

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 106

Session of
1981

INTRODUCED BY L. E. SMITH, GALLEN, F. E. TAYLOR, HAYES, DORR
AND SPENCER, JANUARY 19, 1981

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE,
JANUARY 19, 1981

AN ACT

1 Amending the act of May 15, 1933 (P.L.565, No.111), entitled "An
2 act relating to the powers and duties of the Department of
3 Banking and the Secretary of Banking in exercising
4 supervision over, and taking possession of and conducting or
5 liquidating the business and property of, corporations,
6 associations, and persons receiving deposits or otherwise
7 transacting a banking business, corporations acting as
8 fiduciaries, and building and loan associations; providing
9 for the payment of the expenses of the Department of Banking
10 by supervised corporations, associations, or persons, and
11 appropriating the Banking Department Fund; authorizing the
12 Department of Banking, under certain circumstances, to
13 examine corporations, associations, or persons affiliated, or
14 having business transactions with supervised corporations,
15 associations or persons; authorizing appeals to the Supreme
16 Court, and prescribing and limiting the powers and duties of
17 certain other courts and their prothonotaries, registers of
18 wills, recorders of deeds, and certain State departments,
19 commissions, and officers; authorizing certain local public
20 officers and State departments to collect fees for services
21 rendered under this act; providing penalties; and repealing
22 certain acts and parts of acts," further providing for the
23 elimination of the Banking Board and the Building and Loan
24 Board.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 Section 1. Subsections B and C of section 501, act of May
28 15, 1933 (P.L.565, No.111), known as the "Department of Banking

1 Code," amended April 22, 1937 (P.L.337, No.96) and the third
2 paragraph of subsection C amended June 28, 1947 (P.L.1089,
3 No.469), are amended to read:

4 Section 501. Orders by Department.--* * *

5 B. Whenever it shall appear to the department that an
6 attorney, officer, or employe of an institution, and in the case
7 of an incorporated institution, a director or trustee thereof,
8 shall have continued to violate any law relating to such
9 institution, or shall have continued unsafe or unsound practices
10 in conducting the business of such institution, after having
11 been warned by the department to discontinue such violations of
12 law or such unsafe or unsound practices, the department may
13 issue an order directing such attorney, officer, employe,
14 director, or trustee to appear on the day fixed in such order[,
15 in the case of a building and loan association, before the
16 Building and Loan Board, and, in the case of any other
17 institution, before the Banking Board,] before the department
18 and show cause why he should not be removed from his office or
19 position and such office or position declared vacant. A copy of
20 such order shall be sent to the institution of which such person
21 is an attorney, officer, employe, director, or trustee[, and a
22 copy of such order shall be sent to the Building and Loan Board
23 or to the Banking Board, as the case may be].

24 The office or position of any attorney, officer, employe,
25 director, or trustee, so ordered by the department to appear,
26 [before the Building and Loan Board or the Banking Board, as the
27 case may be] who does not appear on the day fixed in such order,
28 shall, unless the date for his appearance shall previously have
29 been extended by the department, upon such failure to appear, be
30 declared vacant. [Notice of such failure to appear shall be

1 given by the Building and Loan Board or the Banking Board, as
2 the case may be, to the department.]

3 On the day fixed in the department's order such attorney,
4 officer, employe, director, or trustee shall be heard, in person
5 or by counsel, by the [Building and Loan Board or the Banking
6 Board, as the case may be] department. If, after such hearing,
7 it shall appear to the [Building and Loan Board or the Banking
8 Board, as the case may be,] department that such attorney,
9 officer, employe, director, or trustee has not shown cause why
10 he should not be removed from his office or position and such
11 office or position declared vacant, [it] the department shall,
12 within sixty days of such hearing, [notify the department of its
13 decision. Upon receipt of such notice, or of notice that an
14 attorney, officer, employe, director, or trustee has failed to
15 appear on the day fixed, the department shall] issue an order
16 directing the institution to remove such attorney, officer,
17 employe, director, or trustee from his office or position, and
18 declare such office or position vacant. A copy of such order
19 shall be sent to the attorney, officer, employe, director, or
20 trustee so removed.

21 The department shall set forth in its order the date upon
22 which any such removal and declaration of vacancy shall become
23 effective.

24 [If, after such hearing, it shall appear to the Building and
25 Loan Board or the Banking Board, as the case may be, that such
26 attorney, officer, employe, director, or trustee has shown
27 proper cause for not removing him or declaring his office or
28 position vacant, it shall, within sixty days of such hearing,
29 notify the department to that effect.]

30 If the institution, of which such person, ordered by the

1 department to appear [before the Building and Loan Board or the
2 Banking Board, as the case may be,] is an attorney, officer,
3 employe, director, or trustee, is a member of a Federal Reserve
4 Bank, the Federal Deposit Insurance Corporation, the Federal
5 Home Loan Bank, or the Federal Savings and Loan Insurance
6 Corporation, the department may notify such Federal Reserve
7 Bank, Federal Deposit Insurance Corporation, Federal Home Loan
8 Bank, or Federal Savings and Loan Insurance Corporation, as the
9 case may be, of its order directing such attorney, officer,
10 employe, director, or trustee to appear before the [Building and
11 Loan Board or the Banking Board, as the case may be, and of the
12 decision of the Building and Loan Board or the Banking Board, as
13 the case may be] department. At such hearing, any duly
14 authorized representative of such Federal Reserve Bank, Federal
15 Deposit Insurance Corporation, Federal Home Loan Bank or Federal
16 Savings and Loan Insurance Corporation, as the case may be, may
17 appear as a witness against such attorney, officer, employe,
18 director, or trustee.

19 Except as herein otherwise specifically provided, the
20 proceedings of the [Building and Loan Board and the Banking
21 Board] department and [their] its decisions shall not be
22 published or divulged to anyone.

23 [The decision of the Building and Loan Board or of the
24 Banking Board, as the case may be, shall be conclusive and not
25 subject to any review.] Any attorney, officer, employe,
26 director, or trustee, who is removed from his office or position
27 as provided in this section, shall thereafter be disqualified
28 from acting as an attorney, officer, employe, director, or
29 trustee of any institution in this Commonwealth, for such period
30 as the [Building and Loan Board or the Banking Board, as the

1 case may be,] department shall prescribe.

2 C. [There is hereby created a board to be known as the
3 "Banking Board," which shall hear any attorney, officer,
4 employe, director, or trustee of any corporation or person,
5 subject to the supervision of the Department of Banking, who
6 shall have been ordered, by the Department of Banking to appear
7 before such board, to show cause why his office or position
8 should not be declared vacant. The board shall also exercise
9 such additional powers as shall be given to it, and shall act
10 upon such matters as shall be referred to it by any laws of this
11 Commonwealth.

12 There is hereby created a board to be known as the "Building
13 and Loan Board," which shall hear any attorney, officer,
14 employe, director, or trustee of any building and loan
15 association, subject to the supervision of the Department of
16 Banking, who shall have been ordered, by the Department of
17 Banking to appear before such board, to show cause why his
18 office or position should not be declared vacant. The board
19 shall also exercise such additional powers as shall be given to
20 it, and shall act upon such matters as shall be referred to it
21 by any laws of this Commonwealth.

22 The Banking Board shall consist of eleven members and the
23 Building and Loan Board shall consist of nine members. One
24 member of each board shall be the Secretary of Banking, who
25 shall act as chairman. Two of the members of the Building and
26 Loan Board shall be appointed by the Governor to serve, for two
27 years from September first, one thousand nine hundred and
28 thirty-seven, and four members of the Banking Board shall be
29 appointed by the Governor; the two additional members provided
30 for by this amendment to serve for a period of two years from

1 the first day of September, one thousand nine hundred forty-
2 seven, and may be removed from office at his pleasure; the
3 remaining six members of each board shall be appointed by the
4 Governor from lists of nominations submitted to him as herein
5 provided, but any such member shall not be removed from office,
6 unless he shall have been absent from six consecutive meetings
7 of such board.

8 In the case of members of the Banking Board.

9 (1) The Pennsylvania Bankers Association shall nominate, in
10 writing, to the Governor, five persons from groups one and two,
11 of the Pennsylvania Bankers Association, two of whom shall be
12 appointed by him, as members of the board, to serve for four
13 years from September first, one thousand nine hundred and
14 thirty-five.

15 (2) The Pennsylvania Bankers Association shall nominate, in
16 writing, to the Governor, five persons from groups three, four,
17 five, and six of the Pennsylvania Bankers Association, two of
18 whom shall be appointed by him, as members of the board, to
19 serve for eight years from September first, one thousand nine
20 hundred and thirty-five.

21 (3) The Pennsylvania Bankers Association shall nominate, in
22 writing, to the Governor, five persons from groups seven and
23 eight of the Pennsylvania Bankers Association, two of whom shall
24 be appointed by him, as members of the board, to serve for six
25 years from September first, one thousand nine hundred and
26 thirty-five.

27 In the case of members of the Building and Loan Board, the
28 Pennsylvania League of Building and Loan Associations shall
29 nominate, in writing, to the Governor, fifteen persons, who
30 shall be duly representative of the geographical distribution of

1 building and loan associations in this Commonwealth, six of whom
2 shall be appointed by him as members of the board, two to serve
3 for four years from September first, one thousand nine hundred
4 and thirty-seven, two to serve for six years from September
5 first, one thousand nine hundred and thirty-seven, and two to
6 serve for eight years from September first, one thousand nine
7 hundred and thirty-seven.

8 Such nominations shall, in the case of the Banking Board, be
9 submitted to the Governor not less than thirty days before July
10 first, one thousand nine hundred and thirty-five, and, in the
11 case of the Building and Loan Board, not less than thirty days
12 before September first, one thousand nine hundred and thirty-
13 seven, and thereafter not less than thirty days before September
14 first of the year, in which the Governor shall make appointments
15 of successors to fill the offices of such members, whose terms
16 will expire on September first of such year. If such nominations
17 are not so submitted to the Governor, he shall appoint as
18 members, in the case of the Banking Board, attorneys, officers,
19 employes, directors, or trustees of corporations or persons
20 subject to the supervision of the Department of Banking, two of
21 whom shall be from groups 1 and 2 of the Pennsylvania Bankers
22 Association, two from groups 3, 4, 5, and 6 of the Pennsylvania
23 Bankers Association, and two from groups 7 and 8 of the
24 Pennsylvania Bankers Association, and, in the case of the
25 Building and Loan Board, attorneys, officers, employes, or
26 directors of building and loan associations subject to the
27 supervision of the Department of Banking, but any such member
28 shall not be removed from office, unless he shall have been
29 absent from six consecutive meetings of such board.

30 Upon expiration of the respective initial terms of office,

1 members shall be appointed to serve for eight years. Members
2 shall serve until their successors are duly appointed and have
3 qualified. Appointed members of the board shall qualify by
4 giving written notice to the Secretary of Banking of their
5 acceptance of such appointment.

6 Each board may, by the vote of a majority of all its members,
7 excuse any member for failure to attend its meetings, but if not
8 so excused, the office of the member, who shall have been absent
9 from six consecutive meetings, shall be declared vacant, and the
10 vacancy filled as herein provided.

11 Vacancies in the boards caused by death, resignation, failure
12 to attend meetings, or otherwise, shall be filled by the
13 Governor, but in the case of a vacancy caused by death,
14 resignation, failure to attend meetings, or otherwise, of a
15 member appointed from nominations submitted to the Governor, as
16 herein provided, the Governor shall fill such vacancy by
17 appointing, as a member, in the case of the Banking Board, an
18 attorney, officer, employe, director, or trustee of a
19 corporation or person subject to the supervision of the
20 Department of Banking, having its principal place of business
21 within the same groups of the Pennsylvania Bankers Association,
22 as was represented by the list of nominations from which was
23 appointed the member whose office became vacant, and in the case
24 of the Building and Loan Board, an attorney, officer, employe,
25 or director of a building and loan association subject to the
26 supervision of the Department of Banking.

27 Each board shall meet upon the call of the chairman, notice
28 of which shall be given to each member, in writing, not less
29 than five days prior to the date fixed for such meeting.

30 In the case of each board, a majority of all the members in

1 office shall be necessary to constitute a quorum for the
2 transaction of business, and the acts of a majority of the
3 members, who are present at a meeting at which a quorum is
4 present, shall be the acts of the board, provided that the
5 chairman shall have no vote, unless they be equally divided.

6 Members of the boards shall serve without compensation, but
7 shall be entitled to personal expenses actually incurred in the
8 performance of duties, which, if approved by the Department of
9 Banking, shall be paid by it.

10 The boards shall meet in the office of the Department of
11 Banking, for which purpose, the Department of Banking shall
12 furnish adequate office space and such other facilities as are
13 necessary for their administration. The Department of Banking
14 shall designate from among its employes a secretary to each
15 board, and shall furnish such other employes as may be required.

16 Full minutes of the proceedings of each board shall be kept
17 by the secretary, which shall be available only to the members
18 thereof.]

19 In connection with any hearing or investigation, the [boards]
20 department shall have power to issue subpoenas, requiring the
21 attendance of or the production of pertinent books and papers by
22 the officers, directors, agents, employes, or members,
23 respectively, of any corporation or person which the department
24 is authorized under the provisions of this act to examine. The
25 [Building and Loan Board or the Banking Board, as the case may
26 be, shall,] department may, upon application of the attorney,
27 officer, employe, director, or trustee to be heard, subpoena
28 such witnesses as are set forth in such application. The
29 [boards] department shall also have the power to question such
30 witnesses under oath or affirmation, and to examine such books

1 and papers.

2 Any witness who refuses to obey a subpoena, issued under this
3 section, or who refuses to be sworn or affirmed or to testify,
4 or who is guilty of any contempt, after summons to appear, may
5 be punished as for contempt of court, and for this purpose, an
6 application may be made to any court of common pleas, within
7 whose territorial jurisdiction the offense was committed, for
8 which purpose such court is hereby given jurisdiction.

9 * * *

10 Section 2. This act shall take effect immediately.