

CHAPTER 89

FINANCIAL INSTITUTIONS

HOUSE BILL 07-1035

BY REPRESENTATIVE(S) Balmer, and Kerr J.;
also SENATOR(S) Sandoval.

AN ACT

CONCERNING THE EXCHANGE OF INFORMATION BY SPECIFIED STATE BANKING OFFICIALS WITH THE UNITED STATES SECRETARY OF THE TREASURY REGARDING CERTAIN ENTITIES THAT TRANSMIT MONEY, AND, IN CONNECTION THEREWITH, AUTHORIZING THE STATE BANK COMMISSIONER TO EXCHANGE INFORMATION PERTAINING TO THE CONDITION OF MONEY TRANSMITTERS AND FOREIGN CAPITAL DEPOSITORIES WITH THE TREASURY SECRETARY AND ALLOWING THE STATE BANK COMMISSIONER, THE BANKING BOARD, OR THEIR DESIGNEES TO EXCHANGE INFORMATION ABOUT THE ACTIVITIES OF SUCH ENTITIES WITH THE TREASURY SECRETARY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 11-102-305 (1), Colorado Revised Statutes, is amended to read:

11-102-305. Records. (1) (a) Information from the records of the division shall be revealed only to members of the banking board, except ~~insofar~~ as FOLLOWS:

(I) ~~Disclosure may be~~ INFORMATION MAY BE DISCLOSED IF SUCH DISCLOSURE IS rendered necessary by law.

(II) ~~except that~~ Any party entitled to appear in a hearing on an application for bank charter shall have access to the applicant's proposed articles or amended articles of incorporation, application for charter, and proposed bylaws. ~~and except that~~

(III) The commissioner may exchange information as to the condition of banks with the United States comptroller of the currency, banking departments of other states, the federal reserve system and its examiners, and the federal deposit insurance corporation and its examiners.

(IV) THE COMMISSIONER MAY EXCHANGE INFORMATION OBTAINED FROM MONEY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

TRANSMITTERS AND FOREIGN CAPITAL DEPOSITORIES WITH THE UNITED STATES SECRETARY OF THE TREASURY OR THE SECRETARY'S DESIGNEES PERTAINING TO COMPLIANCE WITH FEDERAL MONEY LAUNDERING AND OTHER FINANCIAL CRIMES LAWS, INCLUDING, BUT NOT LIMITED TO, THE "BANK SECRECY ACT", THE "RIGHT TO FINANCIAL PRIVACY ACT OF 1978", THE "MONEY LAUNDERING CONTROL ACT OF 1986", AND THE "ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT".

(b) Notwithstanding any other provision of articles 101 to 109 of this title to the contrary, the commissioner, the commissioner's deputies, and the members of the banking board may disclose any information in the records of the division or acquired by them in the discharge of their duties that is publicly available from the federal deposit insurance corporation, the United States comptroller of the currency, or the federal reserve system or the disclosure of which has been specifically authorized by the board of directors of the financial institution to which such information relates.

SECTION 2. 11-102-306, Colorado Revised Statutes, is amended to read:

11-102-306. Information confidential. (1) The banking board, the bank commissioner, and all deputies and employees of the division shall not divulge any information acquired by them in the discharge of their duties except insofar as disclosure may be rendered necessary by law.

(2) The banking board, the commissioner, and their designees may exchange information with the United States comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, the federal home loan bank in which an institution is a member or is making an application to become a member, the executive director of the department of regulatory agencies, the division of financial services, and banking regulatory agencies of other states, subject to any confidentiality agreement entered into between the banking board or the commissioner and the United States comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, or the federal home loan bank in which an institution is a member or is making an application to become a member. In addition, the banking board, the commissioner, and their designees may exchange information obtained by the banking board ~~as~~ RELATING to:

(a) Possible violations of the federal "Employee Retirement Income Security Act of 1974", 29 U.S.C. sec. 1001 et seq., with the federal department of labor or the executive director of the department of regulatory agencies;

(b) ~~In addition, the banking board, the commissioner, and their respective designees may exchange information obtained by the banking board as to~~ Possible criminal violations of federal law relating to the activities of a federally insured institution with the federal bureau of investigation or the executive director of the department of regulatory agencies; AND

(c) THE ACTIVITIES OF MONEY TRANSMITTERS AND FOREIGN CAPITAL DEPOSITORIES PERTAINING TO COMPLIANCE WITH FEDERAL MONEY LAUNDERING AND OTHER FINANCIAL CRIMES LAWS, INCLUDING, BUT NOT LIMITED TO, THE "BANK SECRECY ACT", THE "RIGHT TO FINANCIAL PRIVACY ACT OF 1978", THE "MONEY

LAUNDERING CONTROL ACT OF 1986", AND THE "ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT", WITH THE UNITED STATES SECRETARY OF THE TREASURY OR THE SECRETARY'S DESIGNEES.

(3) The executive director of the department of regulatory agencies and the state commissioner of financial services and their deputies shall, before entering upon the discharge of their duties specified in this section, in addition to an oath required by the state constitution, take and subscribe an oath to keep secret all information acquired by them in the discharge of such duties, except as may otherwise be required by law. Willful violation of this oath shall be a criminal offense.

(4) Notwithstanding any other provision of this article to the contrary, the bank commissioner, the deputies, and the members of the banking board may disclose any information in the records of the division of banking or acquired by them within the discharge of their duties that is publicly available from the federal deposit insurance corporation, the United States comptroller of the currency, or the federal reserve system and disclose information that has been specifically authorized by the board of directors of the bank to which such information relates. Nothing in this section shall be construed to authorize the board of directors of a bank to waive any privileges that belong solely to the banking board, the division, or its employees.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 2, 2007