

40-5-924. (Temporary) Automated access to financial records -- confidentiality -- no liability -- definitions. (1) For the purposes of this section, unless the context otherwise indicates, the following definitions apply:

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(a) "Account" means a savings, checking, deposit and withdrawal, demand deposit, money market, profit and loss, or time deposit account opened by a depositor in a financial institution.

(b) "Depositor" means a person, share account holder, sole proprietor, or joint owner of an account in a financial institution in this state.

(c) "Financial institution" means:

(i) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(c);

(ii) an institution-affiliated party, as defined in the Federal Deposit Insurance Act, 12 U.S.C. 1813(u);

(iii) any state credit union, as defined in 32-3-102, or federal credit union, as defined in section 101 of the Federal Credit Union Act, 12 U.S.C. 1752, including an institution-affiliated party of such a credit union, as defined in section 206(r) of the act, 12 U.S.C. 1786(r); and

(iv) any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in the state.

(d) "Obligor" means a person who owes a debt for child, spousal, or medical support as determined by the department or as specified by order of a tribunal of competent jurisdiction, the amount of which exceeds \$500 or a total of 3 months debt, whichever is less.

(2) (a) Upon written request from the department, a financial institution shall run a data match of the department's list of obligors with the financial institution's depositors and provide the information in a computer or other reasonable format accessible by the financial institution. The department may not request the information referred to in this subsection from a financial institution more than once in each calendar quarter.

(b) The information on an obligor found to be a depositor at a financial institution must include the obligor's full name, social security number or other taxpayer identification number, and account number. If normally kept by the financial institution, the information must also include the mailing address, employment address, and any other information that identifies the obligor.

(c) The financial institution shall provide the requested information within 30 days of the request from the department.

(3) The department shall run a computer match of all obligors with the information from the financial institution required in subsection (2). If there is a match between an obligor and a depositor, the financial institution shall, upon request of the department, provide additional information within 30 days, including but not limited to:

(a) verification of the obligor's full name and social security number;

(b) the financial institution's account number;

(c) the nature of the account or accounts held by the obligor;

(d) the funds available in the account less any preexisting encumbrance held by the financial institution; and

(e) any taxes, penalties, interest, or other costs to be legally imposed on the account if the account is accessed prior to a maturity date.

(4) The amounts available in an obligor's account do not include amounts available pursuant to overdraft coverage offered by the financial institution.

(5) The financial institution shall honor a subsequent appropriate lien from the department sent to the financial institution.

(6) (a) A financial institution receiving a data request, data match, or lien from the department may not provide notice to an obligor identified in the information submitted to the department. Failure to provide notice does not constitute a violation of the financial institution's duty of good faith to its customers.

(b) A notice given by a financial institution to an obligor identified by the department subjects the financial institution to the contempt authority of the department under 40-5-226.

(7) The department shall pay a financial institution a reasonable fee for providing the information required in subsection (2), not to exceed the actual documented costs incurred by the financial institution.

(8) Information requested by the department and provided by a financial institution under this section is confidential and may be used only for IV-D purposes. Use of information for any other purpose without the authorization of the department subjects the user to a civil penalty of not more than \$500 per name per use.

(9) A financial institution is not liable to a person for:

(a) a disclosure of information to the department under this section;

(b) encumbering or surrendering assets held by the financial institution in response to a notice of lien or levy issued by the department; or

(c) any other action under this section taken in good faith to comply with the requirements of this section as long as the action is reasonable. (Terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)

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