

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 484** Session of  
2007INTRODUCED BY BROWNE, FERLO, BOSCOLA, PILEGGI, ERICKSON,  
RHOADES, EARLL, COSTA, BAKER AND ORIE, MARCH 15, 2007SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
FEBRUARY 11, 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; further  
25 providing for criminal history record information; and  
26 providing for conduct of administrative proceedings relating  
27 to institutions and credit unions.

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, 405B and 503 heading of the act,  
21 amended or added December 9, 2002 (P.L.1604, No.209), are  
22 amended and section 503 is amended by adding a subsection to  
23 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 Casher 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 503. Quo Warranto or Injunction Proceedings; Conduct  
8 of Administrative Proceedings Relating to Institutions and  
9 Credit Unions.--\* \* \*

10 E. (1) All administrative proceedings conducted by the  
11 department pertaining to institutions, including credit unions,  
12 shall be subject to the requirements of 2 Pa.C.S. (relating to  
13 administrative law and procedure), known as the Administrative  
14 Agency Law. For purposes of this subsection, the term  
15 "administrative proceeding" means any proceeding other than a  
16 judicial proceeding, the outcome of which is required to be  
17 based on a record or documentation prescribed by law, or in  
18 which law or regulation is particularized in application to an  
19 institution or credit union. The provisions of this subsection  
20 shall supplement and not repeal or limit requirements of the  
21 Administrative Agency Law.

22 (2) Notice regarding the receipt of any application or  
23 notice submitted to the department by an institution or credit  
24 union relating to the issuance, amendment or conversion of a  
25 charter; or an absorption, acquisition, consolidation, or  
26 dissolution, shall be published by the department in the  
27 Pennsylvania Bulletin. Whenever the department publishes notice  
28 in the Pennsylvania Bulletin, the department may direct an  
29 institution or credit union submitting an application or notice  
30 to also publish notice in a newspaper of general circulation

1 regarding its request.

2 (3) Comments in support or opposition to applications or  
3 notices published pursuant to paragraph (2) of this subsection ←  
4 shall be considered by the department if submitted to the  
5 department within thirty days of the publication in the  
6 Pennsylvania Bulletin and/or newspaper of general circulation,  
7 whichever is later. The department may for good cause extend or  
8 shorten the thirty-day deadline for the submission of comments.

9 (4) An institution or credit union submitting an  
10 application, notice, or other document; a person submitting  
11 comments in support or in opposition to any application or  
12 notice to the department; any other person submitting a document  
13 to the department regarding any matter subject to its  
14 jurisdiction; or the department, may designate all or portions  
15 of a document to be confidential to the extent the document  
16 contains trade secrets, confidential proprietary information, or  
17 other privileged or confidential information the disclosure of  
18 which would cause substantial harm to an institution, credit  
19 union or person, or impair the safety or soundness of an  
20 institution or credit union.

21 (5) If any portion of an application, notice or other  
22 document submitted to the department is designated as  
23 confidential pursuant to paragraph (4), the thirty-day deadline  
24 for the submission of comments provided by paragraph (3) may be  
25 extended until the department reviews any such confidentiality  
26 designations and determines the extent to which all or any  
27 portion of a document shall be deemed confidential.  
28 Notwithstanding the requirements of section 302 and 404, any  
29 portions thereof not designated or determined to be confidential  
30 by the department pursuant to paragraph (4) shall be made

1 available for review by any interested person. Except for a  
2 person designating all or a portion of a document as  
3 confidential pursuant to paragraph (4), no other person may  
4 contest a decision by the department to designate or not  
5 designate all or portions of such documents as confidential,  
6 unless the department is required by 2 Pa.C.S. to conduct a  
7 hearing requested pursuant to paragraph (7) ~~of this subsection.~~ <—

8 (6) Notwithstanding any other law to the contrary, notice  
9 regarding final action taken by the department regarding any  
10 application or notice for which notice is published pursuant to  
11 paragraph (2) ~~of this subsection~~ shall be published by the <—  
12 department in the Pennsylvania Bulletin.

13 (7) Any institution or credit union subject to an order,  
14 decree, decision, determination or ruling issued by the  
15 department and published pursuant to paragraph (6) ~~of this~~ <—  
16 ~~subsection~~ or any other institution or credit union directly  
17 affected by the department's action which would be entitled to a  
18 hearing regarding the department's action pursuant to 2 Pa.C.S.,  
19 including a federally chartered bank, savings association, or  
20 credit union, may request a hearing to review the department's  
21 action within fourteen days of the publication or receipt of  
22 notice of the department's final action. The filing of a request  
23 for a hearing regarding a final action taken by the department  
24 shall not be deemed to automatically stay the department's  
25 action, but the department may for good cause grant a  
26 supersedeas of its action pending the outcome of ~~adversary~~ <—

27 ~~adjudication~~ AN ADMINISTRATIVE PROCEEDING. Where the department <—  
28 publishes notice of a ~~final action~~ THE RECEIPT OF AN APPLICATION <—  
29 UNDER PARAGRAPH (2), or an institution or credit union has  
30 notice of the department's receipt of an application, notice or



1 other request that the department issue an order, decree,  
2 decision, determination or ruling, an institution or credit  
3 union directly affected by the department's final action, other  
4 than the institution or credit union subject to the department's  
5 action, may not request a hearing to review the department's  
6 final action unless the institution or the credit union  
7 submitted comments pursuant to paragraph (3).

8 (8) Notwithstanding the requirements of sections 302 and  
9 404, if a hearing is conducted by the department pursuant to 2  
10 Pa.C.S., the hearing officer may review and revise  
11 determinations made by the department to classify all or any  
12 portion of an application, notice, or document as confidential  
13 and may disclose to a party participating in the hearing all or  
14 any portions thereof determined to be confidential pursuant to a  
15 protective order limiting or restricting access to and the use  
16 of such documents. If the hearing officer determines that a  
17 protective order cannot adequately protect the interests of an  
18 institution, credit union or person subject to the supervision  
19 of the department or of another person participating in a  
20 hearing, the hearing officer may redact confidential portions or  
21 deny access to any documents pursuant to the standards  
22 customarily employed by courts of this Commonwealth.

23 (9) The department may adopt regulations to implement this  
24 subsection. Any regulations adopted by the department in effect  
25 upon the effective date of this subsection are hereby repealed  
26 to the extent inconsistent with this subsection.

27 Section 3. This act shall take effect as follows:

28 (1) The amendment of section 503 of the act shall take  
29 effect in 30 days.

30 (2) The remainder of this act shall take effect

1 immediately.