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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2862 Session of  
2020

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INTRODUCED BY DELOZIER, M. K. KELLER, GALLOWAY, DUNBAR, GLEIM,  
JAMES, MARSHALL, MILLARD, ROTHMAN, RYAN, SAYLOR, SCHLOSSBERG  
AND READSHAW, SEPTEMBER 15, 2020

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REFERRED TO COMMITTEE ON COMMERCE, SEPTEMBER 15, 2020

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AN ACT

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

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

27 Section 1. Section 1113-A of the act of May 15, 1933  
28 (P.L.565, No.111), known as the Department of Banking and

1 Securities Code, is amended to read:

2 Section 1113-A. [Fund] Trust funds; money received from  
3 licensees.

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

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

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

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

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

28 (iii) similar sources.

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

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

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

5 (iii) portions of the money under paragraph (1)  
6 determined by the secretary to be paid into the  
7 Institution Resolution Trust Fund under subsection (g).

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

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

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

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

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

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

27 (c.1) Operating reserves of the Banking Trust Fund.--The  
28 fund shall maintain an adequate operating reserve as determined  
29 by the secretary to be necessary to ensure the ability of the  
30 department to continue to pay its expenses described in

1 subsection (c) in the event of adverse economic conditions, the  
2 loss of revenue as a result of institutions or licensees  
3 becoming subject to the jurisdiction of another primary  
4 regulator or emergencies. In determining the amount of the  
5 reserve to be held by the fund, the secretary shall take into  
6 consideration the accreditation requirements of the Conference  
7 of State Bank Supervisors, the National Association of State  
8 Credit Union Supervisors and the American Association of  
9 Residential Mortgage Regulators.

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

15 (e) Restrictions on appropriations.--

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

21 (2) For fiscal years beginning after June 30, 2012, the  
22 General Assembly shall appropriate the funds as it determines  
23 to be necessary from the fund and the Institution Resolution  
24 Trust Fund for use only by the department and not for any  
25 other Commonwealth agency.

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

30 (g) Institution Resolution [Account] Trust Fund.--

1           (1) The Institution Resolution Account is [established  
2 as a restricted account within the fund.] converted into a  
3 trust fund to be administered for the benefit of banks, bank  
4 and trust companies, trust companies, savings banks, credit  
5 unions and their customers. The Institution Resolution Trust  
6 Fund shall be administered by the department. All interest  
7 earned from the investment or deposit of money accumulated in  
8 the fund shall be deposited in the fund for the same use. All  
9 money deposited into the fund shall be held in trust and  
10 shall not be considered general revenue of the Commonwealth  
11 and shall be used only to effectuate the purposes of this  
12 subsection as determined by the department and shall be  
13 subject to audit by the Auditor General.

14           (2) The sources of the [account] Institution Resolution  
15 Trust Fund are as follows:

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

- 21                   (A) the Pennsylvania Securities Act of 1972; or  
22                   (B) the Takeover Disclosure Law.

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

25           (3) The secretary may use the money in the [account]  
26 Institution Resolution Trust Fund to pay for costs associated  
27 with any of the following:

28           (i) Resolution of an institution or an association,  
29 under Article X. Money under this subparagraph may be  
30 used in lieu of paying expenses from the assets of an

1 institution or association under section 1006.

2 (ii) Seizure and liquidation of a credit union under  
3 17 Pa.C.S. § 503 (relating to regulation by department).

4 (4) In determining the amount to pay into the  
5 Institution Resolution Trust Fund each year pursuant to  
6 paragraph (1), the secretary shall do so in a manner that  
7 builds up a reserve sufficient to pay costs as described in  
8 paragraph (3) in a manner that will allow the department to  
9 discharge its obligations to resolve, seize or liquidate an  
10 institution or credit union without impairing the ability of  
11 the department to continue to perform its other duties.

12 Section 2. This act shall take effect immediately.