

LEGISLATIVE BILL 811

Approved by the Governor March 14, 2012

Introduced by Harr, 8.

FOR AN ACT relating to finance; to amend section 8-1401, Reissue Revised Statutes of Nebraska; to change provisions relating to disclosure of confidential information; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 8-1401, Reissue Revised Statutes of Nebraska, is amended to read:

8-1401 (1) No person organized under the Business Corporation Act, the Credit Union Act, the Nebraska Banking Act, the Nebraska Industrial Development Corporation Act, the Nebraska Nonprofit Corporation Act, the Nebraska Professional Corporation Act, the Nebraska Trust Company Act, or Chapter 8, article 3, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any records or information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person with which it is doing business to any person, party, agency, or organization, unless:

(a) The disclosure relates to a lawyers trust account and is required to be made to the Counsel for Discipline of the Nebraska Supreme Court pursuant to a rule adopted by the Nebraska Supreme Court;

(b) The disclosure is governed by rules for discovery promulgated pursuant to section 25-1273.01;

(c) The request for disclosure is made by a law enforcement agency regarding a crime, a fraud, or any other unlawful activity in which the person to whom the request for disclosure is made is or may be a victim of such crime, fraud, or unlawful activity;

(d) The request for disclosure is made by a governmental agency which is a duly constituted supervisory regulatory agency of the person to whom the request for disclosure is made and the disclosure relates to examinations, audits, investigations, or inquiries of such persons;

(e) The request for disclosure is made pursuant to subpoena issued under the laws of this state by a governmental agency exercising investigatory or adjudicative functions with respect to a matter within the agency's jurisdiction;

(f) The production of records is pursuant to a written demand of the Tax Commissioner under section 77-375;

(g) There is first presented to such person a subpoena, summons, or warrant issued by a court of competent jurisdiction;

(h) A statute by its terms or rules and regulations adopted and promulgated thereunder requires the disclosure, other than by subpoena, summons, warrant, or court order;

(i) There is presented to such person an order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order; ~~or~~

(j) The request for disclosure relates to information or records regarding the balance due, monthly payments due, payoff amounts, payment history, interest rates, due dates, or similar information for indebtedness owed by a deceased person when the request is made by a person having an ownership interest in real estate or personal property which secures such indebtedness owed to the person to whom the request for disclosure is made; or

~~(j)~~ (k) There is first presented to such person the written permission of the person about whom records or information is being sought authorizing the release of the requested records or information.

(2) Any person who makes a disclosure of records or information as required by this section shall not be held civilly or criminally liable for such disclosure in the absence of malice, bad faith, intent to deceive, or gross negligence.

Sec. 2. Original section 8-1401, Reissue Revised Statutes of Nebraska, is repealed.