

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2197
(Senators Klein, Holmberg)
(Representative Lefor)

AN ACT to amend and reenact sections 6-01-07.1 and 54-10-22.1 of the North Dakota Century Code, relating to confidentiality of facts and information obtained or created by the commissioner of financial institutions and the department of financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-07.1 of the North Dakota Century Code is amended and reenacted as follows:

6-01-07.1. Records - Confidential.

1. All facts and information obtained or created by the commissioner or the department in the following ways are confidential, except as provided in subsections 2 through ~~7~~8:
 - a. In the course of examining financial institutions, credit unions, and other licensed entities under the supervision of the commissioner, or in the course of receiving audit reports, reports of examining committee and reports of annual meetings of stockholders and directors of such institutions and licensees. The reports of examination may be made available to the financial institution's or licensee's board of directors, or the board's specifically authorized agents or representatives, but the reports remain the property of the department.
 - b. From the federal reserve system, federal deposit insurance corporation, federal home loan bank board, national credit union administration, or any state bank or credit union supervisors or supervisors of other licensed entities of other states.
 - c. In the course of investigating an institution under the supervision of, or licensed by, the commissioner, until such investigation is complete.
 - d. In the course of a special investigation being carried out at the request of the governor or any court.
 - e. ~~(1)~~ In the form or nature of an application for a charter, license, or permission which meets any of the following criteria:
 - ~~(1)~~(a) Trade secrets and commercial or financial information.
 - ~~(2)~~(b) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
 - ~~(3)~~(c) Information contained in the application form which is in the nature of examination report information.
 - ~~(2)~~ Determination of what required application information falls within each category must be made by the body before which the application is brought.
 - f. In the form of a complaint or comment from the public regarding a financial institution, credit union, or other licensed entity under the supervision of the commissioner, unless the commissioner is providing aggregate, nonspecific information.

2. When the commissioner is required or permitted by law to report upon or take special action regarding the affairs of any institution or licensed entity under the commissioner's supervision, the commissioner shall divulge only such information specified in subsection 1 as is necessary and sufficient for the action taken or to be taken.
3. The commissioner may furnish information to the attorney general, other state agencies, any prosecuting officials requiring the information for use in pursuit of official duties, and legislative investigations under chapter 54-03.2, if the commissioner determines necessary or proper to the enforcement of federal laws or the laws of this state or in the best interest of the public. Information furnished by the commissioner to any third party which is confidential in the commissioner's possession remains confidential in the possession of the third party. Information received by the commissioner from any third party which is confidential in the third party's possession remains confidential in the commissioner's possession.
4. The commissioner may furnish information and enter sharing agreements as to matters of mutual interest to an official or examiner of the federal reserve system, federal deposit insurance corporation, federal home loan bank board, national credit union administration, office of thrift supervision, comptroller of the currency, any other federal government agency, insurance commissioner, office of the securities commissioner, regulatory trade associations, any state bank or credit union supervisors or supervisors of other licensed entities of other states, or a nationwide multistate licensing system.
5. Information regarding complaints or comments from the public may be provided to other regulatory agencies, to the individual in response to the complaint or comment, or to the subject financial institution, credit union, or other licensed entity under the supervision of the commissioner.
6. The commissioner shall not be required to disclose the name of any debtor of any financial institution, credit union, or licensed entity reporting to or under the supervision of the commissioner or anything relative to the private accounts, ownership, or transactions of any such institution, or any fact obtained in the course of any examination thereof, except as herein provided. All disclosures must be limited to only those documents directly relevant to the inquiry at issue.
- ~~6-7.~~ This section does not limit the right of access of stockholders, shareholders, depositors, creditors, and sureties on bonds to specified department records as, and to the extent, provided by section 6-01-07.
- ~~7-8.~~ The standards for confidentiality and disclosure by the commissioner set forth in this section, except the standard of the exercise of discretion, which shall only be exercised by the commissioner, apply equally to the state banking board, the state credit union board, and all department employees.

SECTION 2. AMENDMENT. Section 54-10-22.1 of the North Dakota Century Code is amended and reenacted as follows:

54-10-22.1. State auditor's access to information relating to operations of governmental entities subject to audit.

Notwithstanding any other specific sections of law, the state auditor and persons employed by the state auditor, when necessary in conducting an audit, shall have access to all information relating to operations of all governmental units or component units subject to audit except active investigatory work product of the attorney general as defined in section 44-04-19.1 and financial records and estate planning records a donor provides to a nonprofit organization affiliated with an institution under the control of the state board of higher education which provides support to and is organized and operated for the benefit of the institution. Except for active investigatory work product of the attorney general as defined in section 44-04-19.1 and, tax records as described in section 54-10-24, and all facts and information obtained or created by the department of financial institutions under subsection 1 of section

6-01-07.1, the state auditor may inspect any state agency's books, papers, accounts, or records that may be relevant to an ongoing audit of any other state agency or computer system audit. The state auditor and persons employed by the state auditor examining any information, which is confidential by law, shall guard the secrecy of such information except when otherwise directed by judicial order or as is otherwise provided by law.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2197.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 91 Nays 3 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State