

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2191

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2191

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2191

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 23, 2001.

Tape Number	Side A	Side B	Meter #
1	x		24.2 to end
1		x	0 to 23.9
(Jan. 31/01) 3		x	36.4 to 38.9
(Feb. 12/01) 2	x		8.7 to 37.2
(April 4/01) 1	x		0 to 25.8
Committee Clerk Signature <i>Doris E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2191 relating to disclosure of financial information by financial institutions.

SENATOR KREBSBACH: presented bill.

MARILYN FOSS, ND Bankers Assn. In favor. Written testimony attached. This bill makes information sharing rules for providers of financial services inside and outside of ND the same. As law is now small banks are unable to share information with unaffiliated data processing vendor without customer's consent. This was not the intent and places small institutions in a significant competitive disadvantage.

SENATOR ESPEGARD: Bank wouldn't be able to sell information to third parties?

M FOSS: Subject to GLB provisions on information sharing practices, disclosing account information to third parties for marketing purposes is prohibited.

Page 2
Senate Industry, Business and Labor Committee
Bill/Resolution Number SB 2191
Hearing Date January 23, 2001.

SENATOR D. MATHERN: My concern is that the way it is written would require people to "opt in".

M FOSS: This bill adopts GLB philosophy, give customers choice, institution notifies them, they are required to act.

SENATOR TOLLEFSON: If I choose no, I would have to contact bank to stop information sharing.

M FOSS: Correct.

JOEL GILBERTSON, Executive VP, Independent Community Banks of ND. In favor of this bill. Written testimony attached.

GARY PRESZLER, Commissioner, Dept. of Banking and Financial Institutions. Neutral, to inform. Written testimony attached.

January 31/01. Tape 3-B-36.4 to 38.9

Committee reconvened. All members present. Discussion held. Action held pending amendments to be submitted by MARILYN FOSS, to fill gaps and eliminate ambiguity.

Feb. 12/01 Tape 2-A- 8.7 to 37.2

Committee reconvened. All members present.

MARILYN FOSS, NDBA. Written testimony submitted explaining amendments and definitions.

Discussion held. SENATOR ESPEGARD: Motion to adopt amendments. SENATOR

TOLLEFSON: Second. Roll call vote: 7 yes; 0 no. Motion carried.

SENATOR ESPEGARD: Motion: do pass as amended. SENATOR D. MATHERN: Seconded.

Roll call vote: 7 yes; 0 no. Carrier: SENATOR KREBSBACH.

Page 3

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2191

Hearing Date January 23, 2001.

April 3/01. Tape 1-A-0 to 25.8

Committee reconvened. All members present.

Marilyn Foss, NDBA, House amended bill by adding sections 3 and 5. Section 3 extends opt out rights and disclosure requirements that consumers have both under federal and state laws to agricultural and commercial accounts. GLB only covers consumers, including agricultural and commercial was supported by the financial institutions. Section 3 incorporates service provider and other exceptions of GLB into agriculture and commercial section to make clear that bank or credit union can use customer information for third party service provider agreements. Without that part of section 3 smaller banks and credit unions would be subject to charges that they are violating ND banking law when using third party service providers. Sunset on section 3 coincides with SCR 4019 which is the study of privacy.

Senator Mutch: What kind of information can be passed out?

M Foss: Only the information necessary to do the processing.

Senator Tollefson: Only the amendment sunsets after two years? What if the entire bill would not be brought into law until after the study resolution is completed?

M Foss: ND would be out of step with the now national system of customer information protection and sharing. It would place all institutions at risk of being charged with violating ND laws and would also place ND banks and credit unions at a competitive disadvantage.

Committee discussed misinformation on the press regarding this bill and stressed it will be up to the customer whether information is sold or not.

Senator Mathern: The people who handle the information are considered agents and therefore exempt from the law?

M Foss: Usually contract specify they cannot sell information. Many also specify they are not

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agents because the financial institutions don't want to transfer liability. Our present law doesn't provide exception for service providers.

Greg Tschider, ND Credit Union League. We are presently in violation of law by exchanging information. We will have to reevaluate how we provide services to customers. Right now if you don't want the information on your drivers' license sold you have to opt out. All we are asking is lets use the same system for financial institutions. We need this bill and would appreciate your support.

Discussion held.

Senator Espgaard: GLB says you have to notify your customers by July 1st of this year. GLB is to put all in a leveled playing field.

Senator Klein: Motion to concur with House amendments. **Senator Espgaard:** Second.

Roll call vote: 7 yes; 0 no. Motion carried. Floor assignment: **Senator Krebsbach.**

18273.0101
Title.

Prepared by the Legislative Council staff for
Senators Krebsbach, Espegard
January 29, 2001

PROPOSED AMENDMENTS TO SENATE BILL NO. 2191

Page 1, line 2, after "institutions" insert "; to provide an effective date; and to declare an emergency"

Page 1, after line 9, insert:

"SECTION 2. EFFECTIVE DATE. Section 1 of this Act becomes effective on July 1, 2001.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1/29/01
 Roll Call Vote #:)

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 2191

Senate Senate Industry, Business and Labor Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment

Motion Made By Sen Krebsbach Seconded By Sen. Espgaard

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern		✓
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: *Feb 12/01*
Roll Call Vote #: *1*

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *2191*

Senate Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken *Adopt amendment*

Motion Made By *A. Espgaard* Seconded By *S. Tollefson*

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) *7* No *0*

Absent *0*

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To define and clarify

Date: Feb 12/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2191

Senate Industry, Business and Labor Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DPA

Motion Made By Sen Espgaard Seconded By A Mathern

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espgaard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen Krebsbach

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2191: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2191 was placed on the Sixth order on the calendar.

Page 1, line 2, after "institutions" insert "; to amend and reenact section 6-08.1-01 of the North Dakota Century Code, relating to the definition of a customer and customer information; to provide an effective date; and to declare an emergency"

Page 1, after line 3, insert:

"SECTION 1. AMENDMENT. Section 6-08.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-08.1-01. Definitions. As used in this chapter:

1. "Customer" means, with respect to a financial institution, any ~~person who has transacted or is transacting business with, or has used or is using the services of, individual or authorized representative of an individual to whom a financial institution, or for whom a financial institution has acted provides a product or service for personal, family, or household use, including that of acting as a fiduciary with respect to trust property.~~
2. "Customer information" means ~~either of the following:~~
 - a: ~~Any original or any copy of any records held by a financial institution pertaining to a customer's relationship with the financial institution.~~
 - b: ~~Any information derived from a record described in this subsection nonpublic personal information maintained by or for a financial institution which is derived from a customer relationship between the financial institution and a customer of the financial institution and is identified with the customer.~~
3. "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, a bank, including the Bank of North Dakota, a savings bank, a trust company, a savings and loan association, or a credit union.
4. "Financial institution regulatory agency" means any of the following:
 - a. The federal deposit insurance corporation.
 - b. The federal savings and loan insurance corporation.
 - c. The national credit union administration.
 - d. The federal reserve board.
 - e. The United States comptroller of the currency.
 - f. The department of banking and financial institutions.
 - g. The federal home loan bank board.

5. "Governmental agency" means any agency or department of this state, or any authorized officer, employee, or agent of an agency or department of this state.
6. "Law enforcement agency" means any agency or department of this state or of any political subdivision of this state authorized by law to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
7. "Person" means any individual, partnership, corporation, limited liability company, association, trust, or other legal entity."

Page 1, underscore lines 6 through 9

Page 1, after line 9, insert:

"SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2001.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

