

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2650 Session of
1994

INTRODUCED BY LESCOVITZ, CESSAR, COY, WOZNIAK, OLASZ, GODSHALL,
McCALL, M. N. WRIGHT AND ALLEN, MARCH 23, 1994

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 14, 1994

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," PROVIDING FOR INDEMNITY AND IMMUNITY OF CERTAIN <—
17 DIRECTORS; AND further providing for mergers, consolidations
18 and conversions of savings banks.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. Section 1609(a) and (b) of the act of November~~ <—
22 ~~30, 1965 (P.L.847, No.356), known as the Banking Code of 1965,~~

23 SECTION 1. SECTION 102 OF THE ACT OF NOVEMBER 30, 1965 <—
24 (P.L.847, NO.356), KNOWN AS THE BANKING CODE OF 1965, IS AMENDED
25 BY ADDING A SUBSECTION TO READ:

SECTION 102. DEFINITIONS

SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT CHAPTERS OF THIS ACT WHICH ARE APPLICABLE TO SPECIFIC CHAPTERS OR SECTIONS THEREOF, THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE MEANINGS GIVEN TO THEM IN THIS SECTION:

* * *

(Z.1) "SPECIAL INSTITUTION"--ANY OF THE FOLLOWING:

(I) A STATE-CHARTERED BANK WHICH MEETS ALL OF THE FOLLOWING CRITERIA:

(A) HAS PREVIOUSLY ASSUMED OR MAY ASSUME DEPOSIT LIABILITIES OF AN ENTITY WHICH WAS SUBJECT TO THE SUPERVISION OF THE DEPARTMENT UNDER THE ACT OF MAY 15, 1933 (P.L.565, NO.111), KNOWN AS THE "DEPARTMENT OF BANKING CODE," THE ACT OF DECEMBER 14, 1967 (P.L.746, NO.345), KNOWN AS THE "SAVINGS ASSOCIATION CODE OF 1967," OR THIS ACT AND WHOSE DEPOSITS WERE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER FEDERAL AGENCY AUTHORIZED BY LAW TO INSURE DEPOSITS.

(B) IS WHOLLY OWNED DIRECTLY OR INDIRECTLY BY AN AGENCY OR INSTRUMENTALITY OF THE COMMONWEALTH, INCLUDING SPECIFICALLY, THE STATE WORKMEN'S INSURANCE FUND.

(C) HAS DEPOSITS THAT ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER FEDERAL AGENCY AUTHORIZED BY LAW TO INSURE DEPOSITS.

(II) THE NON-PROFIT CORPORATION CREATED BY THE ACT OF APRIL 6, 1979 (P.L.17, NO.5), REFERRED TO AS THE PENNSYLVANIA SAVINGS ASSOCIATION INSURANCE CORPORATION ACT.

* * *

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

1 SECTION 1417. INDEMNITY AND IMMUNITY OF CERTAIN DIRECTORS

2 (A) INDEMNITY--

3 (I) THE DEPARTMENT SHALL HAVE THE POWER AND ITS DUTY
4 SHALL BE TO PROCURE, ON BEHALF OF THE MEMBERS OF THE BOARD OF
5 DIRECTORS OF SPECIAL INSTITUTIONS AS DEFINED IN SECTION
6 102(Z.1)(I), DIRECTORS' LIABILITY INSURANCE OR SUCH OTHER
7 CONTRACT OF INSURANCE PROVIDING FOR THE INDEMNIFICATION OF
8 THESE DIRECTORS AGAINST ANY LIABILITY ASSERTED AGAINST THEM
9 OR INCURRED BY THEM SOLELY IN THEIR CAPACITY OR ARISING OUT
10 OF THEIR STATUS AS DIRECTORS, INCLUDING ACTIONS UNDERTAKEN IN
11 CONNECTION WITH THE ORGANIZATION OF THE SPECIAL INSTITUTION.

12 (II) THE DEPARTMENT SHALL HAVE THE POWER AND ITS DUTY
13 SHALL BE TO PROCURE, ON BEHALF OF THE MEMBERS APPOINTED BY
14 THE GOVERNOR OF THE BOARD OF DIRECTORS OF SPECIAL
15 INSTITUTIONS AS DEFINED IN SECTION 102(Z.1)(II), DIRECTORS'
16 LIABILITY INSURANCE OR SUCH OTHER CONTRACT OF INSURANCE
17 PROVIDING FOR THE INDEMNIFICATION OF THESE DIRECTORS AGAINST
18 ANY LIABILITY ASSERTED AGAINST THEM OR INCURRED BY THEM
19 SOLELY IN THEIR CAPACITY OR ARISING OUT OF THEIR STATUS AS
20 DIRECTORS, INCLUDING ACTIONS UNDERTAKEN IN CONNECTION WITH
21 THE ORGANIZATION OF THE SPECIAL INSTITUTION.

22 (III) THE DEPARTMENT IS AUTHORIZED TO PROVIDE OTHERWISE
23 FOR INDEMNIFICATION UNDER THIS SUBSECTION IN LIEU OF
24 DIRECTORS' LIABILITY INSURANCE.

25 (IV) INDEMNIFICATION UNDER THIS SUBSECTION INCLUDES, BUT
26 IS NOT LIMITED TO, EXPENSES AND FEES INCURRED IN DEFENDING
27 ANY ACTION OR PROCEEDING RELATING TO THEIR STATUS AS
28 DIRECTORS.

29 (B) IMMUNITY--NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
30 THE CONTRARY, THE DIRECTORS OF A SPECIAL INSTITUTION SHALL BE

1 DEEMED TO BE COMMONWEALTH EMPLOYEES SUBJECT TO AND FOR ALL OF THE
2 PURPOSES OF 42 PA.C.S. CH. 85 (RELATING TO MATTERS AFFECTING
3 GOVERNMENT UNITS). THE IMMUNITY CONFERRED UNDER THIS SUBSECTION
4 SHALL APPLY TO ALL ACTIONS OF THE DIRECTORS, IN ACCORDANCE WITH
5 SUBSECTION (A), INCLUDING ACTIONS UNDERTAKEN IN CONNECTION WITH
6 THE ORGANIZATION OF THE SPECIAL INSTITUTION.

7 (C) APPLICABILITY--THIS SECTION SHALL APPLY TO ALL ACTIONS
8 TAKEN AS MEMBERS OF THE BOARD OF DIRECTORS, IN ACCORDANCE WITH
9 SUBSECTION (A), PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

10 SECTION 3. SECTION 1609(A) AND (B) OF THE ACT, amended July
11 6, 1984 (P.L.606, No.125), July 6, 1984 (P.L.621, No.128), July
12 10, 1986 (P.L.1393, No.119), December 18, 1986 (P.L.1702,
13 No.205) and December 18, 1990 (P.L.766, No.191), are amended to
14 read:

15 Section 1609. Mergers, Consolidations and Conversions of
16 Savings Banks

17 (a) Authority to merge, consolidate or convert--

18 (i) upon compliance with the requirements of sections
19 1602, 1603, 1604, 1605 and 1606, a savings bank may enter
20 into a merger or consolidation with one or more other savings
21 banks. In the event the book value of the total assets of the
22 acquired savings bank is less than one percent in excess of
23 the book value of the total liabilities, the resulting
24 institution may maintain as a branch, any office operated by
25 the acquired institution.

26 (ii) upon compliance with the requirements of this
27 section and other applicable law, one or more savings banks
28 and one or more associations may merge into a savings bank or
29 into an association or consolidate into a new savings bank or
30 a new association. The word "association" in this chapter

1 shall mean an association subject to the Savings Association
2 Code of 1967.

3 (iii) upon compliance with the requirements of this
4 section and other applicable law,

5 (A) one or more savings banks, one or more Federal
6 savings banks and one or more Federal savings and loan
7 associations may merge into a savings bank, Federal
8 savings bank or a Federal savings and loan association or
9 consolidate into a new savings bank, a new Federal
10 savings bank or a new Federal savings and loan
11 association,

12 (B) one or more savings banks may merge or
13 consolidate with a regional thrift institution, and,
14 after March 4, 1990, with a foreign thrift institution,
15 as those terms are defined in and subject to any
16 applicable limits of section 117, and

17 (C) a business corporation which owns all of the
18 issued and outstanding shares of a savings bank may merge
19 into such savings bank.

20 (iv) the authority of a savings bank to merge or
21 consolidate into a Federal savings bank or Federal savings
22 and loan association shall be subject to the condition that
23 at the time of the transaction the laws of the United States
24 shall authorize a Federal savings bank or Federal savings and
25 loan association to merge or consolidate into a savings bank.

26 (v) upon compliance with the requirements of this
27 section and other applicable law,

28 (A) a savings bank may be converted into an
29 association,

30 (B) a savings bank may be converted into a Federal

1 savings bank or a Federal savings and loan association,
2 subject to the condition that at the time of the
3 transaction the laws of the United States shall authorize
4 a Federal savings bank or a Federal savings and loan
5 association to convert into a savings bank, or

6 (C) an association may convert to a savings bank. An
7 association whose deposits were insured by the
8 Pennsylvania Savings Association Insurance Corporation
9 prior to conversion may maintain all existing branches
10 operating at the time application for conversion is made
11 if the application is made within ninety days of the
12 effective date of this subclause.

13 (vi) upon compliance with the requirements of this
14 section and other applicable law and subject to the laws of
15 the United States, a Federal savings bank or a Federal
16 savings and loan association may be converted into a savings
17 bank or an association.

18 (vii) upon compliance with the requirements of this
19 section, a mutual savings bank may be converted into a stock
20 savings bank. A stock savings bank shall have authority, upon
21 compliance with the requirements of this section, to enter
22 into a merger or consolidation with one or more other stock
23 savings banks, banks, national banking associations, bank and
24 trust companies, trust companies or stock savings and loan
25 associations.

26 (viii) all mergers, consolidations and conversions in
27 which the resulting corporation is a savings bank or an
28 association shall be subject to the approval of the
29 department.

30 (b) Requirements for a merger, consolidation or conversion--

1 The requirements for a merger, consolidation or conversion under
2 clauses (ii), (iii), (v), (vi) or (vii) of subsection (a) which
3 must be satisfied by the parties thereto are as follows:

4 (i) the parties shall adopt a plan stating the method,
5 terms and conditions of the merger, consolidation or
6 conversion, including the rights under the plan of the
7 members, depositors and shareholders, if any, of each of the
8 parties, and any agreement concerning the merger or
9 consolidation.

10 (ii) if the proposed merger, consolidation or conversion
11 will result in a Federal savings bank, a savings bank, a
12 Federal savings and loan association or an association,
13 adoption of the plan by each party thereto shall require the
14 affirmative vote,

15 (A) in the case of a mutual savings bank, of at
16 least two-thirds of the trustees present at a meeting at
17 which the plan is proposed, and two-thirds of all the
18 trustees at a subsequent meeting held upon not less than
19 ten days' notice to all the trustees,

20 (B) in the case of a stock savings bank, of at least
21 a majority of the trustees, at a meeting held upon not
22 less than ten days' notice to all the trustees, and of
23 the shareholders entitled to cast at least two-thirds of
24 the votes which all shareholders are entitled to cast
25 thereon, at a meeting held upon not less than ten days'
26 notice to all shareholders,

27 (C) in the case of a Federal savings bank, a Federal
28 savings and loan association or an association, of two-
29 thirds of the entire membership of the board of
30 directors,

1 (D) in the case of any other party, such vote as is
2 required by law for merger, consolidation or conversion,
3 and

4 (E) in the case of the notice required to be given
5 to the trustees of a savings bank and to the shareholders
6 of a stock savings bank shall include a copy or summary
7 of the plan. The department may require such vote of the
8 members of an association as it deems proper.

9 (iii) any modification of a plan which has been adopted
10 shall be made by any method provided therein, or in the
11 absence of such provision by the same vote as that required
12 for adoption.

13 (iv) if a proposed merger, consolidation or conversion
14 will result in a savings bank or an association, an
15 application for the required approval thereof by the
16 department shall be made in a manner prescribed by the
17 department. The department may require notice to be given to
18 such persons as it designates. There shall also be delivered
19 to the department:

20 (A) articles of merger, consolidation or conversion,

21 (B) applicable fees payable to the department in
22 connection with the articles and with the conduct of the
23 investigation required by subsection (e),

24 (C) if the resulting corporation is an association,
25 any documents or other items required under the Savings
26 Association Code of 1967.

27 (D) if the proposed name of the resulting savings
28 bank or association is not identical with the name of one
29 of the parties to the plan, evidence of reservation of
30 such name in the Department of State, and

1 (E) if there is any modification of the plan at any
2 time prior to the approval by the department, an
3 amendment of the application and, if necessary, of the
4 articles, signed in the same manner as the originals,
5 setting forth the modification of the plan, the method by
6 which such modification was adopted and any related
7 change in the provisions of the articles of merger,
8 consolidation or conversion.

9 (v) If a proposed merger, consolidation or conversion
10 will result in a national banking association, all
11 requirements of the applicable Federal law shall be met.

12 * * *

13 SECTION 4. THE PROVISIONS OF THIS ACT ARE SEVERABLE. IF ANY <—
14 PROVISION OF THIS ACT OR ITS APPLICATION TO ANY PERSON OR
15 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY SHALL NOT AFFECT
16 OTHER PROVISIONS OR APPLICATIONS OF THIS ACT WHICH CAN BE GIVEN
17 EFFECT WITHOUT THE INVALID PROVISION OR APPLICATION.

18 Section 2 5. This act shall take effect immediately. <—