

The Vermont Statutes Online

Title 8 : Banking And Insurance

Chapter 200 : Consumer Protection

Subchapter 002 : Financial Privacy

(Cite as: 8 V.S.A. § 10201)

§ 10201. Statement of policy on financial privacy

It is the policy of this state to protect the privacy of customers of financial institutions without unduly inhibiting the free flow of commerce or legitimate law enforcement activities. (Added 1999, No. 153 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

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(Cite as: 8 V.S.A. § 10202)

§ 10202. Definitions

As used in this subchapter:

(1) "Account verification service" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of:

(A) assembling information on the frequency and location of depository account openings or attempted openings by a consumer, or forced closings by a depository institution of accounts of a consumer; or

(B) authenticating or validating Social Security numbers or addresses for the purpose of reporting to third parties for use in fraud prevention. Mailing such information to a customer to the address provided by such customer shall not be prohibited by this subchapter.

(2) "Credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any consumer.

(3) "Customer" means, for purposes of this subchapter, any person who deposits, borrows, or invests with a financial institution, including a surety or a guarantor on a loan.

(4) "Financial information" means an original or copy of, or information derived from:

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

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

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person's deposit or share account;

(E) any information that relates to a loan account or an application for a loan; or

(F) evidence of a transaction conducted by electronic or telephonic means.

(5) "Financial institution" means a financial institution as defined in subdivision 11101(32) of this title, and a credit union, financial institution subsidiary, licensed lender, mortgage broker, or sales finance company organized or regulated under the laws of this State, the United States or any other state or territory.

(6) "Mercantile agency" means any person, which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating business credit information or other information on businesses for the purpose of reporting to third parties on the credit rating or creditworthiness of any business. (Added 1999, No. 153 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

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(Cite as: 8 V.S.A. § 10203)

§ 10203. Disclosure of financial records prohibited

Except as otherwise expressly provided in this subchapter, a financial institution, its officers, employees, agents, and directors shall not disclose to any person any financial information relating to a customer. Financial institutions shall adopt reasonable procedures to assure compliance with this subchapter. (Added 1999, No. 153 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

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(Cite as: 8 V.S.A. § 10204)

§ 10204. Exceptions

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

(1) Disclosure of information to the customer after proper identification.

(2) Disclosure authorized by the customer, provided the disclosure is limited to the scope and purpose that the customer authorizes.

(3) Disclosure of information sought by the Office of Child Support Services pursuant to its authority and obligations under 33 V.S.A. § 115 and 33 V.S.A. chapter 41, or by an agency of similar function of another state, pursuant to similar authority.

(4) Disclosure of information sought by the Department for Children and Families pursuant to its authority and obligations under 33 V.S.A. § 112.

(5) Disclosure sought by the Vermont Student Assistance Corporation pursuant to its authority and obligations under 16 V.S.A. chapter 87.

(6) The preparation, examination, handling, or maintenance of financial records by any officer, employee, or agent of a financial institution that has custody of the records.

(7) The examination of financial records by a certified public accountant while engaged by the financial institution to perform an independent audit.

(8) The disclosure of information to a collection agency, its employees or agents, or to any person engaged by the financial institution to assist in recovering an amount owed to the financial institution, if such disclosure is made in the furtherance of recovering such amount.

(9) The examination of financial records by, or the disclosure of financial records to, any officer, employee, or agent of a regulatory agency for use only in the exercise of that person's duties as an officer, employee, or agent.

(10) The publication of information derived from financial records if the information cannot be identified to any particular customer, deposit, or account.

(11) The making of reports, disclosures, or returns required by federal or state law.

(12) The disclosure of any information permitted to be disclosed under the laws governing dishonor of negotiable instruments.

(13) The exchange, in the regular course of business, of credit information between a financial institution and a credit reporting agency, provided such exchange is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(14) The exchange, in the regular course of business, of information between a financial institution and an account verification service, provided such exchange is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(15) The exchange, in the regular course of business, of information between a financial institution and a mercantile agency, provided such exchange is solely for the purpose of reporting to third parties on the credit rating or creditworthiness of any business, and is in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(16) The exchange of loan information that specifically affects a sale, foreclosure, or loan closing, provided such exchange is for the purpose of accomplishing such sale, foreclosure, or loan closing.

(17) The disclosure to civil or criminal law enforcement authorities for use in the exercise of such authority's duties, or the sharing of information, within an industry network, of suspected criminal activities.

(18) Disclosures requested pursuant to a summons for trustee process under Rule 4.2 of the Vermont Rules of Civil Procedure.

(19) Disclosure requested pursuant to subpoena, provided that no disclosure shall be made until 14 days after the financial institution has notified the customer that financial information has been requested by subpoena. Such notice shall be served by first class mail to the customer at the most recent address known to the financial institution. The provisions of this subdivision shall not apply where the subpoena is issued by or on behalf of a regulatory, criminal, or civil law enforcement agency.

(20) Disclosure required by order of court.

(21) Disclosure of customer financial information among directors, officers, employees, or agents of affiliated financial institutions, provided that such disclosure is limited to information necessary or appropriate to the fulfillment of any such persons' duties and responsibilities to the financial institution or institutions, and provided further that such disclosure is made in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(22) Disclosure of customer financial information of one financial institution to another financial institution in connection with a proposed merger, consolidation, acquisition, or other reorganization transaction involving such institution, provided that

no further disclosure is made except in compliance with this subchapter, and provided further that such disclosure is made in compliance with the Vermont Fair Credit Reporting Act, 9 V.S.A. chapter 63, subchapter 3, and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

(23) Disclosure in accordance with rules adopted by the Commissioner, provided that the Commissioner may permit disclosure by temporary order, until such time as rules under this subdivision are adopted.

(24) Disclosure sought by the Department of Taxes of this State pursuant to its authority and obligations under Title 32.

(25) Reports or disclosure of financial or other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b), 6904, and 6915.

(26) Disclosure of information sought by the Department of Vermont Health Access or its agents pursuant to the Department's authority and obligations under 33 V.S.A. § 403. (Added 1999, No. 153 (Adj. Sess.), § 2, eff. Jan. 1, 2001; amended 2001, No. 115 (Adj. Sess.), § 3, eff. May 28, 2002; 2005, No. 174 (Adj. Sess.), § 12; 2015, No. 91 (Adj. Sess.), § 3, eff. May 16, 2016; 2017, No. 11, § 6; 2017, No. 210 (Adj. Sess.), § 10, eff. June 1, 2018.)

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(Cite as: 8 V.S.A. § 10205)

§ 10205. Penalties

In addition to the authority provided under sections 11601, 11602 and 11603 of this title, the Commissioner may impose an administrative penalty of not more than \$1,000.00 for each violation of this subchapter resulting from willful conduct, or from a failure by a financial institution to provide reasonable supervision of its employees to prevent violations of this subchapter. (Added 1999, No. 153 (Adj. Sess.), § 2, eff. Jan. 1, 2001.)

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(Cite as: 8 V.S.A. § 10206)

§ 10206. Trigger lead solicitations for mortgage loans

(a) In this section:

(1) "Consumer" means a natural person residing in this State.

(2) "Trigger lead" means information about a consumer, including the consumer's name, address, telephone number, and an identification of the amount, terms, or conditions of credit for which the consumer has applied, that is:

(A) a consumer report obtained pursuant to section 604(c)(1)(B) of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681b, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for a mortgage loan; and

(B) furnished by the consumer-reporting agency to a third party that is not affiliated with the financial institution or the credit-reporting agency. A trigger lead does not include information about a consumer obtained by a lender that holds or services the existing mortgage indebtedness of the consumer who is the subject of the information.

(3) "Trigger lead solicitation" means a written or verbal offer or attempt to sell any property, rights, or services to a consumer based on a trigger lead.

(b) A person conducting a trigger lead solicitation shall disclose to a consumer in the initial phase of the solicitation:

(1) the person is not affiliated with the financial institution to which the consumer has submitted an application for credit;

(2) the financial institution to which the consumer has submitted an application for credit has not supplied the person with any personal or financial information; and

(3) the name of the person who paid for the trigger lead solicitation.

(c) A financial institution which has had its name, trade name, or trademark misrepresented in a trigger lead solicitation in violation of this section may, in addition to any other remedy provided by law, bring an action in Superior Court in the county of its primary place of business, or if its primary place of business is located outside Vermont, in Washington Superior Court. The Court shall award damages for each violation in the amount of actual damages demonstrated by the financial institution or \$5,000.00, whichever is greater. In any successful action for injunctive relief or for

damages, the Court shall award the financial institution reasonable attorney's fees and costs, including Court costs. (Added 2009, No. 100 (Adj. Sess.), § 1.)