

HOUSE BILL 188

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(6lr0043)

ENROLLED BILL

— Economic Matters/Finance —

Introduced by **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Financial Institutions – Commissioner of Financial Regulation – Disclosure and**
3 **Sharing of Information**

4 FOR the purpose of reorganizing and consolidating certain provisions of law relating to the
5 disclosure of certain information by the Commissioner of Financial Regulation and
6 certain other persons and the authority of the Commissioner to enter into certain
7 information sharing agreements and exchange certain information; prohibiting a
8 person, including the Commissioner and an employee of and the attorney for the
9 Commissioner’s office, from disclosing certain information obtained ~~by the~~
10 ~~Commissioner~~ or generated in the ~~exercise of~~ course of exercising the Commissioner’s
11 authority to examine certain persons required to be licensed under certain provisions
12 of law, banking institutions, and credit unions, ~~and other persons required to be~~
13 ~~licensed under certain provisions of law~~; establishing the circumstances under which
14 the Commissioner may disclose certain information; altering and establishing the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 authority of the Commissioner to enter into certain information sharing agreements
 2 and exchange certain information; prohibiting certain information shared by the
 3 Commissioner from being disclosed by an agency under certain laws or admitted into
 4 evidence in certain civil litigation or administrative process without the prior written
 5 consent of the Commissioner; providing that certain information disclosed to any
 6 person under certain provisions of this Act remains the property of the Commissioner
 7 and may not be further disclosed by any person without the prior written consent of
 8 the Commissioner; providing that certain provisions of the Maryland Public
 9 Information Act shall be superseded by certain requirements of this Act; altering the
 10 circumstances under which a certain affiliate is subject to certain provisions of this
 11 Act; establishing certain penalties for a violation of certain provisions of this Act;
 12 repealing certain provisions of law that are duplicative of or superseded by certain
 13 provisions of this Act; providing for the application of certain provisions of this Act;
 14 repealing certain provisions of law authorizing the Commissioner to adopt certain
 15 rules and regulations; defining certain terms; making conforming and stylistic
 16 changes; and generally relating to the disclosure of information obtained by the
 17 Commissioner of Financial Regulation and the authority of the Commissioner to
 18 enter into information sharing agreements and exchange information.

19 BY repealing and reenacting, with amendments,
 20 Article – Financial Institutions
 21 Section 1–101 ~~and~~, 2–117, 11–501(o), and 11–601(s)
 22 Annotated Code of Maryland
 23 (2011 Replacement Volume and 2015 Supplement)

24 BY adding to
 25 Article – Financial Institutions
 26 Section 2–117.1
 27 Annotated Code of Maryland
 28 (2011 Replacement Volume and 2015 Supplement)

29 BY repealing
 30 Article – Financial Institutions
 31 Section 5–209, 5–909, 6–909, and 12–903
 32 Annotated Code of Maryland
 33 (2011 Replacement Volume and 2015 Supplement)

34 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 35 That the Laws of Maryland read as follows:

36 Article – Financial Institutions

37 1–101.

38 (a) In this article, unless the context clearly requires otherwise, the following
 39 words have the meanings indicated.

1 (b) "Address" means post office address, including, if applicable, street and
2 number, municipal area or county, state, and, if outside of the United States, country.

3 (c) "Any state" means:

4 (1) Any state, possession, or territory of the United States;

5 (2) The District of Columbia; or

6 (3) The Commonwealth of Puerto Rico.

7 (d) "Banking institution" means an institution that is incorporated under the
8 laws of this State as a State bank, trust company, or savings bank.

9 (e) "Charter" has the meaning stated in § 1-101 of the Corporations and
10 Associations Article.

11 (f) "Commercial bank" means an institution that is incorporated under the laws
12 of this State as a State bank or trust company.

13 (g) "Commissioner" means the Commissioner of Financial Regulation in the
14 Department of Labor, Licensing, and Regulation.

15 (h) "County" means a county of this State and, unless otherwise indicated,
16 Baltimore City.

17 (i) **"CREDIT UNION" MEANS A CREDIT UNION THAT IS INCORPORATED**
18 **UNDER THE LAWS OF THIS STATE AS A CREDIT UNION.**

19 (J) "Financial institution" means any financial institution of the type supervised
20 under this article, whether or not State-chartered.

21 [(j)] (K) (1) "Foreign bank" means any financial institution or other
22 institution that engages in banking activities that are usual in connection with the business
23 of banking in the nations in which the institution is organized or operates.

24 (2) "Foreign bank" does not include a bank organized under the laws of any
25 state or a national banking association that has its headquarters in any state.

26 [(k)] (L) "Includes" or "including" means includes or including by way of
27 illustration and not by way of limitation.

28 [(l)] (M) "Mail" means to deposit in the United States mail, postage prepaid.

29 [(m)] (N) "Mortgage" includes a deed of trust that secures a debt or the
30 performance of an obligation.

1 [(n)] (O) “Municipal area” means a municipal corporation or an unincorporated
2 city, town, or village.

3 [(o)] (P) “National banking association” means an institution that is
4 incorporated under federal law as a bank.

5 ~~[(q)] (“NMLS” MEANS A MULTISTATE UNIFORM LICENSING SYSTEM~~

6 **[(Q) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY” MEANS A**
7 **MULTISTATE UNIFORM LICENSING SYSTEM** DEVELOPED AND MAINTAINED BY THE
8 **CONFERENCE OF STATE BANK SUPERVISORS, OR BY A SUBSIDIARY OR AN**
9 **AFFILIATE OF THE CONFERENCE OF STATE BANK SUPERVISORS, THAT MAY BE USED**
10 **FOR THE LICENSING OF PERSONS REQUIRED TO BE LICENSED UNDER THIS ARTICLE.**

11 [(p)] (R) “Other–state bank” means a bank chartered and primarily regulated by
12 another state.

13 **(S) “OTHER–STATE CREDIT UNION” MEANS A CREDIT UNION CHARTERED**
14 **AND PRIMARILY REGULATED BY ANOTHER STATE.**

15 [(q)] (T) “Person” means an individual, receiver, trustee, guardian, personal
16 representative, fiduciary, or representative of any kind and any partnership, firm,
17 association, corporation, or other entity.

18 [(r)] (U) “Political subdivision” means:

19 (1) A county or municipal corporation of this State; and

20 (2) Unless the context requires otherwise, a special taxing district of this
21 State.

22 [(s)] (V) “Real property” includes any interest in real property.

23 2–117.

24 **(A) IN THIS SECTION, “LICENSED PERSON” MEANS:**

25 **(1) A PERSON REQUIRED TO BE LICENSED UNDER THIS ARTICLE,**
26 **WHETHER OR NOT THE PERSON MAINTAINS A LICENSE; AND**

27 **(2) A COLLECTION AGENCY REQUIRED TO BE LICENSED UNDER THE**
28 **BUSINESS REGULATION ARTICLE, WHETHER OR NOT THE COLLECTION AGENCY**
29 **MAINTAINS A LICENSE.**

1 **(B) THIS SECTION DOES NOT APPLY TO:**

2 **(1) INFORMATION RELATING TO PUBLICLY ADJUDICATED**
3 **DISCIPLINARY OR ENFORCEMENT ACTIONS AGAINST A LICENSED PERSON; OR**

4 **(2) INFORMATION OR MATERIAL PROVIDED TO THE NATIONWIDE**
5 **MORTGAGE LICENSING SYSTEM AND REGISTRY UNDER TITLE 11, SUBTITLE 5 OR 6**
6 **OF THIS ARTICLE.**

7 **(C) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON,**
8 **INCLUDING THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY FOR THE**
9 **COMMISSIONER'S OFFICE, MAY NOT DISCLOSE ANY INFORMATION OBTAINED OR**
10 **GENERATED IN THE COURSE OF EXERCISING THE COMMISSIONER'S AUTHORITY TO**
11 **EXAMINE LICENSED PERSONS.**

12 **(D) THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY FOR**
13 **THE COMMISSIONER'S OFFICE MAY DISCLOSE THE INFORMATION DESCRIBED IN**
14 **SUBSECTION (C) OF THIS SECTION:**

15 **(1) IF PERFORMING A PUBLIC DUTY TO REPORT ON OR TAKE SPECIAL**
16 **ACTION RELATING TO A LICENSED PERSON;**

17 **(2) IF TESTIFYING AS A WITNESS IN A CRIMINAL PROCEEDING;**

18 **(3) IF INFORMING A DIRECTOR, OFFICER, MEMBER, PARTNER,**
19 **EMPLOYEE, OR AGENT OF A LICENSED PERSON OF THE RESULTS OF AN**
20 **EXAMINATION;**

21 **(4) IF PROVIDING INFORMATION TO ANY STATE OR FEDERAL AGENCY**
22 **HAVING SUPERVISORY AUTHORITY OVER THE LICENSED PERSON; AND**

23 **(5) IF ENTERING INFORMATION INTO EVIDENCE UNDER SEAL IN A**
24 **PUBLIC ENFORCEMENT HEARING.**

25 **[(a)] (E) Subject to subsections [(b), (c)] (F), (G), and [(d)] (L) of this section,**
26 **AND notwithstanding any other provision of State [laws or regulations] LAW, the**
27 **Commissioner may:**

28 **(1) Enter into [cooperative and] information sharing agreements with any**
29 **federal or state regulatory agency having authority over [financial institutions] LICENSED**
30 **PERSONS or with any federal or state law enforcement agency, INCLUDING THE OFFICE**
31 **OF FOREIGN ASSET CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES, AND ANY**
32 **AGENCY OF A FOREIGN COUNTRY WITH PRIMARY RESPONSIBILITY FOR REGULATING**
33 **LICENSED PERSONS, provided that the agreements prohibit the [agency] AGENCIES from**

1 disclosing any shared information ABOUT A LICENSED PERSON without THE prior written
2 consent from the Commissioner regarding disclosure of the particular information; and

3 (2) Exchange information about a [financial institution] LICENSED
4 PERSON, including information obtained OR GENERATED during an examination, with
5 any federal or [state] OTHER STATE'S regulatory agency having authority over the
6 [financial institution] LICENSED PERSON or with any federal or state law enforcement
7 agency, INCLUDING THE OFFICE OF FOREIGN ASSET CONTROL, AND ANY SUCCESSOR
8 TO THESE AGENCIES, AND ANY AGENCY OF A FOREIGN COUNTRY WITH PRIMARY
9 RESPONSIBILITY FOR REGULATING LICENSED PERSONS.

10 (F) INFORMATION SHARED BY THE COMMISSIONER UNDER SUBSECTION (E)
11 OF THIS SECTION MAY NOT BE DISCLOSED BY AN AGENCY UNDER FEDERAL OR OTHER
12 STATES' LAWS GOVERNING THE DISCLOSURE OF PUBLIC INFORMATION, OR BY
13 SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE IN PRIVATE CIVIL
14 LITIGATION OR ADMINISTRATIVE PROCESS, WITHOUT THE PRIOR WRITTEN CONSENT
15 OF THE COMMISSIONER.

16 [(b)](G) If the Commissioner receives a record from an agency under [a
17 cooperative and] AN information sharing agreement authorized by subsection [(a)(1)] (E)(1)
18 of this section and the agency expressly retains ownership of the record, either in writing or
19 by law or regulation, the Commissioner:

20 (1) May not disclose the record to any person that requests the record under
21 Title 4, Subtitles 1 through 5 of the General Provisions Article; and

22 (2) Shall forward the request for the record to the agency that owns the
23 record for processing in accordance with the laws or regulations governing disclosure of the
24 agency's records.

25 [(c)] (H) Notwithstanding § 2-113(d) of this subtitle, an affiliate as defined in §
26 2-113(a) of this subtitle is subject to [subsection (a) of] this section if that affiliate maintains
27 or is required to maintain a license issued by the Commissioner OR THE STATE
28 COLLECTION AGENCY LICENSING BOARD.

29 (I) ANY PROVISION OF TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL
30 PROVISIONS ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION
31 DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL BE SUPERSEDED BY THE
32 REQUIREMENTS OF THIS SECTION.

33 (J) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL INFORMATION
34 DISCLOSED BY THE COMMISSIONER OR AN EMPLOYEE OF OR THE ATTORNEY FOR
35 THE COMMISSIONER'S OFFICE TO ANY PERSON AS PERMITTED UNDER SUBSECTIONS
36 (D) AND (E) OF THIS SECTION:

1 (1) REMAINS THE PROPERTY OF THE COMMISSIONER; AND

2 (2) MAY NOT BE FURTHER DISCLOSED BY ANY PERSON WITHOUT THE
3 PRIOR WRITTEN PERMISSION OF THE COMMISSIONER.

4 (K) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY
5 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

6 (1) FORFEITURE OF THE PERSON'S OFFICE OR EMPLOYMENT; AND

7 (2) A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT
8 EXCEEDING 2 YEARS OR BOTH.

9 [(d)] (L) This section does not authorize the Commissioner to share or exchange
10 information in any way THAT IS prohibited by federal law.

11 2-117.1.

12 (A) THIS SECTION DOES NOT APPLY TO INFORMATION RELATING TO
13 PUBLICLY ADJUDICATED DISCIPLINARY OR ENFORCEMENT ACTIONS AGAINST
14 BANKING INSTITUTIONS OR CREDIT UNIONS AND DESIGNATED BY THE
15 COMMISSIONER FOR ACCESS TO THE PUBLIC.

16 ~~(A)~~ (B) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A:

17 (1) A PERSON, INCLUDING THE COMMISSIONER AND AN EMPLOYEE
18 OF AND THE ATTORNEY FOR THE COMMISSIONER'S OFFICE, MAY NOT DISCLOSE ANY
19 INFORMATION OBTAINED OR GENERATED IN THE ~~EXERCISE OF COURSE OF~~
20 ~~EXERCISING~~ THE COMMISSIONER'S AUTHORITY TO EXAMINE BANKING
21 ~~INSTITUTIONS, OR CREDIT UNIONS, OR OTHER PERSONS REQUIRED TO BE LICENSED~~
22 UNDER THIS ARTICLE; AND

23 (2) THE COMMISSIONER AND THE EMPLOYEES OF AND THE
24 ATTORNEY FOR THE COMMISSIONER'S OFFICE MAY NOT DISCLOSE:

25 (I) THE NAME OF ANY DEBTOR OF A BANKING INSTITUTION OR
26 CREDIT UNION; OR

27 (II) ANY INFORMATION ABOUT THE PRIVATE ACCOUNTS WITH
28 OR TRANSACTIONS OF A BANKING INSTITUTION OR CREDIT UNION.

1 ~~(B)~~ (C) THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY
2 FOR THE COMMISSIONER'S OFFICE MAY DISCLOSE THE INFORMATION DESCRIBED
3 IN SUBSECTION ~~(A)~~ (B) OF THIS SECTION:

4 (1) IF PERFORMING A PUBLIC DUTY TO REPORT ON OR TAKE SPECIAL
5 ACTION ABOUT THE BUSINESS OF A BANKING INSTITUTION, OR CREDIT UNION, ~~OR~~
6 ~~OTHER PERSON REQUIRED TO BE LICENSED UNDER THIS ARTICLE;~~

7 (2) IF TESTIFYING AS A WITNESS IN A CRIMINAL PROCEEDING;

8 (3) IF INFORMING ANY DIRECTOR OR AUTHORIZED OFFICER,
9 EMPLOYEE, OR AGENT OF A BANKING INSTITUTION, OR CREDIT UNION, ~~OR OTHER~~
10 ~~PERSON REQUIRED TO BE LICENSED UNDER THIS ARTICLE~~ OF THE RESULTS OF AN
11 EXAMINATION;

12 (4) IF PROVIDING INFORMATION TO ANY STATE OR FEDERAL AGENCY
13 HAVING SUPERVISORY AUTHORITY OVER THE BANKING ~~INSTITUTIONS~~
14 INSTITUTION, OR CREDIT UNIONS, ~~OR OTHER PERSONS REQUIRED TO BE LICENSED~~
15 ~~UNDER THIS ARTICLE~~ UNION;

16 (5) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO
17 THE FEDERAL DEPOSIT INSURANCE CORPORATION, IF THE BANKING INSTITUTION:

18 (I) IS APPLYING FOR INSURANCE FROM THE FEDERAL
19 DEPOSIT INSURANCE CORPORATION; AND

20 (II) ASKS THE COMMISSIONER TO DO SO;

21 (6) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO
22 THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE BANK SYSTEM OR THE
23 FEDERAL RESERVE BANK OF RICHMOND, IF THE BANKING INSTITUTION:

24 (I) IS APPLYING FOR MEMBERSHIP IN THE FEDERAL RESERVE
25 SYSTEM; AND

26 (II) ASKS THE COMMISSIONER TO DO SO;

27 (7) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO
28 THE OFFICE OF THE COMPTROLLER OF THE CURRENCY, IF THE BANKING
29 INSTITUTION:

30 (I) IS APPLYING TO CONVERT TO, CONSOLIDATE OR MERGE
31 WITH, OR TRANSFER ASSETS TO A NATIONAL BANKING ASSOCIATION; AND

1 (II) ASKS THE COMMISSIONER TO DO SO;

2 (8) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO
3 ANY OTHER STATE BANK REGULATORY AGENCY IF THE BANKING INSTITUTION:

4 (I) IS APPLYING TO CONSOLIDATE OR MERGE WITH OR
5 TRANSFER ASSETS TO AN OTHER-STATE BANK; AND

6 (II) ASKS THE COMMISSIONER TO DO SO;

7 (9) IF PROVIDING INFORMATION ABOUT A CREDIT UNION TO A
8 CREDIT UNION SHARE GUARANTY CORPORATION, IF THE CREDIT UNION:

9 (I) IS INSURED BY THE CREDIT UNION SHARE GUARANTY
10 CORPORATION; OR

11 (II) 1. IS APPLYING FOR INSURANCE FROM THE CREDIT
12 UNION SHARE GUARANTY CORPORATION; AND

13 2. ASKS THE COMMISSIONER TO DO SO;

14 (10) IF PROVIDING INFORMATION ABOUT A CREDIT UNION TO THE
15 NATIONAL CREDIT UNION ADMINISTRATION, IF THE CREDIT UNION:

16 (I) 1. IS APPLYING FOR INSURANCE FROM THE NATIONAL
17 CREDIT UNION ADMINISTRATION; AND

18 2. ASKS THE COMMISSIONER TO DO SO; OR

19 (II) 1. IS APPLYING TO CONVERT TO OR MERGE WITH A
20 FEDERAL CREDIT UNION; AND

21 2. ASKS THE COMMISSIONER TO DO SO;

22 (11) IF PROVIDING INFORMATION ABOUT A CREDIT UNION TO
23 ANOTHER STATE BANK REGULATORY AGENCY, IF THE CREDIT UNION:

24 (I) IS APPLYING TO MERGE WITH AN OTHER-STATE CREDIT
25 UNION; AND

26 (II) ASKS THE COMMISSIONER TO DO SO; AND

27 (12) IF ENTERING INFORMATION INTO EVIDENCE UNDER SEAL IN A
28 PUBLIC ENFORCEMENT HEARING.

1 ~~[(a)] (C)~~ ~~[Subject to subsections (b), (c), and (d) of this section, notwithstanding]~~
 2 ~~NOTWITHSTANDING any other provision of State [laws or regulations] LAW, the~~
 3 ~~Commissioner may:~~

4 (1) ~~Enter into [cooperative and] information sharing agreements with [any~~
 5 ~~federal or state regulatory agency having authority over financial institutions or with any~~
 6 ~~federal or state law enforcement agency,] OTHER GOVERNMENTAL AGENCIES, THE~~
 7 ~~CONFERENCE OF STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS~~
 8 ~~REPRESENTING GOVERNMENTAL AGENCIES, provided that the agreements prohibit the~~
 9 ~~[agency] AGENCIES from disclosing any shared information without THE prior written~~
 10 ~~consent from the Commissioner regarding disclosure of the particular information; and~~

11 (2) ~~Exchange information about [a financial institution] BANKING~~
 12 ~~INSTITUTIONS, CREDIT UNIONS, AND OTHER PERSONS REQUIRED TO BE LICENSED~~
 13 ~~UNDER THIS ARTICLE, including information obtained during an examination, with [any~~
 14 ~~federal or state regulatory agency having authority over the financial institution or with~~
 15 ~~any federal or state law enforcement agency] OTHER GOVERNMENTAL AGENCIES, THE~~
 16 ~~CONFERENCE OF STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS~~
 17 ~~REPRESENTING GOVERNMENTAL AGENCIES.~~

18 (D) SUBJECT TO SUBSECTIONS (E), (F), AND (J) OF THIS SECTION, AND
 19 NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, THE COMMISSIONER
 20 MAY:

21 (1) ENTER INTO INFORMATION SHARING AGREEMENTS WITH ANY
 22 FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER BANKING
 23 INSTITUTIONS OR CREDIT UNIONS, A FEDERAL HOME LOAN BANK, OR ANY FEDERAL
 24 OR STATE LAW ENFORCEMENT AGENCY, INCLUDING THE OFFICE OF FOREIGN ASSET
 25 CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES, PROVIDED THAT THE
 26 AGREEMENTS PROHIBIT THE AGENCIES FROM DISCLOSING ANY SHARED
 27 INFORMATION ABOUT A BANKING INSTITUTION OR CREDIT UNION WITHOUT THE
 28 PRIOR WRITTEN CONSENT FROM THE COMMISSIONER REGARDING DISCLOSURE OF
 29 THE PARTICULAR INFORMATION; AND

30 (2) EXCHANGE INFORMATION ABOUT A BANKING INSTITUTION OR A
 31 CREDIT UNION, INCLUDING INFORMATION OBTAINED OR GENERATED DURING AN
 32 EXAMINATION, WITH ANY FEDERAL OR OTHER STATE'S REGULATORY AGENCY
 33 HAVING AUTHORITY OVER THE BANKING INSTITUTION OR CREDIT UNION OR WITH
 34 ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY.

35 ~~(D)~~ (E) INFORMATION SHARED BY THE COMMISSIONER UNDER
 36 SUBSECTION ~~(E)~~ (D) OF THIS SECTION MAY NOT BE DISCLOSED BY AN AGENCY
 37 UNDER FEDERAL OR OTHER STATES' LAWS GOVERNING THE DISCLOSURE OF PUBLIC

1 INFORMATION, OR BY SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE IN
 2 PRIVATE CIVIL LITIGATION OR ADMINISTRATIVE PROCESS, WITHOUT THE PRIOR
 3 WRITTEN CONSENT OF THE COMMISSIONER.

4 ~~[(b)] (E)~~ If the Commissioner receives a record from an agency under ~~[a~~
 5 ~~cooperative and]~~ AN information sharing agreement authorized by subsection ~~[(a)(1)]~~
 6 ~~(C)(1)~~ of this section and the agency expressly retains ownership of the record, either in
 7 ~~writing or by law or regulation, the Commissioner:~~

8 ~~(1) May not disclose the record to any person that requests the record~~
 9 ~~under Title 4, Subtitles 1 through 5 of the General Provisions Article; and~~

10 ~~(2) Shall forward the request for the record to the agency that owns the~~
 11 ~~record for processing in accordance with the laws or regulations governing disclosure of the~~
 12 ~~agency's records.~~

13 ~~[(e)] (F)~~ Notwithstanding ~~§ 2-113(d)~~ of this subtitle, an affiliate as defined in ~~§~~
 14 ~~2-113(a)~~ of this subtitle is subject to ~~[subsection (a) of]~~ this section if that affiliate ~~IS AN~~
 15 ~~AFFILIATE OF A BANKING INSTITUTION, OR~~ maintains or is required to maintain a
 16 ~~license issued by the Commissioner.~~

17 ~~(G) THIS SECTION DOES NOT APPLY TO:~~

18 ~~(1) INFORMATION RELATING TO PUBLICLY ADJUDICATED~~
 19 ~~DISCIPLINARY OR ENFORCEMENT ACTIONS AGAINST BANKING INSTITUTIONS,~~
 20 ~~CREDIT UNIONS, OR OTHER PERSONS REQUIRED TO BE LICENSED UNDER THIS~~
 21 ~~ARTICLE AND DESIGNATED BY THE COMMISSIONER FOR ACCESS BY THE PUBLIC; OR~~

22 ~~(2) INFORMATION OR MATERIAL PROVIDED TO NMLS UNDER~~
 23 ~~SUBTITLE 11 OF THIS ARTICLE.~~

24 (F) IF THE COMMISSIONER RECEIVES A RECORD FROM AN AGENCY UNDER
 25 AN INFORMATION SHARING AGREEMENT AUTHORIZED BY SUBSECTION (D)(1) OF
 26 THIS SECTION AND THE AGENCY EXPRESSLY RETAINS OWNERSHIP OF THE RECORD,
 27 EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:

28 (1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS
 29 THE RECORD UNDER TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL
 30 PROVISIONS ARTICLE; AND

31 (2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE AGENCY
 32 THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR
 33 REGULATIONS GOVERNING DISCLOSURE OF THE AGENCY'S RECORDS.

1 ~~(H)~~ **(G)** ANY ~~PROVISIONS~~ PROVISION OF TITLE 4, SUBTITLES 1 THROUGH
 2 **5 OF THE GENERAL PROVISIONS ARTICLE** RELATING TO THE DISCLOSURE OF ANY
 3 INFORMATION DESCRIBED IN SUBSECTION (B) OF THIS SECTION SHALL BE
 4 SUPERSEDED BY THE REQUIREMENTS OF THIS SECTION.

5 ~~(H)~~ **(H)** EXCEPT AS OTHERWISE PROVIDED ~~BY~~ IN THIS SECTION, ALL
 6 INFORMATION DISCLOSED BY THE COMMISSIONER OR AN EMPLOYEE OF OR THE
 7 ATTORNEY FOR THE COMMISSIONER'S OFFICE TO ANY PERSON AS PERMITTED
 8 UNDER SUBSECTIONS ~~(B) AND (C)~~ (C) AND (D) OF THIS SECTION:

9 (1) REMAINS THE PROPERTY OF THE COMMISSIONER; AND

10 (2) MAY NOT BE FURTHER DISCLOSED BY ANY PERSON WITHOUT THE
 11 PRIOR WRITTEN PERMISSION OF THE COMMISSIONER.

12 ~~(I)~~ **(I)** A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS
 13 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

14 (1) FORFEITURE OF THE PERSON'S OFFICE OR EMPLOYMENT; AND

15 (2) ~~FOR EACH OCCURRENCE, A FINE NOT EXCEEDING \$5,000~~ \$1,000
 16 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

17 ~~[(d)] (K)~~ This section does not authorize the Commissioner to share or exchange
 18 information in any way ~~THAT IS prohibited by federal law.~~

19 **(J) THIS SECTION DOES NOT AUTHORIZE THE COMMISSIONER TO SHARE OR**
 20 **EXCHANGE INFORMATION IN ANY WAY THAT IS PROHIBITED BY FEDERAL LAW.**

21 [5-209.

22 (a) Except as otherwise provided in this article, the Commissioner and the
 23 employees of and the attorney for the Commissioner's office may not disclose:

24 (1) The name of any debtor of a banking institution;

25 (2) Any information about the private accounts with or transactions of a
 26 banking institution;

27 (3) Any information obtained in the course of examining a banking
 28 institution; or

29 (4) Any confidential information obtained from a federal banking
 30 authority.

1 (b) This section does not apply to any information that a person discloses:

2 (1) In performing a public duty to report on or take special action about the
3 business of a banking institution;

4 (2) In testifying as a witness in a criminal proceeding; or

5 (3) In informing any director or authorized officer, employee, or agent of a
6 banking institution under examination of the results of that examination.

7 (c) (1) As provided in this subsection, the Commissioner may give a federal
8 banking authority a copy of any examination of a banking institution, a copy of any report
9 made by the banking institution, and any other information that the Commissioner has
10 about the banking institution.

11 (2) The Commissioner may give the Federal Deposit Insurance
12 Corporation information about a banking institution if:

13 (i) The institution is insured by the Corporation; or

14 (ii) The institution:

15 1. Is applying for insurance from the Corporation; and

16 2. Asks the Commissioner to do so.

17 (3) The Commissioner may give the Federal Reserve Bank of Richmond
18 information about a banking institution if:

19 (i) The institution is a member of the Federal Reserve System; or

20 (ii) The institution:

21 1. Is applying for membership in the System; and

22 2. Asks the Commissioner to do so.

23 (d) Except as otherwise provided by law, all confidential information disclosed to
24 any person as permitted under this section:

25 (1) Remains the property of the Commissioner; and

26 (2) May not be further disclosed by that person without the written
27 permission of the Commissioner.

28 (e) Any person who violates any provision of this section is guilty of a
29 misdemeanor and on conviction is subject to:

1 (1) Forfeiture of the office or employment; and

2 (2) A fine not exceeding \$1,000 or imprisonment not exceeding 2 years or
3 both.]

4 [5-909.

5 (a) In order to carry out the purposes of this article, the Commissioner may:

6 (1) Adopt regulations; and

7 (2) Subject to subsection (b) of this section, enter into cooperative or
8 information-sharing agreements with any other bank supervisory agency.

9 (b) If the Commissioner receives a record from a bank supervisory agency under
10 a cooperative or an information-sharing agreement authorized by subsection (a)(2) of this
11 section and the bank supervisory agency expressly retains ownership of the record, either
12 in writing or by law or regulation, the Commissioner:

13 (1) May not disclose the record to any person that requests the record
14 under Title 4, Subtitles 1 through 5 of the General Provisions Article; and

15 (2) Shall forward the request for the record to the bank supervisory agency
16 that owns the record for processing in accordance with the laws or regulations governing
17 disclosure of the bank supervisory agency's records.]

18 [6-909.

19 (a) Except as otherwise provided in this article, the Commissioner and the
20 employees of and the attorney for the Commissioner's office may not disclose:

21 (1) The name of any debtor of a credit union;

22 (2) Any information about the private accounts with or transactions of a
23 credit union;

24 (3) Any information obtained in the course of examining a credit union; or

25 (4) Any confidential information obtained from a credit union authority.

26 (b) This section does not apply to any information that a person discloses:

27 (1) In performing a public duty to report on or take special action about the
28 business of a credit union;

1 (2) In testifying as a witness in a criminal proceeding; or

2 (3) In informing any official, officer, employee, or agent of a credit union
3 under examination of the results of that examination.

4 (c) (1) The Commissioner may give a credit union share guaranty corporation
5 information about a credit union if:

6 (i) The credit union is insured by the credit union share guaranty
7 corporation; or

8 (ii) The credit union:

9 1. Is applying for insurance from the credit union share
10 guaranty corporation; and

11 2. Requests the Commissioner to provide the information.

12 (2) The Commissioner may give the National Credit Union Administration
13 Share Insurance Program information about a credit union if:

14 (i) The credit union is insured by the National Credit Union
15 Administration Share Insurance Program; or

16 (ii) The credit union:

17 1. Is applying for insurance from the National Credit Union
18 Administration Share Insurance Program; and

19 2. Requests the Commissioner to provide the information.

20 (d) Except as otherwise provided by law, all confidential information disclosed to
21 any person as permitted under this section:

22 (1) Remains the property of the Commissioner; and

23 (2) May not be further disclosed by that person without the written
24 permission of the Commissioner.

25 (e) A person that violates any provision of this section is guilty of a misdemeanor
26 and on conviction is subject to:

27 (1) Forfeiture of the person's office or employment; and

28 (2) A fine not exceeding \$1,000 or imprisonment not exceeding 2 years or
29 both.]

1 11-501.

2 (o) “Nationwide Mortgage Licensing System and Registry” [means a mortgage
 3 licensing system developed and maintained by the Conference of State Bank Supervisors
 4 and the American Association of Residential Mortgage Regulators for the licensing and
 5 registration of licensed mortgage loan originators and mortgage lenders] HAS THE
 6 MEANING STATED IN § 1-101 OF THIS ARTICLE.

7 11-601.

8 (s) “Nationwide Mortgage Licensing System and Registry” has the meaning stated
 9 in [§ 11-501 of this title] § 1-101 OF THIS ARTICLE.

10 [12-903.

11 To carry out the provisions of this subtitle, the Commissioner may:

12 (1) Adopt rules and regulations;

13 (2) Enter into cooperative and information sharing agreements with any
 14 other federal or State agencies having supervisory responsibility over debt management
 15 services businesses; and

16 (3) Exchange information about a debt management services provider,
 17 including information obtained during an examination, with any State or federal agency
 18 having authority over the debt management services provider.]

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 20 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.