

PRIORITY

Policy Positions

2010



**PENNSYLVANIA ASSOCIATION OF
COMMUNITY BANKERS**

2009-2010 Legislative Summary and Policy Positions

Introduction

The Pennsylvania Association of Community Bankers exists solely to represent the interests of community bankers to policymakers in Harrisburg, Washington, and beyond. Working for you is a team of experienced government relations professionals. President/CEO Frank A. Pinto is one of the longest serving and most distinguished trade association leaders in the nation, with PACB for almost 25 years and involved in Pennsylvania politics for nearly 40 years. Joining Frank on the Hill is Kristine Warner, whose experience in Harrisburg includes working for former President Pro Tempore of the Senate Robert C. Jubelirer, political campaigns and government relations for Pennsylvania's private colleges.

We also acknowledge the dedication of the PACB Legislative Committee under the leadership of Ted Peters of Bryn Mawr Trust Company and Frank Godino of First Star Bank. This committee is instrumental in setting policy on federal and state issues. PACB also extends our thanks to the PACB Executive Committee which continues to provide strong leadership on policy issues.

A "typical" year in the legislative arena includes countless meetings (both in Harrisburg and Washington and in the local districts), six PACB Legislative Update calls, attending ICBA's Washington Policy Summit in the spring, at least three Legislative Committee meetings, writing and delivering testimony as requested to both state and federal committee hearings, and much more. FIRSTPAC is an integral part of PACB's government relations strategy, and all PACB members are encouraged to help raise money.

2009-2010 Legislative Summary

For the first time since the sweeping reforms that followed the Great Depression, we have seen a legislative debate on a national scale to devise a solution to the economic collapse caused by the unscrupulous and sometimes deceptive practices of the big banks and the shadow banking industry. Literally every day in the past 12 months has included an update, a phone call, an email, a meeting regarding the House and Senate versions of financial reform.

Despite pressure from other parts of the financial services industry, PACB and ICBA stayed at the bargaining table for the entire process. We knew reform was necessary and imminent, and our strategy was, as it always is, to protect community banks and only community banks. It was following that mantra that we were able to change the base for the FDIC deposit insurance fund formula to assets minus T1-capital, which will reduce the insurance premiums for 98% of banks in Pennsylvania.

The US House of Representatives passed their financial reform bill in December 2009. The Senate version was delayed until May 2010. The two bills were then massaged into a single bill during a conference committee process in June 2010. Both the House and the Senate confirmed the final bill in July 2010—sending it to the President's desk. A detailed report on this landmark legislation can be found in Appendix A.

In addition to the federal financial reform, PACB earned a great victory on the home front in Harrisburg. After several years' work, the bank robbery legislation that would increase the mandated penalties for bank robbers passed the State Senate in April 2009. After an arduous

journey through various State House committees, SB 605 passed the House unanimously in March 2010. Governor Rendell signed the bank robbery bill into law on March 16, 2010, as Act 11. The passage of SB 605 is a prime example of the success of relentless and persistent dedication.

PACB's government relations work doesn't stop with elected officials. We are in constant contact with various state agencies, including the PA Department of Banking, the Pennsylvania Housing Finance Agency, the Pennsylvania Treasury, the Federal Home Loan Bank of Pittsburgh, the Federal Reserve Bank of Philadelphia, and more.

A recent collaboration with the PA Treasury resulted in the improvement of the existing inactive deposits program. We worked with the PA Treasurer's office to reduce the amount of collateral from 120% to 102% via SB 1042 to amend the Fiscal Code. This is the first step to updating the New Deal era program to reflect today's market—including increasing the dollar amount, term, and simplifying the interest rate setting formula.

While community banking has several concrete pieces of legislation on which they can proudly hang their hat this year, they represent only a fraction of the legislation tracked by PACB. Many bills that would negatively impact the community banking industry should never see the light of day, and PACB works hard to keep it that way. These issues often resurface year after year, and we constantly monitor the waters for any movement or interest.

Addressing these issues and challenges would not be possible without strong and ongoing efforts to engage our federal and state policymakers in one-on-one meetings and group forums. In 2009-2010, we continued the highly successful Congressional Outreach meetings giving our members the opportunity to meet with their Congressional representatives back home. This year, we worked closely with the FHLBank of Pittsburgh to coordinate joint meetings to efficiently use the Congressman's time and to show support for the FHLBank system. District meetings with Congressmen Altmire, Carney, Dent, Fattah, Gerlach, and Kanjorski were especially productive. We also had the opportunity to meet with Congressmen Altmire, Gerlach, Kanjorski, and Shuster and Senator Casey in their Washington, D.C., offices. We have had a strong focus on developing relationships with these new members and are very pleased with the foundation built this year.

Following the 2008 election, **37 new members of the Pennsylvania General Assembly were sworn into office in 2009.** Our Legislative Team focused on developing relationships with these new members and a number of outreach meetings were hosted by our members in the districts of the freshmen PA legislators.

2009-2010 State Issues and Legislation

Keeping a watchful eye on activities of the Pennsylvania General Assembly remains an important PACB function. Thousands of bills are introduced into each two-year legislative session and one of our jobs is to sort through and review these bills for potential impacts on community banking. PACB maintains a state legislative tracking report of bills that impact upon or potentially may impact upon our members and reacts appropriately. These range from regulations on bank services fees and new ATM safety standards, new regulations on customer privacy and mortgage foreclosures, property tax reform, establishment of health savings accounts, lobbying regulations, measures designed to combat identity theft, general business issues, and proposals that raise closing costs including increases in the state realty transfer tax and regulation of payday lending.

Bank Service Fees/Electronic Fund Transfers

Today's consumers can find banking convenience as close as the corner store, the telephone or their home computer. This convenience is a result of marketplace innovation and capital investment. Like any business in America, community banks must turn a profit in order to survive. As an example, it is only within the past ten years that many community banks began offering ATM services. The price of the machine was prohibitive and recovering investment costs was nearly impossible. With the advent of ATM service fees, banks could recover costs and generate new sources of revenue. This spurred investment and resulted in placement of ATMs in most communities and throughout the Commonwealth. Granted, customers do face an optional cost of convenience, but the alternative is no choice at all.

Limiting bank services fees has become the focus of some state legislators. Viewed as unpopular, certain legislators seek to eliminate certain fees, including those assessed by a financial institution to non-account holders, such as ATM service and check cashing fees. PACB views this type of legislative action as arbitrary and punitive and as potentially limiting to innovation and safety and soundness.

A related issue involves regulation of electronic fund transfers and mobile banking. This part of the industry is as new to policy makers as it is to community banks and consumers. We expect to see electronic, web-based, and mobile banking come under greater scrutiny in future sessions.

STATUS: **HB 394**, sponsored by Rep. Youngblood (D-Philadelphia), is known as the ATM Fee Regulatory Act. The proposal would require financial institutions to post transaction fees for each automated teller machine transaction, and restrict transaction fees for automated teller machines—making the bill more onerous than federal law governing ATM transactions and in some cases redundant and duplicative.

ACTION: PACB submitted written testimony in early 2010 opposing this legislation.

STATUS: **HB 1796**, sponsored by Rep. Thomas (D-Philadelphia), states a preauthorized electronic funds transfer from a consumer's account must be authorized by the consumer in writing, and the financial institution shall provide a copy of the authorization to the consumer when made. A financial institution shall provide a

consumer with reasonable advance notice of the pending transfer so as to provide, if necessary, adequate time to stop payment of a preauthorized electronic funds transfer. The bill is highly duplicative of federal regulations of EFTs

ACTION: Ron Geib, President/CEO of Harleysville Savings Bank and PACB Secretary/Treasurer, gave testimony to the House Commerce Committee in May 2010 to formally oppose this bill.

STATUS: **SB 641**, sponsored by Sen. Sean Logan (D-Allegheny) prohibits ATM transaction fees from being assessed at all in the Commonwealth.

ACTION: PACB is opposed to this legislation.

Mortgage Foreclosure/Blighted Property

As the fall-out continues from the subprime mortgage mess, dealing with mortgage foreclosures and abandoned/blighted properties has jumped to the front of the legislative arena in Harrisburg. There are multiple bills in the State Senate and State House dealing with the mortgage foreclosure process and also dealing with blighted properties.

STATUS: **HB 1042**, sponsored by Rep. McGeehan (D-Philadelphia), and **SB 222**, sponsored by Sen. Greenleaf (R-Montgomery), amends Title 42 (Judiciary and Judicial Procedure) adding a new section providing the court of common pleas in each county shall establish a residential mortgage foreclosure conciliation program to assist mortgagors and mortgagees in achieving a mutually agreeable resolution to a mortgage foreclosure action. Further provides the Pennsylvania Supreme Court shall develop model guidelines for the implementation of this section. Also provides for eligibility requirements; complain and notification; conciliation conference; effect of failure to attend conference; reporting; and Sheriff sale.

ACTION: PACB has formally opposed this legislation, citing the county-to-county discrepancies and the redundancies with existing law.

STATUS: **HB 1042**, sponsored by Rep. McGeehan (D-Philadelphia), and **SB 222**, sponsored by Sen. Greenleaf (R-Montgomery), amends Title 42 (Judiciary and Judicial Procedure) adding a new section providing the court of common pleas in each county shall establish a residential mortgage foreclosure conciliation program to assist mortgagors and mortgagees in achieving a mutually agreeable resolution to a mortgage foreclosure action. Further provides the Pennsylvania Supreme Court shall develop model guidelines for the implementation of this section. Also provides for eligibility requirements; complain and notification; conciliation conference; effect of failure to attend conference; reporting; and Sheriff sale.

ACTION: PACB has formally opposed this legislation, citing the county-to-county discrepancies

STATUS: **SB 900**, sponsored by Sen. Argall (R-Schuylkill), Neighborhood Blight Reclamation and Revitalization Act providing for neighborhood blight reclamation and revitalization. The bill provides for actions against owner of blighted property by stating a municipality may institute the certain enumerated actions against the owner of any building, housing or land in serious violation of

an ordinance regarding a code or which causes the property to be blighted. A lien may be placed against the assets of an owner of unremediated blighted real property after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property. The bill provides for duties of out-of-State owners of real estate and corporate owners. Additionally, the legislation outlines when a municipality may deny issuing a building permit, zoning permit, or other such permit. The administrative office of Pennsylvania courts may develop and implement annual and ongoing education and training programs for judges, including magisterial district judges, regarding the laws of PA relating to blighted and abandoned property and the economic impact that blighted and abandoned properties have upon municipalities.

ACTION: PACB initially opposed this legislation because it included community banks as “owners” of blighted properties during the foreclosure process—making the bank responsible for maintenance and fixing serious code violations before completing the foreclosure process. However, in June 2010, the bill was amended in the Senate Appropriations Committee to remove mortgage lenders and trustees from the definition of “owner.” PACB no longer opposes this bill.

Miscellaneous Issues

Sometimes bills don’t fall into a predictable category. That’s why it’s important to track all introduced legislation.

STATUS: **HB 1658**, sponsored by Rep. Wansacz (D-Lackawanna), proposes requiring appraisals obtained by the lender to be provided to the purchaser or homeowner in the case of a purchase or refinance of a home property.

ACTION: PACB has formally opposed this bill with the House Commerce Committee because it is redundant of the Equal Credit Opportunity Act as implemented by Federal Reserve Regulation B.

STATUS: **HB 2422**, sponsored by Rep. J White (D-Beaver), and **HB 2631**, sponsored by Rep. Santarsiero (D-Bucks), would alter the state Fiscal Code to mandate that the Commonwealth give preference to “community banks” when allocating state deposits. It also requires the PA Treasurer to create a program to increase state investment in “community banks.”

ACTION: PACB has met with Reps. White and Santarsiero to discuss the intent of the bill and the technical problems within the current language. The Representatives agreed to work with PACB and the PA Treasury to improve the state’s inactive deposit program through other measures.

STATUS: **SB 376**, sponsored by Sen. Browne (R-Lehigh), states that no one or group, however organized, would engage or continue to engage in business as a loan provider or check provider in PA without first obtaining a license from the secretary. The application for a license would be in writing, under oath and in the form prescribed by the secretary and must be accompanied by a bond in the penal sum of \$100,000. An application for license renewal would be published 30 days before renewal in a newspaper of general circulation in the municipality where the license is to be renewed. If the secretary approves the application for

license he would issue to each loan or check provider a certificate showing the name of the loan or check provider and the address of the place of business. The bill also requires that a loan or check provider licensed under this act annually file a report with the secretary giving relevant information as the secretary may require concerning the business and operations during the previous calendar year.

ACTION: PACB is working with Sen. Browne to ensure that community banks are not adversely affected by this bill. Community banks are not the target, and will not suffer unintended consequences.

Sales Tax On Banking Services

Nearly every year since about 2005, at least one elected official suggests filling the state budget coffers by expanding the sales tax to cover “professional services.”

STATUS: The most recent proposal was delivered by Governor Rendell during his 2010 Budget Address. The Governor proposed expanding the sales tax base to include previously exempted items and professional services—including fees on financial transactions—all at a lower sales tax rate of 4%. The proposal was opposed by both Republicans and Democrats in both the House and Senate, failing to gain any traction.

ACTION: PACB vigorously opposes any attempt to tax financial services, and joined the Pennsylvania Coalition to Oppose the Expansion of the Sales Tax. The Coalition included every business and professional association in Harrisburg, and meets at regular intervals to discuss future tactics to defeat these proposals. It is generally accepted that this will be a recurring issue for the business community every year until the state’s revenue outlook improves.

Deceptive Advertising

There has been an explosion of solicitations to our customers from primarily out-of-state firms that use public records to solicit customers. These solicitations are usually written and prominently mention the customer’s community bank. They are designed to give the appearance that the product being advertised has either been endorsed by the community bank or is a product of the community bank. Quite simply these solicitations are trading on the good name of the community bank and the trust that has been developed with the customer. The customer is oftentimes angry believing that the community bank sold his or her information when the reality is these solicitations are occurring from public records obtained from the county courthouses.

STATUS: PACB has taken the lead in demanding state government take action against these deceptive advertisements. PACB continues to encourage our members to forward to us examples of solicitations their customers receive in turn forwarding these to the appropriate agencies. We are very pleased with the actions of the Department of Insurance which continues to issue consent orders cracking down on deceptive advertising with “cease and desist” orders against the firms engaging in these solicitations.

2009-2010 Federal Issues and Legislation

PACB's agenda on the federal level has been driven for the past 18 months by the open letter sent to then President-elect Obama in January 2009 (Appendix B). Many of the items in the letter will look familiar to you because they have been addressed by Congress in the past year.

In addition to dealing with financial reform, we have also been engaged in discussions regarding many perennial issues such as ILCs, GSE reform with respect to the FHLBank system, FASB and the Mark-to-Market accounting system, and the expansion of credit union lending and powers. The Independent Community Bankers of America (ICBA) has been a tremendous partner in assisting to deliver our message to Washington, D.C., and coordinating the efforts of state community banking associations across the nation.

The Pennsylvania Association of Community Bankers will continue to be a national leader for state community banking associations in Washington. Key Pennsylvania legislators such as Congressmen Paul Kanjorski (D-Lackawanna) and Jim Gerlach (R-Berks) on the House Financial Services Committee and community banking friends such as Congressmen Jason Altmire (D-Allegheny) and Charlie Dent (R-Lehigh) make PACB a uniquely important voice in Washington, D.C.

APPENDIX A:

FACT CHECK: COMMUNITY BANKS WIN WITH WALL STREET REFORM

REDUCING SYSTEMIC RISK – Community banks benefit when large banks pay for the risks they create to the system.

- **Advance Warning System:** Creates a systemic-risk regime that would rein in the size and scope of large, interconnected financial institutions.
- **Tougher Supervision of Large, Interconnected Financial Companies:** Large bank holding companies (those with over \$50 billion in assets) and systemically important nonbank financial companies will face heightened risk-based capital, leverage, liquidity, and other prudential standards for the risks they pose to financial stability. These requirements will not apply to community banks.
- **Tougher Capital Standards for Large Financial Companies:** Capital requirements for large bank holding companies going forward must be at least as strict as the standards that exist for community banks today. Small bank holding companies (those with under \$15 billion in assets) will be allowed to continue counting their existing trust-preferred investments towards capital.
Tougher Derivatives Regulation for Large Financial Companies: Dealers and major participants in the derivatives market will face clearing and exchange trading requirements, while the SEC and CFTC will have the authority to exempt small banks, savings associations, farm credit institutions and credit unions from these requirements.
- **Ending Too Big to Fail Bailouts:** The FDIC will have authority to liquidate failing systemically dangerous institutions. Large financial companies, not community banks, will be on the hook for any shortfall in liquidating a large, interconnected financial company.

DEPOSIT INSURANCE – Community banks benefit from a stronger Deposit Insurance Fund and fairer assessments

- **Expanded Deposit Insurance:** Making the \$250,000 limit permanent will increase public confidence in deposit insurance and better enable community banks to serve their communities.
- **Helping Community Banks Support Small Business:** Extending the guarantee on the full balance of noninterest bearing transaction accounts (that is, business checking accounts) for two years will increase the confidence of small businesses that their payroll and other operational accounts are secure in their local banks. This will help foster economic recovery.
- **Strengthening the FDIC Insurance Fund:** Large banks (those with assets over \$10 billion) must pay for the increase in the FDIC's fund from 1.15 percent to 1.35 percent of insured deposits. Community banks will not have to pay for the increase but will benefit from the added resources in the fund, which will help protect them from future premium increases.
- **Fairer Assessments:** The FDIC will change the way it charges banks assessments to reflect the size of companies' liabilities, easing the burden on community banks.

CONSUMER PROTECTION – Community banks benefit when nonbanks play by the same rules and regulators consider the impact of rules on small institutions

- **New Consumer Protections Level Playing Field:** Community banks will no longer have to compete with unregulated non-banks. The Consumer Financial Protection Bureau (CFPB) will have the ability to adopt rules that prohibit unfair or deceptive practices. It will have the power to enforce these rules on large banks, mortgage companies, private student lenders, payday lenders, companies for which the CFPB receives many consumer complaints and companies that engage in conduct that poses a risk to consumers as well as major players in the shadow banking industry.

One Exam & Enforcement Regulator: Rules written by the new CFPB will be enforced by the same regulator that enforces safety and soundness rules for banks with assets below \$10 billion – i.e., the OCC, Fed, or FDIC. The CFPB will not be able to tell banks what products to offer or to cap interest rates.

- **Consumer Protections Are Consistent with Safety and Soundness:** The CFPB must consult with the safety and soundness regulators in writing rules to ensure consistency with the safe and sound operations of banks.
- **Protections During Rule Making:** The CFPB is required to consult with community banks before writing new rules, and consider the impacts they might face.
- **Easier Mortgage Disclosure:** The CFPB will create one form that combines the two federal mortgage disclosures currently required, eliminating this burden to small community banks.
- **Flexibility in Applying New Mortgage Protections:** The special needs of small banks in rural and underserved areas are recognized:
- **Seasonal Workers:** Allows banks to consider seasonal and irregular income when making mortgage loans, recognizing the needs of farmers, fishermen, the employees in tourism industry, and other similar types of workers.
- **Fairness for Moderately Priced Homes:** Requires regulators to adjust the points and fees cap for smaller mortgage loans when determining a qualified mortgage to protect areas with lower housing prices from being penalized unfairly.
- **Rural and Underserved Communities:** Provides authority to the Federal Reserve and CFPB to write regulations that allow for balloon mortgages to be defined as qualified mortgages for banks serving rural or underserved communities and to exempt banks serving those areas from escrow requirements. This provides more flexibility than current law.

OTHER ISSUES OF INTEREST TO COMMUNITY BANKS

- **Exempts small public companies from auditor attestations under Sarbanes-Oxley section 404(b)**
- **Preserves the federal thrift charter**
- **Preserves state lending limits for state chartered banks**
- **Strengthens the deposit cap on acquisitions of depository institutions by including thrift deposits in the 10% cap**
- **Exempts the Federal Home Loan Banks from concentration limits**

APPENDIX B:

The following is an open letter to President-elect Barack Obama from PACB offering a blueprint of reform for our banking system. January 5, 2009

Dear President-elect Obama:

Congratulations on your momentous victory. We join millions of other Americans in offering our prayers as you prepare to take office in the most challenging time any President has faced since FDR in the Great Depression.

The Pennsylvania Association of Community Bankers (PACB), the oldest state banking trade association in the nation dating back to 1876, consists of 150 community banks with combined assets exceeding \$90 billion, employing over 30,000 men and women, and our member banks have served our Commonwealth collectively for over 20,000 years. PACB is excited about the opportunities that your Presidency presents for meaningful change and reform of the financial industry to benefit the millions of citizens represented on Main Street.

Please accept the observations and thoughts of our Association's Board of Directors, who consist of 36 community bank presidents/CEOs whose backgrounds include the legal, accounting, finance, and economics professions. Some of our action points can be achieved by Executive Order and others will need the support and cooperation of Congress. That is why we are copying the entire Pennsylvania Congressional Delegation. We look forward to a meaningful dialogue that addresses our "7 Principles of Action." A comprehensive White Paper in support of our positions is available on www.pacb.org.

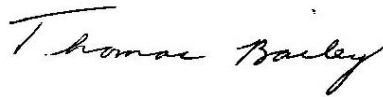
7 Principles of Action

1. Address "too big too fail" to protect the taxpayers and the overall economy.
 - a. Break up the big banks
 - b. Establish a Special Federal Regulator for banks posing systematic risks.
 - c. Assess a risk based FDIC premium to cover potential disasters.
 - d. Establish the Office of Assistant Secretary of Treasury for Community Banking.
2. Regulate the Unregulated and tax all financial firms alike.
3. Return to Cost Accounting and Disclose Fair Value.
4. Maintain separation of banking and commerce and charter choice.
5. Improve market disclosures and rating agency practices.
 - a. Improve Market Transparency.
 - b. Require market rating agencies to perform due diligence and hold them accountable for their ratings.
6. Implement GSE reform and Reinforce the SBA program.
 - a. Prohibit Fannie Mae and Freddie Mac from purchasing non-conforming/subprime mortgages.
 - b. Reinforce the FHLB system as the primary liquidity provider.
 - c. Revitalize the SBA.

- d. Put lending back in the hands of banks where existing regulations already protect the consumer.
- 7. Think outside the box and stimulate discussion and debate on:
 - a. Giving regulators tools to support weakened financial firms without losing taxpayers dollars.
 - b. Promoting the Federal Reserve Bank to use new broader powers to influence long-term interest rates by becoming a temporary bankers' bank in economic emergency circumstances versus the lender of last resort.

Our Association stands ready to assist you in any way you deem appropriate.

Sincerely,



Thomas Bailey
Chairman, PACB
President/CEO, Brentwood Bank



Frank A. Pinto
President/CEO, PACB