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GOVERNMENT CODE - GOV

TITLE 1. GENERAL [100 - 7931.000] (Title 1 enacted by Stats. 1943, Ch. 134.)

DIVISION 7. MISCELLANEOUS [6000 - 7599.200] (Division 7 enacted by Stats. 1943, Ch. 134.)

CHAPTER 20. Governmental Access to Financial Records [7460 - 7493] (Chapter 20 added by Stats. 1976, Ch. 1320.)

ARTICLE 3. Confidentiality of, and Access to, Financial Records [7470 - 7476] (Article 3 added by Stats. 1976, Ch. 1320.)

7470. (a) Except as provided in Section 7480, no officer, employee, or agent of a state or local agency or department thereof, in connection with a civil or criminal investigation of a customer, whether or not such investigation is being conducted pursuant to formal judicial or administrative proceedings, may request or receive copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and are consistent with the scope and requirements of the investigation giving rise to such request and:

- (1) Such customer has authorized disclosure to such officer, employee or agent of such state or local agency or department thereof in accordance with Section 7473; or
- (2) Such financial records are disclosed in response to an administrative subpoena or summons which meets the requirements of Section 7474; or
- (3) Such financial records are disclosed in response to a search warrant which meets the requirements of Section 7475; or
- (4) Such financial records are disclosed in response to a judicial subpoena or subpoena duces tecum which meets the requirements of Section 7476.

(b) Nothing in this section or in Sections 7473, 7474, 7475, and 7476 shall require a financial institution to inquire or determine that those seeking disclosure have duly complied with the requirements set forth therein, provided only that the customer authorization, administrative subpoena or summons, search warrant, or judicial subpoena or order served on or delivered to a financial institution pursuant to such sections shows compliance on its face.

(c) The financial institution shall maintain for a period of five years a record of all examinations or disclosures of the financial records of a customer pursuant to this chapter, including the identity of the person examining the financial records, the state or local agency or department thereof which he represents, and a copy of the customer authorization, subpoena, summons or search warrant providing for such examination or disclosure or a copy of the certification received pursuant to subdivision (b) of Section 7480. Any record maintained pursuant to this subdivision shall be available, within five days of request, during normal business hours for review by the customer at the office or branch where the customer's account was located when examined or disclosed. A copy of such record shall be furnished to the customer upon request and payment of the reasonable cost thereof.

(d) Except as provided in Section 7480, this section is not intended to preclude a state or local law enforcement agency from initiating contact with a financial institution if there is reason to believe that the institution is a victim of a crime. After such contact by a law enforcement agency, if the financial institution believes it is a victim of a crime, it may, in its discretion, disclose relevant financial records pursuant to subdivision (c) of Section 7471.

(Amended by Stats. 1978, Ch. 1346.)

7471. (a) Except in accordance with requirements of Title 11 (commencing with Section 14160) of Part 4 of the Penal Code or Section 7473, 7474, 7475, or 7476, no financial institution, or any director, officer, employee, or agent of a financial institution, may provide or authorize another to provide to an officer, employee, or agent of a state or local agency or department thereof, any financial records, copies thereof, or the information contained therein, if the director, officer, employee, or agent of the financial institution knows or has reasonable cause to believe that the financial records or information are being requested in connection with

a civil or criminal investigation of the customer, whether or not an investigation is being conducted pursuant to formal judicial or administrative proceedings.

(b) This section is not intended to prohibit disclosure of the financial records of a customer or the information contained therein incidental to a transaction in the normal course of business of a financial institution if the director, officer, employee, or agent thereof making or authorizing the disclosure has no reasonable cause to believe that the financial records or the information contained in the financial records so disclosed will be used by a state or local agency or department thereof in connection with an investigation of the customer, whether or not an investigation is being conducted pursuant to formal judicial or administrative proceedings.

(c) This section shall not preclude a financial institution, in its discretion, from initiating contact with, and thereafter communicating with and disclosing customer financial records to, appropriate state or local agencies concerning suspected violation of any law.

(d) A financial institution that refuses to disclose the financial records of a customer, copies thereof, or the information contained therein, in reliance in good faith upon the prohibitions of subdivision (a), or discloses the financial records of a customer, copies thereof, or the information contained therein, in reliance in good faith upon subdivision (c), subdivision (d) of Section 7470, or subdivision (b) of Section 14164 of the Penal Code, shall not be liable to its customer, to a state or local agency, or to any other person for any loss or damage caused in whole or in part by the refusal or the disclosure.

(Amended by Stats. 1998, Ch. 757, Sec. 1. Effective January 1, 1999.)

7473. (a) A customer may authorize disclosure under paragraph (1) of subdivision (a) of Section 7470 if those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer:

(1) Authorizes such disclosure for a period to be set forth in the authorization statement;

(2) Specifies the name of the agency or department to which disclosure is authorized and, if applicable, the statutory purpose for which the information is to be obtained; and

(3) Identifies the financial records which are authorized to be disclosed.

(b) No such authorization shall be required by a financial institution as a condition of doing business with such financial institution.

(c) Any officer, employee or agent of a state or local agency seeking customer authorization for disclosure of customer financial records shall include in the form which the customer signs granting authorization written notification that the customer has the right at any time to revoke such authorization, except where such authorization is required by statute.

(d) (1) An agency or department examining the financial records of a customer pursuant to this section shall notify the customer in writing of such examination within 30 days of the agency or department's receipt of any of the customer's financial records, except that by application to a judge of a court of competent jurisdiction in the county in which the records are located upon a showing of good cause to believe that disclosure would impede the investigation, such notification requirements may be extended for two additional 30-day periods. Thereafter, by application to a court upon a showing of extreme necessity for nondisclosure, such notification requirements may be extended for three additional 30-day periods. At the end of that period or periods the agency or department shall inform the customer that he has the right to make a written request as to the reason for such examination. Such notice shall specify the financial records which were examined and, if requested, the reason for such examination.

(2) Wherever practicable, an application for an additional extension of notification time shall be made to the judge who granted the first extension of notification time. In deciding whether to grant an extension of the notification time, the judge shall endeavor to provide the customer with prompt notification, consistent with the purpose of this chapter, and on the presumption that prompt notification is the rule and delayed notification the exception.

(Amended by Stats. 1978, Ch. 1346.)

7474. (a) An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (2) of subdivision (a) of Section 7470 pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution only if:

(1) The person issuing such administrative summons or subpoena has served a copy of the subpoena or summons on the customer pursuant to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, which copy may be served by an employee of the state or local agency or department thereof; and

(2) The subpoena or summons includes the name of the agency or department in whose name the subpoena or summons is issued and the statutory purpose for which the information is to be obtained; and

(3) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena.

(b) (1) In issuing an administrative subpoena or summons pursuant to subdivision (a), the Attorney General or the Commissioner of Financial Protection and Innovation pursuant to the enforcement of statutes within their jurisdiction, or the district attorney of any county in connection with investigations of violations of antitrust law as authorized by Section 16759 of the Business and Professions Code, may petition a court of competent jurisdiction in the county in which the records are located, and the court, upon a showing of a reasonable inference that a law subject to the jurisdiction of the petitioning agency has been or is about to be violated, may order that service upon the customer pursuant to paragraph (1) of subdivision (a) and the 10-day period provided for in paragraph (3) of subdivision (a) be waived or shortened. For the purpose of this subdivision, an "inference" is a deduction that may reasonably be drawn by the Attorney General, the Commissioner of Financial Protection and Innovation, or the district attorney from facts relevant to the investigation.

(2) Such petition may be presented to the court in person or by telephoned oral statement which shall be recorded and transcribed. In the case of telephonic petition, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court.

(3) Where the court grants such petition, the court shall order the petitioning agency to notify the customer in writing of the examination of records within a period to be determined by the court but not to exceed 60 days of the agency's receipt of any of the customer's financial records. The notice shall specify the information otherwise required by paragraph (2) of subdivision (a), and shall also specify the financial records which were examined pursuant to the administrative subpoena or summons. Upon renewed petition, the time of notification may be extended for an additional 30-day period upon good cause to believe that such notification would impede the investigation. Thereafter, by application to a court upon a showing of extreme necessity for continued withholding of notification, such notification requirements may be extended for three additional 30-day periods.

(4) The Attorney General shall not provide financial records obtained pursuant to the procedure authorized in this subdivision to a local law enforcement agency unless (i) that agency has independently obtained authorization to receive such financial records pursuant to the provisions of this chapter, or (ii) the Attorney General obtains such records in an investigation conducted wholly independently of the local agency and not at its instigation or request.

(c) Except as provided in this subdivision, nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena. A court may order a financial institution to withhold notification to a customer of the receipt of an administrative summons or subpoena when the court issues an order pursuant to subdivision (b) and makes a finding that notice to the customer by the financial institution would impede the investigation.

(d) If a customer files a motion to quash an administrative subpoena or summons issued pursuant to subdivision (a), such proceedings shall be afforded priority on the court calendar and the matter shall be heard within 10 days from the filing of the motion to quash.

(Amended by Stats. 2022, Ch. 452, Sec. 174. (SB 1498) Effective January 1, 2023.)

7475. An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (3) of subdivision (a) of Section 7470 only if he obtains a search warrant pursuant to Chapter 3 (commencing with Section 1523) of Title 12 of Part 2 of the Penal Code. Examination of financial records may occur as soon as the warrant is served on the financial institution. Nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of a search warrant, unless a court orders the financial institution to withhold notification to the customer upon a finding that such notice would impede the investigation.

The financial records sought pursuant to this section by a search warrant shall be made available to an officer, employee, or agent of a state or local agency or department thereof within 10 days after the warrant is served on the financial institution unless prior to the expiration of such 10 days such institution makes a written showing to the court that issued the warrant that the records cannot reasonably be made available within the 10 days and that an additional period of time is required to make the records available. Upon such showing the court shall extend the period of time within which the records must be made available to whatever period of time is reasonably necessary.

(Amended by Stats. 1978, Ch. 1346.)

7476. (a) Except as provided in subdivisions (b) and (c), an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum only if:

(1) The subpoena or subpoena duces tecum is issued and served upon the financial institution and the customer in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure and the requirements of paragraph (2) or (3) have been met. In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena or subpoena duces tecum the court shall, prior to turning over any records to the agency, and upon good cause shown, make a finding that due diligence has been exercised by the agency in its attempt to effect such service; and

(2) Ten days after service have passed without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. If testimony is to be taken, or financial records produced, before a court, the 10-day period provided for in this subdivision may be shortened by the court upon a showing of good cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened. The motion to quash the subpoena must be made, whenever practicable, in the judicial proceeding pending before the court; or

(3) A judge or magistrate in a judicial proceeding to which the customer is a party rules that the subpoena should not be quashed. Nothing in this paragraph is intended to preclude appellate remedies which may be available under existing law.

(b) (1) A deputy district attorney, deputy attorney general, or other person authorized to present evidence to a grand jury in a criminal investigation before a grand jury, or scheduled to be presented to a grand jury, may obtain financial records for return to the grand jury pursuant to a judicial subpoena duces tecum which, upon a written showing to a judge of the superior court that there exists a reasonable inference that a crime within the jurisdiction of the grand jury has been committed and that the financial records sought are reasonably necessary to the jury's investigation of that crime, is personally signed and issued by a judge of the superior court, and meets one of the following:

(A) The subpoena is issued and served upon the financial institution and the customer and 10 days after service have passed without the customer giving notice to the financial institution that the customer has moved to quash the subpoena. In the event actual service on the customer has not been made prior to the time the financial records are required to be produced in response to a subpoena duces tecum the court shall, prior to turning over any records to the grand jury, and upon good cause shown, make a finding that due diligence has been exercised by the grand jury in its attempt to effect this service. The 10-day period provided for in this subparagraph may be shortened by the court upon a showing of good cause. The court shall direct that all reasonable measures be taken to notify the customer within the time so shortened. The motion to quash the subpoena must be made wherever practicable before the judge who issued the subpoena.

(B) A judge rules in a judicial proceeding to which the customer is a party that the subpoena should not be quashed. Nothing in this subparagraph is intended to preclude appellate remedies that may be available under existing law.

(C) A court orders the financial institution and the grand jury to withhold notification to the customer for 30 days from the date of receipt of the judicial subpoena duces tecum after making a finding upon a written showing that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. The withholding of this notification may be extended for additional 30-day periods up to the end of the term of the grand jury or the filing of a criminal complaint if a court makes a finding upon a written showing, at the time of each extension, that notice to the customer by the financial institution and the grand jury would impede the investigation by the grand jury. Whenever practicable, any application for an extension of time shall be made to the judge who issued the subpoena duces tecum.

(2) For the purpose of this subdivision, an "inference" is a deduction that may be reasonably drawn by the judge of the superior court from facts relevant to the investigation.

(3) If notification was withheld from the customer pursuant to subparagraph (C) of paragraph (1), the state or local agency that made the presentation to the grand jury shall notify the customer in writing after the criminal investigation is terminated without the return of an indictment, or a filing of a criminal complaint. The notice shall specify the financial records that were examined and the reason for this examination. At the time of the notification to the customer, the state or local agency shall notify the financial institution of the notification to its customer. The financial institution shall not have a further obligation to notify its customer of the judicial subpoena duces tecum and the disclosure of records pursuant to the subpoena duces tecum.

(4) Any showing that is required to be made pursuant to this subdivision, as well as the court record of any finding made pursuant to this showing, shall be sealed until one person named in the indictment or the criminal complaint to which the showing related has been arrested, or until the termination of the criminal investigation without the return of an indictment or the filing of a criminal complaint. However, a court may unseal a showing and court record relating thereto on a written showing of good cause and upon service of that showing upon the grand jury and the expiration of 10 days after service without the grand jury giving notice to the court that the jury moves for an in camera hearing regarding the existence of good cause. If notice is given by the grand jury the court shall conduct an in camera hearing upon any terms and with any persons present that the court deems proper. At the conclusion of the in camera hearing, the court, if it finds that good cause exists, may order the showing and court record relating thereto to be unsealed upon any terms that it deems proper.

(c) In any criminal case in which an accusatory pleading is on file charging a violation of Section 476a of the Penal Code, an officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under paragraph (4) of subdivision (a) of Section 7470 pursuant to a judicial subpoena or subpoena duces tecum to be returned to the court issuing the subpoena or the subpoena duces tecum only if:

(1) The financial records to be produced are of the bank account or accounts as to which the defendant is alleged to have violated Section 476a of the Penal Code;

(2) The subpoena or subpoena duces tecum is issued and served upon the financial institution in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure; and

(3) The records are to be produced at a preliminary hearing or trial at which the defendant will have the opportunity to move to quash the subpoena or subpoena duces tecum prior to the disclosure of any information contained within said records, and to move to suppress any portion of the records which the court finds irrelevant to the charges.

(Amended by Stats. 1998, Ch. 757, Sec. 2. Effective January 1, 1999.)