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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 97

Session of 2007

INTRODUCED BY D. WHITE, ARMSTRONG, CORMAN, EARLL, PUNT, RAFFERTY, BRUBAKER, WOZNIAK, PIPPY, BROWNE, STACK, REGOLA AND WONDERLING, FEBRUARY 15, 2007

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 25, 2007

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing, in bank and trust company shares tax, for ascertainment of taxable amount and exclusion of United States obligations.

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

Section 1. Section 701.1 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended June 16, 1994 (P.L.279, No.48), is amended to read:

Section 701.1. Ascertainment of Taxable Amount; Exclusion of United States Obligations.--(a) The taxable amount of shares shall be ascertained and fixed by adding together the value determined under subsection (b) for the current and preceding five years and dividing the resulting sum by six. If an institution has not been in existence for a period of six years, the taxable amount of shares shall be ascertained and fixed by adding together the values determined under subsection (b) for the number of years the institution has been in existence and dividing the resulting sum by such number of years.

(b) The value for each year required by subsection (a) shall be determined by [adding together] deducting from the book value of [capital stock paid in, the book value of the surplus and the book value of undivided profits with a deduction from the total thereof of] total equity capital an amount equal to the same percentage of [such total] total equity capital as the book value of obligations of the United States bears to the book value of the total assets[.], except that for the value of shares reported on tax returns due on ~~January 1,~~ MARCH 15, 2008, <—— and thereafter, any goodwill recorded as a result of the use of purchase accounting for an acquisition or combination as described in this section and occurring after June 30, 2001, may be subtracted from the book value of total equity capital and disregarded in determining the deduction provided for obligations of the United States for the six-year period described in subsection (a). For purposes of this subsection, book values and deductions for United States obligations for each year shall be determined by the Reports of Condition for each calendar quarter of the preceding calendar year in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or other applicable regulatory authority; and book values shall be averaged as calculated by averaging book values as determined by such Reports of Condition. For purposes of this article, United

States obligations shall be obligations coming within the scope of 31 U.S.C. § 3124. For any year in which an institution does not file four quarterly Reports of Condition, book values and deductions for United States obligations shall be determined by adding together the book values and deductions for United States obligations from each quarterly Reports of Condition filed for such year and dividing the resulting sums by the number of such Reports of Condition. In the case of institutions which do not file such Reports of Condition, book values shall be determined by generally accepted accounting principles as of the end of each calendar quarter. For any year in which an institution which does not file Reports of Condition is not in existence for four quarters, the book value for that year shall be determined by adding together the book values for each quarter in which the institution was in existence and dividing by that number of quarters. For purposes of this section, a partial year shall be treated as a full year.

(c) For purposes of this section:

(1) a mere change in identity, form or place of organization of one institution, however effected, shall be treated as if a single institution had been in existence prior to as well as after such change; and

(2) the combination of two or more institutions into one shall be treated as if the constituent institutions had been a single institution in existence prior to as well as after the combination and the book values and deductions for United States obligations from the Reports of Condition of the constituent institutions shall be combined. For purposes of [the preceding sentence] <u>this section</u>, a combination shall include any acquisition required to be accounted for [by the surviving

institution under the pooling of interest method] <u>by using the purchase method</u> in accordance with generally accepted accounting principles or a statutory merger or consolidation.

Section 2. The amendment of section 701.1 of the act is not intended to reverse or modify the ruling of First Union National Bank v. Commonwealth, 867 A.2d 711 (Pa. Cmwlth. 2005).

Section 3. This act shall take effect in 60 days or December 31, 2007, whichever is sooner.