

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Ronald Mariano**

*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:

DISTRICT/ADDRESS:

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# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
\_\_\_\_\_

## 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 97 of chapter 140 of the General Laws, as appearing in the 2006 Official  
2 Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the  
3 following two paragraphs:—

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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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37 SECTION 2. Section 2 of chapter 167 of the General Laws, as so appearing, is hereby  
38 amended by striking out the sixth paragraph and inserting in place thereof the following  
39 paragraph:—

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41 The commissioner shall preserve a full record of each such examination of a bank  
42 including a statement of its condition. All records of investigations and reports of examinations  
43 by the commissioner, including workpapers, information derived from such reports or responses  
44 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
45 the commissioner, shall be confidential and privileged communications, shall not be subject to  
46 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
47 the purpose of this paragraph, records of investigation and reports of examinations shall include  
48 records of investigation and reports of examinations conducted by a financial regulatory agency

49 of the federal government and any other state, and of any foreign government which are  
50 considered confidential by such agency or foreign government and which are in possession of the  
51 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
52 record protecting the confidentiality of any such record, other than any such record on file with  
53 the court or filed in connection with the court proceeding, and the court may exclude the public  
54 from any portion of the proceeding at which any such record may be disclosed.

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57 SECTION 3. Section 4 of Chapter 167F, as so appearing, is hereby amended by inserting  
58 after the fourth paragraph the following two paragraphs:—

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60 The commissioner shall examine any such person, to whom any such certificate to  
61 engage in the business of selling, issuing or registering checks or money orders has been issued,  
62 as he deems necessary and in a manner he deems appropriate. The commissioner shall preserve a  
63 full record of each such examination of a check seller including a statement of its condition. All  
64 records of investigations and reports of examinations by the commissioner, including  
65 workpapers, information derived from such reports or responses to such reports, and any copies  
66 thereof in the possession of any licensee under the supervision of the commissioner, shall be  
67 confidential and privileged communications, shall not be subject to subpoena and shall not be a  
68 public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this  
69 paragraph, records of investigation and reports of examinations shall include records of  
70 investigation and reports of examinations conducted by a financial regulatory agency of the  
71 federal government and any other state, and of any foreign government which are considered  
72 confidential by such agency or foreign government and which are in possession of the  
73 commissioner. In any proceeding before a court, the court may issue a protective order to seal  
74 the record protecting the confidentiality of any such record, other than any such record on file  
75 with the court or filed in connection with the court proceeding, and the court may exclude the  
76 public from any portion of the proceeding at which any such record may be disclosed. Copies of  
77 such reports of examination shall be furnished to a licensee for its use only and shall not be  
78 exhibited to any other person, organization or agency without prior written approval by the  
79 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the

80 federal government, of other states, or of foreign countries, and any law enforcement agency,  
81 such information, reports, inspections and statements relating to the licensees under his  
82 supervision.

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

91  
92 SECTION 4. Section 10 of chapter 169, as so appearing, is hereby amended by inserting  
93 after the second paragraph the following two paragraphs:—

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95 The commissioner shall preserve a full record of each such examination of a licensee  
96 including a statement of its condition. All records of investigations and reports of examinations  
97 by the commissioner, including workpapers, information derived from such reports or responses  
98 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
99 the commissioner, shall be confidential and privileged communications, shall not be subject to  
100 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.  
101 For the purpose of this paragraph, records of investigation and reports of examinations shall  
102 include records of investigation and reports of examinations conducted by a financial regulatory  
103 agency of the federal government and any other state, and of any foreign government which are  
104 considered confidential by such agency or foreign government and which are in possession of the  
105 commissioner. In any proceeding before a court, the court may issue a protective order to seal  
106 the record protecting the confidentiality in appropriate circumstances to protect the  
107 confidentiality of any such record, other than any such record on file with the court or filed in  
108 connection with the court proceeding, and the court may exclude the public from any portion of  
109 the proceeding at which any such record may be disclosed. Copies of such reports of  
110 examination shall be furnished to a licensee for its use only and shall not be exhibited to any

111 other person, organization or agency without prior written approval by the commissioner. The  
112 commissioner may, in his discretion, furnish to regulatory agencies of the federal government, of  
113 other states, or of foreign countries, and any law enforcement agency, such information, reports,  
114 inspections and statements relating to the licensees under his supervision.

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

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124 SECTION 5. Section 10 of chapter 169A, as so appearing, is hereby amended by adding  
125 the following two paragraphs:—

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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  
138 the record protecting the confidentiality of any such record, other than any such record on file  
139 with the court or filed in connection with the court proceeding, and the court may exclude the  
140 public from any portion of the proceeding at which any such record may be disclosed. Copies of  
141 such reports of examination shall be furnished to a licensee for its use only and shall not be

142 exhibited to any other person, organization or agency without prior written approval by the  
143 commissioner. The commissioner may, in his discretion, furnish to regulatory agencies of the  
144 federal government, of other states, or of foreign countries, and any law enforcement agency,  
145 such information, reports, inspections and statements relating to the licensees under his  
146 supervision.

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

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157         SECTION 6. Section 3 of Chapter 255B, as so appearing, is hereby amended by inserting  
158 after the first paragraph the following two paragraphs:—

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160         The commissioner shall preserve a full record of each such examination of a licensee  
161 including a statement of its condition. All records of investigations and reports of examinations  
162 by the commissioner, including workpapers, information derived from such reports or responses  
163 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
164 the commissioner, shall be confidential and privileged communications, shall not be subject to  
165 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
166 the purpose of this paragraph, records of investigation and reports of examinations shall include  
167 records of investigation and reports of examinations conducted by a financial regulatory agency  
168 of the federal government and any other state, and of any foreign government which are  
169 considered confidential by such agency or foreign government and which are in possession of the  
170 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
171 record protecting the confidentiality of any such record, other than any such record on file with  
172 the court or filed in connection with the court proceeding, and the court may exclude the public

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

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

187  
188 SECTION 7. Section 6 of chapter 255C, as so appearing, is hereby amended by striking  
189 out the second paragraph and inserting in place thereof the following two paragraphs:—

190  
191 The commissioner shall preserve a full record of each such examination of a licensee  
192 including a statement of its condition. All records of investigations and reports of examinations  
193 by the commissioner, including workpapers, information derived from such reports or responses  
194 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
195 the commissioner, shall be confidential and privileged communications, shall not be subject to  
196 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4.  
197 For the purpose of this paragraph, records of investigation and reports of examinations shall  
198 include records of investigation and reports of examinations conducted by a financial regulatory  
199 agency of the federal government and any other state, and of any foreign government which are  
200 considered confidential by such agency or foreign government and which are in possession of the  
201 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
202 record protecting the confidentiality of any such record, other than any such record on file with  
203 the court or filed in connection with the court proceeding, and the court may exclude the public



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

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

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219 SECTION 8. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby  
220 amended by inserting after the first paragraph the following two paragraphs:—

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222 The commissioner shall preserve a full record of each such examination of a licensee  
223 including a statement of its condition. All records of investigations and reports of examinations  
224 by the commissioner, including workpapers, information derived from such reports or responses  
225 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
226 the commissioner, shall be confidential and privileged communications, shall not be subject to  
227 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
228 the purpose of this paragraph, records of investigation and reports of examinations shall include  
229 records of investigation and reports of examinations conducted by a financial regulatory agency  
230 of the federal government and any other state, and of any foreign government which are  
231 considered confidential by such agency or foreign government and which are in possession of the  
232 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
233 record protecting the confidentiality of any such record, other than any such record on file with  
234 the court or filed in connection with the court proceeding, and the court may exclude the public

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

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

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251 SECTION 9. Section 8 of chapter 255E, as most recently amended by Chapter 223 of the  
252 Acts of 2007, is hereby amended by adding the following paragraph:--

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

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