WEST VIRGINIA CODE: §31A-2A-4

§31A-2A-4. Exceptions.

(a) Nothing in this article is intended to, or shall prohibit, apply to, or interfere with:

(1) The lawful authority or ability of the commissioner of banking or any other state or federal regulatory agency of a bank, savings and loan association, trust company, or credit union to obtain or to share between such regulatory agencies any records which the commissioner of banking or such state or federal regulatory agency may deem appropriate for the examination and regulation of the financial institution: *Provided*, That nothing in this subdivision permits disclosure of protected financial information in violation of §31A-2B-1 *et seq*. of this code;

(2) The lawful authority or ability of the Insurance Commissioner or the State Auditor to obtain any records from a financial institution relating to the financial institution's sale of insurance or securities;

(3) The dissemination or publication of information derived from financial records if the information cannot be identified to any particular customer, deposit, or account, or if the information is in composite form and is not disseminated or published in a way which identifies any particular customer, deposit, or account;

(4) The making of reports or returns specifically required or permitted by federal or state law, including applicable tax law or regulations;

(5) The disclosure of any information under the provisions of the uniform commercial code governing the dishonor of a negotiable instrument, or the disclosure to any purported state entity payee or to any purported state entity holder of a check, draft, order, or other item, whether or not such instrument has been accepted by such payee or holder as payment, as to whether or not such instrument would be honored if presented at the time of such disclosure;

(6) A state entity obtaining a credit report or consumer credit report from anyone other than a financial institution;

(7) The exchange, in the regular course of business, of information showing the outstanding balance of a mortgage loan account in connection with a sale, refinancing, or foreclosure of real property in a transaction to which the state entity is a party; or the disclosure, in the regular course of business, of information on a mortgage or deed of trust on a subject property to a state entity as holder of any subordinate mortgage, deed of trust or security interest;

(8) The disclosure to the Department of Human Services, upon written request, of an

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individual's financial records which the department determines are necessary to verify or confirm the individual's eligibility or ineligibility for public assistance;

(9) The disclosure of an individual's financial records in response to a written request by the Department of Human Services, as authorized by the federal parent locator service of the United States Department of Health and Human Services;

(10) The examination or audit of financial records relating to preneed funeral trust accounts pursuant to §47-14-1 *et seq*. of this code;

(11) The disclosure of financial records relating to unclaimed property pursuant to §36-8-1 *et seq*. of this code, including the examination of financial records by the State Treasurer or his or her agent to determine compliance with the handling and reporting of unclaimed property as provided by, and subject to, the limitations set forth in §36-8-20 of this code;

(12) The presentation to appropriate local, state, or federal law-enforcement authorities of a certificate under oath by an authorized representative of a financial institution drawee that declares the dishonor of the check, draft, or order by the drawee, the lack of an account with the drawee at the time of utterance or the insufficiency of the drawer's funds at the time of presentation and utterance in connection with any criminal action for obtaining property or services by a worthless check, draft, or order;

(13) The notification to appropriate local, state, or federal law-enforcement authorities or regulatory agencies that the financial institution, its officers, employees or agents thereof have information which may be relevant to a possible violation of any statute or regulation: *Provided*, That nothing in this subdivision permits disclosure of protected financial information in violation of §31A-2B-1 *et seq*. of this code. The disclosure of any information pursuant to this subdivision may only include the name or other identifying information concerning any individual, corporation, or account involved in and the nature of any suspected illegal activity;

(14) The disclosure of information or records by a financial institution to any court or other appropriate state entity which is incidental to recording a lien, perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary;

(15) The disclosure of information or records by a financial institution which is incidental to processing an application for assistance to a customer in the form of a government loan, loan guaranty, or loan insurance agreement, or which is incidental to processing a default on, or administering, a government guaranteed or insured loan or to initiating contact with an appropriate state entity for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement;

(16) The disclosure of information incidental to a transaction in the normal course of

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business of the financial institution where there is no reasonable cause to believe that the information is intended to be used by the state entity in connection with an investigation of the customer;

(17) The preparation, review, handling, or maintenance of financial records in the ordinary course of business by any officer, employee, or agent of a financial institution having custody of the records; or

(18) The disclosure to appropriate law-enforcement officials of the financial records of any officer, director, employee, or controlling shareholder of a financial institution by a financial institution or by any state or federal regulatory agency having authority to regulate the financial institution, if there is reason to believe that the financial record is relevant to a possible violation by such person of any law relating to a crime against the financial institution or any such state or federal regulatory agency. No state or federal regulatory agency which discloses any information pursuant to this subdivision shall be deemed to have waived any privilege applicable to that record under law.

(b) Nothing in this article shall preclude a state entity from obtaining information that is public record without regard to this article although the information may have been derived from financial records.

(c) Nothing in this article shall preclude a state entity from obtaining information or financial records voluntarily submitted to it by others in an attempt to seek governmental assistance or redress of a grievance, including legislative change: *Provided*, That the financial record or information was not solicited by the state entity in an effort to evade the requirements of this article or submitted by a financial institution in contravention of §31A-2A-7 of this code.

(d) Notwithstanding the exceptions set forth in this section, a financial institution may not disclose financial records to a state entity and a state entity may not compel disclosure of financial records in a manner that singles out or discriminates against any person based on activity protected by the Second Amendment to the United States Constitution or Section 22, Article III of the West Virginia Constitution.

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