

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 859 Session of 2021

INTRODUCED BY DELOZIER, SCHLEGEL CULVER, DUNBAR, GALLOWAY, GLEIM, HERSHEY, JOZWIAK, LONGIETTI, RYAN, SAYLOR, STAMBAUGH, ZIMMERMAN, DRISCOLL, SHUSTERMAN AND DIAMOND, MARCH 10, 2021

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 20, 2021

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] Banking trust fund; 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.

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

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

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

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

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

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

24 (c.1) Operating reserves of the Banking Trust Fund.--The
25 fund shall maintain an adequate operating reserve as determined
26 by the secretary to be necessary to ensure the ability of the
27 department to continue to pay its expenses described in
28 subsection (c) in the event of adverse economic conditions, the
29 loss of revenue as a result of institutions, CREDIT UNIONS or <--
30 licensees becoming subject to the jurisdiction of another

1 primary regulator or emergencies. In determining the amount of
2 the reserve to be held by the fund, the secretary shall take
3 into consideration the accreditation requirements of the
4 Conference of State Bank Supervisors, the National Association
5 of State Credit Union Supervisors and the American Association
6 of Residential Mortgage Regulators.

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

12 (e) Restrictions on appropriations.--

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

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

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

26 (g) Institution Resolution Account.--

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

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

30 (i) An amount determined by the secretary each

1 fiscal year based upon economic and regulatory conditions
2 from assessments, fees and administrative penalties
3 generated from statutes administered by the department
4 other than:

5 (A) the Pennsylvania Securities Act of 1972; or

6 (B) the Takeover Disclosure Law.

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

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

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

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

18 (4) In determining the amount to pay into the
19 Institution Resolution Account each year pursuant to
20 paragraph (1), the secretary shall do so in a manner that
21 builds up a reserve sufficient to pay costs as described in
22 paragraph (3) in a manner that will allow the department to
23 discharge its obligations to resolve, seize or liquidate an
24 institution OR CREDIT UNION without impairing the ability of <--
25 the department to continue to perform its other duties.

26 Section 2. This act shall take effect immediately.