

106TH CONGRESS
1ST SESSION

S. 187

To give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. SARBANES (for himself, Mr. DODD, Mr. BRYAN, Mr. LEAHY, Mr. EDWARDS, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To give customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Information
5 Privacy Act of 1999”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “covered person” means a person
2 that is subject to the jurisdiction of any of the Fed-
3 eral financial regulatory authorities; and

4 (2) the term “Federal financial regulatory au-
5 thorities” means—

6 (A) each of the Federal banking agencies,
7 as that term is defined in section 3(z) of the
8 Federal Deposit Insurance Act; and

9 (B) the Securities and Exchange Commis-
10 sion.

11 **SEC. 3. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMA-**
12 **TION.**

13 (a) RULEMAKING.—The Federal financial regulatory
14 authorities shall jointly issue final rules to protect the pri-
15 vacy of confidential customer information relating to the
16 customers of covered persons, not later than 270 days
17 after the date of enactment of this Act (and shall issue
18 a notice of proposed rulemaking not later than 150 days
19 after the date of enactment of this Act), which rules
20 shall—

21 (1) define the term “confidential customer in-
22 formation” to be personally identifiable data that in-
23 cludes transactions, balances, maturity dates, pay-
24 outs, and payout dates, of—

25 (A) deposit and trust accounts;

1 (B) certificates of deposit;

2 (C) securities holdings; and

3 (D) insurance policies;

4 (2) require that a covered person may not dis-
5 close or share any confidential customer information
6 to or with any affiliate or agent of that covered per-
7 son if the customer to whom the information relates
8 has provided written notice, as described in para-
9 graphs (4) and (5), to the covered person prohibiting
10 such disclosure or sharing—

11 (A) with respect to an individual that be-
12 came a customer on or after the effective date
13 of such rules, at the time at which the business
14 relationship between the customer and the cov-
15 ered person is initiated and at least annually
16 thereafter; and

17 (B) with respect to an individual that was
18 a customer before the effective date of such
19 rules, at such time thereafter that provides a
20 reasonable and informed opportunity to the cus-
21 tomer to prohibit such disclosure or sharing
22 and at least annually thereafter;

23 (3) require that a covered person may not dis-
24 close or share any confidential customer information
25 to or with any person that is not an affiliate or

1 agent of that covered person unless the covered per-
2 son has first—

3 (A) given written notice to the customer to
4 whom the information relates, as described in
5 paragraphs (4) and (5); and

6 (B) obtained the informed written or elec-
7 tronic consent of that customer for such disclo-
8 sures or sharing;

9 (4) require that the covered person provide no-
10 tices and consent acknowledgments to customers, as
11 required by this section, in separate and easily iden-
12 tifiable and distinguishable form;

13 (5) require that the covered person provide no-
14 tice as required by this section to the customer to
15 whom the information relates that describes what
16 specific types of information would be disclosed or
17 shared, and under what general circumstances, to
18 what specific types of businesses or persons, and for
19 what specific types of purposes such information
20 could be disclosed or shared;

21 (6) require that the customer to whom the in-
22 formation relates be provided with access to the con-
23 fidential customer information that could be dis-
24 closed or shared so that the information may be re-
25 viewed for accuracy and corrected or supplemented;

1 (7) require that, before a covered person may
2 use any confidential customer information provided
3 by a third party that engages, directly or indirectly,
4 in activities that are financial in nature, as deter-
5 mined by the Federal financial regulatory authori-
6 ties, the covered person shall take reasonable steps
7 to assure that procedures that are substantially
8 similar to those described in paragraphs (2) through
9 (6) have been followed by the provider of the infor-
10 mation (or an affiliate or agent of that provider);
11 and

12 (8) establish a means of examination for com-
13 pliance and enforcement of such rules and resolving
14 consumer complaints.

15 (b) LIMITATION.—The rules prescribed pursuant to
16 subsection (a) may not prohibit the release of confidential
17 customer information—

18 (1) that is essential to processing a specific fi-
19 nancial transaction that the customer to whom the
20 information relates has authorized;

21 (2) to a governmental, regulatory, or self-regu-
22 latory authority having jurisdiction over the covered
23 financial entity for examination, compliance, or other
24 authorized purposes;

25 (3) to a court of competent jurisdiction;

1 (4) to a consumer reporting agency, as defined
2 in section 603 of the Fair Credit Reporting Act for
3 inclusion in a consumer report that may be released
4 to a third party only for a purpose permissible under
5 section 604 of that Act; or

6 (5) that is not personally identifiable.

7 (c) CONSTRUCTION.—Nothing in this section or the
8 rules prescribed under this section shall be construed to
9 amend or alter any provision of the Fair Credit Reporting
10 Act.

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