

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

3

HOUSE BILL 736  
Committee Substitute Favorable 4/13/95  
Third Edition Engrossed 4/19/95

Short Title: Conform Financial Privacy Act.

(Public)

Sponsors:

Referred to:

April 3, 1995

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE NORTH CAROLINA FINANCIAL PRIVACY ACT  
TO THE FEDERAL RIGHT TO FINANCIAL PRIVACY ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 53B-5 reads as rewritten:

**"§ 53B-5. Service on customer certification.**

A government authority may have access to a customer's financial record pursuant to G.S. 53B-4(11) only if:

- (1) The court order or subpoena describes with reasonable specificity the financial record to which access is sought;
- (2) A copy of the court order or subpoena has been served on the customer pursuant to G.S. 1A-1, Rule 4 (j) of the N.C. Rules of Civil Procedure or by certified mail to the customer's last known address and the court order or subpoena states the name of the government authority seeking access to the financial record and the purpose for which access is sought;
- (3) The following notice has been served on the customer pursuant to G.S. 1A-1, Rule 4 (j) of the N.C. Rules of Civil Procedure or by certified mail to the customer's last known address together with the court order or subpoena:

'Records or information held by the financial institution named in the attached process are being sought by government authority in

1 accordance with the North Carolina Financial Privacy Act. You may  
2 have rights under the act to challenge access to the records or  
3 information. You must, however, act within 10 days from the date this  
4 notice was served on you to make a challenge in court or the records or  
5 information will be made available. You may wish to employ an  
6 attorney to represent you and protect your rights.';

7 (4) The customer has not challenged the court order or subpoena within 10  
8 days after ~~service~~; service by certified mail which is presumed to be  
9 received three days from mailing;

10 (5) The government authority has certified in writing to the financial  
11 institution that it has complied with the applicable provisions of this  
12 Chapter."

13 Sec. 2. G.S. 53B-8 reads as rewritten:

14 **"§ 53B-8. Disclosure of financial records.**

15 No financial institution or its officer, employee, or agent may disclose a customer's  
16 financial record to a government authority except as provided in this Chapter. This  
17 section does not prohibit a financial institution from giving notice of or disclosing a  
18 financial record to a government authority, as defined in G.S. 53B-2(4), to the same  
19 extent as is authorized with respect to federal government authorities in the Right to  
20 Financial Privacy Act § 1103(d), 12 U.S.C. § 3403(d). Nothing in this Chapter shall  
21 prohibit a financial institution or its officer, employee, or agent from notifying a  
22 government authority that ~~it~~ the financial institution or its officer, employee, or agent  
23 has information that may be relevant to a possible violation of law or ~~regulation, or from~~  
24 ~~disclosing to a government authority only the name, address, account number, and type of~~  
25 ~~account of any customer.~~ regulation. The information shall be limited to a description of  
26 the suspected illegal activity and the name or other identifying information concerning  
27 any individual, corporation, or account involved in the activity. Any financial  
28 institution or its officer, employee, or agent making a disclosure of information pursuant  
29 to this section shall not be liable to the customer under the laws and rules of the State of  
30 North Carolina or any political subdivision of the State for disclosure or for failure to  
31 notify the customer of the disclosure."

32 Sec. 3. This act is effective October 1, 1995.