

HOUSE BILL No. 6106

May 8, 2008, Introduced by Rep. Wenke and referred to the Committee on Banking and Financial Services.

A bill to amend 1999 PA 276, entitled
"Banking code of 1999,"
(MCL 487.11101 to 487.15105) by adding section 3914.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3914. (1) BEFORE A BANK SELLS OR OTHERWISE TRANSFERS ANY
2 PERSONAL IDENTIFYING INFORMATION CONCERNING AN ACCOUNTHOLDER,
3 BORROWER, OR OTHER INDIVIDUAL TO ANOTHER PERSON, THE BANK SHALL
4 PROVIDE A NOTICE TO THAT INDIVIDUAL THAT INDICATES WHAT PERSONAL
5 IDENTIFYING INFORMATION THE BANK IS TRANSFERRING AND THE REASON FOR
6 THE TRANSFER, IDENTIFIES THE TRANSFEREE OF THAT INFORMATION, AND
7 INCLUDES A TELEPHONE NUMBER OR OTHER CONTACT INFORMATION FOR THE
8 BANK THAT THE INDIVIDUAL MAY USE TO NOTIFY THE BANK CONCERNING ANY
9 ERRORS IN HIS OR HER PERSONAL IDENTIFYING INFORMATION. THE BANK

1 SHALL NOT SELL OR OTHERWISE TRANSFER THAT INDIVIDUAL'S PERSONAL
2 IDENTIFYING INFORMATION FOR AT LEAST 10 DAYS AFTER PROVIDING THE
3 NOTICE.

4 (2) A BANK SHALL PROVIDE A NOTICE REQUIRED UNDER THIS SECTION
5 BY PROVIDING 1 OR MORE OF THE FOLLOWING TO THE RECIPIENT:

6 (A) WRITTEN NOTICE SENT TO THE RECIPIENT AT THE RECIPIENT'S
7 POSTAL ADDRESS IN THE RECORDS OF THE BANK.

8 (B) WRITTEN NOTICE SENT ELECTRONICALLY TO THE RECIPIENT IF ANY
9 OF THE FOLLOWING ARE MET:

10 (i) THE RECIPIENT HAS EXPRESSLY CONSENTED TO RECEIVE ELECTRONIC
11 NOTICE.

12 (ii) THE BANK HAS AN EXISTING BUSINESS RELATIONSHIP WITH THE
13 RECIPIENT THAT INCLUDES PERIODIC ELECTRONIC MAIL COMMUNICATIONS AND
14 BASED ON THOSE COMMUNICATIONS THE BANK REASONABLY BELIEVES THAT IT
15 HAS THE RECIPIENT'S CURRENT ELECTRONIC MAIL ADDRESS.

16 (iii) THE BANK CONDUCTS ITS BUSINESS PRIMARILY THROUGH INTERNET
17 ACCOUNT TRANSACTIONS OR ON THE INTERNET.

18 (C) IF NOT OTHERWISE PROHIBITED BY STATE OR FEDERAL LAW,
19 NOTICE GIVEN BY TELEPHONE BY AN INDIVIDUAL WHO REPRESENTS THE BANK
20 IF ALL OF THE FOLLOWING ARE MET:

21 (i) THE NOTICE IS NOT GIVEN IN WHOLE OR IN PART BY USE OF A
22 RECORDED MESSAGE.

23 (ii) THE RECIPIENT HAS EXPRESSLY CONSENTED TO RECEIVE NOTICE BY
24 TELEPHONE, OR IF THE RECIPIENT HAS NOT EXPRESSLY CONSENTED TO
25 RECEIVE NOTICE BY TELEPHONE, THE BANK ALSO PROVIDES NOTICE UNDER
26 SUBDIVISION (A) OR (B) IF THE NOTICE BY TELEPHONE DOES NOT RESULT
27 IN A LIVE CONVERSATION BETWEEN THE INDIVIDUAL REPRESENTING THE BANK

1 AND THE RECIPIENT WITHIN 3 BUSINESS DAYS AFTER THE INITIAL ATTEMPT
2 TO PROVIDE TELEPHONIC NOTICE.

3 (3) A NOTICE UNDER THIS SECTION SHALL MEET ALL OF THE
4 FOLLOWING:

5 (A) FOR A NOTICE PROVIDED UNDER SUBSECTION (2) (A) OR (B), BE
6 WRITTEN IN A CLEAR AND CONSPICUOUS MANNER AND CONTAIN THE CONTENT
7 REQUIRED UNDER SUBSECTION (2).

8 (B) FOR A NOTICE PROVIDED UNDER SUBSECTION (2) (C), CLEARLY
9 COMMUNICATE THE CONTENT REQUIRED UNDER SUBSECTION (2) TO THE
10 RECIPIENT OF THE TELEPHONE CALL.

11 (4) AS USED IN THIS SECTION, "PERSONAL IDENTIFYING
12 INFORMATION" MEANS THAT TERM AS THAT TERM IS DEFINED IN SECTION 3
13 OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.63.

14 Enacting section 1. This amendatory act does not take effect
15 unless all of the following bills of the 94th Legislature are
16 enacted into law:

17 (a) Senate Bill No. ____ or House Bill No. 6099 (request no.
18 05635'07).

19 (b) Senate Bill No. ____ or House Bill No. 6100 (request no.
20 05636'07).

21 (c) Senate Bill No. ____ or House Bill No. 6101 (request no.
22 05637'07).

23 (d) Senate Bill No. ____ or House Bill No. 6102 (request no.
24 05638'07).

25 (e) Senate Bill No. ____ or House Bill No. 6103 (request no.
26 05639'07).

27 (f) Senate Bill No. ____ or House Bill No. 6104 (request no.

1 05979'07).

2 (g) Senate Bill No. ____ or House Bill No. 6105 (request no.
3 05980'07).

4 (h) Senate Bill No. ____ or House Bill No. 6107 (request no.
5 05982'07).