

HOUSE BILL 1100

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5lr2559

By: **Delegates W. Miller and B. Wilson**

Introduced and read first time: February 16, 2015

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Fiduciary Institutions – Disclosure of Financial Records – Federal Investigation**
3 **Agencies**

4 FOR the purpose of providing that a certain fiduciary institution is not prohibited from
5 disclosing certain financial records to certain federal investigation agencies under
6 certain circumstances for a certain use; defining a certain term; making a technical
7 correction; and generally relating to the disclosure of financial records by fiduciary
8 institutions.

9 BY repealing and reenacting, with amendments,
10 Article – Financial Institutions
11 Section 1–301, 1–303, and 1–304
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2014 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Financial Institutions
16 Section 1–302
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2014 Supplement)

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

Article – Financial Institutions

22 1–301.

23 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) **“FEDERAL INVESTIGATION AGENCY” MEANS:**

2 (1) **THE FEDERAL BUREAU OF INVESTIGATION;**

3 (2) **THE UNITED STATES TREASURY; OR**

4 (3) **A FEDERAL AGENCY THAT HAS AS A PRIMARY DUTY THE**
5 **INVESTIGATION OF FEDERAL CRIMES.**

6 (c) (1) “Fiduciary institution” means:

7 (i) A national banking association;

8 (ii) A State banking institution;

9 (iii) An other–state bank that maintains a branch in this State;

10 (iv) A credit union that is organized under the laws of this State or
11 of the United States;

12 (v) Any other organization that is organized under the banking laws
13 of this State and subject to the supervision of the Commissioner; or

14 (vi) A savings and loan association that is organized under the laws
15 of this State or of the United States.

16 (2) “Fiduciary institution” does not include any person licensed by the
17 Commissioner under Title 11 of this article.

18 [(c)] (D) (1) “Financial record” means the original or any copy or record of:

19 (i) A document that grants signature authority over a deposit or
20 share account;

21 (ii) A statement, ledger card, or other record of a deposit or share
22 account that shows transactions in or with respect to that deposit or account;

23 (iii) A check, clear draft, or money order that is drawn on a fiduciary
24 institution or issued and payable by or through a fiduciary institution;

25 (iv) Any item, other than an institutional or periodic charge, that is
26 made under an agreement between a fiduciary institution and another person and that
27 constitutes a debit or a credit to that person’s deposit or share account; or

28 (v) Any information that relates to a loan account or an application
29 for a loan.

1 (2) “Financial record” includes any evidence of a transaction conducted by
2 means of an electronic terminal.

3 **[(d)] (E)** “Supervisory agency” means:

4 (1) The Federal Deposit Insurance Corporation;

5 (2) The Federal Savings and Loan Insurance Corporation;

6 (3) The Federal Home Loan Bank Board;

7 (4) The National Credit Union Administration;

8 (5) The Federal Reserve Board;

9 (6) The United States Comptroller of the Currency;

10 (7) The State of Maryland Deposit Insurance Fund Corporation;

11 (8) The Credit Union Insurance Corporation;

12 (9) The Commissioner;

13 (10) The Division of Savings and Loan Associations; or

14 (11) An agency of another state with primary responsibility for chartering
15 and supervising banks.

16 1–302.

17 Except as otherwise expressly provided in this subtitle, a fiduciary institution, its
18 officers, employees, agents, and directors:

19 (1) May not disclose to any person any financial record relating to a
20 customer of the institution unless:

21 (i) The customer has authorized the disclosure to that person;

22 (ii) Proceedings have been instituted for appointment of a guardian
23 of the property or of the person of the customer, and court–appointed counsel presents to
24 the fiduciary institution an order of appointment or a certified copy of the order issued by
25 or under the direction or supervision of the court or an officer of the court;

26 (iii) The customer is disabled and a guardian is appointed or qualified
27 by a court, and the guardian presents to the fiduciary institution an order of appointment

1 or a certified copy of the order issued by or under the direction or supervision of the court
2 or an officer of the court;

3 (iv) The customer is deceased and a personal representative is
4 appointed or qualified by a court, and the personal representative presents to the fiduciary
5 institution letters of administration issued by or under the direction or supervision of the
6 court or an officer of the court;

7 (v) The Department of Human Resources requests the financial
8 record in the course of verifying the individual's eligibility for public assistance;

9 (vi) The institution received a request, notice, or subpoena for
10 information directly from the Child Support Enforcement Administration of the
11 Department of Human Resources under § 10–108.2, § 10–108.3, or § 10–108.5 of the Family
12 Law Article or indirectly through the Federal Parent Locator Service under 42 U.S.C. §
13 666(a)(17); or

14 (vii) The institution received a request, notice, or subpoena for
15 information directly from the Comptroller under § 13–804 or § 13–812 of the Tax – General
16 Article;

17 (2) Shall disclose any information requested in writing by the Department
18 of Human Resources relative to moneys held in a savings deposit, time deposit, demand
19 deposit, or any other deposit held by the fiduciary institution in the name of the individual
20 who is a recipient or applicant for public assistance; and

21 (3) Shall disclose any information requested in writing by the Comptroller
22 relative to moneys held in a savings deposit, time deposit, demand deposit, or any other
23 deposit held by the fiduciary institution in the name of an individual whose property is
24 subject to a tax lien.

25 1–303.

26 This subtitle does not prohibit:

27 (1) The preparation, examination, handling, or maintenance of financial
28 records by any officer, employee, or agent of a fiduciary institution that has custody of the
29 records;

30 (2) The examination of financial records by a certified public accountant
31 while engaged by a fiduciary institution to perform an independent audit;

32 (3) The examination of financial records by, or the disclosure of financial
33 records to, any officer, employee, or agent of a supervisory agency for use only in the
34 exercise of that person's duties as an officer, employee, or agent;

1 (4) The publication of information derived from financial records if the
2 information cannot be identified to any particular customer, deposit, or account;

3 (5) The making of reports or returns required or permitted by federal or
4 State law;

5 (6) The disclosure of any information permitted to be disclosed under those
6 provisions of the Commercial Law Article that relate to the dishonor of a negotiable
7 instrument;

8 (7) The exchange, in the regular course of business, of credit information
9 between a fiduciary institution and any other fiduciary institution or commercial
10 enterprise, if made directly or through a consumer reporting agency;

11 (8) The exchange, in the regular course of business, of a statement of a
12 mortgage account on the subject property in connection with a sale, refinancing, or
13 foreclosure, of real property; or the disclosure, in the regular course of business, of a
14 statement of a mortgage account on the subject property to the holder of any subordinate
15 mortgage or security interest;

16 (9) The disclosure to a State's Attorney of any information in accordance
17 with § 8–104(c) of the Criminal Law Article (regarding the presentation of a certificate
18 under oath to prove insufficient funds and dishonor of checks);

19 (10) A fiduciary institution from disclosing to the Department of Human
20 Resources an individual's financial records that the Department determines are necessary
21 to verify or confirm the individual's eligibility or ineligibility for public assistance;

22 (11) In a prosecution outside the State for the crime of obtaining property or
23 services by bad check, the presentation to the prosecutor of a certificate under oath by an
24 authorized representative of a drawee that declares the dishonor of the check by the
25 drawee, the lack of an account with the drawee at the time of utterance, or the insufficiency
26 of the drawer's funds at the time of presentation and utterance;

27 (12) The disclosure of the financial records of one of its customers by a
28 fiduciary institution to an affiliate that extends credit for the sole purpose of evaluating a
29 requested or existing extension of credit to that customer by an affiliate of the fiduciary
30 institution; [or]

31 (13) A fiduciary institution from disclosing to the Comptroller an
32 individual's financial records that the Comptroller determines are necessary to enforce the
33 tax laws of the State; OR

34 **(14) A FIDUCIARY INSTITUTION FROM DISCLOSING TO A FEDERAL**
35 **INVESTIGATION AGENCY, WITHOUT A SUBPOENA BEING SERVED ON THE FIDUCIARY**
36 **INSTITUTION, AN INDIVIDUAL'S FINANCIAL RECORDS FOR USE BY THE FEDERAL**

1 INVESTIGATION AGENCY ONLY IN THE INVESTIGATION OF A FEDERAL CRIMINAL
2 CASE IN THE STATE.

3 1-304.

4 (a) In this section, "subpoena" means a subpoena, summons, warrant, or court
5 order that appears on its face to have been issued on lawful authority.

6 (b) A fiduciary institution may disclose or produce financial records or
7 information derived from financial records in compliance with a subpoena served on the
8 fiduciary institution, if **THE SUBPOENA:**

9 (1) **[The subpoena contains] CONTAINS** a certification that a copy of the
10 subpoena has been served on the person whose records are sought by the party seeking the
11 disclosure or production of the records; or

12 (2) Contains a certification that service has been waived by the court for
13 good cause.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2015.