

the quarter

newsletter of the pennsylvania department of banking and securities



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Office of the Secretary of Banking and Securities



Turning the Corner

By **Glenn E. Moyer**
Secretary of Banking and Securities

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Governor Corbett Signs Comprehensive Transportation Legislation

On November 25, Governor Tom Corbett signed into law House Bill 1060, Pennsylvania's most comprehensive piece of state transportation legislation in decades.

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Turning the Corner by Glenn E. Moyer, Secretary

In early December, a group of patient, but persistent local entrepreneurs in Lancaster County created a tremor felt across the nation's financial services landscape by opening the first *de novo* bank in the United States since 2010. Their start-up, the Bank of Bird-in-Hand, is also the first *de novo* bank in Pennsylvania since Monument Bank in Doylestown opened in February 2008.

Since the onset of the financial crisis of 2008, it seems like most of the news surrounding banks has not been good. We watched as the annual number of bank failures nationally rose to nearly 160 in 2010. However, in the last couple of years we have seen most banks turn things around, survive the worst of the slump, and regroup to figure out how to thrive in the post-recession marketplace. In 2013, the number of failures

decreased to 24, and the FDIC has been winding down its resolution function. Though all banks still face stiff challenges, most are no longer in retreat.

In the midst of this "regrouping," some local business leaders in the Bird-in-Hand area of Lancaster County looked at their marketplace and felt a need for a new community bank. Then they noticed a former doctor's office up for sale and saw a future bank branch. They are experienced organizers, directors, bankers and investors who understand how to start a business, provide good service, and ultimately deliver a reasonable profit. Many individuals deserve credit for Bank of Bird-in-Hand, but I would like to especially note the contributions of Brent Peters, Bill O'Brien and Todd Newpher, who represent the executive management of Bank of Bird-in-Hand, and Nick Bybel of Bybel Rutledge LLP, who provided a counselor's steady hand during the comprehensive application and approval process.

While this story belongs to the bank organizers, leadership, investors and its customers and community, it is also worth mentioning the extraordinary level of cooperation, hard work, and dedication shown by the FDIC and my colleagues Wendy Spicher (below) and Joe Moretz to ensure that this *de novo* bank would have every opportunity to succeed. Wendy and Joe worked shoulder-to-shoulder with their federal counterparts. It is gratifying that FDIC chair Martin Gruenberg refers to the launch of Bank of Bird-in-Hand as "an important step in the continued progress the banking industry is making in the aftermath of the recent crisis."

At the same time, we have to recognize that, emerging out of the recession, banking is playing on an entirely new field. Regulation, technology and competition have changed the nature of banking so much that I have trouble recognizing our industry from the one I entered more than 36 years ago. And so I think the experience of Bank of Bird-in-Hand is a useful one for those who are thinking about new bank development to consider.



At the Bank of Bird-In-Hand opening: Secretary Moyer and Deputy Secretary Spicher. Photo credit: PA Association of Community Banks

Although Pennsylvania is blessed to be home to nearly 200 banks, I believe there may be room for additional new community bank development. The keys are having:

- A strong “Main Street” community focus;
- A focused group of professional advisors;
- An experienced executive management and board of directors “team”; and
- A strong financial foundation – capital and core deposits – that will not require a second round of financing for quite a while.

In this process of developing a new bank, all parties must demonstrate perseverance and patience, and the core principles of “safety and soundness” must form the backbone of any new bank charter.

We recognize that not all banks are “out of the woods” of the recession, but as we continue into this economic recovery, business opportunities are emerging across Pennsylvania. We need banks of all shapes and sizes, new and established, implementing diverse business plans in their local and regional markets to help drive the recovery. As more and more banks “turn the corner” beyond post-recession survival, everyone in the banking community can focus more of their efforts toward thriving in an “opportunity rich” marketplace.



TURNING THE CORNER: Secretary of Banking and Securities Glenn E. Moyer (second from right) at the Dec. 7, 2013, grand opening of Bank of Bird-in-Hand in Lancaster County, the first de novo bank in the United States in three years (first in PA since 2008). Also pictured (l-r): Duncan Campbell, President and CEO of the PA Bankers Association; Brent Peters, Vice Chairman and President of Bank of Bird-in-Hand; Nicholas Bybel, Jr., partner with Bybel Rutledge LLP; Bill O'Brien, Executive Vice President and Chief Lending Officer of Bank of Bird-in-Hand; and Nick DiFrancesco, President and CEO of the PA Association of Community Bankers. (Photo courtesy of PA Association of Community Bankers)



Governor Corbett Signs Comprehensive Transportation Legislation

On November 25, Governor Tom Corbett signed into law House Bill 1060, Pennsylvania’s most comprehensive piece of state transportation legislation in decades.

The transportation package will invest an additional \$2.3 to \$2.4 billion into the state’s roads and bridges by the fifth year of the plan and provide funding for transit systems across the state.

By the fifth year of the plan, the transportation package will invest an additional:

Photo credit: Emma Lee/for NewsWorks



- \$1.3 billion annually for state roads and bridges;
- \$480 million to \$495 million annually for public transportation;
- \$237 million annually for local roads and bridges;
- \$144 million annually in a multi-modal fund;
- \$30 million annually for dirt, gravel and low-volume roadways; and
- \$86 million annually for Pennsylvania Turnpike expansion projects.

“This is an investment in the safety of our citizens and the progress of our economy. It will create more jobs and keep Pennsylvanians moving across safe, world-class highways and bridges,” Corbett said.

For more information on transportation funding and to view a comprehensive list of transportation projects, visit www.dot.state.pa.us.

Joint Task Force/Committee Recommendations Enacted into Law

On November 27, Governor Corbett signed HB 1128 into law as Act 98 of 2013. This Act updates and modernizes both the Motor Vehicle Sales Finance Act, which regulates motor vehicle and manufactured housing financing, and the Goods and Services Installment Sales Act, which addresses installment sales contracts and revolving credit accounts. These are older acts that have been amended many times. A Joint State Government Commission Task Force and the Advisory Committee on the Consumer Credit Code recommended these changes and the department strongly supported them. Rep. Chris Ross, Chair of the House Commerce Committee, was the bill’s main sponsor. The department plans to issue guidance on the bill this summer. Act 98 is effective November 27, 2014



Investor Education Helps New Investors, Seasoned Market Veterans

Pennsylvania investors have an important resource at the Department of Banking and Securities. Tina Kotsalos and Doug Hassenbein form a dynamic Investor Education team that works to deliver presentations, programs and reading materials to investors in all 67 Pennsylvania counties.

"We focus on the basics of investing so individuals can determine for themselves the best way to build a nest egg to meet their long-term goals," says Kotsalos. "At the same time, we inform investors of ways to detect and avoid investment scams, both the old ones that never seem to go away and the new ones that take advantage of technology and networking."

Kotsalos and Hassenbein work with all levels of experience in the investment markets and age groups, from high school students, to working adults, to military and veterans groups, to retirees and senior citizens.

For the past six years, Hassenbein has been delivering the "Save & Invest PA!" program

specifically geared to high school students, focusing on the power of investing to achieve financial independence in adulthood as well as longer term goals.

"After giving a presentation at a Blair County high school, a student's parent called us," says Hassenbein. "The parent told us this was the first time his child came home from school so interested and enthusiastic, and was seriously interested in building a personal financial nest egg. And then, the parent asked for reading materials to better manage his own investments and retirement funds!"

Because senior citizens remain the most targeted group for investment fraud, the team works proactively to prevent elder financial abuse before it occurs. Kotsalos and Hassenbein partner with AARP on the "Campaign for Wise and Safe Investing" – a volunteer based anti-fraud campaign that trains senior volunteers to give investor protection presentations to their peers, including participants of retiree organizations and senior citizen groups.

"We learned of an elderly couple from western Pennsylvania that had been victims of investment fraud perpetrated by their neighbor and good friend," says Kotsalos. "We invited them to share their story at Investor Education events so that others would avoid becoming victims of financial fraud by embracing the 'investigate before you invest' message."

The team also uses "Investment Fraud Bingo" with seniors' groups, which has proven to be an effective tool to inform seniors about financial scam artists. Additionally, they use the Elder Investment Fraud and Financial Exploitation Prevention program, a valuable initiative that puts a spotlight on the growing problem of investor fraud among the elderly, particularly those with mild cognitive impairment.

Kotsalos and Hassenbein also reach out to working adults through employers and community groups, as well as through public investor education conferences. They also work with employers and organizations to bring the web-based "Investor Education In Your Workplace" program to adult audiences.

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As 2014 gets started, Kotsalos and Hassenbein offer four items for all Pennsylvanians to consider as they work to achieve and maintain their financial goals:



- **Pay yourself first:** Be sure to consistently set aside money from each paycheck for long-term investment goals.
- **Live within your means:** Do not deprive yourself but understand the value of budgeting your paycheck.
- **Diversify:** This is always an important pillar of investing. Never put all of your financial eggs in one basket.
- **Invest for the long term:** Just like it sounds, you are running a marathon, not a sprint. Do not chase "overnight" investment earnings and be prepared for the normal ups and downs of the markets.

"Our Investor Education program benefits everyone regardless of income bracket, education and geographic location," say Kotsalos. "Pennsylvanians are busier than ever with the immediate demands of work, school, caring for their families, and trying to keep up with bills and expenses. With all of life's demands and needs, it is vitally important to keep an eye on managing long-term money goals, which is where Doug and I can provide investor education tools to allow Pennsylvania residents to better understand their personal investing goals."

For more information, materials or to schedule a presentation, contact the Investor Education office (email: ra-dobsInvestorEd@pa.gov; telephone: 717-705-2687). Visit PA Investor Education on Facebook at: www.facebook.com/PAInvestorEducation or click the Investor Education link on the department's website at www.dobs.state.pa.us

PHFA Issues Advisory About "120 Day Rule" and Act 91 Notices

In January 2013, the federal Consumer Financial Protection Bureau (CFPB) issued final rules affecting a wide array of mortgage servicing practices, effective January 10, 2014. One of these rules requires lenders to wait until a loan is at least 120 days delinquent before making the "first notice or filing required by applicable law" to initiate foreclosure (the "120 Day Rule").



In response to questions regarding this rule, the CFPB issued amendments to the new mortgage servicing rules in October. These revisions clarify that the first notice or filing in a judicial state (such as Pennsylvania) is the filing of a complaint in foreclosure. Therefore, sending an Act 91 Notice of Intention to Foreclose when a person is 60 days delinquent is not prohibited by the 120 Day Rule.

The PA Housing Finance Agency urges lenders to continue to send Pennsylvania consumers the Act 91 Notice when they are 60 days contractually delinquent in order to provide maximum program benefit, counseling and loss mitigation opportunities. For more information, visit PHFA's HEMAP website: www.phfa.org/consumers/homeowners/hemap.aspx



Department Welcomes Two Banks to State Charter



The Department welcomes **Kish Bank**, Mifflin County (formerly Kishacoquillas Valley National Bank of Belleville), which has converted from a national banking association to a Pennsylvania state-chartered bank and trust company; and **The Jim Thorpe Neighborhood Bank**, Carbon County (formerly Jim Thorpe National Bank), which has converted from a national banking association to a Pennsylvania state-chartered bank. Both conversions became effective in the fourth quarter of 2013.

CFPB Issues Guidance on Qualified Mortgages



As of Jan. 10, 2014, mortgage lenders must now assess the borrower’s ability to repay for virtually all closed-end residential mortgage loans. All Qualified Mortgages (QM) are presumed to comply with this requirement.

To learn more about the Ability to Repay Rule, visit: www.consumerfinance.gov/Regulations



“An Investment in Knowledge Always Pays the Best Interest” - Ben Franklin

As one of our commonwealth’s founding fathers, Benjamin Franklin was well known for his knowledge on financial matters. Many of his well-known quotes are still timeless words of wisdom for current financial issues.

The Department of Banking and Securities offers a range of brochures and pamphlets designed to help investors and consumers learn more about financial transactions and make informed decisions. These publications can be downloaded from the department’s website (www.dobs.state.pa.us). You can also contact Ed Novak (enovak@pa.gov) if you would like to receive printed copies.



Understanding Equity Crowdfunding



New rules from the U.S. Securities and Exchange Commission, expected to be finalized this year, will allow for “equity crowdfunding,” a non-traditional way for small businesses and start-up companies to raise capital over the Internet by offering equity, or ownership interest, in the company to investors.

Small business owners and entrepreneurs will be allowed to offer and sell up to \$1 million in ownership interests in their companies over any 12-month period. Individual investors will have limits placed on the amount of money they can invest in relation to their level of income and/or

net worth. These offerings will be made over the Internet using websites run by independent intermediaries: either licensed broker-dealers or online “funding portals,” which may or may not be licensed.

By using equity crowdfunding, investors will be taking a financial stake in the company as partial owners. However, investors should expect to have limited voting rights and limited, if any, input regarding business decisions made by the company’s management. Additionally, investors should expect to be involved for the longer term, with their ability to sell ownership stakes in the company limited for many years.

Actual offerings found on crowdfunding websites will not be registered through federal or state regulators. Not all companies whose offerings will be found on crowdfunding websites will succeed, not all will have sound business plans and some may not even be legitimate operations.

It is important for individuals seeking to invest in a crowdfunding opportunity to review all of the available information in order to find investments that are right for their situation, goals and level of risk tolerance.

If you have questions about crowdfunding, contact the Department of Banking and Securities at **1-800-PA-BANKS** (800-722-2657).



IT Staff Recognized for Leadership and Innovation

The Pennsylvania Executive Leadership Forum Advisory Board for Government Technology recognized the department’s Information Technology staff with an “Outstanding Leadership and Innovation Award” for the team’s work successfully integrating systems during the merger of the PA Securities Commission into the Department of Banking in 2012.

Secretary of the Office of Administration Kelly Powell Logan (left) congratulates the DoBS IT staff at the ceremony (l-r): Mike Hoover, Rob Semanick, Allen Gunkle, Wayne Bream and Howard Chau. (Not pictured: Becky Doane, administrative chief; Rick Huff, CIO; and Paul Metzler).

Photo courtesy of SmugMug.



COMPLIANCE CORNER

4th Quarter 2013 Public Enforcement Orders

The Department of Banking and Securities issued 18 public enforcement orders during the fourth quarter of 2013. Final orders included fines, assessments and repaid costs of \$483,460, including:

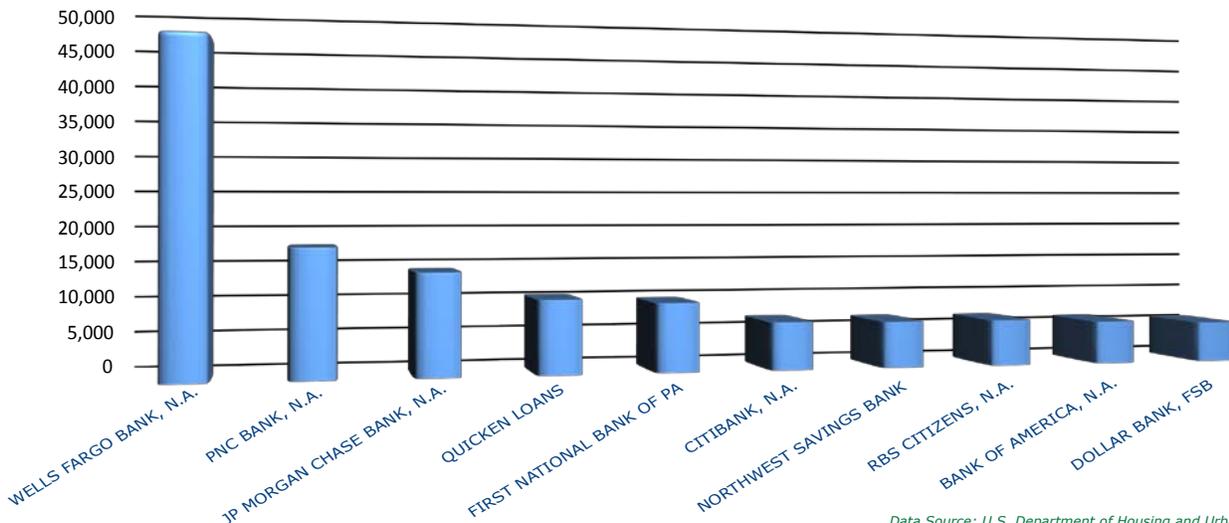
- Nine Consent Agreements and Orders issued for unlicensed loan activity;
- Two Consent Agreements and Orders for failure to comply with provisions of the Mortgage Licensing Act;
- Four Consent Agreements and Orders issued for violations of the Pennsylvania Securities Act of 1972; and
- One Consent Agreement and Order issued resulting in a permanent bar from the Pennsylvania securities industry for violations of the Pennsylvania Securities Act of 1972.

The department also issued two Orders to Show Cause for violations of the Pennsylvania Securities Act of 1972.

Comprehensive lists of public enforcement orders administered by the Department of Banking and Securities are available online at www.dobs.state.pa.us. Consumers, businesses and investors can make inquiries or file a complaint against any company or individual regulated or licensed by the Department of Banking and Securities online or by calling **1-800-PA-BANKS** (800-722-2657).

RESEARCH QUARTER

Top 10 Mortgage Lenders in PA (Number of Loans Originated, 2012)



Data Source: U.S. Department of Housing and Urban Development