



Senate

General Assembly

February Session, 2000

File No. 92

Senate Bill No. 9

Senate, March 17, 2000

The Committee on Banks reported through SEN. MCDERMOTT of the 34th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

An Act Concerning Confidential Records Of The Department Of Banking.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 36a-21 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 [(a) All information obtained by the commissioner or by any
4 employee of the Department of Banking shall be confidential except
5 such as should, in the opinion of the commissioner, be imparted in the
6 performance of official duties.]

7 (a) Notwithstanding any federal or state law to the contrary, the
8 following records of the Department of Banking shall not be disclosed
9 by the commissioner or by any employee of the Department of
10 Banking, or be subject to public inspection or discovery, except as
11 provided in this section: (1) Examination and investigation reports and
12 information contained therein or derived therefrom; (2) information

13 obtained, collected or prepared in connection with examinations,
14 inspections or investigations; (3) complaints from the public received
15 by the Department of Banking; and (4) confidential supervisory
16 information obtained from a state, federal or foreign regulatory
17 agency.

18 (b) Examination [, operating or condition] reports prepared by the
19 commissioner or prepared on behalf of or for the use of the
20 commissioner shall be confidential unless otherwise a matter of public
21 record and no information contained therein shall, except with the
22 prior written consent of the commissioner, be disclosed or otherwise
23 made public by any director, officer, employee or agent of any
24 [financial institution, as defined in section 36a-41,] Connecticut bank or
25 Connecticut credit union about which such report was prepared.

26 (c) Disclosure of the records described in subsection (a) of this
27 section shall be made under safeguards designed to prevent further
28 dissemination of such records. The court shall issue a protective order
29 to protect the confidentiality of any such record and order that any
30 such record on file with the court or filed in connection with the court
31 proceeding be sealed and that the public be excluded from any portion
32 of the proceeding where any such record is disclosed.

33 (d) Notwithstanding any other provision of this section, the
34 commissioner may, without waiving any privilege, disclose the
35 records described in subsection (a) of this section for any appropriate
36 supervisory, governmental, law enforcement or other public purpose.

BA Committee Vote: Yea 18 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Banking

Municipal Impact: None

Explanation**State Impact:**

The Department of Banking will not incur a fiscal impact with the passage of this bill. The bill specifies the records of the department that are to be kept confidential and provides measures to safeguard records during court proceedings.

OLR Bill Analysis

SB 9

AN ACT CONCERNING CONFIDENTIAL RECORDS OF THE DEPARTMENT OF BANKING.**SUMMARY:**

This bill narrows the scope of the confidentiality requirements for state Banking Department records by (1) making it clear that banks' operating and condition reports are not confidential and (2) limiting the law's nondisclosure requirements to directors and personnel of state-chartered banks and credit unions, instead of both state and federally chartered institutions. The bill specifies the types of records that generally cannot be disclosed and, if they are disclosed under permitted conditions, requires safeguards to prevent their further dissemination.

EFFECTIVE DATE: October 1, 2000

SCOPE OF CONFIDENTIALITY

Current law makes all information the state banking commissioner or his employees obtain confidential, except what, in the commissioner's opinion, should be imparted in the performance of official duties. Current law makes examination, operating, and condition reports prepared by the commissioner, on his behalf, or for his use, confidential unless otherwise a matter of public record. Financial institutions' directors, officers, employees, or agents cannot disclose them or otherwise make them public, except with the commissioner's prior written consent.

The bill exempts operating and condition reports from the confidentiality requirement. It limits the nondisclosure requirement to Connecticut-chartered banks and credit unions, instead of all financial institutions, wherever chartered or organized, that are authorized to accept deposits in Connecticut. The state has examination and investigatory authority only over its own state-chartered institutions,

not federally chartered ones.

RECORDS SUBJECT TO NONDISCLOSURE

The bill specifies the Banking Department records that, notwithstanding any federal or state law (e.g. the Freedom of Information Act) to the contrary, cannot be disclosed or be subject to public inspection or discovery, except as otherwise provided in this bill:

1. examination and investigation reports and information contained in or derived from them;
2. information obtained, collected, or prepared in connection with examinations, inspections, or investigations;
3. complaints from the public made to the department; and
4. confidential supervisory information obtained from a state, federal, or foreign regulatory agency.

CONDITIONS FOR DISCLOSURE

The bill requires disclosure of the records listed above to be made under safeguards designed to prevent their further dissemination. The bill requires the court (presumably if such records are disclosed to a court) to issue an order to protect the records' confidentiality and to order that such records on file with the court (or filed in connection with the court proceeding) be sealed and that the public be excluded from any part of the proceeding where such a record is disclosed.

The bill specifies that the commissioner may, without waiving any privilege, disclose the listed records for any appropriate supervisory, governmental, law enforcement, or other public purpose.

COMMITTEE ACTION

Banks Committee

Joint Favorable Report

Yea 18 Nay 0