

HOUSE BILL 188

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

Introduced and read first time: January 21, 2016

Assigned to: Economic Matters

A BILL ENTITLED

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 in the exercise of the Commissioner's authority to examine banking
11 institutions, credit unions, and other persons required to be licensed under certain
12 provisions of law; establishing the circumstances under which the Commissioner
13 may disclose certain information; altering the authority of the Commissioner to enter
14 into certain information sharing agreements and exchange certain information;
15 prohibiting certain information shared by the Commissioner from being disclosed by
16 an agency under certain laws or admitted into evidence in certain civil litigation or
17 administrative process without the prior written consent of the Commissioner;
18 providing that certain information disclosed to any person under certain provisions
19 of this Act remains the property of the Commissioner and may not be further
20 disclosed by any person without the prior written consent of the Commissioner;
21 providing that certain provisions of the Maryland Public Information Act shall be
22 superseded by certain requirements of this Act; altering the circumstances under
23 which a certain affiliate is subject to certain provisions of this Act; establishing
24 certain penalties for a violation of certain provisions of this Act; repealing certain
25 provisions of law that are duplicative of or superseded by certain provisions of this
26 Act; providing for the application of certain provisions of this Act; repealing certain
27 provisions of law authorizing the Commissioner to adopt certain rules and
28 regulations; defining certain terms; making conforming and stylistic changes; and
29 generally relating to the disclosure of information obtained by the Commissioner of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Financial Regulation and the authority of the Commissioner to enter into
2 information sharing agreements and exchange information.

3 BY repealing and reenacting, with amendments,
4 Article – Financial Institutions
5 Section 1–101 and 2–117
6 Annotated Code of Maryland
7 (2011 Replacement Volume and 2015 Supplement)

8 BY repealing
9 Article – Financial Institutions
10 Section 5–209, 5–909, 6–909, and 12–903
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2015 Supplement)

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

15 **Article – Financial Institutions**

16 1–101.

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

19 (b) “Address” means post office address, including, if applicable, street and
20 number, municipal area or county, state, and, if outside of the United States, country.

21 (c) “Any state” means:

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

23 (2) The District of Columbia; or

24 (3) The Commonwealth of Puerto Rico.

25 (d) “Banking institution” means an institution that is incorporated under the
26 laws of this State as a State bank, trust company, or savings bank.

27 (e) “Charter” has the meaning stated in § 1–101 of the Corporations and
28 Associations Article.

29 (f) “Commercial bank” means an institution that is incorporated under the laws
30 of this State as a State bank or trust company.

31 (g) “Commissioner” means the Commissioner of Financial Regulation in the
32 Department of Labor, Licensing, and Regulation.

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

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

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

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

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

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

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

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

17 [(n)] (O) "Municipal area" means a municipal corporation or an unincorporated
18 city, town, or village.

19 [(o)] (P) "National banking association" means an institution that is
20 incorporated under federal law as a bank.

21 (Q) **"NMLS" MEANS A MULTISTATE UNIFORM LICENSING SYSTEM**
22 **DEVELOPED AND MAINTAINED BY THE CONFERENCE OF STATE BANK**
23 **SUPERVISORS, OR BY A SUBSIDIARY OR AN AFFILIATE OF THE CONFERENCE OF**
24 **STATE BANK SUPERVISORS, FOR THE LICENSING OF PERSONS REQUIRED TO BE**
25 **LICENSED UNDER THIS ARTICLE.**

26 [(p)] (R) "Other-state bank" means a bank chartered and primarily regulated by
27 another state.

28 (S) **"OTHER-STATE CREDIT UNION" MEANS A CREDIT UNION CHARTERED**
29 **AND PRIMARILY REGULATED BY ANOTHER STATE.**

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

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

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

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

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

9 2–117.

10 **(A) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON,**
11 **INCLUDING THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY FOR**
12 **THE COMMISSIONER’S OFFICE, MAY NOT DISCLOSE ANY INFORMATION OBTAINED IN**
13 **THE EXERCISE OF THE COMMISSIONER’S AUTHORITY TO EXAMINE BANKING**
14 **INSTITUTIONS, CREDIT UNIONS, OR OTHER PERSONS REQUIRED TO BE LICENSED**
15 **UNDER THIS ARTICLE.**

16 **(B) THE COMMISSIONER MAY DISCLOSE THE INFORMATION DESCRIBED IN**
17 **SUBSECTION (A) OF THIS SECTION:**

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

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

22 **(3) IF INFORMING ANY DIRECTOR OR AUTHORIZED OFFICER,**
23 **EMPLOYEE, OR AGENT OF A BANKING INSTITUTION, CREDIT UNION, OR OTHER**
24 **PERSON REQUIRED TO BE LICENSED UNDER THIS ARTICLE OF THE RESULTS OF AN**
25 **EXAMINATION;**

26 **(4) IF PROVIDING INFORMATION TO ANY STATE OR FEDERAL AGENCY**
27 **HAVING SUPERVISORY AUTHORITY OVER THE BANKING INSTITUTIONS, CREDIT**
28 **UNIONS, OR OTHER PERSONS REQUIRED TO BE LICENSED UNDER THIS ARTICLE;**

29 **(5) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO**
30 **THE FEDERAL DEPOSIT INSURANCE CORPORATION, IF THE BANKING INSTITUTION:**

1 (I) IS APPLYING FOR INSURANCE FROM THE FEDERAL
2 DEPOSIT INSURANCE CORPORATION; AND

3 (II) ASKS THE COMMISSIONER TO DO SO;

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

7 (I) IS APPLYING FOR MEMBERSHIP IN THE FEDERAL RESERVE
8 SYSTEM; AND

9 (II) ASKS THE COMMISSIONER TO DO SO;

10 (7) IF PROVIDING INFORMATION ABOUT A BANKING INSTITUTION TO
11 THE OFFICE OF THE COMPTROLLER OF THE CURRENCY, IF THE BANKING
12 INSTITUTION:

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

15 (II) ASKS THE COMMISSIONER TO DO SO;

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

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

20 (II) ASKS THE COMMISSIONER TO DO SO;

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

23 (I) IS INSURED BY THE CREDIT UNION SHARE GUARANTY
24 CORPORATION; OR

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

27 2. ASKS THE COMMISSIONER TO DO SO;

1 **(10) IF PROVIDING INFORMATION ABOUT A CREDIT UNION TO THE**
 2 **NATIONAL CREDIT UNION ADMINISTRATION, IF THE CREDIT UNION:**

3 **(I) 1. IS APPLYING FOR INSURANCE FROM THE NATIONAL**
 4 **CREDIT UNION ADMINISTRATION; AND**

5 **2. ASKS THE COMMISSIONER TO DO SO; OR**

6 **(II) 1. IS APPLYING TO CONVERT TO OR MERGE WITH A**
 7 **FEDERAL CREDIT UNION; AND**

8 **2. ASKS THE COMMISSIONER TO DO SO;**

9 **(11) IF PROVIDING INFORMATION ABOUT A CREDIT UNION TO**
 10 **ANOTHER STATE BANK REGULATORY AGENCY, IF THE CREDIT UNION:**

11 **(I) IS APPLYING TO MERGE WITH AN OTHER-STATE CREDIT**
 12 **UNION; AND**

13 **(II) ASKS THE COMMISSIONER TO DO SO; AND**

14 **(12) IF ENTERING INFORMATION INTO EVIDENCE UNDER SEAL IN A**
 15 **PUBLIC ENFORCEMENT HEARING.**

16 **[(a)] (C) [Subject to subsections (b), (c), and (d) of this section, notwithstanding]**
 17 **NOTWITHSTANDING** any other provision of State [laws or regulations] **LAW**, the
 18 Commissioner may:

19 (1) Enter into [cooperative and] information sharing agreements with [any
 20 federal or state regulatory agency having authority over financial institutions or with any
 21 federal or state law enforcement agency,] **OTHER GOVERNMENTAL AGENCIES, THE**
 22 **CONFERENCE OF STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS**
 23 **REPRESENTING GOVERNMENTAL AGENCIES**, provided that the agreements prohibit the
 24 [agency] **AGENCIES** from disclosing any shared information without **THE** prior written
 25 consent from the Commissioner regarding disclosure of the particular information; and

26 (2) Exchange information about [a financial institution] **BANKING**
 27 **INSTITUTIONS, CREDIT UNIONS, AND OTHER PERSONS REQUIRED TO BE LICENSED**
 28 **UNDER THIS ARTICLE**, including information obtained during an examination, with [any
 29 federal or state regulatory agency having authority over the financial institution or with
 30 any federal or state law enforcement agency] **OTHER GOVERNMENTAL AGENCIES, THE**
 31 **CONFERENCE OF STATE BANK SUPERVISORS, OR OTHER ASSOCIATIONS**
 32 **REPRESENTING GOVERNMENTAL AGENCIES.**

1 **(D) INFORMATION SHARED BY THE COMMISSIONER UNDER SUBSECTION (C)**
2 **OF THIS SECTION MAY NOT BE DISCLOSED BY AN AGENCY UNDER FEDERAL OR**
3 **OTHER STATES' LAWS GOVERNING THE DISCLOSURE OF PUBLIC INFORMATION, OR**
4 **BY SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE IN PRIVATE CIVIL**
5 **LITIGATION OR ADMINISTRATIVE PROCESS, WITHOUT THE PRIOR WRITTEN**
6 **CONSENT OF THE COMMISSIONER.**

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

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

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

16 **[(c)] (F)** Notwithstanding § 2-113(d) of this subtitle, an affiliate as defined in §
17 2-113(a) of this subtitle is subject to [subsection (a) of] this section if that affiliate **IS AN**
18 **AFFILIATE OF A BANKING INSTITUTION, OR** maintains or is required to maintain a
19 license issued by the Commissioner.

20 **(G) THIS SECTION DOES NOT APPLY TO:**

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

25 **(2) INFORMATION OR MATERIAL PROVIDED TO NMLS UNDER**
26 **SUBTITLE 11 OF THIS ARTICLE.**

27 **(H) ANY PROVISIONS OF TITLE 4, SUBTITLES 1 THROUGH 5 OF THE**
28 **GENERAL PROVISIONS ARTICLE RELATING TO THE DISCLOSURE OF ANY**
29 **INFORMATION DESCRIBED IN THIS SECTION SHALL BE SUPERSEDED BY THE**
30 **REQUIREMENTS OF THIS SECTION.**

31 **(I) EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION, ALL INFORMATION**
32 **DISCLOSED TO ANY PERSON AS PERMITTED UNDER SUBSECTIONS (B) AND (C) OF**
33 **THIS SECTION:**

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

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

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

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

6 **(2) FOR EACH OCCURRENCE, A FINE NOT EXCEEDING \$5,000 OR**
7 **IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.**

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

10 **[5-209.**

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

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

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

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

18 (4) Any confidential information obtained from a federal banking
19 authority.

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

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

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

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

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

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

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

4 (ii) The institution:

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

6 2. Asks the Commissioner to do so.

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

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

10 (ii) The institution:

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

12 2. Asks the Commissioner to do so.

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

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

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

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

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

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

23 [5-909.

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

25 (1) Adopt regulations; and

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

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

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

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

10 [6-909.

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

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

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

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

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

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

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

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

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

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

26 (i) The credit union is insured by the credit union share guaranty
27 corporation; or

28 (ii) The credit union:

29 1. Is applying for insurance from the credit union share
30 guaranty corporation; and

1 2. Requests the Commissioner to provide the information.

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

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

6 (ii) The credit union:

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

9 2. Requests the Commissioner to provide the information.

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

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

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

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

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

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

20 [12-903.

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

22 (1) Adopt rules and regulations;

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
30 1, 2016.