



NORTH DAKOTA  
BANKERS ASSOCIATION

January 24, 2001

Dorothy Patton, Attorney  
Federal Trade Commission  
600 Pennsylvania Avenue  
Washington, D.C. 20580

E-Mail Only:  
dpatton@ftc.com

RE: North Dakota Petition

Dear Ms. Patton:

The North Dakota Bankers Association ("NDBA") has been following the North Dakota petition for determination of the status of North Dakota's statute on the disclosure of customer information with the passage of the federal Gramm Leach Bliley Act. We understand that the commission has not yet made a determination on the issue and that it continues to take comments from interested parties. NDBA is a financial institution trade association. Our members are state and national banks and thrift associations which conduct business operations throughout North Dakota and also outside the state.

We understand the commission has questioned the scope of North Dakota's law as part of its consideration of the petition. NDBA is of the view that there are a number of inconsistencies between North Dakota's law and GLB. Primary among them is this: North Dakota's law does not on its face apply to either the insurance or securities industry. These industries are not within the definition of "financial institution" under the current law and are not proposed to be covered by it in the future. There is a bill pending before the state legislative assembly to address privacy in the context of the insurance industry post GLB, but that bill merely requires North Dakota insurance companies and agents to comply with GLB and gives rulemaking authority to the insurance department. If you would like me to provide you with a copy of this bill, please let me know and I will do so without delay.

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You asked about court applications of the customer information statute. To my knowledge there has been only one case brought under the statute. The defendant was a bank. While the assistant attorney general who responded to your inquiry may have left the question open, I do not know of any insurance company, securities firm, or industry attorney within this state who believes insurance companies and securities firms are subject to North Dakota's statute.

Please do advise me if you have further questions about this or if I can be of any assistance to you on this subject.

Sincerely Yours,

A handwritten signature in cursive script that reads "Marilyn Foss".

Marilyn Foss  
General Counsel

Cc: Debra Valentine (by hard copy)