

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, RE-REPORTED AS AMENDED, FEBRUARY 5, 2008

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; AND
26 PROVIDING FOR CONDUCT OF ADMINISTRATIVE PROCEEDINGS RELATING
27 TO INSTITUTIONS AND CREDIT UNIONS.

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28 The General Assembly of the Commonwealth of Pennsylvania
29 hereby enacts as follows:

1 Section 1. Section 202 of the act of May 15, 1933 (P.L.565,
2 No.111), known as the Department of Banking Code, is amended by
3 adding a subsection to read:

4 Section 202. General Scope of Supervision; Exercise of
5 Discretion.--* * *

6 E. Notwithstanding any other law or provision of this act,
7 the department may require licensees to use a national
8 electronic licensing system in order to apply for or renew
9 licenses issued pursuant to any statute within the jurisdiction
10 of the department to enforce. Notwithstanding any other law, the
11 department may modify, by publication of a notice in the
12 Pennsylvania Bulletin, license renewal and reporting dates for
13 any licensees subject to this subsection that are inconsistent
14 with the use of a national electronic licensing system. The
15 department is not authorized to require a person or corporation
16 which would otherwise be totally exempt from licensure pursuant
17 to any statute under the department's jurisdiction to submit
18 information to or participate in any national electronic
19 licensing system.

20 ~~Section 2. Sections 302 and 405B of the act, amended or~~ <—
21 ~~added December 9, 2002 (P.L.1604, No.209), are amended to read:~~

22 SECTION 2. SECTIONS 302, 405B AND 503 HEADING OF THE ACT, <—
23 AMENDED OR ADDED DECEMBER 9, 2002 (P.L.1604, NO.209), ARE
24 AMENDED AND SECTION 503 IS AMENDED BY ADDING A SUBSECTION TO
25 READ:

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

29 (2) Neither the secretary nor any deputy, examiner, clerk,
30 or other employe of the department, shall publish or divulge to

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

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

1 exercise any and all remedies at law and in equity to quash a
2 subpoena.

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

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

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

28 (7) If the department is subpoenaed for a report of
29 examination information, the department may refuse to release
30 the requested information as the secretary deems necessary and

1 appropriate under the circumstances for the following reasons:
2 safety and soundness; if the department requests and is denied a
3 protective order; or if the department requests and is denied
4 redaction of the report of examination to protect the privacy of
5 persons not involved in the litigation.

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

15 Section 405. Criminal History Record Information.--* * *

16 B. For the purposes of this section, a "covered license"
17 means [a mortgage broker license or limited mortgage broker
18 license under the act of December 22, 1989 (P.L.687, No.90),
19 known as the "Mortgage Bankers and Brokers and Consumer Equity
20 Protection Act," a secondary mortgage broker license under the
21 act of December 12, 1980 (P.L.1179, No.219), known as the
22 "Secondary Mortgage Loan Act," a consumer discount company
23 license used only in the capacity of a broker that is not
24 originating loans under the act of April 8, 1937 (P.L.262,
25 No.66), known as the "Consumer Discount Company Act," a money
26 transmitter license under the act of September 2, 1965 (P.L.490,
27 No.249), referred to as the Money Transmission Business
28 Licensing Law, a check-casher license under the act of February
29 18, 1998 (P.L.146, No.22), known as the "Check Casher Licensing
30 Act," a pawnbroker license under the act of April 6, 1937

1 (P.L.200, No.51), known as the "Pawnbrokers License Act," a
2 collector-repossessor license or installment seller license
3 under the act of June 28, 1947 (P.L.1110, No.476), known as the
4 "Motor Vehicle Sales Finance Act,"] a license the department may
5 grant pursuant to any other licensing statute, or the articles
6 of incorporation of a trust company under the act of November
7 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965."

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9 SECTION 503. QUO WARRANTO OR INJUNCTION PROCEEDINGS; CONDUCT ←
10 OF ADMINISTRATIVE PROCEEDINGS RELATING TO INSTITUTIONS AND
11 CREDIT UNIONS. -- * * *

12 E. (1) ALL ADMINISTRATIVE PROCEEDINGS CONDUCTED BY THE
13 DEPARTMENT PERTAINING TO INSTITUTIONS, INCLUDING CREDIT UNIONS,
14 SHALL BE SUBJECT TO THE REQUIREMENTS OF 2 PA.C.S. (RELATING TO
15 ADMINISTRATIVE LAW AND PROCEDURE), KNOWN AS THE ADMINISTRATIVE
16 AGENCY LAW. FOR PURPOSES OF THIS SUBSECTION, THE TERM
17 "ADMINISTRATIVE PROCEEDING" MEANS ANY PROCEEDING OTHER THAN A
18 JUDICIAL PROCEEDING, THE OUTCOME OF WHICH IS REQUIRED TO BE
19 BASED ON A RECORD OR DOCUMENTATION PRESCRIBED BY LAW, OR IN
20 WHICH LAW OR REGULATION IS PARTICULARIZED IN APPLICATION TO AN
21 INSTITUTION OR CREDIT UNION. THE PROVISIONS OF THIS SUBSECTION
22 SHALL SUPPLEMENT AND NOT REPEAL OR LIMIT REQUIREMENTS OF THE
23 ADMINISTRATIVE AGENCY LAW.

24 (2) NOTICE REGARDING THE RECEIPT OF ANY APPLICATION OR
25 NOTICE SUBMITTED TO THE DEPARTMENT BY AN INSTITUTION OR CREDIT
26 UNION RELATING TO THE ISSUANCE, AMENDMENT OR CONVERSION OF A
27 CHARTER; OR AN ABSORPTION, ACQUISITION, CONSOLIDATION, OR
28 DISSOLUTION, SHALL BE PUBLISHED BY THE DEPARTMENT IN THE
29 PENNSYLVANIA BULLETIN. WHENEVER THE DEPARTMENT PUBLISHES NOTICE
30 IN THE PENNSYLVANIA BULLETIN, THE DEPARTMENT MAY DIRECT AN

1 INSTITUTION OR CREDIT UNION SUBMITTING AN APPLICATION OR NOTICE
2 TO ALSO PUBLISH NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION
3 REGARDING ITS REQUEST.

4 (3) COMMENTS IN SUPPORT OR OPPOSITION TO APPLICATIONS OR
5 NOTICES PUBLISHED PURSUANT TO PARAGRAPH (2) OF THIS SUBSECTION
6 SHALL BE CONSIDERED BY THE DEPARTMENT IF SUBMITTED TO THE
7 DEPARTMENT WITHIN THIRTY DAYS OF THE PUBLICATION IN THE
8 PENNSYLVANIA BULLETIN AND/OR NEWSPAPER OF GENERAL CIRCULATION,
9 WHICHEVER IS LATER. THE DEPARTMENT MAY FOR GOOD CAUSE EXTEND OR
10 SHORTEN THE THIRTY-DAY DEADLINE FOR THE SUBMISSION OF COMMENTS.

11 (4) AN INSTITUTION OR CREDIT UNION SUBMITTING AN
12 APPLICATION, NOTICE, OR OTHER DOCUMENT; A PERSON SUBMITTING
13 COMMENTS IN SUPPORT OR IN OPPOSITION TO ANY APPLICATION OR
14 NOTICE TO THE DEPARTMENT; ANY OTHER PERSON SUBMITTING A DOCUMENT
15 TO THE DEPARTMENT REGARDING ANY MATTER SUBJECT TO ITS
16 JURISDICTION; OR THE DEPARTMENT, MAY DESIGNATE ALL OR PORTIONS
17 OF A DOCUMENT TO BE CONFIDENTIAL TO THE EXTENT THE DOCUMENT
18 CONTAINS TRADE SECRETS, CONFIDENTIAL PROPRIETARY INFORMATION, OR
19 OTHER PRIVILEGED OR CONFIDENTIAL INFORMATION THE DISCLOSURE OF
20 WHICH WOULD CAUSE SUBSTANTIAL HARM TO AN INSTITUTION, CREDIT
21 UNION OR PERSON, OR IMPAIR THE SAFETY OR SOUNDNESS OF AN
22 INSTITUTION OR CREDIT UNION.

23 (5) IF ANY PORTION OF AN APPLICATION, NOTICE OR OTHER
24 DOCUMENT SUBMITTED TO THE DEPARTMENT IS DESIGNATED AS
25 CONFIDENTIAL PURSUANT TO PARAGRAPH (4), THE THIRTY-DAY DEADLINE
26 FOR THE SUBMISSION OF COMMENTS PROVIDED BY PARAGRAPH (3) MAY BE
27 EXTENDED UNTIL THE DEPARTMENT REVIEWS ANY SUCH CONFIDENTIALITY
28 DESIGNATIONS AND DETERMINES THE EXTENT TO WHICH ALL OR ANY
29 PORTION OF A DOCUMENT SHALL BE DEEMED CONFIDENTIAL.
30 NOTWITHSTANDING THE REQUIREMENTS OF SECTION 302 AND 404, ANY

1 PORTIONS THEREOF NOT DESIGNATED OR DETERMINED TO BE CONFIDENTIAL
2 BY THE DEPARTMENT PURSUANT TO PARAGRAPH (4) SHALL BE MADE
3 AVAILABLE FOR REVIEW BY ANY INTERESTED PERSON. EXCEPT FOR A
4 PERSON DESIGNATING ALL OR A PORTION OF A DOCUMENT AS
5 CONFIDENTIAL PURSUANT TO PARAGRAPH (4), NO OTHER PERSON MAY
6 CONTEST A DECISION BY THE DEPARTMENT TO DESIGNATE OR NOT
7 DESIGNATE ALL OR PORTIONS OF SUCH DOCUMENTS AS CONFIDENTIAL,
8 UNLESS THE DEPARTMENT IS REQUIRED BY 2 PA.C.S. TO CONDUCT A
9 HEARING REQUESTED PURSUANT TO PARAGRAPH (7) OF THIS SUBSECTION.

10 (6) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, NOTICE
11 REGARDING FINAL ACTION TAKEN BY THE DEPARTMENT REGARDING ANY
12 APPLICATION OR NOTICE FOR WHICH NOTICE IS PUBLISHED PURSUANT TO
13 PARAGRAPH (2) OF THIS SUBSECTION SHALL BE PUBLISHED BY THE
14 DEPARTMENT IN THE PENNSYLVANIA BULLETIN.

15 (7) ANY INSTITUTION OR CREDIT UNION SUBJECT TO AN ORDER,
16 DECREE, DECISION, DETERMINATION OR RULING ISSUED BY THE
17 DEPARTMENT AND PUBLISHED PURSUANT TO PARAGRAPH (6) OF THIS
18 SUBSECTION OR ANY OTHER INSTITUTION OR CREDIT UNION DIRECTLY
19 AFFECTED BY THE DEPARTMENT'S ACTION WHICH WOULD BE ENTITLED TO A
20 HEARING REGARDING THE DEPARTMENT'S ACTION PURSUANT TO 2 PA.C.S.,
21 INCLUDING A FEDERALLY CHARTERED BANK, SAVINGS ASSOCIATION, OR
22 CREDIT UNION, MAY REQUEST A HEARING TO REVIEW THE DEPARTMENT'S
23 ACTION WITHIN FOURTEEN DAYS OF THE PUBLICATION OR RECEIPT OF
24 NOTICE OF THE DEPARTMENT'S FINAL ACTION. THE FILING OF A REQUEST
25 FOR A HEARING REGARDING A FINAL ACTION TAKEN BY THE DEPARTMENT
26 SHALL NOT BE DEEMED TO AUTOMATICALLY STAY THE DEPARTMENT'S
27 ACTION, BUT THE DEPARTMENT MAY FOR GOOD CAUSE GRANT A
28 SUPERSEDEAS OF ITS ACTION PENDING THE OUTCOME OF ADVERSARY
29 ADJUDICATION. WHERE THE DEPARTMENT PUBLISHES NOTICE OF A FINAL
30 ACTION, OR AN INSTITUTION OR CREDIT UNION HAS NOTICE OF THE

1 DEPARTMENT'S RECEIPT OF AN APPLICATION, NOTICE OR OTHER REQUEST
2 THAT THE DEPARTMENT ISSUE AN ORDER, DECREE, DECISION,
3 DETERMINATION OR RULING, AN INSTITUTION OR CREDIT UNION DIRECTLY
4 AFFECTED BY THE DEPARTMENT'S FINAL ACTION, OTHER THAN THE
5 INSTITUTION OR CREDIT UNION SUBJECT TO THE DEPARTMENT'S ACTION,
6 MAY NOT REQUEST A HEARING TO REVIEW THE DEPARTMENT'S FINAL
7 ACTION UNLESS THE INSTITUTION OR THE CREDIT UNION SUBMITTED
8 COMMENTS PURSUANT TO PARAGRAPH (3).

9 (8) NOTWITHSTANDING THE REQUIREMENTS OF SECTIONS 302 AND
10 404, IF A HEARING IS CONDUCTED BY THE DEPARTMENT PURSUANT TO 2
11 PA.C.S., THE HEARING OFFICER MAY REVIEW AND REVISE
12 DETERMINATIONS MADE BY THE DEPARTMENT TO CLASSIFY ALL OR ANY
13 PORTION OF AN APPLICATION, NOTICE, OR DOCUMENT AS CONFIDENTIAL
14 AND MAY DISCLOSE TO A PARTY PARTICIPATING IN THE HEARING ALL OR
15 ANY PORTIONS THEREOF DETERMINED TO BE CONFIDENTIAL PURSUANT TO A
16 PROTECTIVE ORDER LIMITING OR RESTRICTING ACCESS TO AND THE USE
17 OF SUCH DOCUMENTS. IF THE HEARING OFFICER DETERMINES THAT A
18 PROTECTIVE ORDER CANNOT ADEQUATELY PROTECT THE INTERESTS OF AN
19 INSTITUTION, CREDIT UNION OR PERSON SUBJECT TO THE SUPERVISION
20 OF THE DEPARTMENT OR OF ANOTHER PERSON PARTICIPATING IN A
21 HEARING, THE HEARING OFFICER MAY REDACT CONFIDENTIAL PORTIONS OR
22 DENY ACCESS TO ANY DOCUMENTS PURSUANT TO THE STANDARDS
23 CUSTOMARILY EMPLOYED BY COURTS OF THIS COMMONWEALTH.

24 (9) THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THIS
25 SUBSECTION. ANY REGULATIONS ADOPTED BY THE DEPARTMENT IN EFFECT
26 UPON THE EFFECTIVE DATE OF THIS SUBSECTION ARE HEREBY REPEALED
27 TO THE EXTENT INCONSISTENT WITH THIS SUBSECTION.

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

29 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

30 (1) THE AMENDMENT OF SECTION 503 OF THE ACT SHALL TAKE

1 EFFECT IN 30 DAYS.

2 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT

3 IMMEDIATELY.