

February 13, 2006

Mr. Scott Schalles
Independent Regulatory Review Commission (IRRC)
14th Floor
Harristown 2
333 Market Street
Harrisburg, PA 17101

Re: Pennsylvania Association of Community Bankers
Proposed Repeal of 61 PA. Code §46.9
File No: 269-06(2)

Dear Mr. Schalles:

On behalf of the Pennsylvania Association of Community Bankers (PACB), we respectfully present to you our response to your recent request for quantification by our membership of the economic impact of the Pennsylvania Department of Revenue's draft proposal to repeal, inter alia, its regulation on "Financial Institution Security Equipment" at 61 PA Code §46.9.

PACB is unable, due to the limited time constraint of your recent request, to present quantification of the future negative financial impact on its members if the Revenue Department's repeal of Section 46.9 and the intended transfer of less than all of the therein defined "security equipment" to Chapters 31 and 46 of the PA Code is successful.

The Pennsylvania Department of Revenue has stated, without quantification, that the proposed repeal will have no fiscal impact on the Commonwealth. The Department of Revenue has submitted no data as part of their proposed rule-making which would "quantify" their revenue neutral fiscal impact of the requested repeal. The removal of this regulation and the definition of Financial Institution Security Equipment, as advanced by the Department of Revenue, cannot be revenue neutral because the following purchases, which are now subject to exemption or exclusion, will become taxable if the Department of Revenue is successful:

- Computer hardware:
 - Mainframe computer containing customer records
 - Teller machines
 - Proof Machines and Encoders
 - Data Lines

- Customer related software
- Banking telephone system
- Banking LAN and WAN
- All maintenance of the above software and hardware

More importantly, the Department of Revenue, by its proposed rule-making, is usurping the authority of the legislature by subjecting to sales tax the systems, devices, equipment and their components utilized by a financial institution for its protection or convenience in conducting financial transactions, which the legislature has directed in 61 PA Code §46.9 be tax free.

It is clear that the proposed repeal by the Department of Revenue under the guise of redundancy and the requested transfer of less than all the existing tax free systems, devices and equipment and their components is in truth an attempt to legislate, which is solely a function of the Pennsylvania Legislature, not the Department of Revenue.

By copy of this letter, we are informing the House and Senate Finance Committees of our objection to this proposed regulation and our belief that Revenue is usurping legislative authority and sharing with the committees our original comment letter to the Department of Revenue in this matter.

If you have any questions, please do not hesitate to contact our General Counsel's office, Shumaker Williams, P.C., Attorney Jim Reid. He may be reached at 717-763-1121.

Respectfully submitted,



Frank A. Pinto
President/CEO

Cc: Members, Senate Finance Committee
Members, House Finance Committee