

HOUSE BILL No. 5415

September 17, 2009, Introduced by Reps. Switalski, Geiss, Tlaib, Durhal, Roberts, Robert Jones, Liss, Kennedy, Nathan and Jackson and referred to the Committee on Banking and Financial Services.

A bill to amend 1996 PA 354, entitled
"Savings bank act,"
(MCL 487.3101 to 487.3804) by adding sections 515, 516, and 517.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 515. (1) A SAVINGS BANK SHALL USE REASONABLE CARE TO
2 SECURE NONPUBLIC PERSONAL FINANCIAL INFORMATION FROM UNAUTHORIZED
3 ACCESS.

4 (2) A SAVINGS BANK 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) A SAVINGS BANK SHALL DISCLOSE NONPUBLIC PERSONAL FINANCIAL
10 INFORMATION TO WHICH SUBSECTION (2) DOES NOT APPLY ONLY IF THE

1 PERSON TO WHOM THE DISCLOSURE IS MADE AGREES TO PROTECT AND USE THE
2 DISCLOSED INFORMATION ONLY IN THE MANNER AUTHORIZED BY THE SAVINGS
3 BANK UNDER SECTION 516. THIS SUBSECTION DOES NOT APPLY TO A
4 DISCLOSURE MADE TO THE COMMISSIONER, ANOTHER GOVERNMENTAL AGENCY OR
5 ENTITY, OR A COURT.

6 (4) IF AN INDIVIDUAL AUTHORIZES THE RELEASE OF NONPUBLIC
7 PERSONAL FINANCIAL INFORMATION UNDER SUBSECTION (2) TO A SPECIFIC
8 PERSON, A SAVINGS BANK SHALL DISCLOSE THE INFORMATION TO THAT
9 PERSON ONLY IF THE PERSON AGREES NOT TO RELEASE THE INFORMATION TO
10 ANOTHER PERSON WITHOUT ANOTHER PRIOR AND SPECIFIC INFORMED CONSENT
11 FROM THE INDIVIDUAL, IN WRITING, AUTHORIZING THE ADDITIONAL
12 RELEASE.

13 (5) THIS SECTION DOES NOT PRECLUDE THE RELEASE OF INFORMATION
14 PERTAINING TO AN INDIVIDUAL TO THAT INDIVIDUAL BY TELEPHONE IF THE
15 IDENTITY OF THE INDIVIDUAL IS VERIFIED.

16 (6) A SAVINGS BANK SHALL NOT REFUSE TO EXTEND OR CONTINUE
17 CREDIT TO, REFUSE TO OPEN OR CONTINUE AN ACCOUNT FOR, TERMINATE OR
18 REFUSE TO CREATE A MEMBERSHIP OR DEPOSITOR RELATIONSHIP WITH,
19 REFUSE TO PROVIDE ANY BENEFITS TO WHICH MEMBERS OR DEPOSITORS ARE
20 ENTITLED, OR OTHERWISE UNFAIRLY RETALIATE OR DISCRIMINATE AGAINST
21 AN INDIVIDUAL BECAUSE THAT INDIVIDUAL REFUSES OR FAILS TO CONSENT
22 TO DISCLOSURE OF HIS OR HER NONPUBLIC PERSONAL FINANCIAL
23 INFORMATION UNDER SUBSECTION (2).

24 (7) AS USED IN THIS SECTION AND SECTION 516:

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 AND
9 PUBLICLY AVAILABLE INFORMATION PERTAINING TO THEM THAT IS DERIVED
10 WITHOUT USING ANY PERSONALLY IDENTIFIABLE FINANCIAL INFORMATION
11 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 SAVINGS BANK TO OBTAIN
15 A FINANCIAL PRODUCT OR SERVICE FROM THE SAVINGS BANK.

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

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

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

1 TO BELIEVE THAT INFORMATION IS LAWFULLY MADE AVAILABLE TO THE
2 GENERAL PUBLIC IF BOTH OF THE FOLLOWING APPLY:

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

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

9 SEC. 516. A SAVINGS BANK SHALL ESTABLISH AND MAKE PUBLIC A
10 POLICY REGARDING THE PROTECTION OF PRIVACY AND THE CONFIDENTIALITY
11 OF NONPUBLIC PERSONAL FINANCIAL INFORMATION. THE POLICY SHALL DO AT
12 LEAST ALL OF THE FOLLOWING:

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

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

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

1 (D) ESTABLISH THE CONTRACTUAL OR OTHER CONDITIONS UNDER WHICH
2 THE SAVINGS BANK MAY RELEASE NONPUBLIC PERSONAL FINANCIAL
3 INFORMATION.

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

10 SEC. 517. SECTIONS 515 AND 516 DO NOT LIMIT ACCESS TO RECORDS
11 OR ENLARGE OR DIMINISH THE INVESTIGATIVE AND EXAMINATION POWERS OF
12 GOVERNMENTAL AGENCIES AS PROVIDED FOR BY LAW.