

HOUSE No. 877

The Commonwealth of Massachusetts

PRESENTED BY:

Michael A. Costello

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 passage of the accompanying bill:

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

PETITION OF:

NAME:

Michael A. Costello

DISTRICT/ADDRESS:

1st Essex

HOUSE No. 877

By Mr. Costello of Newburyport, a petition (accompanied by bill, House, No. 877) of Michael A. Costello relative to confidentiality of examination reports of the Division of Banks. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

□ HOUSE
□ , NO. 1198 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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

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

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

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

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41 The commissioner shall examine any such person, to whom any such certificate to
42 engage in the business of selling, issuing or registering checks or money orders has been issued,
43 as he deems necessary and in a manner he deems appropriate. The commissioner shall preserve a
44 full record of each such examination of a check seller including a statement of its condition. All
45 records of investigations and reports of examinations by the commissioner, including
46 workpapers, information derived from such reports or responses to such reports, and any copies
47 thereof in the possession of any licensee under the supervision of the commissioner, shall be
48 confidential and privileged communications, shall not be subject to subpoena and shall not be a
49 public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
50 paragraph, records of investigation and reports of examinations shall include records of
51 investigation and reports of examinations conducted by a financial regulatory agency of the
52 federal government and any other state, and of any foreign government which are considered
53 confidential by such agency or foreign government and which are in possession of the
54 commissioner. In any proceeding before a court, the court may issue a protective order to seal
55 the record protecting the confidentiality of any such record, other than any such record on file
56 with the court or filed in connection with the court proceeding, and the court may exclude the

57 public from any portion of the proceeding at which any such record may be disclosed. Copies of
58 such reports of examination shall be furnished to a licensee for its use only and shall not be
59 exhibited to any other person, organization or agency without prior written approval by the
60 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
61 federal government, of other states, or of foreign countries, and any law enforcement agency,
62 such information, reports, inspections and statements relating to the licensees under his
63 supervision.

64

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

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

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76 The commissioner shall preserve a full record of each such examination of a licensee
77 including a statement of its condition. All records of investigations and reports of examinations
78 by the commissioner, including workpapers, information derived from such reports or responses
79 to such reports, and any copies thereof in the possession of any licensee under the supervision of
80 the commissioner, shall be confidential and privileged communications, shall not be subject to
81 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
82 For the purpose of this paragraph, records of investigation and reports of examinations shall
83 include records of investigation and reports of examinations conducted by a financial regulatory
84 agency of the federal government and any other state, and of any foreign government which are
85 considered confidential by such agency or foreign government and which are in possession of the
86 commissioner. In any proceeding before a court, the court may issue a protective order to seal
87 the record protecting the confidentiality in appropriate circumstances to protect the
88 confidentiality of any such record, other than any such record on file with the court or filed in
89 connection with the court proceeding, and the court may exclude the public from any portion of
90 the proceeding at which any such record may be disclosed. Copies of such reports of
91 examination shall be furnished to a licensee for its use only and shall not be exhibited to any
92 other person, organization or agency without prior written approval by the commissioner. The
93 commissioner may, in his discretion, furnish to regulatory agencies of the federal government, of
94 other states, or of foreign countries, and any law enforcement agency, such information, reports,
95 inspections and statements relating to the licensees under his supervision.

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

104 □

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

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108 □ The commissioner shall preserve a full record of each such examination of a licensee
109 including a statement of its condition. All records of investigations and reports of examinations
110 by the commissioner, including workpapers, information derived from such reports or responses
111 to such reports, and any copies thereof in the possession of any licensee under the supervision of
112 the commissioner, shall be confidential and privileged communications, shall not be subject to
113 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
114 the purpose of this paragraph, records of investigation and reports of examinations shall include
115 records of investigation and reports of examinations conducted by a financial regulatory agency
116 of the federal government and any other state, and of any foreign government which are
117 considered confidential by such agency or foreign government and which are in possession of the
118 commissioner. In any proceeding before a court, the court may issue a protective order to seal
119 the record protecting the confidentiality of any such record, other than any such record on file
120 with the court or filed in connection with the court proceeding, and the court may exclude the
121 public from any portion of the proceeding at which any such record may be disclosed. Copies of
122 such reports of examination shall be furnished to a licensee for its use only and shall not be
123 exhibited to any other person, organization or agency without prior written approval by the
124 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the
125 federal government, of other states, or of foreign countries, and any law enforcement agency,
126 such information, reports, inspections and statements relating to the licensees under his
127 supervision.

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129 □

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

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

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

160

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

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

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172 The commissioner shall preserve a full record of each such examination of a licensee
173 including a statement of its condition. All records of investigations and reports of examinations
174 by the commissioner, including workpapers, information derived from such reports or responses
175 to such reports, and any copies thereof in the possession of any licensee under the supervision of
176 the commissioner, shall be confidential and privileged communications, shall not be subject to

177 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.
178 For the purpose of this paragraph, records of investigation and reports of examinations shall
179 include records of investigation and reports of examinations conducted by a financial regulatory
180 agency of the federal government and any other state, and of any foreign government which are
181 considered confidential by such agency or foreign government and which are in possession of the
182 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
183 record protecting the confidentiality of any such record, other than any such record on file with
184 the court or filed in connection with the court proceeding, and the court may exclude the public
185 from any portion of the proceeding at which any such record may be disclosed. Copies of such
186 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
187 to any other person, organization or agency without prior written approval by the commissioner.
188 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
189 government, of other states, or of foreign countries, and any law enforcement agency, such
190 information, reports, inspections and statements relating to the licensees under his supervision.

191

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

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

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203 The commissioner shall preserve a full record of each such examination of a licensee
204 including a statement of its condition. All records of investigations and reports of examinations
205 by the commissioner, including workpapers, information derived from such reports or responses
206 to such reports, and any copies thereof in the possession of any licensee under the supervision of
207 the commissioner, shall be confidential and privileged communications, shall not be subject to
208 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
209 the purpose of this paragraph, records of investigation and reports of examinations shall include
210 records of investigation and reports of examinations conducted by a financial regulatory agency
211 of the federal government and any other state, and of any foreign government which are
212 considered confidential by such agency or foreign government and which are in possession of the
213 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
214 record protecting the confidentiality of any such record, other than any such record on file with
215 the court or filed in connection with the court proceeding, and the court may exclude the public
216 from any portion of the proceeding at which any such record may be disclosed. Copies of such

217 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
218 to any other person, organization or agency without prior written approval by the commissioner.
219 The commissioner may, in his discretion, furnish to regulatory agencies of the federal
220 government, of other states, or of foreign countries, and any law enforcement agency, such
221 information, reports, inspections and statements relating to the licensees under his supervision.

222

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

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

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

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