

Chapter 109

(House Bill 198)

AN ACT concerning

Financial Institutions – Authority of Commissioner of Financial Regulation – Information Sharing

FOR the purpose of authorizing the Commissioner of Financial Regulation to enter into cooperative and information-sharing agreements and to exchange information about a financial institution with certain federal or state law enforcement agencies under certain circumstances; increasing the number of agencies with which the Commissioner may enter into cooperative or information-sharing agreements to include the Office of Foreign Assets Control; providing that if the Commissioner receives a record from an agency that retains ownership of the record, the Commissioner may not disclose the record to any person that requests the record under the Maryland Freedom of Information Act; requiring the Commissioner to forward the request to the agency that owns the record for processing in accordance with certain laws and regulations; altering a certain definition; making certain clarifying and conforming changes; and generally relating to the authority of the Commissioner of Financial Regulation to supervise financial institutions.

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 2–117, 5–901(g), and 5–909
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section 5–901(a)
Annotated Code of Maryland
(2003 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

2–117.

(a) Subject to subsections [(b) and (c)] **(B), (C), AND (D)** of this section, notwithstanding any other provision of [state] **STATE** laws or regulations, the Commissioner may:

(1) Enter into cooperative and information sharing agreements with any federal or state regulatory agency having authority over financial institutions **OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY**, provided that the agreements prohibit the agency from disclosing any shared information without prior written consent from the Commissioner regarding disclosure of the particular information; and

(2) Exchange information about a financial institution, including information obtained during an examination, with any federal or state regulatory agency having authority over the financial institution **OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY**.

(B) IF THE COMMISSIONER RECEIVES A RECORD FROM AN AGENCY UNDER A COOPERATIVE AND INFORMATION SHARING AGREEMENT AUTHORIZED BY SUBSECTION (A)(1) OF THIS SECTION AND THE AGENCY EXPRESSLY RETAINS OWNERSHIP OF THE RECORD, EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:

(1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS THE RECORD UNDER §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE; AND

(2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE AGENCY THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR REGULATIONS GOVERNING DISCLOSURE OF THE AGENCY'S RECORDS.

[(b)] (C) Notwithstanding § 2-113(d) of this subtitle, an affiliate as defined in § 2-113(a) of this subtitle is subject to subsection (a) of this section if that affiliate maintains or is required to maintain a license issued by the Commissioner.

[(c)] (D) This section does not authorize the Commissioner to share or exchange information in any way prohibited by federal law.

5-901.

(a) In this subtitle the following words have the meanings indicated.

(g) "Bank supervisory agency" means:

(1) The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, [and] the Board of Governors of the Federal Reserve System, **AND THE OFFICE OF FOREIGN ASSETS CONTROL**, and any successor to these agencies;

(2) Any agency of another state with primary responsibility for chartering and supervising banks; and

(3) Any agency of a foreign country with primary responsibility for chartering and supervising banks.

5-909.

(A) In order to carry out the purposes of this article, the Commissioner may:

(1) Adopt regulations; and

(2) **[Enter] SUBJECT TO SUBSECTION (B) OF THIS SECTION, ENTER** into cooperative or information-sharing agreements with any other bank supervisory agency.

(B) IF THE COMMISSIONER RECEIVES A RECORD FROM A BANK SUPERVISORY AGENCY UNDER A COOPERATIVE OR AN INFORMATION-SHARING AGREEMENT AUTHORIZED BY SUBSECTION (A)(2) OF THIS SECTION AND THE BANK SUPERVISORY AGENCY EXPRESSLY RETAINS OWNERSHIP OF THE RECORD, EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:

(1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS THE RECORD UNDER §§ 10-611 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE; AND

(2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE BANK SUPERVISORY AGENCY THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR REGULATIONS GOVERNING DISCLOSURE OF THE BANK SUPERVISORY AGENCY'S RECORDS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.