

Regular Session, 2008

SENATE BILL NO. 558

BY SENATOR MARIONNEAUX

BANKS/BANKING. Provides relative to the Louisiana Banking Law. (7/1/08)

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AN ACT

To amend and reenact the title of Chapter 2 of Title 6 of the Louisiana Revised Statutes of 1950 and R.S. 6:101(A) and (B)(4) and 103(A), (B)(introductory paragraph) and (10), (11), (12), (13), (14) and (15), (E)(1)(introductory paragraph) and (b) and (c), (F)(1) and (2)(a), (G), (H)(introductory paragraph) and (2), (3), (7), and (J), relative to Banks and Banking; to provide relative to the Office of Banking and Financial Institutions; to provide for a commissioner and other officers and employees; to provide for jurisdiction and authority; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:101(A) and (B)(4) and 103(A), (B)(introductory paragraph) and (10), (11), (12), (13), (14) and (15), (E)(1)(introductory paragraph) and (b) and (c), (F)(1) and (2)(a), (G), (H)(introductory paragraph) and (2), (3), (7), and (J), are hereby amended and reenacted to read as follows:

CHAPTER 2. OFFICE OF **BANKING AND** FINANCIAL INSTITUTIONS

* * *

§101. Establishment of office; commissioner

1 office, and such records and reports shall not be subject to subpoena or other legal
2 process except as provided for in Subsection H.

3 B. The commissioner, in his sole discretion, may disclose or cause the
4 employees of the Office of **Banking and** Financial Institutions to disclose:

5 * * *

6 (10) Confidential information or records of either the Office of **Banking and**
7 Financial Institutions or financial institutions and other supervised entities chartered
8 or licensed in accordance with Title 6 of the Louisiana Revised Statutes of 1950,
9 produced by discovery or introduced into evidence as part of an administrative
10 hearing conducted in accordance with the Administrative Procedure Act, and
11 notwithstanding any other provision of law to the contrary, such records shall remain
12 confidential and shall not be deemed public.

13 (11) Statistical information compiled by the Office of **Banking and** Financial
14 Institutions, provided the information does not reveal the identity of any person or
15 entity which is the source of that information.

16 (12) Any action taken by the commissioner of the Office of **Banking and**
17 Financial Institutions and any legal grounds upon which such action is based relative
18 to the fitness of any person to receive, or to continue to hold any license the issuance
19 of which requires the approval of the commissioner of the Office of **Banking and**
20 Financial Institutions.

21 (13) The status of, and any action taken by the commissioner of the Office
22 of **Banking and** Financial Institutions regarding, any application any person is
23 required to file with the commissioner, or the Office of **Banking and** Financial
24 Institutions.

25 (14) Any action taken by the commissioner of the Office of **Banking and**
26 Financial Institutions to deny, suspend, or revoke a license, order refunds, impose
27 civil money penalties, or enter into a consent agreement against any person pursuant
28 to the enforcement powers of the commissioner authorized in R.S. 6:121.1, or
29 otherwise authorized in Titles 6, 9, 37, 51, or other Titles of the Louisiana Revised

1 Statutes of 1950.

2 (15) Guidance, advisory opinions and interpretations issued by the Office of
3 **Banking and** Financial Institutions from time to time, provided that any names or
4 other identifying information contained within the original of such issuances, shall
5 be excised from any text or summary, unless those parties who would be identified,
6 consent in writing to such disclosure.

7 * * *

8 E.(1) Copies of agency records and reports of examination of financial
9 institutions which from time to time may be left with such financial institutions by
10 the Office of **Banking and** Financial Institutions shall be:

11 * * *

12 (b) In whatever form, the property of the Office of **Banking and** Financial
13 Institutions.

14 (c) Obtainable only from the Office of **Banking and** Financial Institutions
15 by the procedures established pursuant to Subsection H.

16 * * *

17 F.(1) Any information disclosed by the commissioner or employees of the
18 Office of **Banking and** Financial Institutions to any person pursuant to Paragraphs
19 B(1) through (4), (6), and (8) of this Section and any information received by the
20 commissioner from any other financial institution regulatory authority shall be kept
21 strictly confidential by all persons and all such information, in whatever form, shall
22 not be subject to subpoena or other legal process.

23 (2)(a) It shall be unlawful for any person, including current and former
24 employees of the Office of **Banking and** Financial Institutions, who receives
25 information pursuant to Subsection B of this Section to disclose such information to
26 anyone other than a state or federal bank regulatory agency without authority from
27 the commissioner of the Office of **Banking and** Financial Institutions.

28 * * *

29 G. Office of **Banking and** Financial Institutions employees or officers, or

1 employees of financial institutions or licensed lenders, or members of the public
2 making good faith criminal referrals to either federal, state, or local law enforcement
3 officials shall not be liable to retaliatory lawsuits by those individuals suspected of
4 the commission of a crime.

5 H. Notwithstanding any other provision of law to the contrary, except for
6 documents or information of other federal or state regulatory and law enforcement
7 agencies in the possession of the Office of **Banking and** Financial Institutions, any
8 federal or state district court within the state of Louisiana may order the Office of
9 **Banking and** Financial Institutions to disclose information and produce documents
10 belonging to the Office of **Banking and** Financial Institutions, which are relevant
11 to claims or disputes at issue in a lawsuit, including but not limited to any writings,
12 records, accounts, letters, letter books, photographs, reports of examination, work
13 papers of examiners, loan write-ups, line sheets, handwritten notes, loan
14 classification documents, or other applicable materials of the Office of **Banking and**
15 Financial Institutions, subject to all of the following conditions:

16 * * *

17 (2) The motion shall specifically set forth a concise summary of the claims
18 or disputes at issue in the suit or proceeding and shall describe the information and
19 documents sought to be produced or disclosed by the Office of **Banking and**
20 Financial Institutions.

21 (3) The person seeking such information or documents shall provide a copy
22 of any motion, pleadings, or documents relating to the motion to the Office of
23 **Banking and** Financial Institutions prior to any hearing or proceeding relating to the
24 request for disclosure of information or documents in the possession of the Office
25 of **Banking and** Financial Institutions to allow the office a reasonable period of time
26 within which to respond to such filing in an adequate manner, but in no event fewer
27 than ten days prior to such scheduled hearing date.

28 * * *

29 (7) The private financial records of clients of open or closed financial

1 institutions in the custody of the Office of **Banking and** Financial Institutions shall
 2 remain confidential under this Section and R.S. 44:4. If a civil litigant seeks access
 3 via court order to the financial records of clients of financial institutions for purposes
 4 of litigation, those records must be subpoenaed from the client of the financial
 5 institution. The procedure in R.S. 6:333 shall be used for open and closed financial
 6 institutions.

7 * * *

8 J. Notwithstanding any other provision of law to the contrary, including but
 9 not limited to R.S. 49:956(8)(c), there shall be no liability on the part of, and no
 10 cause of action of any nature shall arise against, the Office of **Banking and** Financial
 11 Institutions or its agents or employees, for any good faith release or disclosure of
 12 information or for statements made in good faith in any administrative hearings or
 13 in any reports or communications concerning safety or soundness, other regulatory
 14 issues, and the supervision and regulation of all entities under the jurisdiction of the
 15 Office of **Banking and** Financial Institutions.

16 Section 2. This Act shall become effective on July 1, 2008; if vetoed by the governor
 17 and subsequently approved by the legislature, this Act shall become effective on July 1,
 18 2008, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Laura Gail Sullivan.

DIGEST

Present law provides relative to banks and banking. Provides generally for the Office of
 Financial Institutions and the commissioner thereof.

Proposed law retains present law. Changes the name of the office to the Office of Banking
 and Financial Institutions.

Effective July 1, 2008.

(Amends R.S. 6:101(A) and (B)(4) and 103(A), (B)(intro. para.) and (10), (11), (12), (13),
 (14) and (15), (E)(1)(intro. para.) and (b) and (c), (F)(1) and (2)(a), (G), (H)(intro. para.) and
 (2), (3), (7), and (J))