

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 885 Session of  
2003

INTRODUCED BY SAYLOR, HARRIS, NAILOR, GEIST, BAKER, CASORIO,  
HARHAI, WANSACZ, BALDWIN, BEBKO-JONES, BELARDI, BUXTON,  
CAPPELLI, CAUSER, CIVERA, CORRIGAN, CREIGHTON, CURRY,  
DERMODY, FRANKEL, GEORGE, HESS, HORSEY, KELLER, LEACH,  
LEDERER, LEH, MANDERINO, McCALL, McGEEHAN, MELIO, R. MILLER,  
PISTELLA, READSHAW, SAINATO, SATHER, SHANER, STERN, THOMAS,  
TIGUE, WALKO, WASHINGTON, WILT, WOJNAROSKI AND YOUNGBLOOD,  
MARCH 13, 2003

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
JUNE 17, 2003

## AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, adding provisions relating to privacy  
3 protection for customer information of financial  
4 transactions; DEFINING THE OFFENSE OF PUBLIC OR PRIVATE GRANT <—  
5 SOLICITATION; and imposing penalties.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Chapter 73 of Title 18 of the Pennsylvania  
9 Consolidated Statutes is amended by adding a subchapter to read:

## 10 SUBCHAPTER C

## 11 PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF

## 12 FINANCIAL INSTITUTIONS

13 Sec.

14 7371. Definitions.

15 7372. Prohibition on obtaining customer information by false  
16 pretenses.

1 7373. Prohibition on solicitation of a person to obtain  
2 customer information from financial institution under  
3 false pretenses.

4 7374. Nonapplicability.

5 7375. Penalty.

6 7376. Regulations.

7 § 7371. Definitions.

8 The following words and phrases when used in this subchapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Customer." With respect to a financial institution, any  
12 person, or authorized representative of a person, to whom the  
13 financial institution provides a product or service, including  
14 that of acting as a fiduciary.

15 "Customer information of a financial institution." Any  
16 information maintained by or for a financial institution which  
17 is derived from the relationship between the financial  
18 institution and a customer of the financial institution and is  
19 identified with the customer.

20 "Document." Any information in any form.

21 "Financial institution." Any institution engaged in the  
22 business of providing financial services to customers who  
23 maintain a credit, deposit, trust or other financial account or  
24 relationship with the institution. The following apply:

25 (1) The term includes any depository institution, any  
26 broker or dealer, any investment adviser or investment  
27 company, any insurance company, any loan or finance company,  
28 any credit card issuer or operator of a credit card system  
29 and any consumer reporting agency that compiles and maintains  
30 files on consumers on a nationwide basis.

(2) For purposes of this definition:

(i) the terms "broker" and "dealer" have the same meanings as given in section 3 of the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a et seq.);

(ii) the term "investment adviser" has the same meaning as given in section 202(a)(11) of the Investment Advisers Act of 1940 (54 Stat. 847, 15 U.S.C. § 80b-1 et seq.); and

(iii) the term "investment company" has the same meaning as given in section 3 of the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.).

(3) The term does not include any person or entity with respect to any financial activity that is subject to jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (42 Stat. 988, 7 U.S.C. § 1 et seq.) and does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971 (Public Law 92-181, 12 U.S.C. §§ 2001-2023).

§ 7372. Prohibition on obtaining customer information by false pretenses.

It shall be unlawful for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person:

(1) by making a false, fictitious or fraudulent statement or representation to an officer, employee or agent of a financial institution;

(2) by making a false, fictitious or fraudulent statement or representation to a customer of a financial

1 institution; or

2 (3) by providing any document to an officer, employee or  
3 agent of a financial institution, knowing that the document  
4 is forged, counterfeit, lost or stolen, was fraudulently  
5 obtained or contains a false, fictitious or fraudulent  
6 statement or representation.

7 § 7373. Prohibition on solicitation of a person to obtain  
8 customer information from financial institution under  
9 false pretenses.

10 It shall be unlawful for a person to request another person  
11 to obtain customer information of a financial institution,  
12 knowing that the other person will obtain, or attempt to obtain,  
13 the information from the institution in any manner described in  
14 section 7372 (relating to prohibition on obtaining customer  
15 information by false pretenses).

16 § 7374. Nonapplicability.

17 (a) Nonapplicability to law enforcement agencies.--No  
18 provision of section 7372 (relating to prohibition on obtaining  
19 customer information by false pretenses) or 7373 (relating to  
20 prohibition on solicitation of a person to obtain customer  
21 information from financial institution under false pretenses)  
22 shall be construed so as to prevent any action by a law  
23 enforcement agency, or any officer, employee or agent of such  
24 agency, to obtain customer information of a financial  
25 institution in connection with the performance of the official  
26 duties of the agency.

27 (b) Nonapplicability to financial institutions in certain  
28 cases.--No provision of section 7372 or 7373 shall be construed  
29 so as to prevent any financial institution, or any officer,  
30 employee or agent of a financial institution, from obtaining

1 customer information of such financial institution in the course  
2 of:

3 (1) testing the security procedures or systems of such  
4 institution for maintaining the confidentiality of customer  
5 information;

6 (2) investigating allegations of misconduct or  
7 negligence on the part of any officer, employee or agent of  
8 the financial institution; or

9 (3) recovering customer information of the financial  
10 institution which was obtained or received by another person  
11 in any manner described in section 7372 or 7373.

12 (c) Nonapplicability to insurance institutions for  
13 investigation of insurance fraud.--No provision of section 7372  
14 or 7373 shall be construed so as to prevent any insurance  
15 institution or any officer, employee or agency of an insurance  
16 institution, from obtaining information as part of an insurance  
17 investigation into criminal activity, fraud, material  
18 misrepresentation or material nondisclosure that is authorized  
19 for such institution under State law, regulation, interpretation  
20 or order.

21 (d) Nonapplicability to certain types of customer  
22 information of financial institutions.--No provision of section  
23 7372 or 7373 shall be construed so as to prevent any person from  
24 obtaining customer information of a financial institution that  
25 otherwise is available as a public record filed pursuant to  
26 securities laws.

27 (e) Nonapplicability to collection of child support  
28 judgments.--No provision of section 7372 or 7373 shall be  
29 construed to prevent any State-licensed private investigator, or  
30 any officer, employee or agent of such private investigator,

1 from obtaining customer information of a financial institution,  
2 to the extent reasonably necessary to collect child support from  
3 a person adjudged to have been delinquent in the person's  
4 obligations by a Federal or State court, and to the extent that  
5 such action by a State-licensed private investigator is not  
6 unlawful under any other Federal or State law or regulation, and  
7 has been authorized by an order or judgment of a court of  
8 competent jurisdiction.

9 § 7375. Penalty.

10 (a) General rule.--Except as provided in subsection (b), any  
11 person who knowingly and intentionally violates, or knowingly  
12 and intentionally attempts to violate, section 7372 (relating to  
13 prohibition on obtaining customer information by false  
14 pretenses) or 7373 (relating to prohibition on solicitation of a  
15 person to obtain customer information from financial institution  
16 under false pretenses) commits a misdemeanor of the first degree  
17 and shall, upon conviction, be sentenced to pay a fine of not  
18 more than \$10,000 or to imprisonment for not more than five  
19 years, or both.

20 (b) Enhanced penalty for aggravated cases.--Any person who  
21 violates, or attempts to violate, section 7372 or 7373 while  
22 violating another law of the United State or this Commonwealth  
23 or as part of a pattern of any illegal activity involving more  
24 than \$100,000 in a 12-month period commits a felony of the third  
25 degree and shall, upon conviction, be sentenced to pay a fine of  
26 not more than \$15,000 or to imprisonment for not more than seven  
27 years, or both.

28 § 7376. Regulations.

29 The Department of Banking, after consultation with the  
30 Pennsylvania Securities Commission and the Attorney General, may

1 prescribe regulations clarifying or describing the types of  
2 institutions which shall be treated as financial institutions  
3 for purposes of this subchapter.

4 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—

5 § 7516. PUBLIC OR PRIVATE GRANT SOLICITATION.

6 (A) OFFENSE DEFINED.--NO PERSON MAY PROVIDE SERVICES OVER  
7 THE TELEPHONE OR THROUGH ELECTRONIC MEANS BY:

8 (1) (I) PROMISING TO OR PROVIDING RESEARCH OR  
9 INFORMATION ABOUT GUARANTEED PUBLIC OR PRIVATE GRANTS;

10 (II) INTERVIEWING A PERSON FOR THE PURPOSE OF  
11 CHECKING ELIGIBILITY FOR PUBLIC OR PRIVATE GRANTS; OR

12 (III) OFFERING TO FILL OUT APPLICATIONS FOR PUBLIC  
13 OR PRIVATE GRANTS; AND

14 (2) REQUESTING AND REQUIRING PAYMENT THROUGH ELECTRONIC  
15 FUNDS TRANSFER OR ASKING FOR ANY INFORMATION REGARDING A  
16 CUSTOMER'S BANK ACCOUNT.

17 (B) PENALTY.--A PERSON WHO VIOLATES THIS SECTION COMMITS A  
18 MISDEMEANOR OF THE FIRST DEGREE AND SHALL, UPON CONVICTION, BE  
19 SENTENCED TO PAY A FINE IN THE AMOUNT OF \$10,000.

20 Section ~~2~~ 3. This act shall take effect in 60 days. <—