

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1082 Session of
2007

INTRODUCED BY MCGEEHAN, DALEY, D. EVANS, BOYD, BRENNAN,
DePASQUALE, GALLOWAY, GEORGE, GIBBONS, HALUSKA, HERSHEY,
KENNEY, MANDERINO, MELIO, PALLONE, PASHINSKI, ROEBUCK,
SCAVELLO, SIPTROTH, SOLOBAY, STABACK, SURRA, THOMAS AND
WALKO, APRIL 18, 2007

REFERRED TO COMMITTEE ON COMMERCE, APRIL 18, 2007

AN ACT

1 Amending the act of May 15, 1933 (P.L.565, No.111), entitled "An
2 act relating to the powers and duties of the Department of
3 Banking and the Secretary of Banking in exercising
4 supervision over, and taking possession of and conducting or
5 liquidating the business and property of, corporations,
6 associations, and persons receiving deposits or otherwise
7 transacting a banking business, corporations acting as
8 fiduciaries, and building and loan associations; providing
9 for the payment of the expenses of the Department of Banking
10 by supervised corporations, associations, or persons, and
11 appropriating the Banking Department Fund; authorizing the
12 Department of Banking, under certain circumstances, to
13 examine corporations, associations, or persons affiliated, or
14 having business transactions with supervised corporations,
15 associations or persons; authorizing appeals to the Supreme
16 Court, and prescribing and limiting the powers and duties of
17 certain other courts and their prothonotaries, registers of
18 wills, recorders of deeds, and certain State departments,
19 commissions, and officers; authorizing certain local public
20 officers and State departments to collect fees for services
21 rendered under this act; providing penalties; and repealing
22 certain acts and parts of acts," further prohibiting
23 disclosure of certain information.

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 302 of the act of May 15, 1933 (P.L.565,
27 No.111), known as the Department of Banking Code, amended

1 December 9, 2002 (P.L.1604, No.209), is amended to read:

2 Section 302. Disclosure of Information Forbidden; Penalty;
3 Exceptions.--A. (1) This section applies to matters relating
4 to institutions, credit unions and licensees.

5 (2) Neither the secretary nor any deputy, examiner, clerk,
6 or other employe of the department, shall publish or divulge to
7 anyone any information contained in or ascertained from any
8 examination or investigation made by the department, or any
9 letter, report, or statement sent to the department, or any
10 other paper or document in the custody of the department, except
11 when the publication or divulgement of such information is made
12 by the department pursuant to the provisions of this act, or
13 when the production of such information is required by subpoena
14 or other legal process of a court of competent jurisdiction, or
15 when it is used in deciding whether to prosecute or in
16 prosecutions or other court actions instituted by or on behalf
17 of or at the request of the department, or when referring for
18 investigation to or in response to a request from any Federal,
19 State or local law enforcement or any Federal or State financial
20 regulatory agency, including banking, insurance and securities
21 regulatory agencies, or when the department provides information
22 to any Federal or State financial regulatory agency, including
23 banking, insurance and securities regulatory agencies, when the
24 information pertains to an enforcement concern. The information
25 shall be provided as may be necessary or appropriate, as
26 determined in the discretion of the secretary.

27 (3) The service of a subpoena upon the secretary, deputy,
28 examiner, clerk or other employe of the department shall not be
29 construed as requiring such person to disclose any information,
30 but such person shall have all the rights and privileges as any

1 other subpoenaed party to object to production of information on
2 the same basis as provided in the Rules of Civil Procedure,
3 statute , regulation or common law. The department may condition
4 the release of such information on an order from a court of
5 competent jurisdiction protecting the information from general
6 disclosure to the public. The department retains and may
7 exercise any and all remedies at law and in equity to quash a
8 subpoena.

9 (4) Any privileges available to Federal financial
10 institution regulators under Federal statute, regulation or
11 common law shall be available to the department.

12 (5) The department may provide to any person, corporation or
13 Federal, State or local government agency the following
14 information regarding licensees to the extent that the
15 department has such information in its possession: the type of
16 license held by the licensee; whether a license application
17 submitted by any person or corporation has been denied, pursuant
18 to a final order or adjudication issued by the department;
19 whether and for what time period a [person's] licensee's license
20 is current, suspended or revoked pursuant to a final order or
21 adjudication issued by the department; whether and for what time
22 period an individual is or has been suspended or prohibited from
23 working for or otherwise participating as a licensee or in any
24 other capacity in businesses regulated by the department
25 pursuant to a final order or adjudication issued by the
26 department[.]; and whether and to what extent a corporation,
27 person or licensee is or has been subject to a fine, order or
28 adjudication issued by the department.

29 [(6) The department may condition the release of subpoenaed
30 information on an order from a court of competent jurisdiction

1 protecting the information from general disclosure to the
2 public.]

3 (7) If the department is subpoenaed for a report of
4 examination information, the department may refuse to release
5 the requested information as the secretary deems necessary and
6 appropriate under the circumstances for the following reasons:
7 safety and soundness; if the department requests and is denied a
8 protective order; or if the department requests and is denied
9 redaction of the report of examination to protect the privacy of
10 persons not involved in the litigation.

11 B. A violation of the provisions of this section by the
12 secretary, or by any deputy, examiner, clerk, or other employe
13 of the department, shall be sufficient ground for his removal
14 from office. In addition the secretary, deputy, examiner, clerk,
15 or other employe who willfully or knowingly commits such
16 violation shall be deemed guilty of a misdemeanor, and shall,
17 upon conviction thereof, be subject to imprisonment for a period
18 not exceeding one year, or a fine not exceeding one thousand
19 dollars, or both.

20 Section 2. This act shall take effect in 60 days.