
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 484 Session of
2007

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

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 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

1 hereby enacts as follows:

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

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

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

21 ~~Section 2. Sections 302, 405B and 503 heading of the act,~~ ←
22 ~~amended or added December 9, 2002 (P.L.1604, No.209), are~~
23 ~~amended and section 503 is amended by adding a subsection to~~
24 ~~read:~~

25 SECTION 2. SECTION 302 OF THE ACT, AMENDED DECEMBER 9, 2002 ←
26 (P.L.1604, NO.209), IS AMENDED TO READ:

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

30 (2) Neither the secretary nor any deputy, examiner, clerk,

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

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

1 disclosure to the public. The department retains and may
2 exercise any and all remedies at law and in equity to quash a
3 subpoena.

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

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

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

29 (7) If the department is subpoenaed for a report of
30 examination information, the department may refuse to release

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

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

16 SECTION 3. SUBSECTION B OF SECTION 405 OF THE ACT, ADDED ←
17 DECEMBER 9, 2002 (P.L.1604, NO.209), IS AMENDED AND THE SECTION
18 IS AMENDED BY ADDING A SUBSECTION TO READ:

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

20 B. For the purposes of this section, a "covered license"
21 means [a mortgage broker license or limited mortgage broker
22 license under the act of December 22, 1989 (P.L.687, No.90),
23 known as the "Mortgage Bankers and Brokers and Consumer Equity
24 Protection Act," a secondary mortgage broker license under the
25 act of December 12, 1980 (P.L.1179, No.219), known as the
26 "Secondary Mortgage Loan Act," a consumer discount company
27 license used only in the capacity of a broker that is not
28 originating loans under the act of April 8, 1937 (P.L.262,
29 No.66), known as the "Consumer Discount Company Act," a money
30 transmitter license under the act of September 2, 1965 (P.L.490,

1 No.249), referred to as the Money Transmission Business
2 Licensing Law, a check-casher license under the act of February
3 18, 1998 (P.L.146, No.22), known as the "Check Casher Licensing
4 Act," a pawnbroker license under the act of April 6, 1937
5 (P.L.200, No.51), known as the "Pawnbrokers License Act," a
6 collector-repossessor license or installment seller license
7 under the act of June 28, 1947 (P.L.1110, No.476), known as the
8 "Motor Vehicle Sales Finance Act,"] a license the department may
9 grant pursuant to any [other] licensing statute, or the articles <—
10 of incorporation of a trust company under the act of November
11 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965."

12 * * *

13 K. THE PROVISIONS OF 18 PA.C.S. § 9121(B)(2) (RELATING TO <—
14 GENERAL REGULATIONS) SHALL NOT APPLY TO NATIONAL CRIMINAL
15 HISTORY INFORMATION OR OTHER CRIMINAL HISTORY INFORMATION
16 REQUESTED OR RECEIVED UNDER THIS SECTION.

17 SECTION 4. SECTION 503 HEADING OF THE ACT, AMENDED DECEMBER
18 9, 2002 (P.L.1604, NO.209), IS AMENDED AND THE SECTION IS
19 AMENDED BY ADDING A SUBSECTION TO READ:

20 Section 503. Quo Warranto or Injunction Proceedings; Conduct
21 of Administrative Proceedings Relating to Institutions and
22 Credit Unions.--* * *

23 E. (1) All administrative proceedings conducted by the
24 department pertaining to institutions, including credit unions,
25 shall be subject to the requirements of 2 Pa.C.S. (relating to
26 administrative law and procedure), known as the Administrative
27 Agency Law. For purposes of this subsection, the term
28 "administrative proceeding" means any proceeding other than a
29 judicial proceeding, the outcome of which is required to be
30 based on a record or documentation prescribed by law, or in

1 which law or regulation is particularized in application to an
2 institution or credit union. The provisions of this subsection
3 shall supplement and not repeal or limit requirements of the
4 Administrative Agency Law.

5 (2) Notice regarding the receipt of any application or
6 notice submitted to the department by an institution or credit
7 union relating to the issuance, amendment or conversion of a
8 charter; or an absorption, acquisition, consolidation, or
9 dissolution, shall be published by the department in the
10 Pennsylvania Bulletin. Whenever the department publishes notice
11 in the Pennsylvania Bulletin, the department may direct an
12 institution or credit union submitting an application or notice
13 to also publish notice in a newspaper of general circulation
14 regarding its request.

15 (3) Comments in support or opposition to applications or
16 notices published pursuant to paragraph (2) shall be considered
17 by the department if submitted to the department within thirty
18 days of the publication in the Pennsylvania Bulletin and/or
19 newspaper of general circulation, whichever is later. The
20 department may for good cause extend or shorten the thirty-day
21 deadline for the submission of comments.

22 (4) An institution or credit union submitting an
23 application, notice, or other document; a person submitting
24 comments in support or in opposition to any application or
25 notice to the department; any other person submitting a document
26 to the department regarding any matter subject to its
27 jurisdiction; or the department, may designate all or portions
28 of a document to be confidential to the extent the document
29 contains trade secrets, confidential proprietary information, or
30 other privileged or confidential information the disclosure of

1 which would cause substantial harm to an institution, credit
2 union or person, or impair the safety or soundness of an
3 institution or credit union.

4 (5) If any portion of an application, notice or other
5 document submitted to the department is designated as
6 confidential pursuant to paragraph (4), the thirty-day deadline
7 for the submission of comments provided by paragraph (3) may be
8 extended until the department reviews any such confidentiality
9 designations and determines the extent to which all or any
10 portion of a document shall be deemed confidential.
11 Notwithstanding the requirements of section 302 and 404, any
12 portions thereof not designated or determined to be confidential
13 by the department pursuant to paragraph (4) shall be made
14 available for review by any interested person. Except for a
15 person designating all or a portion of a document as
16 confidential pursuant to paragraph (4), no other person may
17 contest a decision by the department to designate or not
18 designate all or portions of such documents as confidential,
19 unless the department is required by 2 Pa.C.S. to conduct a
20 hearing requested pursuant to paragraph (7).

21 (6) Notwithstanding any other law to the contrary, notice
22 regarding final action taken by the department regarding any
23 application or notice for which notice is published pursuant to
24 paragraph (2) shall be published by the department in the
25 Pennsylvania Bulletin.

26 (7) Any institution or credit union subject to an order,
27 decree, decision, determination or ruling issued by the
28 department and published pursuant to paragraph (6) or any other
29 institution or credit union directly affected by the
30 department's action which would be entitled to a hearing

1 regarding the department's action pursuant to 2 Pa.C.S.,
2 including a federally chartered bank, savings association, or
3 credit union, may request a hearing to review the department's
4 action within fourteen days of the publication or receipt of
5 notice of the department's final action. The filing of a request
6 for a hearing regarding a final action taken by the department
7 shall not be deemed to automatically stay the department's
8 action, but the department may for good cause grant a
9 supersedeas of its action pending the outcome of an
10 administrative proceeding. Where the department publishes notice
11 of the receipt of an application under paragraph (2), or an
12 institution or credit union has notice of the department's
13 receipt of an application, notice or other request that the
14 department issue an order, decree, decision, determination or
15 ruling, an institution or credit union directly affected by the
16 department's final action, other than the institution or credit
17 union subject to the department's action, may not request a
18 hearing to review the department's final action unless the
19 institution or the credit union submitted comments pursuant to
20 paragraph (3).

21 (8) Notwithstanding the requirements of sections 302 and
22 404, if a hearing is conducted by the department pursuant to 2
23 Pa.C.S., the hearing officer may review and revise
24 determinations made by the department to classify all or any
25 portion of an application, notice, or document as confidential
26 and may disclose to a party participating in the hearing all or
27 any portions thereof determined to be confidential pursuant to a
28 protective order limiting or restricting access to and the use
29 of such documents. If the hearing officer determines that a
30 protective order cannot adequately protect the interests of an

1 institution, credit union or person subject to the supervision
2 of the department or of another person participating in a
3 hearing, the hearing officer may redact confidential portions or
4 deny access to any documents pursuant to the standards
5 customarily employed by courts of this Commonwealth.

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

10 Section 3 5. This act shall take effect as follows: <—

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

13 (2) The remainder of this act shall take effect
14 immediately.