 DISCLOSE NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT ITS CON-
21 SUMER TO A NONAFFILIATED THIRD PARTY.

22 (B) THAT THE CONSUMER HAS THE RIGHT TO OPT OUT OF THAT
23 DISCLOSURE.

24 (C) A REASONABLE MEANS BY WHICH THE CONSUMER MAY EXERCISE
25 THE OPT OUT RIGHT.

1 (2) A LICENSEE MAY PROVIDE THE REQUIRED OPT OUT NOTICE
2 TOGETHER WITH OR ON THE SAME WRITTEN OR ELECTRONIC FORM AS THE
3 INITIAL NOTICE.

4 (3) IF A LICENSEE PROVIDES THE OPT OUT NOTICE LATER THAN
5 REQUIRED FOR THE INITIAL NOTICE, THE LICENSEE SHALL ALSO INCLUDE
6 A COPY OF THE INITIAL NOTICE WITH THE OPT OUT NOTICE IN WRITING
7 OR, IF THE CONSUMER AGREES, ELECTRONICALLY.

8 SEC. 521. (1) IF 2 OR MORE CONSUMERS JOINTLY OBTAIN AN
9 INSURANCE PRODUCT OR SERVICE FROM A LICENSEE, THE LICENSEE MAY
10 PROVIDE A SINGLE OPT OUT NOTICE. THE LICENSEE'S OPT OUT NOTICE
11 SHALL EXPLAIN HOW THE LICENSEE WILL TREAT AN OPT OUT DIRECTION BY
12 A JOINT CONSUMER AND MAY EITHER TREAT AN OPT OUT DIRECTION BY A
13 JOINT CONSUMER AS APPLYING TO ALL OF THE ASSOCIATED JOINT CONSUM-
14 ERS OR PERMIT EACH JOINT CONSUMER TO OPT OUT SEPARATELY.

15 (2) IF A LICENSEE PERMITS UNDER SUBSECTION (1) EACH JOINT
16 CONSUMER TO OPT OUT SEPARATELY, THE LICENSEE SHALL PERMIT 1 OF
17 THE JOINT CONSUMERS TO OPT OUT ON BEHALF OF ALL OF THE JOINT
18 CONSUMERS. A LICENSEE MAY NOT REQUIRE ALL JOINT CONSUMERS TO OPT
19 OUT BEFORE IT IMPLEMENTS ANY OPT OUT DIRECTION.

20 SEC. 523. (1) A LICENSEE SHALL COMPLY WITH A CONSUMER'S OPT
21 OUT DIRECTION AS SOON AS REASONABLY PRACTICABLE AFTER THE
22 LICENSEE RECEIVES IT.

23 (2) A CONSUMER MAY EXERCISE THE RIGHT TO OPT OUT AT ANY
24 TIME. A CONSUMER'S DIRECTION TO OPT OUT UNDER THIS SUBSECTION IS
25 EFFECTIVE UNTIL THE CONSUMER REVOKES IT IN WRITING OR, IF THE
26 CONSUMER AGREES, REVOKES IT ELECTRONICALLY.

1 (3) IF A CUSTOMER RELATIONSHIP TERMINATES, THE CUSTOMER'S
2 OPT OUT DIRECTION SHALL CONTINUE TO APPLY TO THE NONPUBLIC
3 PERSONAL FINANCIAL INFORMATION THAT THE LICENSEE COLLECTED DURING
4 OR RELATED TO THAT RELATIONSHIP. IF THE INDIVIDUAL SUBSEQUENTLY
5 ESTABLISHES A NEW CUSTOMER RELATIONSHIP WITH THE LICENSEE, THE
6 OPT OUT DIRECTION THAT APPLIED TO THE FORMER RELATIONSHIP DOES
7 NOT APPLY TO THE NEW RELATIONSHIP.

8 SEC. 525. EXCEPT AS OTHERWISE AUTHORIZED IN THIS CHAPTER, A
9 LICENSEE SHALL NOT, DIRECTLY OR THROUGH ANY AFFILIATE, DISCLOSE
10 ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT A CONSUMER TO
11 A NONAFFILIATED THIRD PARTY OTHER THAN AS DESCRIBED IN THE INI-
12 TIAL NOTICE UNLESS ALL OF THE FOLLOWING HAVE BEEN MET:

13 (A) THE LICENSEE HAS PROVIDED TO THE CONSUMER A CLEAR AND
14 CONSPICUOUS REVISED NOTICE THAT ACCURATELY DESCRIBES ITS POLICIES
15 AND PRACTICES.

16 (B) THE LICENSEE HAS PROVIDED TO THE CONSUMER A NEW OPT OUT
17 NOTICE.

18 (C) THE LICENSEE HAS GIVEN THE CONSUMER A REASONABLE OPPOR-
19 TUNITY, BEFORE THE LICENSEE DISCLOSES THE INFORMATION TO THE NON-
20 AFFILIATED THIRD PARTY, TO OPT OUT OF THE DISCLOSURE, AND THE
21 CONSUMER DOES NOT OPT OUT.

22 SEC. 527. (1) A LICENSEE SHALL PROVIDE ANY NOTICE REQUIRED
23 UNDER THIS CHAPTER SO THAT EACH CONSUMER CAN REASONABLY BE
24 EXPECTED TO RECEIVE ACTUAL NOTICE IN WRITING OR, IF THE CONSUMER
25 AGREES, ELECTRONICALLY. A LICENSEE MAY REASONABLY EXPECT THAT A
26 CONSUMER WILL RECEIVE ACTUAL NOTICE IF THE LICENSEE DOES ANY OF
27 THE FOLLOWING:

1 (A) HAND DELIVERS A PRINTED COPY OF THE NOTICE TO THE
2 CONSUMER.

3 (B) MAILES A PRINTED COPY OF THE NOTICE TO THE LAST KNOWN
4 ADDRESS OF THE CONSUMER SEPARATELY, OR IN A POLICY, BILLING, OR
5 OTHER WRITTEN COMMUNICATION.

6 (C) FOR A CONSUMER WHO CONDUCTS TRANSACTIONS ELECTRONICALLY,
7 POSTS THE NOTICE ON THE ELECTRONIC SITE AND REQUIRES THE CONSUMER
8 TO ACKNOWLEDGE RECEIPT OF THE NOTICE AS A NECESSARY STEP TO
9 OBTAINING A PARTICULAR INSURANCE PRODUCT OR SERVICE.

10 (D) FOR AN ISOLATED TRANSACTION WITH A CONSUMER, SUCH AS THE
11 LICENSEE PROVIDING AN INSURANCE QUOTE OR SELLING THE CONSUMER
12 TRAVEL INSURANCE, POSTS THE NOTICE AND REQUIRES THE CONSUMER TO
13 ACKNOWLEDGE RECEIPT OF THE NOTICE AS A NECESSARY STEP TO OBTAIN-
14 ING THE PARTICULAR INSURANCE PRODUCT OR SERVICE.

15 (2) THE FOLLOWING DO NOT PROVIDE A REASONABLE EXPECTATION
16 THAT A CONSUMER WILL RECEIVE ACTUAL NOTICE OF A LICENSEE'S PRI-
17 VACY POLICIES AND PRACTICES UNDER SUBSECTION (1):

18 (A) THE LICENSEE ONLY POSTS A SIGN IN ITS OFFICE OR GENER-
19 ALLY PUBLISHES ADVERTISEMENTS OF ITS PRIVACY POLICIES AND
20 PRACTICES.

21 (B) THE LICENSEE SENDS THE NOTICE VIA ELECTRONIC MAIL TO A
22 CONSUMER WHO DOES NOT OBTAIN AN INSURANCE PRODUCT OR SERVICE FROM
23 THE LICENSEE ELECTRONICALLY.

24 (3) A LICENSEE MAY REASONABLY EXPECT THAT A CUSTOMER WILL
25 RECEIVE ACTUAL NOTICE OF THE LICENSEE'S ANNUAL NOTICE IN EITHER
26 OF THE FOLLOWING CASES:

1 (A) THE CUSTOMER USES THE LICENSEE'S WEBSITE TO ACCESS
2 INSURANCE PRODUCTS AND SERVICES ELECTRONICALLY AND AGREES TO
3 RECEIVE NOTICES AT THE WEBSITE AND THE LICENSEE POSTS ITS CURRENT
4 PRIVACY NOTICE CONTINUOUSLY IN A CLEAR AND CONSPICUOUS MANNER ON
5 THE WEBSITE.

6 (B) THE CUSTOMER HAS REQUESTED THAT THE LICENSEE REFRAIN
7 FROM SENDING ANY INFORMATION REGARDING THE CUSTOMER RELATIONSHIP,
8 AND THE LICENSEE'S CURRENT PRIVACY NOTICE REMAINS AVAILABLE TO
9 THE CUSTOMER UPON REQUEST.

10 (4) A LICENSEE SHALL NOT PROVIDE ANY NOTICE REQUIRED BY THIS
11 CHAPTER SOLELY BY ORALLY EXPLAINING THE NOTICE, EITHER IN PERSON
12 OR OVER THE TELEPHONE.

13 (5) FOR CUSTOMERS ONLY, A LICENSEE SHALL PROVIDE THE INITIAL
14 ANNUAL AND REVISED NOTICES SO THAT THE CUSTOMER CAN RETAIN THEM
15 OR OBTAIN THEM LATER IN WRITING OR, IF THE CUSTOMER AGREES,
16 ELECTRONICALLY. A LICENSEE PROVIDES AN INITIAL, ANNUAL, OR
17 REVISED NOTICE TO THE CUSTOMER SO THAT THE CUSTOMER CAN RETAIN IT
18 OR OBTAIN IT LATER IF THE LICENSEE DOES ANY OF THE FOLLOWING:

19 (A) HAND DELIVERS A PRINTED COPY OF THE NOTICE TO THE
20 CUSTOMER.

21 (B) MAILES A PRINTED COPY OF THE NOTICE TO THE LAST KNOWN
22 ADDRESS OF THE CUSTOMER.

23 (C) MAKES THE CURRENT INITIAL, ANNUAL, OR REVISED NOTICE
24 AVAILABLE ON A WEBSITE OR A LINK TO ANOTHER WEBSITE FOR THE CUS-
25 TOMER WHO OBTAINS AN INSURANCE PRODUCT OR SERVICE ELECTRONICALLY
26 AND AGREES TO RECEIVE THE NOTICE AT THE WEBSITE.

1 (6) A LICENSEE MAY PROVIDE A JOINT NOTICE FROM THE LICENSEE
2 AND 1 OR MORE OF ITS AFFILIATES OR OTHER FINANCIAL INSTITUTIONS,
3 AS IDENTIFIED IN THE NOTICE, IF THE NOTICE IS ACCURATE WITH
4 RESPECT TO THE LICENSEE AND THE OTHER INSTITUTIONS. A LICENSEE
5 MAY ALSO PROVIDE A NOTICE ON BEHALF OF ANOTHER FINANCIAL INSTITU-
6 TION, AS IDENTIFIED IN THE NOTICE, IF THE NOTICE IS ACCURATE WITH
7 RESPECT TO THE LICENSEE AND THE OTHER INSTITUTION.

8 (7) IF 2 OR MORE CONSUMERS JOINTLY OBTAIN AN INSURANCE PRO-
9 DUCT OR SERVICE FROM A LICENSEE, THE LICENSEE MAY SATISFY THE
10 INITIAL, ANNUAL, AND REVISED NOTICE REQUIREMENTS BY PROVIDING 1
11 NOTICE TO THOSE CONSUMERS JOINTLY.

12 SEC. 529. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER,
13 A LICENSEE SHALL NOT, DIRECTLY OR THROUGH ANY AFFILIATE, DISCLOSE
14 ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT A CONSUMER TO
15 A NONAFFILIATED THIRD PARTY UNLESS ALL OF THE FOLLOWING ARE MET:

16 (A) THE LICENSEE HAS PROVIDED TO THE CONSUMER AN INITIAL
17 NOTICE.

18 (B) THE LICENSEE HAS PROVIDED TO THE CONSUMER AN OPT OUT
19 NOTICE AS REQUIRED IN SECTION 519.

20 (C) THE LICENSEE HAS GIVEN THE CONSUMER A REASONABLE OPPOR-
21 TUNITY, BEFORE IT DISCLOSES THE INFORMATION TO THE NONAFFILIATED
22 THIRD PARTY, TO OPT OUT OF THE DISCLOSURE AND THE CONSUMER DOES
23 NOT OPT OUT.

24 (2) A LICENSEE PROVIDES A CONSUMER WITH A REASONABLE OPPOR-
25 TUNITY TO OPT OUT UNDER SUBSECTION (1) IN ANY OF THE FOLLOWING
26 WAYS:

1 (A) IF THE LICENSEE MAILS THE NOTICES REQUIRED IN SUBSECTION
2 (1) TO THE CONSUMER AND ALLOWS THE CONSUMER TO OPT OUT BY MAILING
3 A FORM, CALLING A TOLL-FREE TELEPHONE NUMBER, OR ANY OTHER REA-
4 SONABLE MEANS WITHIN 45 DAYS FROM THE DATE THE LICENSEE MAILED
5 THE NOTICES.

6 (B) A CUSTOMER OPENS AN ON-LINE ACCOUNT WITH A LICENSEE AND
7 AGREES TO RECEIVE THE NOTICES REQUIRED IN SUBSECTION (1) ELEC-
8 TRONICALLY, AND THE LICENSEE ALLOWS THE CUSTOMER TO OPT OUT BY
9 ANY REASONABLE MEANS WITHIN 45 DAYS AFTER THE DATE THAT THE CUS-
10 TOMER ACKNOWLEDGES RECEIPT OF THE NOTICES IN CONJUNCTION WITH
11 OPENING THE ACCOUNT.

12 (C) FOR AN ISOLATED TRANSACTION SUCH AS PROVIDING THE CON-
13 SUMER WITH AN INSURANCE QUOTE, IF THE LICENSEE PROVIDES THE
14 NOTICES REQUIRED IN SUBSECTION (1) AT THE TIME OF THE TRANSACTION
15 AND REQUESTS THAT THE CONSUMER DECIDE, AS A NECESSARY PART OF THE
16 TRANSACTION, WHETHER TO OPT OUT BEFORE COMPLETING THE
17 TRANSACTION.

18 (3) THIS SECTION APPLIES TO A LICENSEE WHETHER OR NOT THE
19 LICENSEE AND THE CONSUMER HAVE ESTABLISHED A CUSTOMER
20 RELATIONSHIP.

21 (4) UNLESS A LICENSEE COMPLIES WITH THIS SECTION, THE
22 LICENSEE SHALL NOT, DIRECTLY OR THROUGH ANY AFFILIATE, DISCLOSE
23 ANY NONPUBLIC PERSONAL FINANCIAL INFORMATION ABOUT A CONSUMER
24 THAT THE LICENSEE HAS COLLECTED, REGARDLESS OF WHETHER THE
25 LICENSEE COLLECTED IT BEFORE OR AFTER RECEIVING THE DIRECTION TO
26 OPT OUT FROM THE CONSUMER.

1 (5) A LICENSEE MAY ALLOW A CONSUMER TO SELECT CERTAIN
2 NONPUBLIC PERSONAL FINANCIAL INFORMATION OR CERTAIN NONAFFILIATED
3 THIRD PARTIES WITH RESPECT TO WHICH THE CONSUMER WISHES TO OPT
4 OUT.

5 SEC. 531. (1) IF A LICENSEE RECEIVES NONPUBLIC PERSONAL
6 FINANCIAL INFORMATION FROM A NONAFFILIATED FINANCIAL INSTITUTION
7 UNDER AN EXCEPTION IN SECTION 537 OR 539, THE LICENSEE'S DISCLO-
8 SURE AND USE OF THAT INFORMATION IS LIMITED AS FOLLOWS:

9 (A) THE LICENSEE MAY DISCLOSE THE INFORMATION TO THE AFFILI-
10 ATES OF THE FINANCIAL INSTITUTION FROM WHICH THE LICENSEE
11 RECEIVED THE INFORMATION.

12 (B) THE LICENSEE MAY DISCLOSE THE INFORMATION TO ITS AFFILI-
13 ATES, BUT THE LICENSEE'S AFFILIATES MAY, IN TURN, DISCLOSE AND
14 USE THE INFORMATION ONLY TO THE EXTENT THAT THE LICENSEE MAY DIS-
15 CLOSE AND USE THE INFORMATION.

16 (C) THE LICENSEE MAY DISCLOSE AND USE THE INFORMATION PURSU-
17 ANT TO AN EXCEPTION IN SECTION 537 OR 539 IN THE ORDINARY COURSE
18 OF BUSINESS TO CARRY OUT THE ACTIVITY COVERED BY THE EXCEPTION
19 UNDER WHICH THE LICENSEE RECEIVED THE INFORMATION.

20 (2) IF A LICENSEE RECEIVES NONPUBLIC PERSONAL FINANCIAL
21 INFORMATION FROM A NONAFFILIATED FINANCIAL INSTITUTION OTHER THAN
22 UNDER AN EXCEPTION IN SECTION 537 OR 539, THE LICENSEE MAY DIS-
23 CLOSE THE INFORMATION ONLY AS FOLLOWS:

24 (A) TO THE AFFILIATES OF THE FINANCIAL INSTITUTION FROM
25 WHICH THE LICENSEE RECEIVED THE INFORMATION.

1 (B) TO ITS AFFILIATES, BUT ITS AFFILIATES MAY, IN TURN,
2 DISCLOSE THE INFORMATION ONLY TO THE EXTENT THAT THE LICENSEE MAY
3 DISCLOSE THE INFORMATION.

4 (C) TO ANY OTHER PERSON, IF THE DISCLOSURE WOULD BE LAWFUL
5 IF MADE DIRECTLY TO THAT PERSON BY THE FINANCIAL INSTITUTION FROM
6 WHICH THE LICENSEE RECEIVED THE INFORMATION.

7 (3) IF A LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
8 INFORMATION TO A NONAFFILIATED THIRD PARTY UNDER AN EXCEPTION IN
9 SECTION 537 OR 539, THE THIRD PARTY MAY DISCLOSE AND USE THAT
10 INFORMATION ONLY AS FOLLOWS:

11 (A) TO THE LICENSEE'S AFFILIATES.

12 (B) TO ITS AFFILIATES, BUT ITS AFFILIATES MAY, IN TURN, DIS-
13 CLOSE AND USE THE INFORMATION ONLY TO THE EXTENT THAT THE THIRD
14 PARTY MAY DISCLOSE AND USE THE INFORMATION.

15 (C) PURSUANT TO AN EXCEPTION IN SECTION 537 OR 539 IN THE
16 ORDINARY COURSE OF BUSINESS TO CARRY OUT THE ACTIVITY COVERED BY
17 THE EXCEPTION UNDER WHICH IT RECEIVED THE INFORMATION.

18 (4) IF A LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
19 INFORMATION TO A NONAFFILIATED THIRD PARTY OTHER THAN UNDER AN
20 EXCEPTION IN SECTION 537 OR 539, THE THIRD PARTY MAY DISCLOSE THE
21 INFORMATION ONLY AS FOLLOWS:

22 (A) TO THE LICENSEE'S AFFILIATES.

23 (B) TO THE THIRD PARTY'S AFFILIATES, BUT THE THIRD PARTY'S
24 AFFILIATES MAY, IN TURN, DISCLOSE THE INFORMATION ONLY TO THE
25 EXTENT THE THIRD PARTY CAN DISCLOSE THE INFORMATION.

26 (C) TO ANY OTHER PERSON, IF THE DISCLOSURE WOULD BE LAWFUL
27 IF THE LICENSEE MADE IT DIRECTLY TO THAT PERSON.

1 SEC. 533. (1) A LICENSEE SHALL NOT, DIRECTLY OR THROUGH AN
2 AFFILIATE, DISCLOSE, OTHER THAN TO A CONSUMER REPORTING AGENCY, A
3 POLICY OR ACCOUNT NUMBER OR OTHER ACCESS NUMBER OR ACCESS CODE
4 FOR A CONSUMER'S POLICY, CREDIT CARD ACCOUNT, DEPOSIT ACCOUNT, OR
5 TRANSACTION ACCOUNT TO ANY NONAFFILIATED THIRD PARTY FOR USE IN
6 TELEMARKETING, DIRECT MAIL MARKETING, OR OTHER MARKETING THROUGH
7 ELECTRONIC MAIL TO THE CONSUMER.

8 (2) SUBSECTION (1) DOES NOT APPLY IF A LICENSEE DISCLOSES A
9 POLICY OR ACCOUNT NUMBER OR OTHER ACCESS NUMBER OR ACCESS CODE AS
10 FOLLOWS:

11 (A) TO THE LICENSEE'S SERVICE PROVIDER SOLELY IN ORDER TO
12 PERFORM MARKETING FOR THE LICENSEE'S OWN PRODUCTS OR SERVICES, AS
13 LONG AS THE SERVICE PROVIDER IS NOT AUTHORIZED TO DIRECTLY INITI-
14 ATE CHARGES TO THE ACCOUNT.

15 (B) TO A LICENSEE WHO IS A PRODUCER SOLELY IN ORDER TO PER-
16 FORM MARKETING FOR THE LICENSEE'S OWN PRODUCTS OR SERVICES.

17 (C) TO A PARTICIPANT IN AN AFFINITY OR SIMILAR PROGRAM WHERE
18 THE PARTICIPANTS IN THE PROGRAM ARE IDENTIFIED TO THE CUSTOMER
19 WHEN THE CUSTOMER ENTERS INTO THE PROGRAM.

20 (3) SUBSECTIONS (1) AND (2) DO NOT APPLY IF THE POLICY OR
21 ACCOUNT NUMBER, OR OTHER ACCESS NUMBER OR ACCESS CODE, DOES NOT
22 INCLUDE A NUMBER OR CODE IN AN ENCRYPTED FORM, AS LONG AS THE
23 LICENSEE DOES NOT PROVIDE THE RECIPIENT WITH A MEANS TO DECODE
24 THE NUMBER OR CODE.

25 (4) AS USED IN THIS SECTION, "TRANSACTION ACCOUNT" MEANS AN
26 ACCOUNT OTHER THAN A DEPOSIT ACCOUNT OR A CREDIT CARD ACCOUNT. A

1 TRANSACTION ACCOUNT DOES NOT INCLUDE AN ACCOUNT TO WHICH THIRD
2 PARTIES CANNOT INITIATE CHARGES.

3 SEC. 535. (1) THE OPT OUT REQUIREMENTS IN SECTIONS 519 AND
4 529 DO NOT APPLY WHEN A LICENSEE PROVIDES NONPUBLIC PERSONAL
5 FINANCIAL INFORMATION TO A NONAFFILIATED THIRD PARTY TO PERFORM
6 SERVICES FOR THE LICENSEE OR FUNCTIONS ON THE LICENSEE'S BEHALF,
7 IF THE LICENSEE DOES BOTH OF THE FOLLOWING:

8 (A) PROVIDES THE INITIAL NOTICE.

9 (B) ENTERS INTO A CONTRACTUAL AGREEMENT WITH THE THIRD PARTY
10 THAT PROHIBITS THE THIRD PARTY FROM DISCLOSING OR USING THE
11 INFORMATION OTHER THAN TO CARRY OUT THE PURPOSES FOR WHICH THE
12 LICENSEE DISCLOSED THE INFORMATION, INCLUDING USE UNDER AN EXCEP-
13 TION IN SECTION 537 OR 539 IN THE ORDINARY COURSE OF BUSINESS TO
14 CARRY OUT THOSE PURPOSES.

15 (2) THE SERVICES A NONAFFILIATED THIRD PARTY PERFORMS FOR A
16 LICENSEE UNDER SUBSECTION (1) MAY INCLUDE MARKETING OF THE
17 LICENSEE'S OWN PRODUCTS OR SERVICES OR MARKETING OF INSURANCE
18 PRODUCTS OR SERVICES OFFERED PURSUANT TO JOINT AGREEMENTS BETWEEN
19 THE LICENSEE AND 1 OR MORE FINANCIAL INSTITUTIONS.

20 (3) AS USED IN THIS SECTION, "JOINT AGREEMENT" MEANS A WRIT-
21 TEN CONTRACT PURSUANT TO WHICH A LICENSEE AND 1 OR MORE FINANCIAL
22 INSTITUTIONS JOINTLY OFFER, ENDORSE, OR SPONSOR A FINANCIAL PRO-
23 DUCT OR SERVICE.

24 SEC. 537. (1) SECTIONS 507(1)(C), 519, 529, AND 535 DO NOT
25 APPLY IF THE LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
26 INFORMATION AS NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE A

1 TRANSACTION THAT A CONSUMER REQUESTS OR AUTHORIZES, OR IN
2 CONNECTION WITH ANY OF THE FOLLOWING:

3 (A) SERVICING OR PROCESSING AN INSURANCE PRODUCT OR SERVICE
4 THAT A CONSUMER REQUESTS OR AUTHORIZES.

5 (B) MAINTAINING OR SERVICING THE CONSUMER'S ACCOUNT WITH A
6 LICENSEE, OR WITH ANOTHER ENTITY AS PART OF A PRIVATE LABEL
7 CREDIT CARD PROGRAM OR OTHER EXTENSION OF CREDIT ON BEHALF OF
8 THAT ENTITY.

9 (C) A PROPOSED OR ACTUAL SECURITIZATION, SECONDARY MARKET
10 SALE INCLUDING SALES OF SERVICING RIGHTS, OR SIMILAR TRANSACTION
11 RELATED TO A TRANSACTION OF THE CONSUMER.

12 (D) REINSURANCE OR STOP LOSS OR EXCESS LOSS INSURANCE.

13 (2) AS USED IN SUBSECTION (1), "NECESSARY TO EFFECT, ADMIN-
14 ISTER, OR ENFORCE A TRANSACTION" MEANS THAT THE DISCLOSURE IS
15 EITHER OF THE FOLLOWING:

16 (A) REQUIRED OR IS 1 OF THE LAWFUL OR APPROPRIATE METHODS TO
17 ENFORCE THE LICENSEE'S RIGHTS OR THE RIGHTS OF OTHER PERSONS
18 ENGAGED IN CARRYING OUT THE FINANCIAL TRANSACTION OR PROVIDING
19 THE PRODUCT OR SERVICE.

20 (B) REQUIRED OR IS A USUAL, APPROPRIATE, OR ACCEPTABLE
21 METHOD FOR ANY OF THE FOLLOWING:

22 (i) TO CARRY OUT THE TRANSACTION OR THE PRODUCT OR SERVICE
23 BUSINESS OF WHICH THE TRANSACTION IS A PART, AND RECORD, SERVICE,
24 OR MAINTAIN THE CONSUMER'S ACCOUNT IN THE ORDINARY COURSE OF PRO-
25 VIDING THE INSURANCE PRODUCT OR SERVICE.

1 (ii) TO ADMINISTER OR SERVICE BENEFITS OR CLAIMS RELATING TO
2 THE TRANSACTION OR THE PRODUCT OR SERVICE BUSINESS OF WHICH IT IS
3 A PART.

4 (iii) TO PROVIDE A CONFIRMATION, STATEMENT, OR OTHER RECORD
5 OF THE TRANSACTION, OR INFORMATION ON THE STATUS OR VALUE OF THE
6 INSURANCE PRODUCT OR SERVICE TO THE CONSUMER OR THE CONSUMER'S
7 AGENT OR BROKER.

8 (iv) TO ACCRUE OR RECOGNIZE INCENTIVES OR BONUSES ASSOCIATED
9 WITH THE TRANSACTION THAT ARE PROVIDED BY A LICENSEE OR ANY OTHER
10 PARTY.

11 (v) TO UNDERWRITE INSURANCE AT THE CONSUMER'S REQUEST OR FOR
12 ANY OF THE FOLLOWING PURPOSES AS THEY RELATE TO A CONSUMER'S
13 INSURANCE: ACCOUNT ADMINISTRATION, REPORTING, INVESTIGATING, OR
14 PREVENTING FRAUD OR MATERIAL MISREPRESENTATION, PROCESSING PRE-
15 MIUM PAYMENTS, PROCESSING INSURANCE CLAIMS, ADMINISTERING INSUR-
16 ANCE BENEFITS INCLUDING UTILIZATION REVIEW ACTIVITIES, PARTICI-
17 PATING IN RESEARCH PROJECTS, OR AS OTHERWISE REQUIRED OR SPECIFI-
18 CALLY PERMITTED BY FEDERAL OR STATE LAW.

19 (vi) IN CONNECTION WITH ANY OF THE FOLLOWING:

20 (A) THE AUTHORIZATION, SETTLEMENT, BILLING, PROCESSING,
21 CLEARING, TRANSFERRING, RECONCILING, OR COLLECTION OF AMOUNTS
22 CHARGED, DEBITED, OR OTHERWISE PAID USING A DEBIT, CREDIT, OR
23 OTHER PAYMENT CARD, CHECK, OR ACCOUNT NUMBER, OR BY OTHER PAYMENT
24 MEANS.

25 (B) THE TRANSFER OF RECEIVABLES, ACCOUNTS, OR INTERESTS IN
26 RECEIVABLES OR ACCOUNTS.

1 (C) THE AUDIT OF DEBIT, CREDIT, OR OTHER PAYMENT
2 INFORMATION.

3 SEC. 539. SECTIONS 507(1)(C), 519, 529, AND 535 DO NOT
4 APPLY WHEN A LICENSEE DISCLOSES NONPUBLIC PERSONAL FINANCIAL
5 INFORMATION AS FOLLOWS:

6 (A) WITH THE CONSENT OR AT THE DIRECTION OF THE CONSUMER,
7 PROVIDED THAT THE CONSUMER HAS NOT REVOKED THE CONSENT OR
8 DIRECTION.

9 (B) TO PROTECT THE CONFIDENTIALITY OR SECURITY OF A
10 LICENSEE'S RECORDS PERTAINING TO THE CONSUMER, SERVICE, PRODUCT,
11 OR TRANSACTION.

12 (C) TO PROTECT AGAINST OR PREVENT ACTUAL OR POTENTIAL FRAUD
13 OR UNAUTHORIZED TRANSACTIONS.

14 (D) FOR REQUIRED INSTITUTIONAL RISK CONTROL OR FOR RESOLVING
15 CONSUMER DISPUTES OR INQUIRIES.

16 (E) TO PERSONS HOLDING A LEGAL OR BENEFICIAL INTEREST RELAT-
17 ING TO THE CONSUMER.

18 (F) TO PERSONS ACTING IN A FIDUCIARY OR REPRESENTATIVE
19 CAPACITY ON BEHALF OF THE CONSUMER.

20 (G) TO PROVIDE INFORMATION TO INSURANCE RATE ADVISORY ORGAN-
21 IZATIONS, GUARANTY FUNDS OR AGENCIES, AGENCIES THAT ARE RATING A
22 LICENSEE, PERSONS THAT ARE ASSESSING THE LICENSEE'S COMPLIANCE
23 WITH INDUSTRY STANDARDS, OR THE LICENSEE'S ATTORNEYS, ACCOUN-
24 TANTS, AND AUDITORS.

25 (H) TO THE EXTENT SPECIFICALLY PERMITTED OR REQUIRED UNDER
26 OTHER PROVISIONS OF LAW AND IN ACCORDANCE WITH THE RIGHT TO
27 PRIVACY ACT OF 1978, TITLE XI OF THE FINANCIAL INSTITUTIONS

1 REGULATORY AND INTEREST RATE CONTROL ACT OF 1978, PUBLIC LAW
2 95-630, 12 U.S.C. 3401 TO 3420 AND 3422, TO LAW ENFORCEMENT AGEN-
3 CIES INCLUDING THE FEDERAL RESERVE BOARD, OFFICE OF THE COMPTROL-
4 LER OF THE CURRENCY, FEDERAL DEPOSIT INSURANCE CORPORATION,
5 OFFICE OF THRIFT SUPERVISION, NATIONAL CREDIT UNION ADMINISTRA-
6 TION, THE SECURITIES AND EXCHANGE COMMISSION, THE SECRETARY OF
7 THE TREASURY, WITH RESPECT TO SUBCHAPTER II OF CHAPTER 53 OF SUB-
8 TITLE IV OF TITLE 31 OF THE UNITED STATES CODE, 31 U.S.C. 5311
9 AND 5330, AND SECTIONS 121 TO 129 OF CHAPTER 2 OF TITLE I OF
10 PUBLIC LAW 91-508, 12 U.S.C. 1951 TO 1959, THE FEDERAL TRADE COM-
11 MISSION, A STATE INSURANCE AUTHORITY, SELF-REGULATORY ORGANIZA-
12 TIONS, OR FOR AN INVESTIGATION ON A MATTER RELATED TO PUBLIC
13 SAFETY.

14 (I) TO A CONSUMER REPORTING AGENCY IN ACCORDANCE WITH THE
15 FAIR CREDIT REPORTING ACT, TITLE VI OF THE CONSUMER CREDIT PRO-
16 TECTION ACT, PUBLIC LAW 90-321, 15 U.S.C. 1681 TO 1681u.

17 (J) FROM A CONSUMER REPORT REPORTED BY A CONSUMER REPORTING
18 AGENCY.

19 (K) IN CONNECTION WITH A PROPOSED OR ACTUAL SALE, MERGER,
20 TRANSFER, OR EXCHANGE OF ALL OR A PORTION OF A BUSINESS OR OPER-
21 ATING UNIT OF THE LICENSEE IF THE DISCLOSURE OF NONPUBLIC PER-
22 SONAL FINANCIAL INFORMATION CONCERNS SOLELY CONSUMERS OF THAT
23 BUSINESS OR UNIT.

24 (l) TO COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS, RULES, AND
25 OTHER APPLICABLE LEGAL REQUIREMENTS.

1 (M) TO COMPLY WITH A PROPERLY AUTHORIZED CIVIL, CRIMINAL, OR
2 REGULATORY INVESTIGATION, SUBPOENA, OR SUMMONS BY A FEDERAL,
3 STATE, OR LOCAL AUTHORITY.

4 (N) TO RESPOND TO JUDICIAL PROCESS OR A GOVERNMENT REGULA-
5 TORY AUTHORITY HAVING JURISDICTION OVER A LICENSEE FOR EXAMINA-
6 TION, COMPLIANCE, OR OTHER PURPOSES AS AUTHORIZED BY LAW.

7 (O) FOR PURPOSES RELATED TO THE REPLACEMENT OF A GROUP BENE-
8 FIT PLAN, A GROUP HEALTH PLAN, A GROUP WELFARE PLAN, OR WORKER'S
9 COMPENSATION PLAN TO THE EXTENT NECESSARY TO EFFECTUATE THE
10 REPLACEMENT.

11 SEC. 541. NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO
12 MODIFY, LIMIT, OR SUPERSEDE THE OPERATION OF THE FAIR CREDIT
13 REPORTING ACT, TITLE VI OF THE CONSUMER CREDIT PROTECTION ACT,
14 PUBLIC LAW 90-321, 15 U.S.C. 1681 TO 1681u, AND NO INFERENCE
15 SHALL BE DRAWN ON THE BASIS OF THE PROVISIONS OF THIS CHAPTER
16 REGARDING WHETHER INFORMATION IS TRANSACTION OR EXPERIENCE INFOR-
17 MATION UNDER SECTION 603 OF THE FAIR CREDIT REPORTING ACT, TITLE
18 VI OF THE CONSUMER CREDIT PROTECTION ACT, PUBLIC LAW 90-321, 15
19 U.S.C. 1681a.

20 SEC. 543. A LICENSEE SHALL NOT DISCRIMINATE AGAINST ANY
21 CONSUMER BECAUSE THAT CONSUMER HAS OPTED OUT OR INTENDS TO OPT
22 OUT FROM THE DISCLOSURE OF HIS OR HER NONPUBLIC PERSONAL FINAN-
23 CIAL INFORMATION PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

24 SEC. 545. UNTIL JULY 1, 2002, A CONTRACT THAT A LICENSEE
25 HAS ENTERED INTO WITH A NONAFFILIATED THIRD PARTY TO PERFORM
26 SERVICES FOR THE LICENSEE OR FUNCTIONS ON THE LICENSEE'S BEHALF
27 SATISFIES THE PROVISIONS OF SECTION 535(1)(B), EVEN IF THE

1 CONTRACT DOES NOT INCLUDE A REQUIREMENT THAT THE THIRD PARTY
2 MAINTAIN THE CONFIDENTIALITY OF NONPUBLIC PERSONAL FINANCIAL
3 INFORMATION, AS LONG AS THE LICENSEE ENTERED INTO THE AGREEMENT
4 ON OR BEFORE JULY 1, 2000.

5 SEC. 547. THE COMMISSIONER SHALL PROMULGATE RULES PURSUANT
6 TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
7 24.201 TO 24.328, FOR ADMINISTRATIVE, TECHNICAL, AND PHYSICAL
8 SAFEGUARDS THAT PROTECT THE SECURITY, CONFIDENTIALITY, AND INTEG-
9 RITY OF CUSTOMER INFORMATION, PURSUANT TO SECTIONS 501, 505(b),
10 AND 507 OF THE GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102, 113
11 STAT. 1338, 15 U.S.C. 6801, 6805(b), AND 6807. RULES PROMULGATED
12 UNDER THIS SECTION SHALL NOT BE MORE RESTRICTIVE THAN THE INTER-
13 AGENCY GUIDELINES ESTABLISHING STANDARDS FOR SAFEGUARDING CUS-
14 TOMER INFORMATION, 66 F.R.P. 8616 (FEBRUARY 1, 2001).

15 SEC. 549. A VIOLATION OF THIS CHAPTER OR A RULE PROMULGATED
16 UNDER THIS CHAPTER SHALL BE CONSIDERED AN UNFAIR METHOD OF COMPE-
17 TITION AND AN UNFAIR OR DECEPTIVE ACT OR PRACTICE UNDER
18 CHAPTER 20 AND IS SUBJECT TO THE PROCEDURES AND PENALTIES PRO-
19 VIDED FOR IN CHAPTER 20.