



Senate

General Assembly

File No. 592

February Session, 2000

Substitute Senate Bill No. 9

Senate, April 13, 2000

The Committee on Government Administration and Elections reported through SEN. BOZEK, of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute 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1 Section 36a-21 of the general statutes is repealed and the following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 provision of state law and except as
8 provided in subsection (b) of this section, the following records of the
9 Department of Banking shall not be disclosed by the commissioner or
10 any employee of the Department of Banking, or be subject to public
11 inspection or discovery:

12 (1) Examination and investigation reports and information
13 contained in or derived from such reports, including examination
14 reports prepared by the commissioner or prepared on behalf of or for
15 the use of the commissioner;

16 (2) Confidential supervisory or investigative information obtained
17 from a state, federal or foreign regulatory or law enforcement agency;
18 and

19 (3) Information obtained, collected or prepared in connection with
20 examinations, inspections or investigations, and complaints from the
21 public received by the Department of Banking, if such records are
22 protected from disclosure under federal or state law or, in the opinion
23 of the commissioner, such records would disclose, or would
24 reasonably lead to the disclosure of: (A) Investigative information the
25 disclosure of which would be prejudicial to such investigation, until
26 such time as the investigation and all related administrative and legal
27 actions are concluded; (B) personal or financial information, including
28 account or loan information, without the written consent of the person
29 or persons to whom the information pertains; or (C) information that
30 would harm the reputation of any person or affect the safety and
31 soundness of any person whose activities in this state are subject to the
32 supervision of the commissioner, and the disclosure of such
33 information under this subparagraph would not be in the public
34 interest.

35 [(b) Examination, operating or condition reports prepared by the
36 commissioner or prepared on behalf of or for the use of the
37 commissioner shall be confidential unless otherwise a matter of public
38 record and no information contained therein shall, except with the
39 prior written consent of the commissioner, be disclosed or otherwise
40 made public by any director, officer, employee or agent of any
41 financial institution, as defined in section 36a-41, about which such
42 report was prepared.]

43 (b) The commissioner may, without waiving any privilege, disclose
44 the records described in subsection (a) of this section for any
45 appropriate supervisory, governmental, law enforcement or other
46 public purpose. Any such disclosure shall be made under safeguards
47 designed to prevent further dissemination of such records. In any
48 proceeding before a court, the court may issue a protective order in
49 appropriate circumstances to protect the confidentiality of any such
50 record and order that any such record on file with the court or filed in
51 connection with the court proceeding be sealed and that the public be
52 excluded from any portion of the proceeding at which any such record
53 is disclosed.

54 (c) No director, officer, employee or agent of any Connecticut bank
55 or Connecticut credit union shall disclose without the prior written
56 consent of the commissioner any information contained in an
57 examination report about such bank or credit union, which
58 information is not otherwise a matter of public record.

GAE Committee Vote: Yea 21 Nay 0 JFS

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

sSB 9

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

This bill changes 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 they are 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 deletes 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 following Banking Department records that, notwithstanding the requirements of other state laws (*e.g.* the Freedom of Information Act), cannot be disclosed or be subject to public inspection or discovery, except as the bill otherwise provides:

1. examination and investigation reports and information contained in or derived from them, including examination reports prepared by the commissioner, on his behalf, or for his use;
2. confidential supervisory or investigative information obtained from a state, federal, or foreign regulatory or law enforcement agency;
3. information obtained, collected, or prepared in connection with examinations, inspections, or investigations; and
4. complaints from the public made to the department.

The records identified in numbers 3 and 4 above are exempt from disclosure only if they are protected by federal or state law or, in the commissioner's opinion, their disclosure would disclose, or reasonably lead to disclosure of: (a) investigative information that would prejudice an investigation, until the investigation and all related administrative and legal actions are finished; (b) personal or financial information, including account or loan information, unless the individual consents in writing; or (c) information harmful to a person's reputation or that would affect the safety and soundness of any entity whose activities in the state the commissioner supervises, and the disclosure would not be in the public interest.

CONDITIONS FOR DISCLOSURE

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

It requires such disclosure to be made under safeguards designed to

prevent the records' further dissemination. In any court proceeding, the bill allows the court, in appropriate circumstances, to issue an order to protect the records' confidentiality and to order that (1) such records on file with the court (or filed in connection with the court proceeding) be sealed and (2) the public be excluded from any part of the proceeding where such a record is disclosed.

BACKGROUND

Legislative History

On March 22, the Senate referred the bill (File 92) to the Government Administration and Elections Committee, which rewrote one of the bill's provisions, made some minor changes and clarifications, and gave it a joint favorable substitute report on March 28. The substitute (1) added the three reasons listed above on which the commissioner can base nondisclosure and (2) made the court's protective order discretionary instead of mandatory.

COMMITTEE ACTION

Banks Committee

Joint Favorable Report
Yea 18 Nay 0

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 21 Nay 0