
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1007 Session of
1991

INTRODUCED BY SALVATORE, APRIL 25, 1991

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 22, 1992

AN ACT

1 Amending the act of November 30, 1965 (P.L.847, No.356),
2 entitled "An act relating to and regulating the business of
3 banking and the exercise by corporations of fiduciary powers;
4 affecting persons engaged in the business of banking and
5 corporations exercising fiduciary powers and affiliates of
6 such persons; affecting the shareholders of such persons and
7 the directors, trustees, officers, attorneys and employes of
8 such persons and of the affiliates of such persons; affecting
9 national banks located in the Commonwealth; affecting persons
10 dealing with persons engaged in the business of banking,
11 corporations exercising fiduciary powers and national banks;
12 conferring powers and imposing duties on the Banking Board,
13 on certain departments and officers of the Commonwealth and
14 on courts, prothonotaries, clerks and recorders of deeds;
15 providing penalties; and repealing certain acts and parts of
16 acts," further providing FOR THE DUTIES OF THE ADVISORY <—
17 COMMISSION, FOR NONCONFORMING LOANS, FOR THE REGULATION OF <—
18 MUTUAL HOLDING COMPANIES, FOR REQUIREMENTS IN CONNECTION WITH <—
19 REAL ESTATE LOANS, for residency requirements of directors or
20 trustees AND FOR THE POWERS OF THE DEPARTMENT. <—

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 ~~Section 1. Section 1403(b) of the act of November 30, 1965~~ <—
24 ~~(P.L.847, No.356), known as the Banking Code of 1965, is amended~~
25 ~~to read:~~

1 ~~SECTION 1. SECTION 116(K) OF THE ACT OF NOVEMBER 30, 1965~~ <—
2 ~~(P.L.847, NO.356), KNOWN AS THE BANKING CODE OF 1965, ADDED JUNE~~
3 ~~25, 1986 (P.L.259, NO.69), IS AMENDED TO READ:~~

4 SECTION 1. SECTION 115.1(F) OF THE ACT OF NOVEMBER 30, 1965 <—
5 (P.L.847, NO.356), KNOWN AS THE BANKING CODE OF 1965, ADDED
6 DECEMBER 18, 1990 (P.L.766, NO.191), IS AMENDED TO READ:

7 SECTION 115.1. MUTUAL HOLDING COMPANIES

8 * * *

9 (F) REGULATION--THE DEPARTMENT SHALL HAVE THE AUTHORITY TO
10 ISSUE RULES, REGULATIONS AND ORDERS AS MAY BE NECESSARY TO
11 PROPERLY ADMINISTER THIS SECTION. UNTIL THE DEPARTMENT HAS
12 ADOPTED REGULATIONS PURSUANT TO THIS SECTION, THE DEPARTMENT
13 SHALL NOT APPROVE ANY APPLICATION BY A SAVINGS BANK FOR APPROVAL
14 OF A PLAN OF REORGANIZATION INTO A MUTUAL HOLDING COMPANY,
15 EXCEPT THAT, THE DEPARTMENT MAY APPROVE, PRIOR TO THE ADOPTION
16 OF SUCH REGULATIONS, BUT SUBJECT TO SUCH TERMS AND CONDITIONS AS
17 IT DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT, A PLAN
18 OF REORGANIZATION BY A SAVINGS BANK THAT HAS A CAMEL COMPOSITE
19 RATING OF ONE OR TWO UNDER THE UNIFORM FINANCIAL INSTITUTIONS
20 RATING SYSTEM (OR AN EQUIVALENT RATING BY THE DEPARTMENT UNDER A
21 COMPARABLE RATING SYSTEM). THE REGULATIONS ADOPTED UNDER THIS
22 SECTION SHALL BE NO LESS RESTRICTIVE THAN THOSE PROMULGATED BY
23 THE OFFICE OF THRIFT SUPERVISION FOR FEDERALLY CHARTERED SAVINGS
24 BANKS.

25 * * *

26 SECTION 2. SECTION 116(K) OF THE ACT, ADDED JUNE 25, 1986
27 (P.L.259, NO.69), IS AMENDED TO READ:

28 SECTION 116. AUTHORIZATION OF RECIPROCAL INTERSTATE BANKING

29 * * *

30 (K) ESTABLISHMENT OF ADVISORY COMMISSION--FOR THE PURPOSE OF

1 ADVISING THE DEPARTMENT IN THE CONDUCT OF ITS FUNCTIONS UNDER
2 SUBSECTIONS (I) AND (J) AND AS OTHERWISE PROVIDED IN THIS <—
3 SUBSECTION, THERE IS HEREBY ESTABLISHED AN ADVISORY COMMISSION
4 WHICH SHALL CONSIST OF NINE INDIVIDUALS SELECTED AS FOLLOWS:
5 FIVE MEMBERS APPOINTED BY THE GOVERNOR, ONE OF WHOM MAY BE
6 SELECTED FROM A LIST OF AT LEAST THREE NAMES SUBMITTED BY THE
7 PENNSYLVANIA BANKERS ASSOCIATION, ONE OF WHOM MAY BE SELECTED
8 FROM A LIST OF AT LEAST THREE NAMES SUBMITTED BY THE ASSOCIATION
9 OF SAVINGS INSTITUTIONS, ONE OF WHOM MAY BE SELECTED FROM A LIST
10 OF AT LEAST THREE NAMES SUBMITTED BY THE PENNSYLVANIA CREDIT
11 UNION LEAGUE, ONE OF WHOM SHALL HAVE BEEN SELECTED BY THE
12 GOVERNOR TO BROADLY REPRESENT BUSINESS INTERESTS AND ONE OF WHOM
13 SHALL HAVE BEEN SELECTED BY THE GOVERNOR TO BROADLY REPRESENT
14 CONSUMER INTEREST; AND ONE MEMBER EACH APPOINTED BY THE
15 PRESIDENT PRO TEMPORE AND THE MINORITY LEADER OF THE SENATE AND
16 THE SPEAKER AND MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES.
17 THE TERM OF THE INITIAL MEMBER OF THE ADVISORY COMMISSION SHALL
18 BE UNTIL DECEMBER 31, 1988, AND THE TERM OF EACH MEMBER
19 THEREAFTER SHALL BE TWO CALENDAR YEARS. THE SECRETARY OF BANKING
20 SHALL MEET WITH THE ADVISORY COMMISSION AT LEAST QUARTERLY FOR
21 THE FIRST YEAR AND THEREAFTER [AT LEAST ANNUALLY] AS DETERMINED <—
22 BY THE SECRETARY THREE TIMES A YEAR. EACH MEMBER SHALL BE <—
23 ENTITLED TO RECEIVE TRAVEL AND RELATED EXPENSES AND SUCH PER
24 DIEM HONORARIUM AS THE DEPARTMENT SHALL DETERMINE TO BE PAID
25 FROM THE FEES RECEIVED BY THE DEPARTMENT UNDER THIS SECTION. THE
26 ADVISORY COMMISSION SHALL PROVIDE INFORMATION, OPINIONS AND
27 RECOMMENDATIONS AS TO GUIDELINES THE DEPARTMENT MAY ESTABLISH,
28 FROM TIME TO TIME, FOR THE PURPOSE OF DETERMINING THE OVERALL
29 PERFORMANCE OF AN INSTITUTION OR COMPANY UNDER SUBSECTION (I)
30 AND THE AVAILABILITY OF BASIC TRANSACTION ACCOUNT SERVICES UNDER

1 SUBSECTION (J). IN ADDITION, THE ADVISORY COMMISSION SHALL <—
2 SUBMIT TO THE DEPARTMENT A MINIMUM OF THREE REPORTS EACH YEAR.
3 EACH REPORT SHALL INCLUDE RECOMMENDATIONS RELATIVE TO BANKING
4 OPERATIONS IN THIS COMMONWEALTH. ALL DECISIONS AND
5 DETERMINATIONS MADE UNDER THIS SECTION SHALL BE MADE BY THE
6 DEPARTMENT.

7 * * *

8 SECTION ~~2~~ 3. SECTION ~~310(E) OF THE ACT IS AMENDED~~ 310(D) OF <—
9 THE ACT, AMENDED MAY 21, 1980 (P.L.173, NO.51), IS AMENDED AND
10 SUBSECTION (E) IS AMENDED BY ADDING A CLAUSE TO READ:
11 SECTION 310. REAL ESTATE LOANS

12 * * *

13 (D) REQUIREMENTS IN CONNECTION WITH LOANS--THE REQUIREMENTS <—
14 FOR A LOAN SUBJECT TO THIS SECTION SHALL BE:

15 (I) THE LOAN SHALL BE EVIDENCED BY A BOND, NOTE OR OTHER
16 OBLIGATION AND THE LIEN SECURING SUCH LOAN SHALL BE OBTAINED
17 BY A MORTGAGE, DEED OF TRUST OR JUDGMENT;

18 (II) THE LIEN SHALL BE A FIRST LIEN (EXCEPT FOR A LIEN
19 OF TAXES, ASSESSMENTS OR CHARGES WHICH ARE NOT YET DUE OR
20 WHICH ARE PAYABLE WITHOUT PENALTY) UNLESS ALL PRIOR LIENS ARE
21 HELD BY THE INSTITUTION AND THE AGGREGATE OF ALL LOANS BY THE
22 INSTITUTION SECURED BY LIENS ON THE REAL ESTATE SATISFY ALL
23 OTHER REQUIREMENTS OF THIS SECTION PERTAINING TO SUCH LOANS;

24 (III) THE VALUE OF THE REAL ESTATE SHALL BE DETERMINED
25 EITHER BY A REAL ESTATE APPRAISER QUALIFIED IN THE STATE
26 WHERE THE REAL ESTATE IS LOCATED WHO SHALL INSPECT THE REAL
27 ESTATE AND STATE ITS VALUE TO THE BEST OF HIS JUDGMENT IN A
28 WRITTEN REPORT SIGNED BY HIM WHICH MUST BE PRESERVED IN THE
29 RECORDS OF THE INSTITUTION OR IN THE ALTERNATIVE BY AN
30 APPRAISAL SIGNED BY TWO REPUTABLE PERSONS WHO SHALL:

1 (A) BE DIRECTORS OF THE INSTITUTION OR SELECTED IN A
2 MANNER AUTHORIZED BY THE DIRECTORS,

3 (B) BE FAMILIAR WITH REAL ESTATE VALUES IN THE
4 VICINITY WHERE THE REAL ESTATE IS LOCATED, AND

5 (C) INSPECT THE REAL ESTATE AND STATE ITS VALUE TO
6 THE BEST OF THEIR JUDGMENT IN A WRITTEN REPORT WHICH MUST
7 BE PRESERVED IN THE RECORDS OF THE INSTITUTION. IN THE
8 EVENT THE APPRAISERS ARRIVE AT DIFFERENT CONCLUSIONS AS
9 TO THE VALUE OF THE REAL ESTATE, IT SHALL BE PERMISSIBLE
10 TO USE THE AVERAGE OF THEIR TWO APPRAISALS TO DETERMINE
11 THE VALUE OF THE REAL ESTATE: PROVIDED, HOWEVER, THAT
12 EACH VALUATION IS STATED IN THE REPORT;

13 (IV) [INSURANCE] INSURANCE, AS EVIDENCED BY A POLICY OR
14 BINDER OR A COPY OF EITHER, AGAINST LOSS FROM FIRE ON ALL
15 BUILDINGS ON THE REAL ESTATE WHICH ARE INCLUDED IN THE
16 APPRAISED VALUE, ISSUED BY INSURERS ACCEPTABLE TO THE
17 INSTITUTION AND AUTHORIZED TO DO BUSINESS WHERE THE REAL
18 ESTATE IS LOCATED AND IN FORM AND AMOUNT SATISFACTORY TO THE
19 INSTITUTION, SHALL BE MAINTAINED DURING THE TERM OF THE LOAN
20 BY OR AT THE EXPENSE OF THE BORROWER, EXCEPT THAT THE
21 INSTITUTION MAY AT ITS OWN EXPENSE MAINTAIN SUCH INSURANCE
22 COVERING ONLY ITS INTEREST AS LENDER; [AND]

23 (V) THE BORROWER SHALL PAY ALL EXPENSES IN CONNECTION
24 WITH THE LOAN FOR TITLE INSURANCE, SEARCHES AND CERTIFICATES,
25 APPRAISAL FEES AND FEES FOR PREPARATION AND RECORDING OF
26 DOCUMENTS[.]; AND

27 (VI) AN INSTITUTION MAY MAKE A SINGLE DELINQUENCY CHARGE
28 FOR EACH PAYMENT IN ARREARS FOR A PERIOD OF MORE THAN FIFTEEN
29 DAYS OTHER THAN BY REASON OF ACCELERATION OR BY REASON OF A
30 DELINQUENCY ON A PRIOR PAYMENT.

(E) EXCEPTED LOANS--THE RESTRICTIONS AND REQUIREMENTS OF
THIS SECTION SHALL NOT APPLY TO:

* * *

(VIII) A RESIDENTIAL MORTGAGE LOAN SECURED BY REAL
ESTATE LOCATED IN A LOW TO MODERATE INCOME AREA.

* * *

SECTION ~~3~~ 4. SECTION 1403(B) OF THE ACT IS AMENDED TO READ: <—
Section 1403. Number, Qualifications and Eligibility of
Directors or Trustees

* * *

(b) Qualifications--Each director or trustee shall be a
citizen of the United States: PROVIDED, HOWEVER, THAT THIS <—
CITIZENSHIP REQUIREMENT MAY BE WAIVED FOR NOT MORE THAN TWENTY
PERCENT OF THE TOTAL NUMBER OF DIRECTORS OF AN INSTITUTION OR
TRUSTEES OF A SAVINGS BANK WITH THE PRIOR WRITTEN APPROVAL OF
THE DEPARTMENT and at least two-thirds of the directors or
trustees [shall be residents of Pennsylvania] must have resided
in Pennsylvania or within one hundred miles of the location of
the institution for at least one year immediately preceding
their election and must be a~~resident~~ RESIDENTS of Pennsylvania <—
or reside within one hundred miles of the location of the
institution during their continuance in office.

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SECTION ~~4~~ 5. SECTION 2005 OF THE ACT, AMENDED DECEMBER 17, <—
1982 (P.L.1367, NO.313), IS AMENDED TO READ:

SECTION 2005. ADDITIONAL POWERS OF THE DEPARTMENT OF BANKING

(A) FUNCTIONS OF DEPARTMENT--THE FUNCTIONS OF THE DEPARTMENT
OF BANKING SHALL BE:

(I) TO EXERCISE THE POWER TO REMOVE FROM HIS OFFICE OR
POSITION AN OFFICER, EMPLOYEE, DIRECTOR, TRUSTEE OR ATTORNEY

1 OF AN INSTITUTION PURSUANT TO THE PROVISIONS OF SECTION 501
2 OF THE DEPARTMENT OF BANKING CODE.

3 (II) TO EXERCISE THE POWER TO SUSPEND FROM HIS OFFICE OR
4 POSITION AN OFFICER, EMPLOYE, DIRECTOR, TRUSTEE OR ATTORNEY
5 OF AN INSTITUTION IF THE DEPARTMENT OF BANKING SERVES WRITTEN
6 NOTICE UNDER SECTION 501 OF THE DEPARTMENT OF BANKING CODE,
7 TO AN INSTITUTION, ITS OFFICERS, EMPLOYE, DIRECTOR, TRUSTEE
8 OR ATTORNEY OF THE DEPARTMENT'S INTENTION TO ISSUE AN ORDER
9 UNDER SUCH CLAUSE, THE DEPARTMENT MAY SUSPEND SUCH PARTY FROM
10 OFFICE OR PROHIBIT SUCH PARTY FROM FURTHER PARTICIPATION IN
11 ANY MANNER IN THE CONDUCT OF THE AFFAIRS OF THE INSTITUTION,
12 IF THE DEPARTMENT:

13 (A) DETERMINES THAT SUCH ACTION IS NECESSARY FOR THE
14 PROTECTION OF THE DEPOSITORY INSTITUTION OR THE INTERESTS
15 OF THE DEPOSITORY INSTITUTIONS'S DEPOSITORS; AND

16 (B) SERVES SUCH PARTY WITH WRITTEN NOTICE OF THE
17 SUSPENSION ORDER.

18 (B) EFFECT OF ORDER--ANY SUSPENSION ORDER ISSUED UNDER THIS
19 SECTION SHALL BECOME EFFECTIVE UPON SERVICE AND UNLESS A COURT
20 OF COMPETENT JURISDICTION ISSUES A STAY OF SUCH ORDER, SHALL
21 REMAIN IN EFFECT AND ENFORCEABLE UNTIL THE DATE THE DEPARTMENT
22 DISMISSES THE CHARGES ON THE EFFECTIVE DATE OF AN ORDER ISSUED
23 BY THE DEPARTMENT UNDER SECTION 501 OF THE DEPARTMENT OF BANKING
24 CODE.

25 Section ~~2-5~~ 6. This act shall take effect in 30 days.

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