

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 484 Session of 2007

INTRODUCED BY BROWNE, FERLO, BOSCOLA, PILEGGI, ERICKSON, RHOADES, EARLL, COSTA, BAKER AND ORIE, MARCH 15, 2007

SENATOR D. WHITE, BANKING AND INSURANCE, AS AMENDED, DECEMBER 4, 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 PROVIDING FOR <—
23 GENERAL SCOPE OF SUPERVISION AND EXERCISE OF DISCRETION;
24 prohibiting disclosure of certain information; AND FURTHER <—
25 PROVIDING FOR CRIMINAL HISTORY RECORD INFORMATION.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 ~~Section 1. Section 302 of the act of May 15, 1933 (P.L.565,~~ <—

1 ~~No.111), known as the Department of Banking Code, amended~~  
2 ~~December 9, 2002 (P.L.1604, No.209), is amended to read:~~

3 SECTION 1. SECTION 202 OF THE ACT OF MAY 15, 1933 (P.L.565, ←  
4 NO.111), KNOWN AS THE DEPARTMENT OF BANKING CODE, IS AMENDED BY  
5 ADDING A SUBSECTION TO READ:

6 SECTION 202. GENERAL SCOPE OF SUPERVISION; EXERCISE OF  
7 DISCRETION.--\* \* \*

8 E. NOTWITHSTANDING ANY OTHER LAW OR PROVISION OF THIS ACT,  
9 THE DEPARTMENT MAY REQUIRE LICENSEES TO USE A NATIONAL  
10 ELECTRONIC LICENSING SYSTEM IN ORDER TO APPLY FOR OR RENEW  
11 LICENSES ISSUED PURSUANT TO ANY STATUTE WITHIN THE JURISDICTION  
12 OF THE DEPARTMENT TO ENFORCE. NOTWITHSTANDING ANY OTHER LAW, THE  
13 DEPARTMENT MAY MODIFY, BY PUBLICATION OF A NOTICE IN THE  
14 PENNSYLVANIA BULLETIN, LICENSE RENEWAL AND REPORTING DATES FOR  
15 ANY LICENSEES SUBJECT TO THIS SUBSECTION THAT ARE INCONSISTENT  
16 WITH THE USE OF A NATIONAL ELECTRONIC LICENSING SYSTEM. THE  
17 DEPARTMENT IS NOT AUTHORIZED TO REQUIRE A PERSON OR CORPORATION  
18 WHICH WOULD OTHERWISE BE TOTALLY EXEMPT FROM LICENSURE PURSUANT  
19 TO ANY STATUTE UNDER THE DEPARTMENT'S JURISDICTION TO SUBMIT  
20 INFORMATION TO OR PARTICIPATE IN ANY NATIONAL ELECTRONIC  
21 LICENSING SYSTEM.

22 SECTION 2. SECTIONS 302 AND 405B OF THE ACT, AMENDED OR  
23 ADDED DECEMBER 9, 2002 (P.L.1604, NO.209), ARE AMENDED TO READ:

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

27 (2) Neither the secretary nor any deputy, examiner, clerk,  
28 or other employe of the department, shall publish or divulge to  
29 anyone any information contained in or ascertained from any  
30 examination or investigation made by the department, or any

1 letter, report, or statement sent to the department, or any  
2 other paper or document in the custody of the department, except  
3 when the publication or divulgement of such information is made  
4 by the department pursuant to the provisions of this act, or  
5 when the production of such information is required by subpoena  
6 or other legal process of a court of competent jurisdiction, or  
7 when it is used in deciding whether to prosecute or in  
8 prosecutions or other court actions instituted by or on behalf  
9 of or at the request of the department, or when referring for  
10 investigation to or in response to a request from any Federal,  
11 State or local law enforcement or any Federal or State financial  
12 regulatory agency, including banking, insurance and securities  
13 regulatory agencies, or when the department provides information  
14 to any Federal or State financial regulatory agency, including  
15 banking, insurance and securities regulatory agencies, when the  
16 information pertains to an enforcement concern. The information  
17 shall be provided as may be necessary or appropriate, as  
18 determined in the discretion of the secretary.

19 (3) The service of a subpoena upon the secretary, deputy,  
20 examiner, clerk or other employe of the department shall not be  
21 construed as requiring such person to disclose any information,  
22 but such person shall have all the rights and privileges as any  
23 other subpoenaed party to object to production of information on  
24 the same basis as provided in the Rules of Civil Procedure,  
25 statute , regulation or common law. The department may condition  
26 the release of such information on an order from a court of  
27 competent jurisdiction protecting the information from general  
28 disclosure to the public. The department retains and may  
29 exercise any and all remedies at law and in equity to quash a  
30 subpoena.

1 (4) Any privileges available to Federal financial  
2 institution regulators under Federal statute, regulation or  
3 common law shall be available to the department.

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

22 [(6) The department may condition the release of subpoenaed  
23 information on an order from a court of competent jurisdiction  
24 protecting the information from general disclosure to the  
25 public.]

26 (7) If the department is subpoenaed for a report of  
27 examination information, the department may refuse to release  
28 the requested information as the secretary deems necessary and  
29 appropriate under the circumstances for the following reasons:  
30 safety and soundness; if the department requests and is denied a

1 protective order; or if the department requests and is denied  
2 redaction of the report of examination to protect the privacy of  
3 persons not involved in the litigation.

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

13 SECTION 405. CRIMINAL HISTORY RECORD INFORMATION.--\* \* \* <—

14 B. FOR THE PURPOSES OF THIS SECTION, A "COVERED LICENSE"  
15 MEANS [A MORTGAGE BROKER LICENSE OR LIMITED MORTGAGE BROKER  
16 LICENSE UNDER THE ACT OF DECEMBER 22, 1989 (P.L.687, NO.90),  
17 KNOWN AS THE "MORTGAGE BANKERS AND BROKERS AND CONSUMER EQUITY  
18 PROTECTION ACT," A SECONDARY MORTGAGE BROKER LICENSE UNDER THE  
19 ACT OF DECEMBER 12, 1980 (P.L.1179, NO.219), KNOWN AS THE  
20 "SECONDARY MORTGAGE LOAN ACT," A CONSUMER DISCOUNT COMPANY  
21 LICENSE USED ONLY IN THE CAPACITY OF A BROKER THAT IS NOT  
22 ORIGINATING LOANS UNDER THE ACT OF APRIL 8, 1937 (P.L.262,  
23 NO.66), KNOWN AS THE "CONSUMER DISCOUNT COMPANY ACT," A MONEY  
24 TRANSMITTER LICENSE UNDER THE ACT OF SEPTEMBER 2, 1965 (P.L.490,  
25 NO.249), REFERRED TO AS THE MONEY TRANSMISSION BUSINESS  
26 LICENSING LAW, A CHECK-CASHER LICENSE UNDER THE ACT OF FEBRUARY  
27 18, 1998 (P.L.146, NO.22), KNOWN AS THE "CHECK CASHIER LICENSING  
28 ACT," A PAWNBROKER LICENSE UNDER THE ACT OF APRIL 6, 1937  
29 (P.L.200, NO.51), KNOWN AS THE "PAWNBROKERS LICENSE ACT," A  
30 COLLECTOR-REPOSSESSOR LICENSE OR INSTALLMENT SELLER LICENSE

1 UNDER THE ACT OF JUNE 28, 1947 (P.L.1110, NO.476), KNOWN AS THE  
2 "MOTOR VEHICLE SALES FINANCE ACT," ] A LICENSE THE DEPARTMENT MAY  
3 GRANT PURSUANT TO ANY OTHER LICENSING STATUTE, OR THE ARTICLES  
4 OF INCORPORATION OF A TRUST COMPANY UNDER THE ACT OF NOVEMBER  
5 30, 1965 (P.L.847, NO.356), KNOWN AS THE "BANKING CODE OF 1965."

6 \* \* \*

7 Section ~~2~~ 3. This act shall take effect in 60 days.

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