

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2215 Session of
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JANUARY 2, 1990

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, JANUARY 2, 1990

AN ACT

1 Amending the act of December 14, 1967 (P.L.746, No.345),
2 entitled "An act relating to and regulating the business of
3 savings associations heretofore designated under other acts
4 and special charters variously as building and loan
5 associations and savings and loan associations; defining the
6 rights, powers, duties, liabilities, and immunities of such
7 associations; affecting persons engaged in the business of
8 savings associations; affecting the members, account holders
9 and borrowers of such associations; affecting Federal savings
10 and loan associations whose principal office is located in
11 the Commonwealth; prohibiting the transaction of business in
12 this Commonwealth by foreign savings associations; conferring
13 powers and imposing duties on certain departments and
14 officers of the Commonwealth and on the courts, recorders of
15 deeds; creating a Savings Association Board and defining its
16 powers and duties; prohibiting certain actions and imposing
17 penalties, and repealing certain acts," providing for
18 reciprocal interstate operations; permitting the formation of
19 mutual holding companies; further providing for acquisitions
20 of the stock of a savings association; revising proxy rules;
21 and making repeals.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 114 of the act of December 14, 1967
25 (P.L.746, No.345), known as the Savings Association Code of
26 1967, amended or added December 18, 1986 (P.L.1723, No.206) and

1 December 21, 1988 (P.L.1427, No 174), is amended to read:

2 Section 114. Authorization of Reciprocal [Regional]
3 Interstate Operations of Savings Associations.--(a) The
4 following words and phrases when used in this section shall
5 have, unless the context clearly indicates otherwise, the
6 following meanings:

7 (1) "Acquire," to acquire (as defined in section 212(a)(1))
8 five percent or more of the voting stock of an entity and shall
9 also mean a merger or consolidation or a purchase of assets and
10 an assumption of liabilities, other than in the regular course
11 of business.

12 (2) "Bank holding company," the same meaning as that term
13 has under the Bank Holding Company Act of 1956, 12 U.S.C. §
14 1841(a).

15 (3) "Branch," an office which performs the functions
16 described in section 102(5).

17 (4) "Control," the power, directly or indirectly, to direct
18 the management or policies of an entity or to vote twenty-five
19 percent or more of any class of voting securities of an entity.

20 (5) "Entity," any corporation, partnership, association or
21 similar organization, including banks and thrift institutions.

22 (6) "Foreign association," a savings and loan association or
23 building and loan association located in and organized and
24 operating under the laws of a state other than Pennsylvania and
25 a Federal association, as defined in 12 U.S.C. § 1462(d), that
26 is located in a state other than Pennsylvania.

27 (7) "Foreign association holding company," an entity which
28 controls one or more foreign associations and is located in a
29 state other than Pennsylvania.

30 (8) "Foreign savings bank," a savings bank located in and

1 organized and operating under the laws of a state other than
2 Pennsylvania.

3 (9) "Foreign thrift institution," a foreign savings bank or
4 a foreign association.

5 (10) "Foreign thrift institution holding company," an entity
6 which controls one or more foreign thrift institutions and is
7 located in a state other than Pennsylvania.

8 [(6)] (11) "Pennsylvania association," an association as
9 defined in section 102(3) and a Federal association, as defined
10 in 12 U.S.C. § 1462(d), that is located in Pennsylvania.

11 [(7)] (12) "Pennsylvania association holding company," an
12 entity which controls one or more Pennsylvania associations and
13 is located in Pennsylvania.

14 [(8)] (13) "Pennsylvania savings bank," a savings bank as
15 defined in section 102(x) of the Banking Code of 1965.

16 [(9)] (14) "Pennsylvania thrift institution," a Pennsylvania
17 savings bank or a Pennsylvania association.

18 [(10)] (15) "Pennsylvania thrift institution holding
19 company," an entity which controls one or more Pennsylvania
20 thrift institutions and is located in Pennsylvania.

21 [(11)] (16) "Region," the States of Delaware, Indiana,
22 Kentucky, Maryland, New Jersey, Ohio, Virginia and West
23 Virginia, and the District of Columbia.

24 [(12)] (17) "Regional association," a savings and loan
25 association or building and loan association located in and
26 organized and operating under the laws of a state in the region
27 and a Federal association, as defined in 12 U.S.C. § 1462(d),
28 that is located in the region.

29 [(13)] (18) "Regional association holding company," an
30 entity which controls one or more regional associations and is

1 located in a state in the region.

2 [(14)] (19) "Regional savings bank," a savings bank located
3 in and organized and operating under the laws of a state in the
4 region.

5 [(15)] (20) "Regional thrift institution," a regional
6 savings bank or a regional association.

7 [(16)] (21) "Regional thrift institution holding company,"
8 an entity which controls one or more regional thrift
9 institutions and is located in a state in the region.

10 [(17)] (22) "Savings and loan holding company," the same
11 meaning as defined in 12 U.S.C. § 1730a(a)(1)(D).

12 [(18)] (23) "State," includes the District of Columbia.

13 [(19)] (24) State in which an entity is "located":

14 (i) with regard to a thrift institution, the state in which
15 its deposits are largest; and

16 (ii) with regard to a thrift institution holding company, an
17 association holding company, a bank holding company or a savings
18 and loan holding company, the state in which the total deposits
19 of its subsidiaries, including commercial banks, are largest:

20 Provided, That an entity or its legal successor that is located
21 in Pennsylvania on the effective date of this legislation shall
22 be deemed thereafter to be located in Pennsylvania regardless of
23 the location of its deposits or the deposits of its subsidiaries
24 if said entity has not been either acquired by an entity located
25 outside of Pennsylvania or a party to a merger or consolidation
26 transaction in which the holders of its voting shares
27 immediately prior to the transaction held less than fifty
28 percent of the voting shares of any class of stock in the entity
29 surviving after, or resulting from, the merger or consolidation.

30 (b) A [regional] foreign thrift institution or a [regional]

1 foreign thrift institution holding company may acquire a
2 Pennsylvania association or a Pennsylvania association holding
3 company if:

4 (1) The law of the state where the acquiring thrift
5 institution or thrift institution holding company is located and
6 the law of the state where any bank holding company or savings
7 and loan holding company which, directly or indirectly, owns or
8 controls the power to vote five percent or more of its shares is
9 located satisfies, in each case, the reciprocity requirement of
10 subsection (e);

11 (2) The acquiring thrift institution or thrift institution
12 holding company and any bank holding company or savings and loan
13 holding company which, directly or indirectly, owns or controls
14 the power to vote five percent or more of its shares is, in each
15 case, located in a state in the region or in Pennsylvania,
16 except that the requirement of location in the region or in
17 Pennsylvania will not be applicable to an acquisition
18 consummated after March 4, 1990; and

19 (3) Approval has been received from the department. When
20 considering a proposed acquisition by a [regional] foreign
21 thrift institution or a [regional] foreign thrift institution
22 holding company, the department shall give specific attention to
23 the effects of the acquisition on the availability, in this
24 Commonwealth, of those banking and basic transaction account
25 services set forth in subsections (j) and (k).

26 (c) A [regional] foreign association may, with the prior
27 written approval of the department, maintain as a branch any
28 office acquired as part of an acquisition effected under this
29 section or section 117 of the Banking Code of 1965.

30 (d) A [regional] foreign association may establish and

1 maintain branches in this Commonwealth if:

2 (1) The state in which the association is located and the
3 state in which any bank holding company or savings and loan
4 holding company which, directly or indirectly, owns or has the
5 power to vote five percent or more of its shares is located
6 satisfies, in each case, the reciprocity requirement of
7 subsection (e);

8 (2) The association and any bank holding company or savings
9 and loan company which, directly or indirectly, owns or controls
10 the power to vote five percent or more of its shares is, in each
11 case, located in a state in the region or in Pennsylvania,
12 except that the requirement of location in the region or in
13 Pennsylvania will not be applicable with respect to a branch
14 established after March 4, 1990; and

15 (3) The branch is approved by the department in the same
16 manner, and subject to the same conditions as are applicable to,
17 de novo branches of Pennsylvania associations under sections 403
18 and 404.

19 (e) (1) The law of another state is reciprocal under this
20 section to the extent the department determines it to be so. The
21 department's determination under this subsection shall include,
22 but is not limited to:

23 (i) with regard to acquisitions, whether the law of that
24 other state authorizes Pennsylvania associations and
25 Pennsylvania association holding companies to acquire [regional]
26 foreign thrift institutions and [regional] foreign thrift
27 institution holding companies located in that state on terms and
28 conditions reasonably equivalent to those applicable to
29 acquisitions by [regional] foreign thrift institutions and
30 [regional] foreign thrift institution holding companies of

1 Pennsylvania associations or Pennsylvania association holding
2 companies and whether the law of that other state imposes
3 conditions on the acquisition by Pennsylvania associations or
4 Pennsylvania association holding companies of [regional] foreign
5 thrift institutions or [regional] foreign thrift institution
6 holding companies located in that state that are substantially
7 more onerous than those imposed on the same acquisitions by
8 thrift institutions or thrift institution holding companies
9 located in that state; and

10 (ii) with regard to branching, whether the law of that other
11 state authorizes Pennsylvania associations to establish or
12 maintain branches in that state on terms and conditions
13 reasonably equivalent to those applicable to the establishment
14 or maintenance of branches in Pennsylvania by associations
15 located in that state and on terms and conditions reasonably
16 equivalent to those applicable to the establishment of branches
17 in that state by an association located in that state.

18 (2) The department need not determine that the law of
19 another state fails to meet the reciprocity requirement of this
20 section solely by reason of the fact that that law does not
21 allow Pennsylvania associations or Pennsylvania association
22 holding companies to engage in a particular type of branching or
23 acquisition or imposes conditions on such branching or
24 acquisition that are substantially more onerous than those
25 imposed on the same activities of thrift institutions or thrift
26 institution holding companies located in that state. However, in
27 such circumstances, the department shall find reciprocity only
28 after imposing on the thrift institutions and thrift institution
29 holding companies located in that state conditions and
30 limitations on branching and acquisitions in Pennsylvania

1 substantially similar to those imposed on branching and
2 acquisitions in that state by Pennsylvania associations and
3 association holding companies.

4 (3) The department may determine that the law of another
5 state is not reciprocal regarding a particular type of branching
6 or acquisition if the law of that other state does not allow all
7 Pennsylvania associations or, alternatively, all Pennsylvania
8 association holding companies to engage on equal terms with each
9 other in the particular type of branching or acquisition. The
10 department shall determine that the law of another state is not
11 reciprocal regarding a particular type of branching or
12 acquisition if the law of that other state does not allow
13 federally chartered Pennsylvania associations (or federally
14 chartered Pennsylvania associations converted from State-
15 chartered Pennsylvania associations or Pennsylvania savings
16 banks) or their holding companies to engage in the particular
17 type of branching or acquisition on equal terms with State-
18 chartered Pennsylvania associations or their holding companies.

19 (f) In addition to the powers granted elsewhere in this
20 section and in other provisions of Pennsylvania law, the
21 department is authorized to impose any conditions or
22 requirements it deems appropriate, in light of the purposes of
23 this act, on thrift institutions and thrift institution holding
24 companies acquired or operating, directly or indirectly, in
25 Pennsylvania under this section. Such conditions or requirements
26 include, but are not limited to, provisions for examinations,
27 reports and the payment of fees. The department may accept
28 examinations and other reports of Federal and state regulators
29 and may enter into agreements with Federal and state regulators
30 for the exchange of information, including examination reports.

1 (g) If a [regional] foreign thrift institution or [regional]
2 foreign thrift institution holding company [located in another
3 state] which has acquired a Pennsylvania association or a
4 Pennsylvania association holding company or has established a
5 branch in Pennsylvania under this section shall have a change of
6 circumstances so that it no longer satisfies the conditions of
7 subsections (b) and [(c)] (d) (either by reason of a change in
8 the place in which it is located or by reason of acquisition by
9 a bank holding company or a savings and loan holding company
10 located in a state which does not satisfy the conditions of
11 subsection (b) or [(c)] (d) of five percent or more of its
12 voting shares, or the power to vote those shares), said
13 [regional] foreign thrift institution or [regional] foreign
14 thrift institution holding company shall divest each
15 Pennsylvania association, association holding company and branch
16 it has acquired or established prior to entering into a
17 voluntary combination which causes such change of circumstances
18 or within one year (or such longer period of not more than an
19 additional year as the department may allow, in writing) after
20 the occurrence of an event other than a voluntary combination,
21 which causes the change in circumstances.

22 (h) The purpose of this section is solely to authorize
23 [regional,] reciprocal interstate operations by associations and
24 savings banks, and this section shall not be construed to
25 authorize any acquisition or the establishment of any branch by
26 any entity located in another state except as expressly provided
27 in this section. In the event that any limitation on the
28 geographical location of entities granted acquisition or
29 branching powers by this section is held to be invalid by a
30 final order of a court which is not subject to further review or

1 appeal, the authorization of this section shall terminate
2 immediately. Any acquisition or branch establishment consummated
3 pursuant to this section prior to such termination shall not be
4 affected thereby.

5 (i) A Pennsylvania association or Pennsylvania association
6 holding company which proposes to acquire a thrift institution
7 or thrift institution holding company located in another state
8 shall file an application for approval by the department in such
9 form and upon payment of such fee as the department shall
10 prescribe and shall supplement such application with such
11 additional information as the department may reasonably request.
12 The department shall conduct such investigation as it deems
13 necessary to determine whether to approve or disapprove the
14 application. The investigation shall include consideration of
15 the effects the proposed acquisition would have on the
16 availability, in this Commonwealth, of those banking services
17 and basic transaction account services set forth in subsections
18 (j) and (k). Within sixty days after receipt of the application
19 or within a longer period, not in excess of thirty days, after
20 receipt from the applicant of additional information requested
21 by the department, the department shall approve or disapprove
22 the proposed acquisition and give written notice of its decision
23 to the applicant. In approving an acquisition under this
24 section, the department may place conditions upon such approval
25 and incorporate such terms and agreements as are deemed
26 necessary to effect the purposes of this act.

27 (j) The department shall have the authority to assure that
28 interstate thrift acquisitions authorized by this section will
29 not diminish reasonable availability of banking services to all
30 segments of the public and economy of this Commonwealth, with

1 special emphasis on economic development and the financing of
2 enterprises to the end that employment opportunities will be
3 either increased or, where there is the prospect of reduction,
4 retained. Upon receipt of an application for approval of an
5 acquisition by a company located in another state under
6 subsection (b) or approval of an acquisition in another state by
7 a Pennsylvania association or Pennsylvania association holding
8 company under subsection (i), the department shall review the
9 credit practices and policies of each Pennsylvania association
10 or Pennsylvania association holding company which is involved in
11 the proposed transaction. Such review shall determine the
12 overall performance of such company or institution in providing
13 credit and financial services to individuals and business
14 enterprises in the communities which it serves in the light of
15 its role as a thrift institution, its resources, its capital and
16 its income, the particular needs of such communities,
17 competition and alternative sources of credit. With respect to
18 individuals, there shall be a review of consumer loans,
19 residential mortgages, home improvement loans and student loans,
20 particularly to residents of low-income and moderate-income
21 neighborhoods. With respect to business enterprises, there shall
22 be a review of extensions of credit and investments intended to
23 promote economic development and creation, or retention where
24 there is the prospect of reduction, of employment opportunities,
25 including, without limitation, Small Business Administration and
26 other small business loans, industrial development loans,
27 financing of employee stock option plans and leveraged buy-outs
28 of businesses by employees, financing of non-profit community
29 development projects, loans and investments intended to maintain
30 existing businesses and to encourage economic expansion and job

1 opportunities, and loans and investments to promote
2 participation by businesses in this Commonwealth in
3 international trade and to increase exports. The review by the
4 department shall also include all other activities of the
5 institution or company deemed to be suitable to its particular
6 circumstances and the communities served. If the department
7 determines that the overall performance of the institution or
8 company has not been materially deficient and that it justifies
9 the conclusion that the institution or company does and will
10 provide suitable credit and financial services to its
11 communities, it may approve the application without imposing any
12 terms or conditions but otherwise may impose such terms and
13 conditions as it deems appropriate to improve such overall
14 performance over a stated period of time. The department shall,
15 from time to time, review the continuing overall performance of
16 each such institution or company after an acquisition and, if it
17 finds that its overall performance has not continued to be
18 satisfactory, shall issue such order to the applicant as it
19 deems appropriate.

20 (k) The department shall have the authority to assure that
21 thrift institution holding companies and thrift institutions
22 that become part of interstate banking organizations by reason
23 of acquisitions requiring approval under this section make basic
24 transaction account services available to the public. For this
25 purpose the department shall obtain, from all sources available
26 to it or through such studies as it may commission, adequate
27 information to determine:

28 (1) The needs of the public and, in particular, individuals
29 with low or moderate income, for a basic checking or other
30 transaction account.

1 (2) The principal characteristics that such an account
2 should have, such as the number of checks, deposits and other
3 items for which a minimum charge may be made, the amount or rate
4 of such minimum charge, and the forms of identification that may
5 be required for opening and using such an account.

6 (3) The existing availability of basic accounts with some or
7 all of such principal characteristics currently offered by
8 depository institutions, including applicants under this
9 section, in separate communities of the Commonwealth.

10 An applicant shall, at the request of the department, supply
11 information to the department with respect to such accounts
12 offered by the applicant and by each institution which is a
13 subsidiary of the applicant. The department may approve an
14 application prior to the time it has acquired the information
15 required by this section, but the applicant and each institution
16 which is a subsidiary of the applicant shall be subject, both
17 before and after an approval of the acquisition under this
18 section, to requirements imposed by the department, from time to
19 time, to assure to the public, in the communities served by the
20 institution, the continuing availability of the basic
21 transaction account services which the department has determined
22 the public needs.

23 (1) For the purpose of advising the department in the
24 conduct of its functions under subsections (j) and (k), the
25 advisory commission established by section 116(k) of the act of
26 November 30, 1965 (P.L.847, No.356), known as the "Banking Code
27 of 1965," is empowered and directed to provide information,
28 opinions and recommendations as to guidelines the department may
29 establish, from time to time, for the purpose of determining the
30 overall performance of an institution or company under

subsection (j) and the availability of basic transaction account services under subsection (k). All decisions and determinations made under this section shall be made by the department.

Section 2. The act is amended by adding a section to read:

Section 116. Mutual Holding Companies.--(a) Notwithstanding any other provision of this act, an association organized under this act in mutual form may reorganize so as to become a holding company by:

(1) chartering a subsidiary stock association, the stock of which is wholly owned by the mutual association at the time of the reorganization; and

(2) transferring the substantial part of its assets and liabilities, including all of its liabilities which are insured by any deposit insurance corporation, to the subsidiary stock association.

(b) A reorganization is not authorized under this section unless:

(1) a plan providing for such reorganization has been approved by the affirmative vote of a majority of the board of directors of the mutual association; and

(2) the plan has been submitted to and approved by the affirmative vote of a majority of the members of the association present and voting, in person or by proxy, at a meeting held on not less than ten days' notice to all members.

(c) (1) At least sixty days prior to taking any action described in subsection (a), a mutual association seeking to establish a mutual holding company shall provide written notice to the department. The notice shall contain such relevant information as the department shall require by regulation or by specific request in connection with any particular notice.

1 (2) Upon receipt of an application for approval of a plan of
2 reorganization authorized by this section, the department shall
3 conduct such investigation as it may deem necessary to determine
4 whether:

5 (i) the plan satisfies the requirements of this act; and
6 (ii) the plan adequately protects the interests of members
7 and creditors.

8 (3) Within sixty days after receipt of the application, the
9 department shall approve or disapprove the application on the
10 basis of its investigation and shall immediately give to the
11 association written notice of its decision, and in the event of
12 disapproval, a statement in detail of such grounds therefor as
13 are permitted by clause (4).

14 (4) The department may disapprove any proposed holding
15 company formation only if:

16 (i) the plan providing for such reorganization fails to
17 comply, or as implemented would fail to comply, with such
18 regulations as the department may promulgate from time to time;

19 (ii) the plan unlawfully impairs any ownership rights of
20 members of the mutual savings association;

21 (iii) such disapproval is necessary to prevent unsafe or
22 unsound practices;

23 (iv) the financial or management resources of the resulting
24 mutual holding company or the resulting association warrant
25 disapproval; or

26 (v) the association fails to furnish the information
27 required under subsection (c)(1).

28 (5) At the time of the transaction described in subsection
29 (a), an association may, with the approval of the department,
30 retain capital assets at the holding company level to the extent

that such capital assets are not needed by the subsidiary stock association in order for the subsidiary to satisfy applicable regulatory requirements.

(d) A mutual holding company may engage only in the following activities:

(1) investing in the stock of one or more financial institution subsidiaries;

(2) acquiring one or more additional financial institution subsidiaries through the merger of such financial institution subsidiaries into a subsidiary of the holding company;

(3) subject to subsection (e), merging with or acquiring another holding company, one of whose subsidiaries is a financial institution subsidiary;

(4) investing in a corporation the capital stock of which is available for purchase by an association under Federal law or under this act;

(5) Engaging in such activities as are permitted, by statute or regulation, to a holding company of a federally chartered insured mutual institution under Federal law; and

(6) Engaging in such other activities as may be permitted by the department.

(e) (1) If a mutual holding company acquires or merges with another holding company pursuant to subsection (d)(3), the holding company acquired or the holding company resulting from such merger or acquisition may invest in only those assets and engage in only those activities which are authorized under subsection (d).

(2) Not later than two years following a merger or acquisition described in subsection (d)(3), the acquired holding company or the holding company resulting from such merger or

1 acquisition shall:

2 (i) dispose of any asset which is an asset in which a mutual
3 holding company may not invest under subsection (d); and

4 (ii) cease any activity which is an activity in which a
5 mutual holding company may not engage under subsection (d).

6 (f) The department shall have the authority to issue rules,
7 regulations and orders as may be necessary to properly
8 administer this section. No mutual holding company shall be
9 approved by the department until regulations have been adopted
10 pursuant to this section.

11 (g) The following words and phrases when used in this
12 section shall have, unless the context clearly indicates
13 otherwise, the following meanings:

14 (1) "Mutual holding company," a corporation organized as a
15 holding company under this section.

16 (2) "Financial institution subsidiary," an association, a
17 bank, a bank and trust company, a trust company, a Federal
18 savings and loan association or savings bank which is located in
19 Pennsylvania, a savings bank, a regional thrift institution, or,
20 after March 4, 1990, a foreign thrift institution.

21 Section 3. Section 212 of the act, added April 9, 1982
22 (P.L.334, No.94), is amended to read:

23 Section 212. Acquisitions and Offers to Acquire Shares of
24 Permanent Reserve Fund Stock of Association.--(a) The following
25 words and phrases when used in this section shall have, unless
26 the context clearly indicates otherwise, the following meanings:

27 (1) "Acquire," obtaining legal or beneficial ownership of
28 shares, or voting rights of shares, whether obtained directly or
29 indirectly, through an intermediary or otherwise; beneficial
30 ownership by a person shall be deemed to include ownership by

1 another person which controls, is controlled by or is under
2 common control with such person and to include ownership by a
3 spouse or member of the family of such person; the acquisition
4 of options, warrants and rights to subscribe for, or to
5 purchase, shares and the acquisition of rights to obtain shares
6 through conversion or exchange shall be deemed an acquisition of
7 such shares.

8 (2) "Control," the power to elect a majority of the board of
9 directors of an institution or corporation.

10 (3) "Institution," a permanent reserve fund stock
11 association.

12 (4) "Ownership change," the same meaning as in section 382
13 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
14 U.S.C. § 1 et seq.).

15 [(4)] (5) "Proposal to acquire," any offer or attempt to buy
16 or solicitation of an offer to sell or other attempt or offer to
17 acquire by any means, directly or indirectly, through an
18 intermediary or otherwise.

19 (b) Except as provided in subsection (i), it shall be
20 unlawful, without the prior written approval of the department
21 pursuant to this section, for any person to acquire, or to make
22 a proposal to acquire, shares of an institution or shares of a
23 corporation which controls an institution if the aggregate
24 number of shares held after such acquisition would total more
25 than:

26 (1) ten percent of any class of the outstanding shares of
27 such institution; or

28 (2) five percent of any such class, if such institution or
29 corporation had net operating loss carryforwards (as defined in
30 the Internal Revenue Code of 1986) in excess of twenty percent

1 of its total stockholders' equity, as reported in its most
2 recent publicly available annual financial statements, whether
3 or not any prior acquisition had been approved by the department
4 pursuant to this section.

5 (c) If the approval of the department is required under
6 subsection (b), a person who intends to acquire, or to make a
7 proposal to acquire, shares of an institution or of a
8 corporation which controls an institution shall:

9 (1) File an application for approval in such form as the
10 department may prescribe,

11 (2) Deliver to the department from time to time such other
12 information as the department may require with such
13 certification of financial information and such verification by
14 oath or affirmation of other data as the department may specify,

15 (3) Pay such investigation fee as the department may
16 specify, and

17 (4) Except in the case of an applicant which is a domestic
18 corporation or a foreign corporation qualified to do business in
19 Pennsylvania, deliver to the department a written consent to
20 service of process in any action or suit arising out of or in
21 connection with the proposed acquisition through service of
22 process on the Secretary of Banking.

23 (d) Upon receipt of an application for approval and other
24 items required under subsection (c) the department shall conduct
25 an investigation to determine whether the acquisition, its
26 purposes and probable effects would be consistent with the
27 purposes of this act set forth in section 103(a), whether the
28 applicant, or its directors and officers in the case of a
29 corporation, and any proposed new officers or directors of the
30 institution involved would satisfy the test for incorporators,

1 directors and officers of a new institution under section
2 206(a), and whether the proposed acquisition would be
3 prejudicial to the interests of the depositors, creditors,
4 beneficiaries of fiduciary accounts or shareholders of the
5 institution or corporation involved. As part of its
6 investigation, the department shall transmit to the institution
7 or the corporation whose shares are proposed to be acquired a
8 copy of the application and all other information received from
9 the applicant, except such information which the department
10 determines should be kept confidential, for the purpose of
11 receiving such comments thereon as such institution or
12 corporation shall transmit to the department upon its request.

13 (e) Within sixty days after receipt of an application under
14 subsection (c) or within a longer period not in excess of thirty
15 days after receipt from the applicant of additional information
16 required by the department, the department shall approve or
17 disapprove the proposed acquisition and give written notice of
18 its decision to the applicant and the institution or corporation
19 whose shares are proposed to be acquired. If the department
20 approves a proposed acquisition which may result in a change of
21 control or ownership change of such institution or corporation
22 it may impose conditions to be observed after such acquisition
23 with respect to transactions between the institution involved
24 and the applicant or affiliate of the applicant, with respect to
25 dividends or distributions by such institutions, with respect to
26 employe relations, with respect to reimbursement for any loss
27 occasioned by such ownership change or with respect to such
28 other matters as the department may deem advisable on the basis
29 of the purposes of this act set forth in section 103(a). The
30 decision of the department shall be subject to review by the

1 Commonwealth Court in the manner provided by law.

2 (f) A proposal to acquire shares which is made to all or
3 substantially all of the shareholders of an institution or a
4 corporation which controls an institution shall, to the extent
5 required by the department in approving the proposal, provide
6 that the proposal will remain open for a specified minimum
7 period of time, that shares may be withdrawn from deposit prior
8 to the time the person making the proposal becomes bound to
9 acquire them and that there will be pro rata acceptance of
10 shares offered or deposited if they exceed the number proposed
11 to be acquired.

12 (g) It shall be unlawful for any person directly or
13 indirectly to make any untrue statement of a material fact or to
14 omit to state a material fact necessary in order to make the
15 statements made, in the light of the circumstances in which they
16 were made, not misleading in connection with any acquisition of,
17 or proposal to acquire, shares within the scope of this section
18 or in any application or submission of information to the
19 department under subsection (c).

20 (h) The enforcement and implementation of this section shall
21 be subject to regulation by the department.

22 (i) No approval under this section shall be required for an
23 acquisition or proposal to acquire shares in the case of either:

24 (1) An acquisition or proposal to acquire shares by the
25 issuer thereof or by a person who at the time controls the
26 institution or corporation whose shares are proposed to be
27 acquired,

28 (2) A merger or consolidation which requires the approval of
29 the department or the Federal Home Loan Bank Board,

30 (3) A transaction by a broker-dealer who does no more than

1 perform the customary broker's function in transactions on a
2 stock exchange or in the over-the-counter market, who receives
3 no more than the customary broker's commission and who does not
4 solicit, or arrange for the solicitation of orders, or

5 (4) A transaction of a type exempted by regulation of the
6 department in the light of the purposes of this act set forth in
7 section 103(a).

8 (5) An acquisition or proposal to acquire shares by the
9 issuers tax qualified employe benefit program.

10 (j) (1) Any person who acquires or proposes to acquire
11 shares of an institution or of a corporation which controls an
12 institution in violation of this section or who violates
13 subsection (g) shall be guilty of a misdemeanor and shall upon
14 conviction be subject, in the case of an individual, to
15 imprisonment for a period not exceeding five years or a fine not
16 exceeding five thousand dollars (\$5,000), or both, and, in the
17 case of any other person, to a fine not exceeding fifty thousand
18 dollars (\$50,000).

19 (2) Any person who violates any provision of this section
20 shall be liable to any institution or corporation or shareholder
21 thereof damaged thereby and, in the discretion of the court, for
22 punitive damages. The provisions of this section shall be
23 enforceable in any administrative action, action or suit
24 instituted by the department or by any such institution,
25 corporation or shareholder to enjoin or restrain any violation
26 or threatened violation of that section.

27 Section 4. Section 502(b) of the act is amended to read:

28 Section 502. Number and Qualifications of Directors.--* * *

29 (b) Each director shall be a citizen of the United States
30 [and at least two-thirds of the directors shall be residents of

1 Pennsylvania].

2 Section 5. Section 513 of the act is repealed.

3 Section 6. Section 604(b) of the act is amended to read:

4 Section 604. Voting Rights of Members.--* * *

5 (b) A proxy:

6 (1) Shall be in writing and filed with the secretary of the
7 association. Except as otherwise provided in the association's
8 bylaws, a proxy shall be filed with the secretary not less than
9 five days prior to the meeting at which the proxy is to be
10 exercised.

11 (2) Shall, unless coupled with an interest, be revocable at
12 will notwithstanding any agreement to the contrary, but the
13 revocation of a proxy shall not be effective until written
14 notice thereof has been given to the association,

15 (3) Shall not be revoked by the death or incompetency of the
16 maker unless, before the vote is counted or the authority
17 exercised written notice of such death or of an adjudication of
18 such incompetence is received by the secretary.

19 Section 7. Section 816 of the act, amended December 21, 1988
20 (P.L.1427, No.174), is amended to read:

21 Section 816. Authorizing Payment of Earnings or Interest on
22 Savings Accounts.--The board of directors shall determine the
23 earnings or interest, if any, to be credited not less frequently
24 than annually to savings accounts on the books of the
25 association unless a savings account holder shall have requested
26 and the association shall have agreed to pay earnings or
27 interest on such savings account in cash. Earnings or interest
28 payable in cash may be paid by check or bank draft. [All
29 accounts of the same type and class shall be paid the same rate
30 of earnings or interest.]

1 Section 8. Section 922(n) and (s) of the act, amended or
2 added December 18, 1986 (P.L.1723, No.206) and December 21, 1988
3 (P.L.1427, No.174), are amended to read:

4 Section 922. Securities and Obligations.--An association may
5 invest its funds:

6 * * *

7 (n) In capital stock obligations or other securities of any
8 service corporation if the entire capital stock of such
9 corporation is available for purchase only by savings
10 associations and savings banks organized and existing under the
11 laws of the Commonwealth of Pennsylvania, by Federal savings and
12 loan associations having their home offices in the Commonwealth
13 of Pennsylvania, [and] by regional thrift institutions, as that
14 term is defined in section 114, and, after March 4, 1990, by
15 foreign thrift institutions, as that term is defined in section
16 114. The department shall have the right to define service
17 corporations and the activities thereof. An association may make
18 investments in service corporations up to three percent of its
19 assets plus such additional percentage of assets as the
20 department may by regulation authorize,

21 * * *

22 (s) With the prior approval of the department, in up to one
23 hundred percent of the stock of a bank, a bank and trust
24 company, a trust company, a bank holding company, a savings
25 bank, a regional thrift institution [or], a regional thrift
26 institution holding company, or, after March 4, 1990, a foreign
27 thrift institution or a foreign thrift institution holding
28 company, as those terms are defined in the Banking Code of 1965
29 and in section 114.

30 Section 9. Section 1101(b.1) of the act, added December 18,

1 1986 (P.L.1723, No.206), is amended to read:

2 Section 1101. Mergers, Consolidations and Conversions.--* *
3 *

4 (b.1) Upon compliance with the requirements of this article,
5 one or more associations may merge or consolidate with a
6 regional thrift institution and, after March 4, 1990, with a
7 foreign thrift institution, as those terms are defined in, and
8 subject to any applicable limits of, section 114.

9 * * *

10 Section 10. Section 1401(a) of the act is amended to read:

11 Section 1401. Examinations and Reports.--(a) The department
12 shall examine all associations [at least once each year and may
13 examine any association more frequently and at any time it deems
14 such action necessary or desirable for protection of members or
15 creditors.] thoroughly at least once every two calendar years,
16 and more frequently if it deems such action necessary or
17 advisable to safeguard the interests of depositors, other
18 creditors or shareholders of the associations. The examination
19 shall include a review of the accounts, records and affairs of
20 the association, its compliance with law and such other matters
21 as the department may determine. For this purpose the department
22 may examine a person which is performing services for an
23 association.

24 * * *

25 Section 11. This act shall take effect immediately.