

HOUSE No. 03628

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Conroy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the disclosure of financial records.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Thomas P. Kennedy</i>	<i>Second Plymouth and Bristol</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>

[Pin Slip]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the disclosure of financial records.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 140D of the General Laws is hereby amended by inserting after section 12, the
2 following section:-

3 Section 12A. (A) Except as otherwise expressly provided in this chapter, a creditor of an open
4 ended credit plan involving a credit card as defined in section 1 , its officers, employees, agents
5 and directors shall not disclose to any person any financial information relating to a customer.
6 Creditors shall adopt reasonable procedures to assure compliance with this section.

7 (B) This section shall not prohibit any of the activities listed in this section. This section shall
8 not be construed to require any creditor to make any disclosure not otherwise required by law.
9 This section shall not be construed to require or encourage any creditor to alter any procedures or
10 practices not inconsistent with this section. This section shall not be construed to expand or

11 create any authority in any person or entity other than a creditor. The following actions are
12 required:-

13 (1) disclosure of information to the customer after proper identification;

14 (2) disclosure authorized by the customer, provided the disclosure is limited to the scope and
15 purpose that the customer authorizes;

16 (3) disclosure of information sought by the child support enforcement division pursuant to its
17 authority and obligations under section 5A of chapter 119A, or by an agency of similar function
18 of another state, pursuant to similar authority;

19 (4) disclosure of information sought by the division of medical assistance pursuant to its
20 authority and obligations under section 23A of chapter 118A;

21 (5) disclosure sought by the office of student financial assistance or the health and educational
22 finance authority pursuant to its authority and obligations;

23 (6) the preparation, examination, handling or maintenance of financial records by any officer,
24 employee or agent of a creditor that has custody of the records;

25 (7) the examination of financial records by a certified public accountant while engaged by the
26 creditor to perform an independent audit;

27 (8) the disclosure of information to a collection agency, its employees or agents, or to any person
28 engaged by the creditor to assist in recovering an amount owed to the creditor, if such disclosure
29 is made in the furtherance of recovering such amount;

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

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

35 (11) the making of reports, disclosures or returns required by federal or state law;

36 (12) the disclosure of any information permitted to be disclosed under dishonor of negotiable
37 instruments under section 3-502 of chapter 106, section 3-502;

38 (13) the exchange, in the regular course of business, of credit information between a creditor and
39 a credit reporting agency, provided such exchange is in compliance chapter 93A, and the federal
40 Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq;

41 (14) the exchange, in the regular course of business, of information between a creditor and an
42 account verification service, provided such exchange is in compliance with chapter 93A, and the
43 federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq;

44 (15) the exchange, in the regular course of business, of information between a creditor and a
45 mercantile agency, provided such exchange is solely for the purpose of reporting to third parties
46 on the credit rating or creditworthiness of any business, and is in compliance with chapter 93A,
47 and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq;

48 (16) the exchange of loan information that specifically affects a sale, foreclosure or loan closing,
49 provided such exchange is for the purpose of accomplishing such sale, foreclosure or loan
50 closing;

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

54 (18) disclosures requested pursuant to a summons for trustee process under Rule 4.2 of the
55 Massachusetts rules of civil procedure;

56 (19) disclosure requested pursuant to subpoena, provided that no disclosure shall be made until
57 10 days after the creditor has notified the customer that financial information has been requested
58 by subpoena. Such notice shall be served by first class mail to the customer at the most recent
59 address known to the creditor. The provisions of this clause shall not apply where the subpoena
60 is issued by or on behalf of a regulatory, criminal or civil law enforcement agency;

61 (20) disclosure required by order of court;

62 (21) disclosure of customer financial information among directors, officers, employees or agents
63 of affiliated creditors; provided, that such disclosure is limited to information necessary or
64 appropriate to the fulfillment of any such persons' duties and responsibilities to the creditor or
65 institutions; and provided, further, that such disclosure is made in compliance with chapter 93A,
66 and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq;

67 (22) disclosure of customer financial information of one creditor to another creditor in
68 connection with a proposed merger, consolidation, acquisition or other reorganization transaction
69 involving such institution; provided, that no further disclosure is made except in compliance with
70 this section; and provided, further, that such disclosure is made in compliance with chapter 93A,
71 and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

72 (23) disclosure sought by the department of revenue pursuant to its authority and obligations

73 under chapter 14; and

74 (25) reports or disclosure of information to the department elder affairs pursuant to chapter 19A.