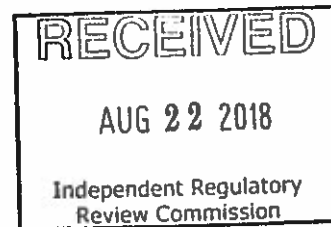


3202



August 22, 2018

Mr. Bryan M. Smolock
Director, Bureau of Labor Law Compliance
Department of Labor and Industry
651 Boas Street, Room 1301
Harrisburg, PA 17121



RE: Comment on the Department of Labor and Industry's Proposed Rulemaking for 34 PA Code, Chapter 231 Re: Overtime Pay, Minimum Wage #12-106 (IRRC number 3202)

Dear Mr. Smolock:

On behalf of the Pennsylvania Association of Community Bankers (PACB) and its member community banks, thank you for the opportunity to comment on the Pennsylvania Department of Labor and Industry's (PA DOL) Proposed Rulemaking for 34 PA Code, Chapter 231 Re: Overtime Pay, Minimum Wage #12-106 (IRRC number 3202.) Pennsylvania's community banks employ close to 40,000 individuals, with some banks having as few as eight employees, across this commonwealth.

While we understand your intention is to update Pennsylvania's Minimum Wage Act, we have deep concerns that the proposed regulation and revisions will have the opposite effect of its intent, placing undue harm on small business and employees, and therefore PACB must oppose it.

The PA DOL has overreached in updating the salary threshold at nearly 150% of the inflation adjusted value of the most recent federal adjustment, while essentially turning the duties test into a salary test.

Upon reviewing the proposed regulation, community bankers reported that it would only serve to demoralize employees, decrease flexibility and stifle employees' personal career growth, forcing now-salaried employees into hourly positions and limiting the time they can devote to their positions.

The proposed threshold phase-in would place an extreme economic burden on small businesses, requiring additional resources to execute and fails to account for the varied cost of living standards in an economically diverse state. The proposed triennial automatic adjustment to the salary threshold into perpetuity is unsustainable.

Further, the proposed regulation creates additional confusion and inconsistencies with federal regulations, and further exacerbates pre-existing inconsistencies in state and federal labor laws.

Finally, the US Department of Labor's proposed regulation to update its overtime rule was struck down in federal court by US District Judge Amos Mazzant on August 31, 2017. As a result, the US Department of Labor is currently engaged in rulemaking to revise their federal salary threshold. Therefore, it is premature for the PA DOL to pursue its own regulatory action, which would only serve to cause more confusion for Pennsylvania's employers and employees.

The PA DOL must withdraw its proposed overtime regulation, and allow the US Department of Labor to continue its revisions. In addition, any efforts of this magnitude should be required to go through the legislative process.

For all of these reasons, the Pennsylvania Association of Community Bankers (PACB) opposes the PA DOL's proposed rulemaking for 34 PA Code, Chapter 231 Re: Overtime Pay, Minimum Wage #12-106 (IRRC number 3202.) Thanks again for the opportunity to comment.

Sincerely,

A handwritten signature in black ink that reads "Nick DiFrancesco". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Nick DiFrancesco
President/CEO
Pennsylvania Association of Community Bankers