

2016 Regular Session

HOUSE BILL NO. 500

BY REPRESENTATIVE SHADOIN

BANKS/BANKING: Creates a privilege in favor of financial institutions to prevent the disclosure of certain documents

1 AN ACT

2 To enact Code of Civil Procedure Article 1422.2, Code of Evidence Article 520, and R.S.
3 6:339 and to repeal R.S. 6:333(I)(2), relative to the regulation of financial records;
4 to provide for definitions; to create privileges; to restrict disclosure of certain
5 financial records; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Civil Procedure Article 1422.2 is hereby enacted to read as
8 follows:

9 Art. 1422.2. Scope of discovery; records of financial institutions

10 In civil proceedings, all documents and records prepared by or for a financial
11 institution, which is insured by the Federal Deposit Insurance Corporation, its
12 holding company, affiliates, or subsidiaries authorized to do business in this state,
13 in connection with its evaluation, analysis, or review of any loan, extension of credit,
14 collateral security therefor, or reserve therefor shall be subject to a privilege in favor
15 of the financial institution and shall not be subject to discovery by a customer of the
16 financial institution or any other person.

17 Section 2. Code of Evidence Article 520 is hereby enacted to read as follows:

18 Art. 520. Privilege in favor of financial institutions

19 A. As used in this Article, "financial institution" means a financial institution
20 insured by the Federal Deposit Insurance Corporation, its holding company,
21 affiliates, or subsidiaries authorized to do business in this state.

22 B. General rule. A financial institution who is a party to a civil proceeding
23 has a privilege to refuse to disclose and to prevent another person from disclosing

1 all documents and records prepared by or for a financial institution in connection
2 with its evaluation, analysis, or review of any loan, extension of credit, collateral
3 security therefor, or reserve therefor.

4 Section 3. R.S. 6:339 is hereby enacted to read as follows:

5 §339. Privilege in favor of financial institutions

6 A. For the purposes of this Section, "financial institution" means a financial
7 institution insured by the Federal Deposit Insurance Corporation, its holding
8 company, affiliates, or subsidiaries authorized to do business in this state.

9 B.(1) Notwithstanding any law to the contrary, all documents and records
10 prepared by or for a financial institution, in connection with its evaluation, analysis,
11 or review of any loan, extension of credit, collateral security therefor, or reserve
12 therefor shall be deemed the sole and exclusive property of the financial institution
13 and subject to a privilege in favor of the financial institution.

14 (2) The documents described in Paragraph (1) of this Subsection shall not
15 be subject to any of the following except when the financial institution has
16 consented:

17 (a) Discovery by a customer of the financial institution or any other person
18 in a civil action.

19 (b) Evidentiary requirements otherwise making them admissible as evidence
20 in any civil action, including any action to which a customer is a party.

21 C. No financial institution or any of its employees or agents shall be required
22 or compelled, either directly or indirectly, to disclose the existence or content of any
23 such documents or records referred to in Subsection B of this Section by way of
24 discovery, subpoena, summons, order, notice of deposition, interrogatories, request
25 for production of documents, request, request for admissions, any other discovery
26 request, or any other method.

27 Section 4. R.S. 6:333(I)(2) is hereby repealed in its entirety.

28 Section 5. This legislation is intended to be remedial and curative and to clarify the
29 intended meaning of R.S. 6:333(I).

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 500 Original

2016 Regular Session

Shadoin

Abstract: Creates a privilege in favor of financial institutions for the purpose of preventing the disclosure of certain records.

Within the La. Code of Civil Procedure, proposed law establishes that, in civil proceedings, all documents and records prepared by or for a financial institution, which is insured by the Federal Deposit Insurance Corporation, its holding company, affiliates, or subsidiaries authorized to do business in this state, in connection with its evaluation, analysis, or review of any loan, extension of credit, collateral security therefor, or reserve therefor shall be subject to a privilege in favor of the financial institution and shall not be subject to discovery by a customer of the financial institution or any other person.

Proposed law defines "financial institution" within the La. Code of Evidence. Proposed law states that a financial institution who is a party to a civil proceeding has a privilege to refuse to disclose and to prevent another person from disclosing all documents and records prepared by or for a financial institution in connection with its evaluation, analysis, or review of any loan, extension of credit, collateral security therefor, or reserve therefor.

Proposed law defines "financial institution" for the purposes of proposed law (R.S.6:339). Proposed law provides that, notwithstanding any law to the contrary, all documents and records prepared by or for a financial institution, in connection with its evaluation, analysis, or review of any loan, extension of credit, collateral security therefor, or reserve therefor shall be deemed the sole and exclusive property of the financial institution and subject to a privilege in favor of the financial institution.

Proposed law states that the documents described in proposed law shall not be subject to any of the following except when the financial institution has consented:

- (1) Discovery by a customer of the financial institution or any other person in a civil action.
- (2) Evidentiary requirements otherwise making them admissible as evidence in any civil action, including any action to which a customer is a party.

Proposed law declares that no financial institution or any of its employees or agents shall be required or compelled, either directly or indirectly, to disclose the existence or content of any such documents or records referred to in proposed law by way of discovery, subpoena, summons, order, notice of deposition, interrogatories, request for production of documents, request, request for admissions, any other discovery request, or any other method.

(Adds C.C.P. Art. 1422.2, C.E. Art. 520, and R.S. 6:339; Repeals R.S. 6:333(I)(2))