

**HOUSE . . . . . No. 01198**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Peter J. Koutoujian*

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*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.

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PETITION OF:

NAME:

*Peter J. Koutoujian*

DISTRICT/ADDRESS:

*10th Middlesex*

# HOUSE . . . . . No. 01198

By Mr. Peter J. Koutoujian of Waltham, petition (accompanied by bill, House, No. 01198) of Peter J. Koutoujian relative to confidentiality of examination reports of the Division of Banks. Joint Committee on 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 Official  
2 Edition, is hereby amended by striking out section 99 and inserting in place thereof the following  
3 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.

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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.