

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-10.1 of the Code of Virginia, relating to obtaining records from*
3 *financial institutions.*

4 [H 946]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 19.2-10.1 of the Code of Virginia is amended and reenacted 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, money transmitter as defined in § 6.1-370, or
10 commercial businesses providing credit history or credit reports; or a credit card issuer as defined in
11 § 11-30 shall disclose a record or other information pertaining to a customer, to a law-enforcement
12 officer pursuant to a subpoena duces tecum issued pursuant to this section.

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

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

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

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

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

ENROLLED

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