

HOUSE No. 1198

The Commonwealth of Massachusetts

PRESENTED BY:

Peter J. Koutoujian

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to confidentiality of examination reports of the Division of Banks.

PETITION OF:

NAME:

Peter J. Koutoujian

DISTRICT/ADDRESS:

10th Middlesex

HOUSE No. 1198

By Mr. Koutoujian of Waltham, a petition (accompanied by bill, House, No. 1198) of Peter J. Koutoujian relative to confidentiality of examination reports of the Division of Banks. Financial Services.

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Eleven
—————

An Act relative to confidentiality of examination reports of the Division of Banks.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 99 of chapter 140 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by striking out section 99 and inserting in place thereof the
3 following new section:—

4 A licensee shall, when directed by the commissioner, permit the commissioner or his
5 duly authorized representative to inspect its records and evidence of compliance with this chapter
6 or any rule and regulation issued thereunder and with any other law, rule and regulation
7 applicable to the conduct of its business. The commissioner shall preserve a full record of each
8 such examination of a licensee including a statement of its condition. All records of
9 investigations and reports of examinations by the commissioner, including workpapers,
10 information derived from such reports or responses to such reports, and any copies thereof in the
11 possession of any licensee under the supervision of the commissioner, shall be confidential and
12 privileged communications, shall not be subject to subpoena and shall not be a public record
13 under clause twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of

14 investigation and reports of examinations shall include records of investigation and reports of
15 examinations conducted by a financial regulatory agency of the federal government and any
16 other state, and of any foreign government which are considered confidential by such agency or
17 foreign government and which are in possession of the commissioner. In any proceeding before a
18 court, the court may issue a protective order to seal the record protecting the confidentiality of
19 any such record, and other than any such record on file with the court or filed in connection with
20 the court proceeding, and the court may exclude the public from any portion of a proceeding at
21 which any such record may be disclosed. Copies of such reports of examination shall be
22 furnished to a licensee for its use only and shall not be exhibited to any other person,
23 organization or agency without prior written approval by the commissioner. The commissioner
24 may, in his discretion, furnish to regulatory agencies of the federal government, of other states,
25 or of foreign countries, and any law enforcement agency, such information, reports, inspections
26 and statements relating to the licensees under his supervision.

27 The commissioner, or his examiners or such others of his assistants as he may designate,
28 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
29 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
30 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
31 required or obstructs the person making such examination in the performance of his duty, shall
32 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
33 than one year.

34 SECTION 2. Section 4 of Chapter 167F, as so appearing, is hereby amended by inserting
35 after the fourth paragraph the following two paragraphs:—

36 The commissioner shall examine any such person, to whom any such certificate to
37 engage in the business of selling, issuing or registering checks or money orders has been issued,
38 as he deems necessary and in a manner he deems appropriate. The commissioner shall preserve a
39 full record of each such examination of a check seller including a statement of its condition. All
40 records of investigations and reports of examinations by the commissioner, including
41 workpapers, information derived from such reports or responses to such reports, and any copies
42 thereof in the possession of any licensee under the supervision of the commissioner, shall be
43 confidential and privileged communications, shall not be subject to subpoena and shall not be a
44 public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
45 paragraph, records of investigation and reports of examinations shall include records of
46 investigation and reports of examinations conducted by a financial regulatory agency of the
47 federal government and any other state, and of any foreign government which are considered
48 confidential by such agency or foreign government and which are in possession of the
49 commissioner. In any proceeding before a court, the court may issue a protective order to seal
50 the record protecting the confidentiality of any such record, other than any such record on file
51 with the court or filed in connection with the court proceeding, and the court may exclude the
52 public from any portion of the proceeding at which any such record may be disclosed. Copies of
53 such reports of examination shall be furnished to a licensee for its use only and shall not be
54 exhibited to any other person, organization or agency without prior written approval by the
55 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
56 federal government, of other states, or of foreign countries, and any law enforcement agency,
57 such information, reports, inspections and statements relating to the licensees under his
58 supervision.

59 The commissioner, or his examiners or such others of his assistants as he may designate,
60 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
61 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
62 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
63 required or obstructs the person making such examination in the performance of his duty, shall
64 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
65 than one year.

66 SECTION 3. Section 10 of chapter 169, as so appearing, is hereby amended by inserting
67 after the second paragraph the following two paragraphs:—

68 The commissioner shall preserve a full record of each such examination of a licensee
69 including a statement of its condition. All records of investigations and reports of examinations
70 by the commissioner, including workpapers, information derived from such reports or responses
71 to such reports, and any copies thereof in the possession of any licensee under the supervision of
72 the commissioner, shall be confidential and privileged communications, shall not be subject to
73 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
74 For the purpose of this paragraph, records of investigation and reports of examinations shall
75 include records of investigation and reports of examinations conducted by a financial regulatory
76 agency of the federal government and any other state, and of any foreign government which are
77 considered confidential by such agency or foreign government and which are in possession of the
78 commissioner. In any proceeding before a court, the court may issue a protective order to seal
79 the record protecting the confidentiality in appropriate circumstances to protect the
80 confidentiality of any such record, other than any such record on file with the court or filed in
81 connection with the court proceeding, and the court may exclude the public from any portion of

82 the proceeding at which any such record may be disclosed. Copies of such reports of
83 examination shall be furnished to a licensee for its use only and shall not be exhibited to any
84 other person, organization or agency without prior written approval by the commissioner. The
85 commissioner may, in his discretion, furnish to regulatory agencies of the federal government, of
86 other states, or of foreign countries, and any law enforcement agency, such information, reports,
87 inspections and statements relating to the licensees under his supervision.

88 The commissioner, or his examiners or such others of his assistants as he may designate,
89 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
90 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
91 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
92 required or obstructs the person making such examination in the performance of his duty, shall
93 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
94 than one year.

95 SECTION 4. Section 10 of chapter 169A, as so appearing, is hereby amended by adding
96 the following two paragraphs:—

97 The commissioner shall preserve a full record of each such examination of a licensee
98 including a statement of its condition. All records of investigations and reports of examinations
99 by the commissioner, including workpapers, information derived from such reports or responses
100 to such reports, and any copies thereof in the possession of any licensee under the supervision of
101 the commissioner, shall be confidential and privileged communications, shall not be subject to
102 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
103 the purpose of this paragraph, records of investigation and reports of examinations shall include

104 records of investigation and reports of examinations conducted by a financial regulatory agency
105 of the federal government and any other state, and of any foreign government which are
106 considered confidential by such agency or foreign government and which are in possession of the
107 commissioner. In any proceeding before a court, the court may issue a protective order to seal
108 the record protecting the confidentiality of any such record, other than any such record on file
109 with the court or filed in connection with the court proceeding, and the court may exclude the
110 public from any portion of the proceeding at which any such record may be disclosed. Copies of
111 such reports of examination shall be furnished to a licensee for its use only and shall not be
112 exhibited to any other person, organization or agency without prior written approval by the
113 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
114 federal government, of other states, or of foreign countries, and any law enforcement agency,
115 such information, reports, inspections and statements relating to the licensees under his
116 supervision.

117

118 The commissioner, or his examiners or such others of his assistants as he may designate,
119 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
120 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
121 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
122 required or obstructs the person making such examination in the performance of his duty, shall
123 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
124 than one year.

125 SECTION 5. Section 3 of Chapter 255B, as so appearing, is hereby amended by inserting
126 after the first paragraph the following two paragraphs:—

127 The commissioner shall preserve a full record of each such examination of a licensee
128 including a statement of its condition. All records of investigations and reports of examinations
129 by the commissioner, including workpapers, information derived from such reports or responses
130 to such reports, and any copies thereof in the possession of any licensee under the supervision of
131 the commissioner, shall be confidential and privileged communications, shall not be subject to
132 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
133 the purpose of this paragraph, records of investigation and reports of examinations shall include
134 records of investigation and reports of examinations conducted by a financial regulatory agency
135 of the federal government and any other state, and of any foreign government which are
136 considered confidential by such agency or foreign government and which are in possession of the
137 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
138 record protecting the confidentiality of any such record, other than any such record on file with
139 the court or filed in connection with the court proceeding, and the court may exclude the public
140 from any portion of the proceeding at which any such record may be disclosed. Copies of such
141 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
142 to any other person, organization or agency without prior written approval by the commissioner.
143 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
144 government, of other states, or of foreign countries, and any law enforcement agency, such
145 information, reports, inspections and statements relating to the licensees under his supervision.

146 The commissioner, or his examiners or such others of his assistants as he may designate,
147 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine

148 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
149 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
150 required or obstructs the person making such examination in the performance of his duty, shall
151 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
152 than one year.

153 SECTION 6. Section 6 of chapter 255C, as so appearing, is hereby amended by striking
154 out the second paragraph and inserting in place thereof the following two paragraphs:—

155 The commissioner shall preserve a full record of each such examination of a licensee
156 including a statement of its condition. All records of investigations and reports of examinations
157 by the commissioner, including workpapers, information derived from such reports or responses
158 to such reports, and any copies thereof in the possession of any licensee under the supervision of
159 the commissioner, shall be confidential and privileged communications, shall not be subject to
160 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
161 For the purpose of this paragraph, records of investigation and reports of examinations shall
162 include records of investigation and reports of examinations conducted by a financial regulatory
163 agency of the federal government and any other state, and of any foreign government which are
164 considered confidential by such agency or foreign government and which are in possession of the
165 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
166 record protecting the confidentiality of any such record, other than any such record on file with
167 the court or filed in connection with the court proceeding, and the court may exclude the public
168 from any portion of the proceeding at which any such record may be disclosed. Copies of such
169 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
170 to any other person, organization or agency without prior written approval by the commissioner.

171 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
172 government, of other states, or of foreign countries, and any law enforcement agency, such
173 information, reports, inspections and statements relating to the licensees under his supervision.

174 The commissioner, or his examiners or such others of his assistants as he may designate,
175 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
176 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
177 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
178 required or obstructs the person making such examination in the performance of his duty, shall
179 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
180 than one year.

181 SECTION 7. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby
182 amended by inserting after the first paragraph the following two paragraphs:—

183 The commissioner shall preserve a full record of each such examination of a licensee
184 including a statement of its condition. All records of investigations and reports of examinations
185 by the commissioner, including workpapers, information derived from such reports or responses
186 to such reports, and any copies thereof in the possession of any licensee under the supervision of
187 the commissioner, shall be confidential and privileged communications, shall not be subject to
188 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
189 the purpose of this paragraph, records of investigation and reports of examinations shall include
190 records of investigation and reports of examinations conducted by a financial regulatory agency
191 of the federal government and any other state, and of any foreign government which are
192 considered confidential by such agency or foreign government and which are in possession of the

193 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
194 record protecting the confidentiality of any such record, other than any such record on file with
195 the court or filed in connection with the court proceeding, and the court may exclude the public
196 from any portion of the proceeding at which any such record may be disclosed. Copies of such
197 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
198 to any other person, organization or agency without prior written approval by the commissioner.
199 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
200 government, of other states, or of foreign countries, and any law enforcement agency, such
201 information, reports, inspections and statements relating to the licensees under his supervision.

202 The commissioner, or his examiners or such others of his assistants as he may designate,
203 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
204 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may
205 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
206 required or obstructs the person making such examination in the performance of his duty, shall
207 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
208 than one year.

209

210 SECTION 8. Section 8 of chapter 255E, as so appearing, is hereby amended by adding
211 the following paragraph:--

212 The commissioner, or his examiners or such others of his assistants as he may designate,
213 may summon the directors, officers or agents of a licensee, or any other witnesses, and examine
214 them relative to the affairs, transactions and condition of the licensee, and, for that purpose, may

215 administer oaths. Whoever, without justifiable cause, refuses to appear and testify when so
216 required or obstructs the person making such examination in the performance of his duty, shall
217 be punished by a fine of not more than one thousand dollars or by imprisonment for not more
218 than one year.