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2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to the disclosure of a banking institution's customer records

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The banking law is amended by adding a new section 9-v to
2 read as follows:
3 S 9-V. DISCLOSURE OF CUSTOMER RECORDS. 1. FOR PURPOSES OF THIS
4 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "BANKING INSTITUTION" MEANS ALL BANKS, TRUST COMPANIES, SAVINGS
6 BANKS, SAVINGS AND LOAN ASSOCIATIONS, CREDIT UNIONS, MORTGAGE BANKERS,
7 EXEMPT ORGANIZATIONS AS DEFINED IN ARTICLE TWELVE-D OF THIS CHAPTER,
8 LICENSED LENDERS AND FOREIGN BANKING CORPORATIONS WHETHER INCORPORATED,
9 CHARTERED, ORGANIZED OR LICENSED UNDER THE LAWS OF THIS STATE OR ANY
10 OTHER STATE OR THE UNITED STATES.
11 (B) "AGENT" MEANS ANY PERSON AUTHORIZED TO TRANSACT BUSINESS FOR A
12 PRINCIPAL.
13 (C) "CUSTOMER" MEANS A DEPOSITOR IN, BORROWER FROM, AND ANY OTHER
14 PERSON PATRONIZING A BANKING INSTITUTION AND UTILIZING ITS SERVICES.
15 (D) "CUSTOMER IDENTIFICATION" MEANS THE ORIGINAL OR ANY COPY OR SUMMA-
16 RY OF ANY DOCUMENT, INCLUDING ANY EVIDENCE OF A TRANSACTION CONDUCTED BY
17 ELECTRONIC TERMINAL, THAT CONTAINS THE NAME AND/OR ADDRESS OF ANY
18 CUSTOMER OF A BANKING INSTITUTION, OR ANY DATA FROM WHICH SUCH INFORMA-
19 TION COULD BE CONSTRUCTED.
20 (E) "CUSTOMER INFORMATION" MEANS THE ORIGINAL OR ANY COPY OR SUMMARY
21 OF ANY DOCUMENT, INCLUDING ANY EVIDENCE OF A TRANSACTION CONDUCTED BY
22 MEANS OF AN ELECTRONIC TERMINAL, THAT CONTAINS A CUSTOMER'S CUSTOMER
23 IDENTIFICATION AND ANY INFORMATION CONCERNING A CUSTOMER'S INDIVIDUAL
24 SAVINGS OR LOAN ACCOUNTS OR THE DETAILS OF OTHER TYPES OF TRANSACTIONS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD06691-01-1

1 BETWEEN THE CUSTOMER AND THE BANKING INSTITUTION, OR ANY DATA FROM WHICH
2 SUCH INFORMATION COULD BE CONSTRUCTED.

3 (F) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCI-
4 ATION, TRUST, OR ANY OTHER LEGAL ENTITY ORGANIZED UNDER THE LAWS OF ANY
5 STATE OR OF THE UNITED STATES, OR OF ANY FOREIGN STATE.

6 (G) "PUBLIC RECORD" MEANS A RECORD WHICH IS AVAILABLE TO THE PUBLIC
7 PURSUANT TO ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

8 (H) "THIRD PERSON" MEANS A PERSON OTHER THAN THE CUSTOMER, THE BANKING
9 INSTITUTION, ITS WHOLLY-OWNED SUBSIDIARY OR AFFILIATE, TO WHOM DISCLO-
10 SURE IS RESTRICTED BY THIS SECTION.

11 (I) "SUBSIDIARY" SHALL HAVE THE SAME MEANING AS PROVIDED FOR IN SUBDI-
12 VISION FIVE OF SECTION ONE HUNDRED FORTY-ONE OF THIS CHAPTER.

13 (J) "AFFILIATE" SHALL HAVE THE SAME MEANING AS PROVIDED FOR IN SUBDI-
14 VISION SIX OF SECTION THIRTY-SIX OF THIS CHAPTER.

15 2. A CUSTOMER OF A BANKING INSTITUTION OR HIS OR HER DULY AUTHORIZED
16 AGENT HAS THE RIGHT TO OBTAIN AND INSPECT CUSTOMER INFORMATION PERTAIN-
17 ING SOLELY TO THE CUSTOMER'S OWN SAVINGS ACCOUNTS OR LOAN ACCOUNTS
18 RECORDS, OR INFORMATION PERTAINING TO OTHER FINANCIAL TRANSACTIONS WITH
19 THE BANKING INSTITUTION. A CUSTOMER DOES NOT HAVE THE RIGHT UNDER THIS
20 SECTION TO OBTAIN INTERNAL BUSINESS PAPERS, MEMORANDA, OR OTHER CONFI-
21 DENTIAL CORRESPONDENCE OR COMMUNICATIONS BETWEEN THE INSTITUTION AND
22 OTHERS INCLUDING ITS ATTORNEYS, ACCOUNTANTS, AND BOARD OF DIRECTORS THAT
23 MAY RELATE TO THE CUSTOMER.

24 3. (A) A BANKING INSTITUTION MAY DISCLOSE A CUSTOMER'S CUSTOMER
25 INFORMATION TO (I) A WHOLLY-OWNED SUBSIDIARY OR AFFILIATE OF THE BANKING
26 INSTITUTION, OR (II) TO THIRD PERSONS IF THE CUSTOMER INFORMATION
27 INTENDED TO BE RELEASED IS LIMITED TO INFORMATION RECORDED IN THE PUBLIC
28 RECORDS AND/OR A CUSTOMER'S CUSTOMER IDENTIFICATION, PROVIDED THAT IN
29 EITHER CASE THE BANKING INSTITUTION HAS GIVEN WRITTEN NOTICE TO THE
30 CUSTOMER OF THE INTENT OF THE BANKING INSTITUTION TO RELEASE SUCH INFOR-
31 MATION, AND THAT THE CUSTOMER HAS THE RIGHT TO PROHIBIT THE RELEASE OF
32 THIS INFORMATION BY NOTIFYING THE BANKING INSTITUTION IN WRITING OF HIS
33 OR HER OBJECTION, OR (III) TO THIRD PERSONS IF THE CUSTOMER INFORMATION
34 TO BE DISCLOSED IS CUSTOMER INFORMATION NOT CONTAINED IN A PUBLIC RECORD
35 PROVIDED THAT THE BANKING INSTITUTION HAS COMPLIED WITH THIS SECTION.

36 (B) ANY DISCLOSURE PURSUANT TO SUBPARAGRAPH (I) OR (II) OF PARAGRAPH
37 (A) OF THIS SUBDIVISION MAY BE MADE NO SOONER THAN FIFTEEN DAYS AFTER
38 THE CUSTOMER RECEIVED THE NOTICE, IF THE NOTICE WAS GIVEN IN PERSON, OR
39 FIFTEEN DAYS AFTER THE NOTICE WAS MAILED TO THE CUSTOMER, AND SHALL BE
40 LIMITED TO THOSE CUSTOMERS OF THE BANKING INSTITUTION WHO HAVE NOT
41 OBJECTED TO THE RELEASE OF HIS OR HER CUSTOMER INFORMATION PURSUANT TO
42 THOSE PROVISIONS. SUCH NOTICE MAY BE GIVEN TO NEW CUSTOMERS AT THE TIME
43 AN ACCOUNT IS OPENED, AT THE TIME A LOAN OR MORTGAGE IS GRANTED OR AT
44 THE TIME THE CUSTOMER ENTERS INTO ANOTHER FORM OF FINANCIAL TRANSACTION
45 WITH THE BANKING INSTITUTION. SUCH NOTICE MAY ALSO BE PROVIDED TO OTHER
46 CUSTOMERS WITH OR IN A MONTHLY ACCOUNT STATEMENT, PERIODIC STATEMENT OR
47 OTHER MAILING.

48 (C) AT LEAST ONCE EVERY TWO YEARS AFTER A BANKING INSTITUTION RELEASES
49 A CUSTOMER'S CUSTOMER INFORMATION PURSUANT TO PARAGRAPH (A) OF THIS
50 SUBDIVISION, A BANKING INSTITUTION THAT DESIRES TO CONTINUE TO RELEASE
51 CUSTOMER INFORMATION SHALL PROVIDE WRITTEN NOTICE TO SUCH CUSTOMERS
52 REMINDING THEM THAT THE BANKING INSTITUTION MAY RELEASE SUCH CUSTOMER
53 INFORMATION AND OF THE CUSTOMER'S CONTINUING RIGHT TO WITHDRAW SUCH
54 AUTHORIZATION AT ANY TIME. THE NOTICE MUST CONTAIN AN ADDRESS WHERE THE
55 CUSTOMER MAY REGISTER SUCH WITHDRAWAL OF CONSENT.

1 4. NOTWITHSTANDING SUBDIVISION THREE OF THIS SECTION, A BANKING INSTI-
2 TUTION MAY DISCLOSE ITS CUSTOMER INFORMATION TO THE FOLLOWING:

3 (A) ANY PERSON TO WHOM THE CUSTOMER HAS AFFIRMATIVELY AUTHORIZED SUCH
4 DISCLOSURE IN WRITING;

5 (B) ANY DIRECTOR, OFFICER, OR EMPLOYEE OF A BANKING INSTITUTION HAVING
6 THE DUTY TO PREPARE, EXAMINE, HANDLE, MAINTAIN, OR PROCESS CUSTOMER
7 INFORMATION IN THE ORDINARY COURSE OF CONDUCTING THE BANKING INSTI-
8 TUTION'S BUSINESS;

9 (C) ANY AGENT OF THE BANKING INSTITUTION, ANY INDEPENDENT CONTRACTOR
10 PROVIDING A SERVICE TO THE BANKING INSTITUTION IN THE ORDINARY COURSE OF
11 THE BANKING INSTITUTION'S BUSINESS, OR ANY PERSON PROVIDING PROFESSIONAL
12 SERVICES TO THE BANKING INSTITUTION, INCLUDING, BUT NOT LIMITED TO, AN
13 ACCOUNTANT ENGAGED BY THE BANKING INSTITUTION TO PREPARE AN INDEPENDENT
14 AUDIT, AN ATTORNEY PERFORMING A SERVICE ON BEHALF OF THE BANKING INSTI-
15 TUTION, AN AGENT OR OTHER PERSON REPRESENTING THE BANKING INSTITUTION IN
16 COLLECTING A DEBT OR OTHERWISE SECURING PAYMENT OF A LOAN OR ADVANCE;

17 (D) ANY OFFICER, EMPLOYEE, OR AGENT OF THE BANKING BOARD FOR USE SOLE-
18 LY IN THE EXERCISE OF ITS DUTIES;

19 (E) A FINANCIAL INSTITUTION, COMMERCIAL ENTERPRISE, OR CREDIT REPORT-
20 ING AGENCY, WHEN SUCH DISCLOSURE IS PART OF AN EXCHANGE IN THE REGULAR
21 COURSE OF BUSINESS OF INFORMATION PERTAINING TO THE CREDIT-WORTHINESS OF
22 THE CUSTOMER BETWEEN A BANKING INSTITUTION AND ANOTHER FINANCIAL INSTI-
23 TUTION OR COMMERCIAL ENTERPRISE, DIRECTLY OR THROUGH A CREDIT REPORTING
24 AGENCY;

25 (F) PERSONS TO WHOM REPORTS OR RETURNS MUST BE MADE OR INFORMATION
26 DISCLOSED PURSUANT TO STATE LAW OR REGULATIONS INCLUDING, BUT NOT LIMIT-
27 ED TO, THE DEPARTMENT OF TAXATION AND FINANCE, OR ANY GOVERNMENT AUTHOR-
28 ITY ACTING PURSUANT TO LAW;

29 (G) PERSONS TO WHOM INFORMATION IS PERMITTED TO BE DISCLOSED UNDER LAW
30 CONCERNING THE DISHONOR OF A NEGOTIABLE INSTRUMENT;

31 (H) THE BANKING INSTITUTION'S BOND OR INSURANCE COMPANIES WHEN THE
32 BANKING INSTITUTION HAS INFORMATION RELATIVE TO A CLAIM PURSUANT TO ITS
33 BOND OR DIRECTOR'S AND OFFICER'S LIABILITY INSURANCE POLICY OR OTHER
34 INSURANCE COVERAGE;

35 (I) ANY PERSON FOR THE PURPOSE OF ENGAGING IN A SECONDARY MARKET TRAN-
36 SACTION;

37 (J) REPRESENTATIVES OF THE ATTORNEY GENERAL CONDUCTING CIVIL INVESTI-
38 GATIONS, PURSUING CIVIL ACTIONS FOR THE PURPOSE OF ASSESSING CIVIL MONEY
39 PENALTIES, OR PURSUING FORFEITURES FOR VIOLATIONS OF BANKING INSTITUTION
40 CRIMINAL STATUTES; AND

41 (K) ANY PERSON NOT EXPRESSLY PERMITTED BY THIS SECTION IF THE BANKING
42 INSTITUTION RECEIVES THE PRIOR WRITTEN APPROVAL OF THE BANKING BOARD,
43 WHICH MAY ESTABLISH THE TERMS AND CONDITIONS GOVERNING SUCH RELEASE.

44 5. PRIOR TO THE RELEASE BY A BANKING INSTITUTION OF ITS CUSTOMER
45 INFORMATION AUTHORIZED BY PARAGRAPH (A) OF SUBDIVISION THREE OR BY
46 EXCEPTIONS CONTAINED IN PARAGRAPH (A), (C), (E), (H) OR (I) OF SUBDIVI-
47 SION FOUR OF THIS SECTION SHALL REQUIRE INTENDED RECIPIENTS OF CUSTOMER
48 INFORMATION TO EXECUTE AN AGREEMENT STATING AT A MINIMUM THE SPECIFIC
49 USE TO BE MADE OF THE CUSTOMER INFORMATION AND PROHIBITING SUBSEQUENT
50 DISCLOSURE OF THE CUSTOMER INFORMATION TO A THIRD PARTY, EXCEPT IF SUCH
51 DISCLOSURE IS REQUIRED BY LAW OR PURSUANT TO THE CIRCUMSTANCES SET FORTH
52 IN PARAGRAPH (D), (F) OR (I) OF SUBDIVISION FOUR OF THIS SECTION, AND,
53 IF THE RECIPIENT OF THE CUSTOMER INFORMATION IS A CREDIT REPORTING AGEN-
54 CY, SUBSEQUENT DISCLOSURES MAY BE MADE IN THE REGULAR COURSE OF THE
55 CREDIT REPORTING AGENCY'S BUSINESS.

1 6. (A) BEFORE RELEASING ANY CUSTOMER INFORMATION PURSUANT TO SUBPARA-
2 GRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF THIS SECTION, A
3 BANKING INSTITUTION SHALL:

4 (I) PROVIDE A COPY OF AN "INFORMED CONSENT FORM" TO ALL NEW AND EXIST-
5 ING CUSTOMERS OF THE BANKING INSTITUTION WHOSE CUSTOMER INFORMATION IS
6 NOT CONTAINED IN THE PUBLIC RECORDS INTENDED TO BE DISCLOSED TO THIRD
7 PERSONS. SUCH FORM MAY BE GIVEN TO NEW CUSTOMERS AT THE TIME AN ACCOUNT
8 IS OPENED, AT THE TIME A LOAN OR MORTGAGE APPLICATION IS MADE, AT THE
9 TIME A LOAN OR MORTGAGE IS GRANTED OR AT THE TIME THE CUSTOMER ENTERS
10 INTO ANOTHER FORM OF FINANCIAL TRANSACTION WITH THE BANKING INSTITUTION.
11 SUCH FORM MAY ALSO BE PROVIDED TO OTHER CUSTOMERS WITH OR IN A MONTHLY
12 ACCOUNT STATEMENT, PERIODIC STATEMENT OR OTHER MAILING. THE CONSENT FORM
13 SHALL CONTAIN:

14 (A) A DEFINITION OF CUSTOMER INFORMATION NOT CONTAINED IN A PUBLIC
15 RECORD ("NON-PUBLIC CUSTOMER INFORMATION");

16 (B) A STATEMENT THAT THE CUSTOMER HAS THE RIGHT TO WITHHOLD CONSENT TO
17 THE RELEASE OF HIS OR HER NON-PUBLIC CUSTOMER INFORMATION BY THE BANKING
18 INSTITUTION;

19 (C) A DESCRIPTION OF THE TYPES OF BUSINESSES, ORGANIZATIONS, OR OTHER
20 PERSONS OR ENTITIES TO WHOM NON-PUBLIC CUSTOMER INFORMATION MAY BE
21 DISCLOSED AND THE TIME PERIOD, NOT TO EXCEED TWO YEARS, IN WHICH SUCH
22 DISCLOSURES MAY BE MADE;

23 (D) A STATEMENT THAT THE BANKING INSTITUTION MAY SEEK TO RELEASE NON-
24 PUBLIC CUSTOMER INFORMATION FOR A LONGER PERIOD THAN TWO YEARS, AND IF
25 AN EXTENSION IS SOUGHT, THE BANKING INSTITUTION SHALL PROVIDE A NOTICE
26 EXPLICITLY REMINDING THE CUSTOMER OF THE CUSTOMER'S PRIOR AUTHORIZATION
27 AND THE CUSTOMER'S CONTINUING RIGHT TO WITHDRAW THAT AUTHORIZATION;

28 (E) A STATEMENT THAT IF RELEASE IS CONTEMPLATED TO TYPES OF RECIPIENTS
29 OTHER THAN THOSE FOR WHICH AUTHORIZATION IS SOUGHT THE BANKING INSTITU-
30 TION MUST OBTAIN NEW AUTHORIZATION FOR THE RELEASE;

31 (F) A STATEMENT THAT THE CUSTOMER MAY AT ANY TIME PROVIDE THE BANKING
32 INSTITUTION WITH WRITTEN NOTICE WITHDRAWING THE CUSTOMER'S PRIOR CONSENT
33 TO RELEASE NON-PUBLIC CUSTOMER INFORMATION AND HOW AND TO WHOM SUCH
34 NOTICE MUST BE GIVEN;

35 (G) A STATEMENT THAT NON-PUBLIC CUSTOMER INFORMATION MAY BE RELEASED
36 PURSUANT TO STATUTE OR REGULATION EVEN WHEN NOT AUTHORIZED BY THE
37 CUSTOMER;

38 (H) A STATEMENT AUTHORIZING THE RELEASE OF NON-PUBLIC CUSTOMER INFOR-
39 MATION; AND

40 (I) A SPACE FOR THE CUSTOMER'S SIGNATURE AND FOR THE DATE THE DOCU-
41 MENT WAS EXECUTED.

42 (II) RECEIVE A SIGNED AND DATED CONSENT FORM FROM THE CUSTOMER; AND

43 (III) RETAIN A COPY OF EACH CONSENT FORM IN AN APPROPRIATE FILE MAIN-
44 TAINED FOR THE CUSTOMER PROVIDING THE AUTHORIZATION.

45 (B) A BANKING INSTITUTION SHALL FULFILL THE REQUIREMENT THAT IT OBTAIN
46 CONSENT FROM ITS CUSTOMERS BEFORE DISCLOSING CUSTOMER INFORMATION NOT
47 CONTAINED IN A PUBLIC RECORD UNDER SUBPARAGRAPH (III) OF PARAGRAPH (A)
48 OF SUBDIVISION THREE OF THIS SECTION BY PROVIDING A CLEAR AND CONSPICU-
49 OUS DOCUMENT CONTAINING THE INFORMATION SET FORTH IN PARAGRAPH (A) OF
50 THIS SUBDIVISION. THE FOLLOWING COMPLIES WITH THIS REQUIREMENT, BUT
51 BANKING INSTITUTIONS ARE PERMITTED TO DEVELOP THEIR OWN FORMS CONTAINING
52 THE REQUIRED INFORMATION:

53 AUTHORIZATION TO DISCLOSE CUSTOMER INFORMATION
54 (CUSTOMER NAME)
55 (ACCOUNT/LOAN NUMBER(S))

1 UNDER APPLICABLE LAW AND REGULATIONS (NAME OF BANKING INSTITUTION)
2 MUST OBTAIN YOUR CONSENT TO DISCLOSE NON-PUBLIC INFORMATION CONCERNING
3 YOUR ACCOUNT BALANCES, LOANS, OR OTHER FINANCIAL ACTIVITIES TO VARIOUS
4 ENTITIES. THIS INFORMATION THAT PERTAINS TO YOUR FINANCIAL TRANSACTIONS
5 IS KNOWN AS NON-PUBLIC CUSTOMER INFORMATION.

6 (NAME OF BANKING INSTITUTION) DESIRES TO DISCLOSE SUCH INFORMATION
7 DURING THE NEXT (PERIOD OF TIME NOT TO EXCEED TWO YEARS) TO (INSERT
8 TYPES OF PERSONS OR ENTITIES TO WHICH THE CUSTOMER RECORDS ARE INTENDED
9 TO BE DISCLOSED). THESE PERSONS OR ENTITIES MAY CONTACT YOU TO OFFER YOU
10 A PRODUCT OR SERVICE. THESE PERSONS OR ENTITIES HAVE AGREED, OR WILL BE
11 REQUIRED TO AGREE, NOT TO DISCLOSE THIS INFORMATION TO ANY OTHER PERSON
12 OR BUSINESS, EXCEPT AS PERMITTED BY LAW AND REGULATION, AND HAVE AGREED
13 THAT NON-PUBLIC CUSTOMER INFORMATION SHALL REMAIN CONFIDENTIAL. (NAME OF
14 BANKING INSTITUTION) MAY RECEIVE A FEE FOR THE RELEASE OF CUSTOMER
15 RECORDS. IN THE EVENT THAT THE BANKING INSTITUTION WISHES TO DISCLOSE
16 SUCH INFORMATION TO PERSONS OR ENTITIES NOT DESCRIBED ABOVE, THE BANKING
17 INSTITUTION WILL SEEK REAUTHORIZATION. IN THE EVENT THE BANKING INSTITU-
18 TION WISHES TO DISCLOSE THIS INFORMATION BEYOND TWO YEARS, IT WILL
19 PROVIDE YOU WITH NOTICE.

20 WITHOUT YOUR CONSENT, (NAME OF BANKING INSTITUTION) CANNOT DISCLOSE
21 YOUR NON-PUBLIC CUSTOMER INFORMATION EXCEPT AS PROVIDED FOR BY LAW AND
22 REGULATION.

23 IF YOU PROVIDE YOUR CONSENT TO DISCLOSE THIS INFORMATION NOW OR IN THE
24 FUTURE, YOU MAY WITHDRAW YOUR CONSENT AT ANY TIME. YOU MAY WITHDRAW YOUR
25 CONSENT BY WRITING (NAME OF BANKING INSTITUTION) AT THE FOLLOWING
26 ADDRESS:

27 (NAME OF BANKING INSTITUTION)
28 (ADDRESS OF BANKING INSTITUTION)
29 (ATTN:)

30 IF, AFTER READING THE FOLLOWING STATEMENT, YOU CONSENT TO THE RELEASE
31 OF NON-PUBLIC CUSTOMER INFORMATION, SIGN YOUR NAME ON THE SPACE PROVIDED
32 AND RETURN THIS FORM TO (NAME OF BANKING INSTITUTION).

33 AUTHORIZATION

34 I HEREBY PROVIDE MY CONSENT TO (NAME OF BANKING INSTITUTION) TO RELEASE
35 MY NON-PUBLIC CUSTOMER INFORMATION TO THIRD PERSONS, AND UNDERSTAND THAT
36 I MAY WITHDRAW SUCH CONSENT AT ANY TIME. I HAVE BEEN INFORMED OF MY
37 RIGHT TO WITHHOLD MY CONSENT FOR (NAME OF BANKING INSTITUTION) TO
38 RELEASE MY NON-PUBLIC CUSTOMER INFORMATION AND I HAVE READ THE INFORMA-
39 TION PRINTED ABOVE.

40
41 NAME OF CUSTOMER DATE

42 (C) BANKING INSTITUTIONS SHALL NOT RELEASE ANY PERSON'S NON-PUBLIC
43 CUSTOMER INFORMATION AND SHALL TAKE SUCH AFFIRMATIVE STEPS AS MAY BE
44 NECESSARY TO INSURE THAT SUCH CUSTOMER INFORMATION IS NOT RELEASED:

45 (I) IF THE CUSTOMER HAS NOT AUTHORIZED THE DISCLOSURE OF SUCH INFORMA-
46 TION;

47 (II) IF AT ANY TIME, THE BANKING INSTITUTION RECEIVES WRITTEN NOTIFI-
48 CATION OF A CUSTOMER'S WITHDRAWAL OF CONSENT TO RELEASE CUSTOMER INFOR-
49 MATION PURSUANT TO THIS SECTION.

50 (D) A CUSTOMER MAY, AT ANY TIME, WITHDRAW THE CONSENT BY WRITING TO
51 THE BANKING INSTITUTION AND INFORMING IT OF THE WITHDRAWAL OF CONSENT.

52 (E) FOR THE PURPOSE OF COMPLIANCE WITH THE RENEWAL NOTICE REQUIREMENT
53 OF PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION FOR RELEASE OF
54 NON-PUBLIC CUSTOMER INFORMATION TO THIRD PERSONS, THE FOLLOWING NOTICE
55 WILL BE CONSIDERED TO BE IN COMPLIANCE WITH SUCH PARAGRAPH (C), BUT

1 BANKING INSTITUTIONS MAY DEVELOP THEIR OWN NOTICES PROVIDED THAT THE
2 EQUIVALENT INFORMATION IS CONTAINED THEREIN:

3 RENEWAL NOTICE FOR RELEASE OF NON-PUBLIC INFORMATION
4 (NAME OF CUSTOMER)

5 (ACCOUNT/LOAN NUMBER(S))

6 YOU PREVIOUSLY GAVE (NAME OF BANKING INSTITUTION) YOUR CONSENT TO
7 DISCLOSE NON-PUBLIC INFORMATION CONCERNING YOUR ACCOUNT BALANCES, LOANS,
8 OR OTHER FINANCIAL ACTIVITIES TO (TYPES OF PERSONS OR ENTITIES TO WHICH
9 THE CUSTOMER INFORMATION HAS BEEN DISCLOSED). THIS INFORMATION THAT
10 PERTAINS TO YOUR FINANCIAL TRANSACTIONS IS KNOWN AS NON-PUBLIC CUSTOMER
11 INFORMATION.

12 (NAME OF BANKING INSTITUTION) IS REQUIRED BY LAW OR REGULATION TO INFORM
13 YOU AT LEAST EVERY TWO YEARS OF YOUR RIGHT TO WITHDRAW YOUR CONSENT AT
14 ANY TIME. IF YOU DECIDE TO WITHDRAW YOUR CONSENT, YOUR NON-PUBLIC
15 CUSTOMER INFORMATION WILL NO LONGER BE DISCLOSED ONCE WE RECEIVE A WRIT-
16 TEN NOTICE WITHDRAWING YOUR CONSENT. YOU MAY WITHDRAW YOUR CONSENT BY
17 WRITING TO THE FOLLOWING ADDRESS:

18 (NAME OF BANKING INSTITUTION)

19 (ADDRESS OF BANKING INSTITUTION)

20 (ATTN: APPROPRIATE EMPLOYEE OF BANKING INSTITUTION)

21 7. EVERY BANKING INSTITUTION SHALL CONFORM ITS METHODS OF MAINTAINING
22 RECORDS TO THE REQUIREMENTS OF THIS SECTION AND TO ANY SUCH REGULATIONS
23 AS PROMULGATED BY THE SUPERINTENDENT. ANY BANKING INSTITUTION THAT FAILS
24 TO ADHERE TO THE NOTIFICATION REQUIREMENTS PURSUANT TO PARAGRAPH (A) OF
25 SUBDIVISION THREE OF THIS SECTION SHALL BE SUBJECT TO A PENALTY OF ONE
26 HUNDRED DOLLARS FOR EACH DAY IT SO REFUSES OR NEGLECTS TO ADHERE TO THE
27 REQUIREMENTS. IN ADDITION, ANY BANKING INSTITUTION THAT FAILS TO PROVIDE
28 NOTICE PURSUANT TO SUCH PARAGRAPH (A) AND SUBSEQUENTLY DISCLOSES A
29 CUSTOMER'S CUSTOMER INFORMATION AND/OR A CUSTOMER'S CUSTOMER IDENTIFICA-
30 TION OR FAILS TO HONOR THE DISCLOSURE PREFERENCE REGARDING A CUSTOMER'S
31 CUSTOMER INFORMATION AND/OR CUSTOMER'S CUSTOMER IDENTIFICATION SHALL
32 FORFEIT TO THE PEOPLE OF THE STATE THE PROCEEDS RECEIVED FROM SUCH
33 DISCLOSURE.

34 8. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OR FOUR OF THIS
35 SECTION, A BANKING INSTITUTION SHALL DISCLOSE ITS CUSTOMER INFORMATION
36 TO PERSONS MAKING DEMAND PURSUANT TO LAWFUL SUBPOENA, SUMMONS, WARRANT
37 OR COURT ORDER OR IN RESPONSE TO A SUBPOENA FROM A GRAND JURY SERVED
38 UPON THE BANKING INSTITUTION.

39 S 2. This act shall take effect on the first of January next succeed-
40 ing the date on which it shall have become a law.