

# SENATE BILL No. 429

April 26, 2005, Introduced by Senators CHERRY, JACOBS, BASHAM, PRUSI, THOMAS, OLSHOVE, BERNERO, SCOTT, LELAND, EMERSON, SCHAUER, CLARK-COLEMAN, BRATER, BARCIA and CLARKE and referred to the Committee on Banking and Financial Institutions.

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.