

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 19.2-10.1, relating to subpoena*  
3 *duces tecum; financial records.*

4 [S 992]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 19.2-10.1 as follows:**8 *§ 19.2-10.1. Subpoena duces tecum for obtaining records concerning banking and credit cards.*

9 *A. A financial institution as defined in § 6.1-125.1 or a credit card issuer as defined in § 11-30 shall*  
10 *disclose a record or other information pertaining to a customer, to a law-enforcement officer pursuant*  
11 *to a subpoena duces tecum issued pursuant to this section.*

12 *1. In order to obtain such records, the law-enforcement official shall provide a statement of the facts*  
13 *documenting the reasons that the records or other information sought are relevant to a legitimate*  
14 *law-enforcement inquiry, relating to a named person or persons, to the attorney for the Commonwealth.*  
15 *A court shall issue a subpoena duces tecum upon motion of the Commonwealth only if the court finds*  
16 *that there is probable cause to believe that a crime has been committed and to believe the records*  
17 *sought or other information sought are relevant to a legitimate law-enforcement inquiry into that*  
18 *offense. The court may issue a subpoena duces tecum under this section regardless of whether any*  
19 *criminal charges have been filed.*

20 *2. A court issuing an order pursuant to this section, on a motion made promptly by the financial*  
21 *institution or credit card issuer, may quash or modify the subpoena duces tecum, if the information or*  
22 *records requested are unusually voluminous in nature or compliance with such subpoena duces tecum*  
23 *would otherwise cause an undue burden on such provider.*

24 *B. No cause of action shall lie in any court against a financial institution or credit card issuer, its*  
25 *officers, employees, agents, or other specified persons for providing information, facilities, or assistance*  
26 *in accordance with the terms of a subpoena duces tecum under this section.*

27 *C. Upon issuance of a subpoena duces tecum under this section, the statement shall be temporarily*  
28 *sealed by the court upon application of the attorney for the Commonwealth for good cause shown in an*  
29 *ex parte proceeding. Any individual arrested and claiming to be aggrieved by the order may move the*  
30 *court for the unsealing of the statement, and the burden of proof with respect to continued sealing shall*  
31 *be upon the Commonwealth.*

32 *D. Any and all records received by law enforcement pursuant to this section shall be utilized only for*  
33 *a reasonable amount of time and only for a legitimate law-enforcement purpose. Upon the completion of*  
34 *the investigation the records shall be submitted to the court by the attorney for the Commonwealth*  
35 *along with a proposed order requiring the records to be sealed. Upon entry of such order, the court*  
36 *shall seal the records in accordance with the requirements contained in subsection C.*

ENROLLED

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