

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1456 Session of  
1978INTRODUCED BY ZEMPRELLI, SCHAEFER, HANKINS, DUFFIELD, SCANLON,  
ROMANELLI, DWYER, KUSSE, ANDREWS AND LYNCH, APRIL 19, 1978

AS AMENDED ON THIRD CONSIDERATION, JUNE 13, 1978

## AN ACT

1 Establishing the Pennsylvania Deposit Insurance Corporation.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the "Pennsylvania  
6 Deposit Insurance Corporation Act."

7 Section 2. Pennsylvania Deposit Insurance Corporation.

8 (a) There is hereby established a body corporate to be known  
9 as "Pennsylvania Deposit Insurance Corporation" (hereinafter in  
10 this act referred to as "PDIC"), whose purpose shall be the  
11 insurance of deposits in private banks. PDIC is a nonprofit  
12 corporation and its existence shall be perpetual until dissolved  
13 by act of the legislature. PDIC shall:

14 (1) Not be an agency or instrumentality of the  
15 Commonwealth of Pennsylvania.

16 (2) Be a corporation the members of which shall be all  
17 private banks holding certificates of authorization from the

1 Commonwealth, which have filed an application for membership  
2 accepted by the board of directors, such membership being for  
3 the life of PDIC unless any member elects to withdraw by  
4 giving written notice one year in advance.

5 (3) Not be subject to regulation by the Department of  
6 Insurance, or ~~in anyway subject~~ to laws of the Commonwealth <—  
7 concerning insurance OF DEPOSITS IN PRIVATE BANKS. <—

8 (b) In addition to the powers conferred upon a nonprofit  
9 corporation by the Commonwealth of Pennsylvania and to the  
10 powers granted to PDIC elsewhere in this act, PDIC shall have  
11 the power:

12 (1) to sue and be sued, complain and defend, in its  
13 corporate name and through its own counsel, in any State or  
14 Federal court;

15 (2) to adopt, alter and use a corporate seal, which  
16 shall be judicially noticed;

17 (3) subject to the provision of this act, to adopt,  
18 amend and repeal, by its board of directors bylaws and rules  
19 relating to the conduct of its business and the exercise of  
20 all other rights and powers granted to it by this act;

21 (4) to conduct its business, including the carrying on  
22 of operations and the maintenance of offices, and to exercise  
23 all other rights and powers granted to it by this act  
24 anywhere in the Commonwealth of Pennsylvania;

25 (5) to lease, purchase, accept gifts or donations of or  
26 otherwise acquire, to own, hold, improve, use, or otherwise  
27 deal in or with, and to sell, convey, mortgage, pledge,  
28 lease, exchange or otherwise dispose of, any property, real,  
29 personal mixed, or any interest therein, wherever situated;

30 (6) subject to the provisions of subsection (c), to

1 elect or appoint such officers, attorneys, employees and  
2 agents as may be required, to determine their qualifications,  
3 to define their duties, to fix their salaries and to require  
4 bonds from them;

5 (7) to enter into contracts, to execute instruments, to  
6 incur liabilities, and to do any and all other acts and  
7 things as may be necessary or incidental to the conduct of  
8 its business and the exercise of all other rights and powers  
9 granted to PDIC by this act; and

10 (8) by bylaw, to establish its fiscal year.

11 (c) PDIC shall have a board of directors which, subject to  
12 the provisions of this act, shall establish the policies which  
13 shall govern the operations of PDIC. The board shall consist of  
14 three persons, who are residents of the Commonwealth. One  
15 director shall be appointed by the Governor, who shall be the  
16 chairman; one director shall be appointed by a majority vote of  
17 the members which are private banks; and one director shall be  
18 appointed by the State Treasurer of Pennsylvania (hereinafter  
19 "treasurer"). Director shall be appointed for terms of three  
20 years, except that of the directors first appointed, one shall  
21 hold office for a term expiring on December 31, 1979, one shall  
22 hold office for a term expiring on December 31, 1980, and one  
23 shall hold office for a term expiring on December 31, 1981, as  
24 designated by the Governor at the time they take office. A  
25 vacancy in the board shall be filled in the same manner as the  
26 original appointment was made, but if such vacancy is not so  
27 filled within six months it shall be filled by the remaining  
28 directors. Any director appointed to fill a vacancy occurring  
29 prior to the expiration of the term for which his predecessor  
30 was appointed shall be appointed only for the remainder of such

1 term. A director may serve after the expiration of his term  
2 until his successor has taken office. All matters relating to  
3 compensation of directors shall be as provided in the bylaws of  
4 PDIC.

5 (d) The board of directors shall meet at the call of its  
6 chairman, or as otherwise provided by the bylaws of PDIC.

7 (e) As soon as practicable but not later than 45 days after  
8 the date of enactment of this act, the board of directors shall  
9 adopt bylaws relating to the conduct of the business of PDIC and  
10 the exercise of the rights and powers granted to it by this act,  
11 and shall file a copy thereof with the Department of Banking  
12 (hereinafter "department"). Thereafter, the board of directors  
13 may alter, supplement, or repeal any bylaw and may adopt  
14 additional bylaws and in each such case shall file a copy  
15 thereof with the department. Each such bylaw, alteration,  
16 supplement or repeal and additional bylaw shall take effect upon  
17 the sixtieth day, or such later date as PDIC may designate,  
18 after the filing of the copy thereof with the department or upon  
19 such earlier date as the department may determine, unless the  
20 department shall, by notice to PDIC setting forth the reasons  
21 therefor, disapprove the same, in whole or in part, as being  
22 contrary to the public interest or contrary to the purposes of  
23 this act.

#### 24 Section 3. PDIC Fund.

25 PDIC shall establish a "PDIC Fund" (hereinafter in this act  
26 referred to as the "fund"). All amounts received by PDIC, other  
27 than amounts paid directly to any lender pursuant to any pledge  
28 securing a borrowing by PDIC, shall be deposited in the fund,  
29 and all expenditures made by PDIC shall be made out of the fund.

30 The balance of the fund at any time shall consist of the

1 aggregate at such time of:

2 (i) cash on hand or on deposit in an institution  
3 where the deposits are insured by the Federal Deposit  
4 Insurance Corporation or the Federal Savings and Loan  
5 Insurance Corporation;

6 (ii) amounts invested in United States Government or  
7 agency securities, or securities issued by the  
8 Commonwealth or any political subdivision thereof; and

9 (iii) confirmed lines of credit, as defined herein.

10 For purposes of this section, the amount of confirmed lines  
11 of credit as of any time is the aggregate amount which PDIC at  
12 such time has the right to borrow from banks and other financial  
13 institutions under confirmed lines of credit or other written  
14 agreements which provide that moneys so borrowed are to be  
15 repayable by PDIC not less than one year from the time of such  
16 borrowings including, for purposes of determining when such  
17 moneys are repayable, all rights of extension, refunding, or  
18 renewal at the election of PDIC.

19 (b) Within nine months from the date of enactment of this  
20 act, the balance of the fund shall aggregate not less than one  
21 quarter of one per cent of deposits, less any amounts expended  
22 from the fund within that period.

23 (c) PDIC shall, by bylaw, impose upon its members such  
24 assessments as may be necessary and appropriate to establish and  
25 maintain the fund and to repay any borrowings by PDIC. Any  
26 assessments so made shall be such as will enable PDIC to meet  
27 its contractual obligations in connection with any borrowing  
28 incurred by PDIC. Subject to limitations in this subsection and  
29 to subsection (d), any assessment upon the members shall be  
30 uniform and be based upon or measured by the amount of their

1 deposits not secured by a pledge of assets under Pennsylvania  
2 law or insured by the Securities Investor Protection Corporation  
3 or any other Federal agency authorized to insure deposits  
4 (hereinafter "deposits").

5 Notwithstanding any other provision of this act, other than  
6 subsection (f), no assessment shall be made upon a member  
7 otherwise than pursuant to this subsection and an assessment may  
8 be made under this subsection during any 12-month period if PDIC  
9 determines that such rate of assessment during such period will  
10 not have a material adverse effect on the financial condition of  
11 its members or their customers. No assessments shall be made  
12 pursuant to such paragraph which require payments during any  
13 such period which exceed in the aggregate one quarter of one per  
14 cent of deposits for such period.

15 (d) Subject to subsection (c), PDIC shall impose upon each  
16 of its members an assessment at a rate of not less than one  
17 tenth of one per cent per annum of the deposits of such member  
18 until the balance of the fund aggregates not less than  
19 \$2,000,000, or such greater amount as PDIC may determine in the  
20 public interest, and during any period when there is outstanding  
21 borrowing by PDIC pursuant to subsection (f) or subsection (g).

22 (e) To the extent that any payment by a member exceeds the  
23 maximum rate permitted by subsection (c), the excess shall not  
24 be recoverable except against future payments by such member in  
25 accordance with a bylaw of PDIC. If a member fails to pay when  
26 due all or any part of an assessment made upon such member, the  
27 unpaid portion thereof shall bear interest at such rate as may  
28 be determined by PDIC by bylaw.

29 (f) PDIC shall have the power to borrow moneys and to  
30 evidence such borrowed moneys by the issuance of bonds, notes or

1 other evidences of indebtedness, all upon such terms and  
2 conditions as the board of directors may determine in the case  
3 of a borrowing other than pursuant to subsection (g), and as may  
4 be prescribed by the treasurer in a borrowing pursuant to  
5 subsection (g). To secure the payment of the principal of, and  
6 interest and premium, if any, on, all bonds, notes or other  
7 evidences of indebtedness so issued, PDIC may make agreements  
8 with respect to the amount of future assessments to be made upon  
9 members and may pledge all or any part of the assets of PDIC and  
10 of the assessments made or to be made upon members. Any such  
11 pledge of future assessments shall be valid and binding from the  
12 time that it is made, and the assessments so pledged and  
13 thereafter received by PDIC, or any examining authority as  
14 collection agent for PDIC, shall immediately be subject to the  
15 lien, subject to any prior pledge, of such pledge without any  
16 physical delivery thereof or further act, and the lien of such  
17 pledge shall be valid and binding against all parties having  
18 claims of any kind against PDIC or such collection agent whether  
19 pursuant to this act, in tort, contract or otherwise,  
20 irrespective of whether such parties have notice thereof. The  
21 department shall by rule or regulation provide for the filing of  
22 any instrument by which a pledge or borrowing is authorized or  
23 created, but the failure to make, or any defect in, any such  
24 filing shall not affect the validity of such pledge or  
25 borrowing.

26 (g) In the event that the fund is, or may reasonably appear  
27 to be, insufficient for the purposes of this act, the treasurer  
28 is authorized to make loans to PDIC. At the time of application  
29 for, and as a condition to, any such loan, PDIC shall file with  
30 the treasurer a statement with respect to the anticipated use of

1 the proceeds of the loan. If the treasurer determines that such  
2 loan is necessary for the protection of depositors and the  
3 maintenance of confidence in depositories and that PDIC has  
4 submitted a plan which provides as reasonable an assurance of  
5 prompt repayment as may be feasible under the circumstances,  
6 then PDIC is authorized to issue to the treasurer notes or other  
7 obligations in an aggregate amount of not to exceed \$10,000,000,  
8 in such forms and denominations, bearing such maturities, and  
9 subject to such terms and conditions, as may be prescribed by  
10 the treasurer. Such notes or other obligations shall bear  
11 interest at a rate determined by the treasurer, taking into  
12 consideration the current average market yield on outstanding  
13 marketable obligations of the United States of comparable  
14 maturities during the month preceding the issuance of the notes  
15 or other obligations. The treasurer may reduce the interest rate  
16 if he determines such reduction to be in the interest of the  
17 Commonwealth. The treasurer is authorized and directed to  
18 purchase any notes and other obligations issued hereunder. The  
19 treasurer may at any time sell any of the notes or other  
20 obligations acquired by him under this subsection. All  
21 redemptions, purchases and sales by the treasurer of such notes  
22 or other obligations shall be treated as public debt  
23 transactions of the Commonwealth.

24 (h) PDIC may by bylaw define all terms used in this  
25 subsection insofar as such definitions are not inconsistent with  
26 the provisions of this subsection.

#### 27 Section 4. Protection of depositors.

28 (a) If the department is aware of facts which lead it to  
29 believe that any private bank subject to its regulation is in or  
30 is approaching financial difficulty, it shall immediately notify



1 PDIC. If PDIC determines that any member has failed or is in  
2 danger of failing to meet its obligations to depositors, PDIC,  
3 upon notice to such member, shall immediately notify the  
4 department.

5 (b) The provisions of the act of May 15, 1933 (P.L.565,  
6 No.111), known as the "Department of Banking Code," shall cover  
7 the liquidation of any member.

8 Section 5. Liquidation proceedings.

9 (a) In order to provide for prompt payment and satisfaction  
10 of the net claims of depositors of members of PDIC of which the  
11 Secretary of Banking has taken possession as receivers, PDIC  
12 shall advance to the Secretary of Banking, as receiver, upon  
13 written requests, such moneys as may be required to pay or  
14 otherwise satisfy claims in full of each depositor to the extent  
15 of the coverage provided by the Federal Deposit Insurance  
16 Corporation or any other Federal agency authorized by law to  
17 insure deposits; except that a depositor who holds accounts with  
18 the private bank in receivership in separate capacities shall be  
19 deemed to be a different depositor in each capacity. PDIC shall,  
20 if necessary, advance to the secretary, as receiver, upon  
21 written request, moneys to cover administration expenses as  
22 defined in the "Department of Banking Code."

23 To the extent that moneys are advanced by PDIC to the  
24 secretary to pay the claims of depositors or administration  
25 expenses, PDIC shall be subrogated to the claims of such  
26 depositors with the rights and priorities provided by law.

27 (b) Except as otherwise provided in this section, nothing in  
28 this section shall limit the right of any depositor to establish  
29 by formal proof such claims as such persons may have to payment,  
30 without resort to moneys advanced by PDIC.

1 Section 6. Department functions.

2 (a) In the event of the refusal of PDIC to commit its funds  
3 or otherwise to act for the protection of depositors of any  
4 member of PDIC, the department may apply to the Commonwealth  
5 Court for an order requiring PDIC to discharge its obligation  
6 under this act and for such other relief as the court may deem  
7 appropriate to carry out the purposes of this act.

8 (b) The department may make such examinations and  
9 inspections of PDIC and require PDIC to furnish it with such  
10 reports and records of copies thereof as the department may  
11 consider necessary or appropriate in the public interest or to  
12 effectuate the purposes of this act. As soon as practicable  
13 after the close of each fiscal year, PDIC shall submit to the  
14 department a written report relative to the conduct of its  
15 business, and the exercise of the other rights and powers  
16 granted by this act, during such fiscal year. Such report shall  
17 include financial statements setting forth the financial  
18 position of PDIC at the end of such fiscal year and the results  
19 of its operations, including the source and application of its  
20 funds, for such fiscal year. The financial statements so  
21 included shall be examined by an independent public accountant  
22 or firm of independent public accountants, selected by PDIC and  
23 satisfactory to the department, and shall be accompanied by the  
24 report thereon of such accountant or firm.

25 Section 7. Examining authority functions.

26 Each member of PDIC shall file with PDIC such information as  
27 PDIC may determine to be necessary or appropriate for the  
28 purpose of making assessments under section 3. The department  
29 shall make available to PDIC all or such part of such  
30 information and such compilations and analyses thereof as PDIC,

1 by bylaw, shall specifically request.

2 Section 8. Prohibited acts.

3 (a) If a member of PDIC shall fail to file any report or  
4 information required pursuant to this act, or shall fail to pay  
5 when due all or any part of an assessment made upon such member  
6 pursuant to this act, and such failure shall not have been  
7 cured, by the filing of such report of information or by the  
8 making of such payment, together with interest thereon, within  
9 five days after receipt by such member of written notice of such  
10 failure given by or on behalf of PDIC, such private bank shall  
11 cease to be a member of PDIC, and may be sued by PDIC in  
12 Commonwealth Court. If such member denies that he owes all or  
13 any part of the amount specified in such notice, he may after  
14 payment of the full amount so specified commence an action  
15 against PDIC in the Commonwealth Court to recover the amount he  
16 denies owing. The department shall take such action as it deems  
17 appropriate against any private bank which ceases to be a member  
18 of PDIC.

19 (b) Whoever steals, unlawfully abstracts, unlawfully and  
20 willfully converts to his own use or to the use of another, or  
21 embezzles any of the moneys, securities, or other assets of PDIC  
22 shall be fined not more than \$50,000 or imprisoned not more than  
23 five years or both.

24 Section 9. Public inspection of reports.

25 Any document or information supplied to PDIC by the  
26 department shall be kept confidential unless the department  
27 specifically specifies otherwise, and violation of such  
28 confidentiality shall subject the personnel of PDIC to the same  
29 sanctions to which personnel of the department would be subject  
30 under section 302 of the "Department of Banking Code." Any other

1 notice, report or other document filed with PDIC pursuant to  
2 this act shall be available for public inspection unless PDIC  
3 shall determine that disclosure thereof is not in the public  
4 interest.

5 Section 10. Liability.

6 (a) Except for such assessments as may be made upon such  
7 member pursuant to the provisions of section 3, no member of  
8 PDIC shall have any liability under this act as a member of PDIC  
9 for, or in connection with, any act or omission of any other  
10 member whether in connection with the conduct of the business or  
11 affairs of such member or otherwise and, without limiting the  
12 generality of the foregoing, no member shall have any liability  
13 for or in respect of any indebtedness or other liability of  
14 PDIC.

15 (b) Neither PDIC nor any of its directors shall have any  
16 liability to any person for any action taken or omitted in good  
17 faith under or in connection with any matter contemplated by  
18 this act.

19 Section 11. Advertising.

20 PDIC shall by bylaw prescribe the manner in which a member of  
21 PDIC may display any sign or signs, or include in any  
22 advertisement a statement, relating to the protection to  
23 customers and their accounts, or any other protections, afforded  
24 under this act. No member may display any such sign, or include  
25 in an advertisement any such statement, except in accordance  
26 with such bylaws.

27 Section 12. PDIC exempt from taxation.

28 PDIC, its property, its franchise, capital, reserves, surplus  
29 and its income, shall be exempt from all taxation now or  
30 hereafter imposed by the Commonwealth or local taxing authority,

1 except that any real property and any tangible personal  
2 property, other than cash and securities, of PDIC shall be  
3 subject to State and local taxation to the same extent according  
4 to its value as other real and tangible personal property of a  
5 nonprofit corporation is taxed. Assessments made upon a member  
6 of PDIC shall constitute ordinary and necessary expenses in  
7 carrying on the business of such member.

8 Section 13. Effective date.

9 This act shall take effect in 60 days.