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HOUSE BILL NO. 946

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-56.01, relating to obtaining records from financial institutions.*

Patron—Landes

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 19.2-56.01 as follows:****§ 19.2-56.01. Obtaining records from financial institutions.**

A. A financial institution, including a foreign corporation doing business as a financial institution that provides such services, shall disclose financial and transaction records pertaining to a customer or depositor of the institution to an investigative or law-enforcement officer only pursuant to:

1. A subpoena issued by a grand jury;
2. A search warrant issued by a magistrate, district court, or circuit court;
3. A court order for such disclosure issued as provided in this section; or
4. The consent of the customer or depositor to such disclosure.

B. A court shall issue an order for disclosure under this section only if the investigative or law-enforcement officer shows that there is reason to believe the records sought are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the financial institution, may quash or modify the order if the records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.

C. A financial institution shall disclose the financial and transaction records of a customer or depositor to an investigative or law-enforcement officer pursuant to a search warrant issued by a magistrate, a district court, or a circuit court, based upon complaint on oath supported by an affidavit as required in § 19.2-54. In the case of a search warrant directed to a foreign corporation the affidavit shall state that the complainant believes that the records requested are actually or constructively possessed by a foreign corporation that conducts business as a financial institution within the Commonwealth of Virginia. If satisfied that probable cause has been established for such belief and as required by Chapter 5 (§ 19.2-52 et seq.), the magistrate, the district court, or the circuit court shall issue a warrant identifying those records to be searched for and commanding the person seeking such warrant to properly serve the warrant upon the foreign corporation. The foreign corporation may verify the authenticity of records that it produces by providing an affidavit from the person in custody of those records certifying that they are true and complete.

D. In order to comply with the requirements of § 19.2-54, any search of the records of a foreign corporation shall be deemed to have been made in the same place wherein the search warrant was issued.

E. No cause of action shall lie in any court against a financial institution, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, or subpoena under this section.

F. For the purposes of this section:

"Financial institution" shall have the same meaning as set forth in § 6.1-2.1.

"Foreign corporation" and "properly served" shall have the same meaning as set forth in § 19.2-56.

INTRODUCED

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