

DEPARTMENT OF BANKING AND SECURITIES CODE - FUND

Act of Jun. 30, 2021, P.L. 199, No. 39

Cl. 07

Session of 2021

No. 2021-39

HB 859

AN ACT

Amending the act of May 15, 1933 (P.L.565, No.111), entitled "An act relating to the powers and duties of the Department of Banking and Securities and the Secretary of Banking and Securities in exercising supervision over, and taking possession of and conducting or liquidating the business and property of, corporations, associations, and persons receiving deposits or otherwise transacting a banking business, corporations acting as fiduciaries, and building and loan associations; providing for the payment of the expenses of the Department of Banking by supervised corporations, associations, or persons, and appropriating the Banking Department Fund; authorizing the Department of Banking, under certain circumstances, to examine corporations, associations, or persons affiliated, or having business transactions with supervised corporations, associations or persons; authorizing appeals to the Supreme Court, and prescribing and limiting the powers and duties of certain other courts and their prothonotaries, registers of wills, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services rendered under this act; regulating securities; providing penalties; and repealing certain acts and parts of acts," in banking and securities, further providing for fund.

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

Section 1. Section 1113-A of the act of May 15, 1933 (P.L.565, No.111), known as the Department of Banking and Securities Code, is amended to read:

Section 1113-A. [Fund] **Banking Trust Fund.**

(a) [Continuation] **Banking Trust Fund.**--The Banking Department Fund [is] redesignated as the Banking Fund[.] **is converted into a trust fund to be administered for the benefit of institutions, credit unions, licensees and their customers, except for persons subject to regulation under the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972. The fund shall be administered by the department. All interest earned from the investment or deposit of money accumulated in the fund shall be deposited in the fund for the same use. All money deposited into the fund shall be held in trust and shall not be considered general revenue of the Commonwealth and shall be used only to effectuate the purposes of this section as determined by the department and shall be subject to audit by the Auditor General.**

(b) **Sources of the Banking Trust Fund.**--The sources of the fund are as follows:

(1) Money collected or received by the department arising from:

(i) fees, assessments, charges and penalties relating to the regulation of [associations,] credit unions, institutions and licensees;

(ii) the sale by the Department of General Services of unserviceable property originally paid for out of the fund; and

(iii) similar sources.

(2) The sources of the fund shall not include fees, assessments, charges and penalties generated from:

(i) the [act of December 5, 1972 (P.L.1280, No.284), known as the] Pennsylvania Securities Act of 1972; or

(ii) the act of March 3, 1976 (P.L.42, No.19), known as the Takeover Disclosure Law.

(c) Use **of the Banking Trust Fund.**--The fund shall be used by the department to pay its expenses **relating to the examination and regulation of institutions, credit unions and licensees, except for persons subject to regulation under the Pennsylvania Securities Act of 1972**, including the following:

(1) Salaries of the secretary, the deputies, the examiners, the other employees of the department and attorneys.

(2) Rental and other expenses for offices, rooms, garage space and other accommodations, regardless of the municipality in which they are located, occupied by the department. This paragraph excludes offices, rooms, garage space and accommodations in the Capitol Complex.

(3) Premiums for workers' compensation insurance covering the officers and employees of the department.

(4) Premiums for surety bonds for officers and employees of the department required by law to furnish the bonds.

(5) Furniture, stationery, materials, supplies and overhead expenses of the department.

**(c.1) Operating reserves of the Banking Trust Fund.**--The fund shall maintain an adequate operating reserve as determined by the secretary to be necessary to ensure the ability of the department to continue to pay its expenses described in subsection (c) in the event of adverse economic conditions, the loss of revenue as a result of institutions, credit unions or licensees becoming subject to the jurisdiction of another primary regulator or emergencies. In determining the amount of the reserve to be held by the fund, the secretary shall take into consideration the accreditation requirements of the Conference of State Bank Supervisors, the National Association of State Credit Union Supervisors and the American Association of Residential Mortgage Regulators.

(d) Department of General Services.--Purchases and leases under subsection (c) shall be made through the Department of General Services, as agent. Contracts of insurance and surety bonds under subsection (c) shall be placed through the Department of General Services, as agent.

(e) Restrictions on appropriations.--

(1) For fiscal years beginning after June 30, 1995, and ending before July 1, 2012, the General Assembly shall appropriate funds as it determines to be necessary from the fund for use by the department or other Commonwealth agencies.

(2) For fiscal years beginning after June 30, 2012, the General Assembly shall appropriate the funds as it determines to be necessary from the [fund] **Banking Trust Fund** for use only by the department and not for any other Commonwealth agency.

(f) Warrant.--Money in the [fund] **Banking Trust Fund** appropriated to the department shall be paid out upon warrant of the State Treasurer drawn after requested by the secretary.

(g) Institution Resolution Account.--

(1) The Institution Resolution Account is established as a restricted account within the [fund] **Banking Trust Fund**.

(2) The sources of the account are as follows:

(i) An amount determined by the secretary each fiscal year based upon economic and regulatory conditions from assessments, fees and administrative penalties generated from statutes administered by the department other than:

(A) the Pennsylvania Securities Act of 1972; or

(B) the Takeover Disclosure Law.

(ii) Amounts received from court litigation involving the department.

(3) The secretary may use the money in the account to pay for costs associated with any of the following:

(i) Resolution of an institution [or an association,] under Article X. Money under this subparagraph may be used in lieu of paying expenses from the assets of an institution [or association] under section 1006.

(ii) Seizure and liquidation of a credit union under 17 Pa.C.S. § 503 (relating to regulation by department).

**(4) In determining the amount to pay into the Institution Resolution Account each year pursuant to paragraph (1), the secretary shall do so in a manner that builds up a reserve sufficient to pay costs as described in paragraph (3) in a manner that will allow the department to discharge its obligations to resolve, seize or liquidate an institution or credit union without impairing the ability of the department to continue to perform its other duties. Section 2. This act shall take effect immediately.**

APPROVED--The 30th day of June, A.D. 2021.

TOM WOLF