

bered paragraph, regardless of the order in which such claims are enumerated.

D. All claims provided for in this section shall be construed to refer only to claims presented to the secretary, and approved by the court, in accordance with the provisions of this act.

Section 2. Effective Date.—This act shall become effective immediately upon final enactment. When effective.

APPROVED—The 22d day of April, A. D. 1937.

GEORGE H. EARLE

No. 97

AN ACT

To amend the act, approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, six hundred twenty-four), entitled "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers; defining the rights, powers, duties, liabilities, and immunities of such corporations; of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations or private bankers, or of affiliated corporations, associations, or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," as amended, by further providing for the powers and limitations upon the acts of corporations or persons authorized to engage in a banking or fiduciary business, or both, and of affiliates of such corporations or persons, and of officers, directors, trustees, and employes of such corporations, and persons.

Section 1. Be it enacted, &c., That section three hundred four, section five hundred twelve, section five hundred eighteen, section five hundred nineteen, section seven hundred two, section one thousand twenty-one, section one thousand five hundred three, and section one thousand five hundred four of the act, approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, six hundred twenty-four), entitled "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers; defining the rights, powers, duties,

Banking.
Sections 304,
512, 518, 519,
702, 1021, 1503,
and 1504, act of
May 15, 1933
(P. L. 624),
amended.

Sections 2, 306, 411, 412, and 701 of said act as last amended by act of April 24, 1935 (P. L. 56), further amended.

Sections 1012, 1208, and 1209 of said act as last amended by act of June 11, 1935 (P. L. 306), further amended.

Sections 203, 502 and 908 of said act as last amended by act of June 21, 1935 (P. L. 369), further amended.

Sections 1007 and 1009 of said act as last amended by act of June 21, 1935 (P. L. 382), further amended.

Section 1302 of said act as last amended by act of June 21, 1935 (P. L. 402), further amended.

Sections 204, 806, 808, 1404 and 1406 of said act as last amended by act of July 2, 1935 (P. L. 507), further amended.

liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers, and of the officers, directors, trustees, shareholders, attorneys, and other employees of all such corporations or private bankers, or of affiliated corporations, associations, or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," are hereby amended to read as follows, and that section two, section three hundred six, section four hundred eleven, section four hundred twelve, and section seven hundred one of that act, as last amended by the act, approved the twenty-fourth day of April, one thousand nine hundred thirty-five (Pamphlet Laws, fifty-six), and that section one thousand twelve, section one thousand two hundred eight, and section one thousand two hundred nine of that act, as last amended by the act, approved the eleventh day of June, one thousand nine hundred thirty-five (Pamphlet Laws, three hundred six), and that section two hundred three, section five hundred two, and section nine hundred eight of that act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred thirty-five (Pamphlet Laws, three hundred sixty-nine), and that section one thousand seven, and section one thousand nine of that act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred thirty-five (Pamphlet Laws, three hundred eighty-two), and that section one thousand three hundred two of that act, as last amended by the act, approved the twenty-first day of June, one thousand nine hundred thirty-five (Pamphlet Laws, four hundred two), and that section two hundred four, section eight hundred six, section eight hundred eight, section one thousand four hundred four, and section one thousand four hundred six of that act, as last amended by the act, approved the second day of July, one thousand nine hundred thirty-five (Pamphlet Laws, five hundred seven), are hereby further amended to read as follows:

Section 2. Definitions.—A. The following terms shall be construed in this act to have the following meanings, except in those instances where the context clearly indicates otherwise.

“Affiliated corporation or person” means such an [affiliate] *affiliated* corporation or person or a *holding company affiliate*, as is defined by the Department of Banking Code of May 15, 1933 (Pamphlet Laws, five

hundred sixty-five), its amendments and supplements, or by any Federal law or any regulation issued by any Federal authority pursuant to law, to be a corporation or person affiliated with a national banking association or a member of a Federal Reserve Bank. [or as a holding company affiliate]

“Articles” includes the original articles of incorporation, any or all amendments thereto, articles of merger, consolidation, or conversion, and also what have heretofore been designated by law as certificates of incorporation or charters.

“Assets” includes all the property and rights of every kind of an institution as herein defined.

“Attorney” includes any attorney at law who receives a general retainer as solicitor or as counsel for an institution.

“Authorized capital” means the sum of the par value of the shares authorized to be issued in the articles of incorporation, or in any amendment thereto.

“Bank” includes any bank which does not have the power to act as trustee, guardian, executor, administrator, or in other fiduciary capacities, *whether* incorporated under this act, [or] under the act, approved the thirteenth day of May, one thousand eight hundred and seventy-six (Pamphlet Laws, one hundred sixty-one), entitled “An act for the incorporation and regulation of banks of discount and deposit,” its amendments and supplements; or under any special act of the General Assembly of this Commonwealth; or *any bank and trust company which renounces, or has renounced, its power to act as trustee, guardian, executor, administrator, or in other fiduciary capacities.*

“Bank and Trust Company” includes any bank and trust company incorporated under this act; or any bank incorporated under the act, approved the thirteenth day of May, one thousand eight hundred and seventy-six (Pamphlet Laws, one hundred sixty-one), entitled “An act for the incorporation and regulation of banks of discount and deposit,” its amendments and supplements, which has acquired the power to act as fiduciary under the act, approved the seventeenth day of July, one thousand nine hundred and nineteen (Pamphlet Laws, one thousand thirty-two), entitled “An act authorizing banking companies, incorporated and organized under the laws of the Commonwealth and having capital stock at least equal to the capital stock which trust companies are required by law to have, to act in any fiduciary capacity in which trust companies organized under the laws of the Commonwealth are empowered to act, and prescribing the method of acquiring such rights,” or any corporation organized “for insurance of owners of real estate, mortgagees, and others interested in real

estate, from loss by reason of defective titles, liens and encumbrances," under the act approved the twenty-ninth day of April, one thousand eight hundred and seventy-four (Pamphlet Laws, seventy-three), its amendments and supplements, and which has acquired the power to engage in the business of banking and to act as fiduciary under the supplement to that act approved the ninth day of May, one thousand eight hundred and eighty-nine (Pamphlet Laws, one hundred fifty-nine); or a corporation, organized under any special act of the General Assembly of this Commonwealth, which has the power to engage in a banking business and to act as fiduciary.

"Banking" means discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; receiving money and commercial paper on deposit or for transmission; lending money on real or personal security; buying and selling gold and silver bullion, foreign exchange, coin, or bills of exchange.

"Branch" includes any branch office, agency, sub-office, sub-agency, or place of business other than the principal place of business of an institution, for the transaction of any portion of its banking or trust business.

"Capital" means the sum of the par value of the preferred and common shares, issued and outstanding.

"Corporation" means a corporation or a joint stock association organized under the laws of this Commonwealth, of the United States, or of any other state, territory, foreign country, or dependency.

"Department" means the Department of Banking of this Commonwealth.

"Director" includes any individual who is a member of a board of directors, board of managers, or board of trustees of a bank, bank and trust company, or trust company.

"Incorporator" means a signer of the original articles of incorporation.

"Incorporated Institution" includes any bank, bank and trust company, savings bank, or trust company.

"Institution" includes any bank, bank and trust company, savings bank, trust company, or private bank.

"Net worth" means the total of all the assets of every kind employed in the business of a private bank, less the total of all the liabilities of every kind of such business.

"Person" means an individual, or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals.

"Private bank" means a banking business, other than those specifically exempted by this act, owned and

operated in this Commonwealth by an individual, a partnership, or any other unincorporated association; but this shall not include clubs and hotels which receive money from members and guests for temporary safe-keeping, express, steamship, or telegraph companies which receive money for transmission, attorneys at law, real estate agents, fiscal agents, and attorneys in fact, who are not engaged in the business of receiving moneys in this Commonwealth for deposit or for transmission but receive and transmit moneys only as an incident to their general business or profession, and brokers licensed under the laws of this Commonwealth, holding membership in a lawfully constituted brokerage exchange, who do and have authority to do only such banking as is incidental to their brokerage business.

“Private Banker” means an individual, who, by himself, or as a member of a partnership or other unincorporated association, owns or operates a private bank.

“Recognized Stock Exchange” means the stock exchange of any city having a population of more than five hundred thousand, according to the latest official census.

“Savings Bank” includes any savings bank incorporated under this act; or under the act, approved the twentieth day of May, one thousand eight hundred and eighty-nine (Pamphlet Laws, two hundred forty-six), entitled “An act to provide for the incorporation and regulation of savings banks and institutions without capital stock, established for the encouragement of saving money”; or under any special act of the General Assembly of this Commonwealth.

“Shares” means the units into which the shareholders’ right to participate in the control of an incorporated institution, in its undivided profits, or in the distribution of its assets, are divided.

“Shareholder” means a registered owner of shares in an incorporated institution.

“Share Certificate” means a written instrument signed by the proper corporate officers as required by this act, and evidencing the fact that the corporation or person therein named is the registered owner of the shares therein described; it also includes the term “certificate of stock” as used in existing laws.

“Trust Company” includes any trust company incorporated under this act; or any corporation organized for insurance of owners of real estate, mortgagees, and others interested in real estate, from loss by reason of defective titles, liens and encumbrances, under the act approved the twenty-ninth day of April, one thousand eight hundred and seventy-four (Pamphlet Laws, seventy-three), its amendments and supplements, and which has acquired the power to engage in the business

of banking and acting as fiduciary under the supplement to the act, approved the ninth day of May, one thousand eight hundred and eighty-nine (Pamphlet Laws, one hundred fifty-nine), *which renounces, or has renounced, the power to transact a banking business*; or any other bank and trust company which renounces, or has renounced its power to transact a banking business; or a corporation, organized under any special act of the General Assembly of this Commonwealth, which has the power to engage in the banking business and act as a fiduciary, but which renounces, or has renounced, its power to transact a banking business.

“Trustee” includes any individual who is a member of the board of managers or board of trustees of a savings bank.

“Written” includes printed, typewritten, engraved, lithographed, photographed, photostated, or telephotographed.

B. The singular shall be construed to include the plural. The masculine shall be construed to include the feminine and the neuter, and conversely, the neuter shall be construed to include the masculine and the feminine.

Section 203. Place of Business; Change of Place of Business.—A. Except as herein otherwise provided, an institution shall not transact any banking or trust business, except, in the case of an incorporated institution, at the place or places designated in its articles, and, in the case of a private bank, at the place or places the address or addresses of which are filed with the Department of Banking.

B. [An incorporated institution may change its place of business, within the limitations imposed by this act, in the regular manner provided by this act for an amendment to its articles. Any private bank may likewise remove its place of business, within the limitations of this act, if it shall first obtain the written approval of the department. Such removal by an institution shall not, in any case, be to a place where such institution would not be entitled under the provisions of this act to establish a branch at the time it applies for authority to make such change, and shall not violate the provisions of this act relating to the establishment of branches, agencies, sub-offices or sub-agencies.] *An institution may, in the case of an incorporated institution, in the regular manner provided by this act for an amendment to its articles, and, in the case of a private bank, with the prior written approval of the department, change its principal place of business—(1) within the city, borough or township in which its principal place of business is located; or (2) to any city, borough or township, either within the county of its principal place of business or in a county contiguous to the county of*

its principal place of business, subject, however, to the same limitations and requirements as are by this act prescribed in the case of the establishment of a branch in such city, borough or township.

Any change of the principal place of business of an institution shall automatically terminate its right to maintain and operate any branch located, or authorized by the articles of incorporation, or otherwise, to be located, in a county which is not contiguous to the county in which the principal place of business is to be located.

Except in the case of any change of the principal place of business within the same city, borough or township, an institution shall not change its principal place of business, unless, in the case of a bank, bank and trust company, or trust company, its unimpaired capital is at least equal to the minimum capital required by this act for the incorporation of a bank, bank and trust company, or trust company, as the case may be, in the proposed city, borough or township, and, in case branches are maintained and operated, or are authorized by its articles of incorporation, or otherwise, to be maintained and operated, unless it has such additional amounts of capital and surplus as are required by this act for the establishment of branches, and, in the case of a savings bank, unless its surplus equals a minimum amount approved by the department, and, in the case of a private bank, unless its net worth equals a minimum amount approved by the department.

An institution may change the place of business of any of its branches subject to the same requirements and limitations as are by this act prescribed in the case of the establishment of branches.

C. A private bank, which, upon the effective date of this act, lawfully maintains one or more offices or places of business in any other state or foreign country, may continue to maintain and operate any such offices or places of business, and do and perform all such acts, and make all such loans, discounts, and investments at such offices or places of business as are permitted or required under the laws of such other state or foreign country, subject to such restrictions or limitations as may be imposed by the laws of such other state or foreign country.

D. However, an institution may, with the prior written approval of and for the period fixed by the department, change its place of business to permit of the alteration or improvement of the premises at the time occupied by it.

Section 204. Branch Offices and Sub-Agencies.—A. An institution shall not establish, maintain, or operate, either directly or indirectly, any branch [bank, branch office, agency, sub-office, sub-agency, or branch place of

business] within this Commonwealth for the transaction of any part of its business, but all of the business of such institution shall be carried on solely and exclusively at its principal place of business, except as may be permitted by this act.

B. Any institution may continue to maintain and operate any branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] lawfully established by such institution.

C. Any institution may, *in the case of an incorporated institution*, in the manner provided by this act for an amendment to its articles, or in pursuance of a plan of merger or consolidation, in accordance with the provisions of this act, and in the case of a private bank with the prior written approval of the department, establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] at any place within this Commonwealth where, at the time such institution proposes to establish such branch, [bank, branch office, agency, sub-office, sub-agency, or branch place of business] any national banking association, having its principal office in the same county as that in which the principal office of the institution proposing to take such action is located, would have the power, under the laws of the United States, now or hereafter enacted, to establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] of such national banking association.

D. Any institution may, in the case of an incorporated institution, in the manner provided in this act for an amendment to its articles, or in pursuance of a plan of merger or consolidation in accordance with the provisions of this act, and in the case of a private bank, with the prior written approval of the department—(1) establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] within the corporate limits of the city of the first class or the second class in which the principal place of business of the institution is located, or within the corporate limits of the city or borough in which the principal place of business is located, and in which the institution was authorized by law to establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] on the first day of January, one thousand nine hundred and thirty-five, and may (2) establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] in any place within the county in which its principal place of business is located, or in any place within any county contiguous to the county in which its principal place of business is located, if the city, borough or other community in which such branch [bank, branch office, agency, sub-office, sub-agency, or

branch place of business] is to be established is without *adequate* banking facilities, or, in the case of a merger or consolidation, is without *adequate* banking facilities other than an *incorporated* institution or national banking association which is a party to the plan of merger or consolidation in accordance with *the provisions of* this act.

Provided, that an institution shall not have the power to establish a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] in any county, other than the county in which its principal place of business is located, if a branch [bank, branch office, agency, sub-office, sub-agency, or branch place of business] is at the same time established or maintained, or is authorized by the articles of incorporation, or otherwise, to be established or maintained in any county, other than the county in which its principal place of business is located by—

(1) Another institution or national banking association with which such institution is affiliated; or

(2) An institution or national banking association with which such other institution or national banking association is affiliated; or

(3) An institution or national banking association which is affiliated with any corporation or person with which such other institution or national banking association is affiliated; or

(4) An institution or national banking association which is affiliated with any corporation or person with which such institution is affiliated. [nor shall an]

E. An institution shall not have the power to establish any branch, [bank, branch office, agency, sub-office, sub-agency, or branch place of business] unless, in the case of a bank, a bank and trust company, or a trust company, its unimpaired capital and unimpaired surplus, respectively, are equal to an amount, not less than the aggregate capital and surplus, respectively, required by this act for the incorporation of such number of similar institutions, as is equal to the total number of its places of business, including such branch, [bank, branch office, agency, sub-office, sub-agency, or branch place of business] excepting that, if any place of business included in such total number is located or is to be located in a borough or township, the population of which does not exceed five thousand, not more than fifty per centum of the capital and surplus, respectively, required by this act need be included for such particular place of business in the aggregate capital and surplus respectively required by this section, and in the case of a savings bank, unless its surplus and expense fund equal a minimum amount approved by the department, and in the

case of a private bank, unless its net worth equals a minimum amount approved by the department.

F. Articles of incorporation, of amendment, of merger, or of consolidation, as the case may be, the effect of which is to establish a branch, shall be subject to all of the requirements prescribed by this act for articles of the same kind generally, except that—

(1) If the proposed branch is to be established in a county contiguous to the county of principal place of business—

(a) Written notice of the intention to file such articles with the Department of State shall be given, at least ten days prior to the day on which the articles are to be presented to the Department of State, to every institution which has its principal place of business in the county in which the proposed branch is to be located, such notice shall contain all of the statements which are required by this act to be set forth in the advertisement of intention to file articles of the particular kind with the Department of State;

(b) The advertisement of intention to file such articles with the Department of State shall appear at least ten days prior to the day on which the articles are to be presented to the Department of State, and shall also be inserted one time in a newspaper of general circulation in the county in which the proposed branch is to be located and which is published in the city, borough or township, in which the proposed branch is to be located, and one time in a legal newspaper published in the county in which the proposed branch is to be located; and

(c) The advertisement shall set forth a statement that written notice of the intention to file articles with the Department of State has been given to every institution which has its principal place of business in the county in which the proposed branch is to be located.

(2) In the case of articles of incorporation, of amendment, of merger or of consolidation, as the case may be, the effect of which is to establish a branch, except such articles the effect of which is to establish a branch in any city of the first class or of the second class, in which the principal place of business of the incorporated institution is or is to be located, or in the city or borough in which the principal place of business of the incorporated institution is or is to be located, and in which branches were authorized by law to be established on the first day of January, one thousand nine hundred and thirty-five, the Department of Banking shall, within sixty days after the receipt of the articles from the Department of State, upon the basis of the facts disclosed

by the investigation or hearing provided for by this act, either approve or disapprove such articles. The Department of Banking may, in its sole discretion, disapprove articles the effect of which is to establish a branch in a county contiguous to the county in which the principal place of business of the incorporated institution is or is to be located, if it shall appear, as a result of the investigation or hearing provided for by this act, that an incorporated institution having its principal place of business in the county in which the proposed branch is to be located, has in good faith notified the Department of Banking of its intention to establish a branch, in accordance with the provisions of this act, in the same city, borough or township in which such proposed branch is to be located.

If the Department of Banking shall approve such articles, it shall forward them to the Banking Board for review. The Banking Board shall, after such investigation or hearing as it may deem advisable, either approve or disapprove the action of the Department of Banking, and shall return the articles to the Department of Banking with notice of its decision, and, in the case of disapproval, with a statement in detail of its reasons for doing so. The decision of the Banking Board shall be binding upon the Department of Banking.

Immediately upon receipt of the articles from the Banking Board, the Department of Banking shall, on the basis of the decision of the Banking Board, either approve or disapprove them in the same manner as is provided for by this act in the case of articles of the same kind generally.

Any application filed with the Department of Banking by a private bank for approval of the establishment of a branch shall be subject to the same requirements as are by this act prescribed for the advertisement, notice, and approval or disapproval by the Department of Banking or by the Banking Board of articles, the effect of which is to establish a branch, except that such application need not be filed with or approved by the Department of State.

[E.] G. An institution, national banking association, corporation, or person shall be deemed to be affiliated with an institution, national banking association, corporation, or person, for the purpose of this section, if—

(1) It is owned, directly or indirectly, by such institution, national banking association, corporation, or person; or

(2) It owns, directly or indirectly, such institution, national banking association, corporation, or person; or

(3) It is owned, directly or indirectly, by the same institution, national banking association, corporation, or

person, which owns, directly or indirectly, such institution, national banking association, corporation or person; or

(4) The election of a majority of its board of directors is controlled, directly or indirectly, by any instrumentality, agency, or arrangement that controls, directly or indirectly, the election of a majority of the board of directors or trustees of such institution, national banking association, or corporation; or

(5) A majority of its directors or trustees, or a majority of the members of the executive committee of its board of directors or trustees are also directors or trustees of such institution, national banking association, or corporation; or

(6) Members of its board of directors or trustees constitute a majority of the board of directors or trustees, or a majority of the executive committee of the board of directors or trustees of such institution, national banking association, or corporation; or

(7) Substantially all of its principal executive officers constitute a majority of the board of directors or trustee of any such institution, national banking association, or corporation, or comprises or constitutes all of the executive officers of any such institution, national banking association or corporation; or

(8) Its board of directors or trustees is composed of executive officers of any such institution, national banking association, or corporation; or

(9) It dominates or controls, in whole or in part, the business or policy of such institution, national banking association, corporation, or person, either by contract or otherwise; or

(10) Its business or policy is dominated or controlled, in whole or in part, either by contract or otherwise, by such institution, national banking association, corporation, or person.

Provided, that the ownership of more than fifty per centum of the total number of shares voted upon at the last meeting of the shareholders of an institution, national banking association, or corporation, for the election of its directors or trustees, shall be deemed to be ownership of such institution, national banking association, or corporation, and that shares of stock held in the name of a nominee of any institution, national banking association, or corporation for the benefit of such institution, national banking association, or corporation shall be deemed to be shares owned or controlled by the institution, national banking association, or corporation.

Section 304. Advertisement of Articles.—[The] *Except as otherwise provided in this act, the* incorporators shall advertise their intention to file articles with the Department of State, one time in a newspaper of general

circulation and one time in a legal newspaper. Advertisements shall appear at least three days prior to the day the articles are to be filed with the Department of State, and shall set forth briefly:

(1) The name of the proposed incorporated institution;

(2) A statement that the proposed incorporated institution is to be organized under the provisions of this act;

(3) The purpose or purposes of the proposed incorporated institution; and

(4) The time when the articles will be filed with the Department of State.

Section 306. Approval of Articles by Department of Banking.—A. The Department of Banking shall, immediately upon the receipt of the articles from the Department of State, conduct such investigation as it may deem necessary to ascertain from the best sources of information at its command:

(1) Whether the name of the proposed incorporated institution is likely to mislead the public as to its character or purpose.

(2) Whether the convenience and advantage of the public will be served by the proposed incorporation and whether the density of the population in the neighborhood designated for the place of business of such proposed incorporated institution and in the surrounding country affords reasonable promise of adequate support for the enterprise.

(3) Whether the responsibility, character, and general fitness for the business of the incorporators, directors, and officers named in the articles are such as to command the confidence of the community and to warrant the belief that the business of the proposed incorporated institution will be honestly and efficiently conducted in accordance with the intent and purpose of this act.

(4) Whether any fee, commission, or compensation has been paid to any corporation or person for the promotion or organization of such incorporated institution, or whether any part of the money collected or to be collected from subscribers or shareholders has been, or is to be, applied to the payment of promoters' fees for obtaining subscriptions or selling shares, or for services in starting such incorporated institution, whether such fee, commission, or compensation is provided for by contract with the proposed incorporated institution or by contract with the subscribers to the shares.

(5) Whether the amount of the authorized common capital, in relation to the amount of the authorized preferred capital, is adequate to the needs of the bank, bank and trust company, or trust company and to the convenience and safety of the public.

B. [Within] *Except as otherwise provided in this act, within* thirty days after the receipt of the articles from the Department of State, the Department of Banking shall, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove the articles. It shall immediately notify the Department of State in writing of its action. If it shall approve the articles, it shall endorse its approval thereon and shall return them to the Department of State.

C. If the Department of Banking disapproves the articles, it shall return them to the Department of State, stating in detail its reasons for doing so. The Department of State shall immediately give notice to the proposed incorporators of the action of the Department of Banking, and of the reasons therefor as stated to it by that department. The decision of the Department of Banking shall be conclusive and not subject to any review.

Section 411. Increase of Authorized Capital.—A. A bank, a bank and trust company, or a trust company may amend its articles to increase its authorized capital, in the same manner and with the same approval as is required by this act for any amendment to the articles of a bank, a bank and trust company, or a trust company, except that written notice of a proposed amendment for increasing the authorized capital of the institution shall be given to each shareholder entitled to vote thereon at least sixty days prior to such meeting, and except that a proposed amendment, for increasing the authorized capital of the institution, shall be adopted by the holders of at least a majority in amount of the aggregate par value of the outstanding shares entitled to vote at such meeting, and by the holders of at least a majority in number of the outstanding shares entitled to vote at such meeting.

Such increase of authorized capital shall, however, become invalid and inoperative unless the actual increase of capital, which is authorized, shall be made within one year from the date of the issuance of the certificate of amendment. If any portion of such authorized capital shall be created and issued within such one-year period, only such portion as remains unissued within such period shall become invalid and inoperative. In the case of a bank, a bank and trust company, or a trust company, which, upon the effective date of this act, has an authorized capital which exceeds the par value of its outstanding shares, such one-year period shall date from the effective date of this act. Such actual increase may be made from time to time within such period of one year, but no such increase shall be made until the shares shall be paid for in full, pursuant to the provisions of

this act as to the creation or issuance of any share. Such increase may, however, be made by the declaration of a share dividend, in accordance with the provisions of this act concerning such share dividends.

However, a bank, a bank and trust company, or a trust company may issue common shares to provide for the concurrent retirement of shares of any class other than common shares. The issuance of such common shares shall be subject to all of the requirements for, and limitations upon, the issuance of common shares prescribed by this act, except that, if such issuance of common shares shall not effect an increase or decrease of capital, no meeting of the shareholders, nor their vote, need be required. The bank, the bank and trust company, or the trust company shall, upon effecting such issuance of common shares and the retirement of shares of another class, file articles of amendment in the manner provided in this act, except that such articles need not state that advertisement has been made, or notice given, or action taken by the shareholders.

B. Except as otherwise specifically provided in this act, a common share shall not be issued, pursuant to such increase, for a consideration of less than the par value of such share, plus fifty per centum thereof, unless a share can be issued for a consideration less than such amount without reducing the surplus of the bank, the bank and trust company, or the trust company below one hundred per centum of the capital as increased, but in no case shall such share be created or issued for a consideration which is less than the par value thereof.

C. The bank, the bank and trust company, or the trust company may withhold any cash or share dividend due on a share certificate which has not been exchanged within six months after the date upon which the shares were issued pursuant to such increase, but upon the shareholder's thereafter exchanging such certificate the bank, the bank and trust company, or the trust company shall pay to him any dividends which were thus withheld.

Section 412. Decrease of Authorized Capital.—A. A bank, a bank and trust company, or a trust company may amend its articles to decrease its authorized capital, either by reducing the number of its shares of any class or classes, or by reducing the par value of the shares of any class or classes; provided, however, every share shall have the same par value as every other share of the same class, or by both such methods, in the same manner and with the same approval as is required by this act for any amendment to the articles of a bank, a bank and trust company, or a trust company, but the capital of a bank, a bank and trust company, or a trust company shall not be decreased to an amount below the

minimum prescribed by this act for *the incorporation at the time of such decrease of such bank, bank and trust company, or trust company, as the case may be, in the particular city, borough or township plus such amount of capital, if the bank, the bank and trust company, or the trust company maintains and operates a branch or is authorized by the articles or otherwise to maintain and operate a branch, as is required by this act for the establishment of branches.*

B. The responsibility for the contracts, debts, or engagements of the bank, bank and trust company, or trust company to which its common shareholders are subject, upon the date when the certificate of amendment is issued, shall continue for one year thereafter.

C. Any capital gains, resulting from such decrease of the authorized capital of a bank, a bank and trust company, or a trust company, shall forthwith be transferred to the surplus of such bank, bank and trust company, or trust company, or it may, with the approval of the department, be returned to the shareholders in the form of a cash dividend, provided that the surplus of the institution, after the payment of such cash dividend, equals at least one hundred per centum of the resulting capital. Nothing in this paragraph shall be construed to prohibit a bank, a bank and trust company, or a trust company from effecting a decrease in its authorized capital by the retirement of shares of any class, other than common shares, with the approval of the department; even though the surplus of the institution, after the retirement of such shares, does not equal at least one hundred per centum of the resulting capital.

D. Upon effecting a decrease in its authorized capital, a bank, a bank and trust company, or a trust company shall issue to its shareholders new share certificates, setting forth any changes in the par value of each share issued in exchange for the outstanding shares of such shareholders, which shall then be cancelled. *However, in the case of any decrease in its authorized capital by the retirement of shares of any class, other than common shares, pursuant to the provisions of its articles of incorporation, a bank, a bank and trust company, or a trust company shall not be required to effect the exchange of share certificates until the last of the shares of such class shall have been retired.* The bank, the bank and trust company, or the trust company may withhold any cash or share dividend due on a share certificate, which has not been exchanged within six months after the date upon which the certificate of amendment, authorizing the decrease in authorized capital, was issued, but upon the shareholder's thereafter exchanging such certificate, the bank, the bank and trust company, or the

trust company shall pay to him any dividends which were thus withheld.

E. Upon effecting a decrease in its authorized capital by the retirement of shares of any class, other than common shares, without a vote of its shareholders, pursuant to the provisions of its articles of incorporation, a bank, a bank and trust company, or a trust company shall, at the time of such decrease, file articles of amendment in the manner provided by this act, except that such articles need not state that advertisement has been made, or notice given, or action taken by the shareholders. *Such articles, which set forth the final retirement of shares of the particular class, may also include an amendment for the striking out of such designations, preferences, qualifications, privileges, limitations, options, conversion rights, and other special rights, including such control over management as applied to such class of shares.*

Section 502. Term of Office and Qualification of Directors and Trustees.—A. The business and affairs of every incorporated institution shall be managed, in the case of a bank, a bank and trust company, or a trust company, by a board of not less than five nor more than twenty-five directors, and in the case of a savings bank, by a board of at least fifteen trustees. Except as otherwise provided by this act, or by the articles or by-laws of the incorporated institution, such board of directors or board of trustees shall exercise all the powers and fulfill all the duties granted to, or imposed upon, the incorporated institution by this act.

B. Each director shall hold office for the term for which he is elected and until his successor shall have been duly elected and qualified. The names and terms of office of the first directors shall be stated in the articles. Except as otherwise provided in this act for the filling of vacancies, directors, other than those constituting the first board of directors, shall be elected by the shareholders.

C. Except as otherwise specifically provided in any special act of the General Assembly creating a savings bank, or in any amendment or supplement thereto, each trustee shall hold office until he resigns or becomes disqualified. The names of the first trustees shall be stated in the articles.

D. Every director or trustee shall, during his term of office, be a citizen of the United States, and at least two-thirds of the directors or trustees shall, during their terms of service, be bona fide residents in this Commonwealth.

E. Every director shall own, in his own right and free of any lien or encumbrance, common shares of the bank, the bank and trust company, or the trust company

to the aggregate par value of at least three hundred dollars, but the number or par value of the common shares required to be owned by any person who is a director of a bank, a bank and trust company, or a trust company, upon the effective date of this act, shall not be greater than was required prior to the effective date of this act, so long as such director shall serve continuously. The share certificates for the minimum number or par value of common shares, which each director must own, shall be filed, unendorsed, unpledged, and unassigned by him, with the cashier or treasurer of the bank, the bank and trust company, or the trust company. Such shares shall remain in the custody of the cashier or treasurer during the term of service of such director.

Any director who, during his term of service, pledges, assigns, or in any other manner ceases to be the owner in his own right of the shares required by this section, shall forthwith cease to be a director of the bank, the bank and trust company, or the trust company, and his office shall be vacant. He shall not be eligible for reelection as a director of such bank, such bank and trust company, or such trust company for the remainder of the term for which he was elected, and for a further period of one year from the expiration of his term. Any vacancy thus occurring shall be filled in the regular manner for filling vacancies in the board.

F. The following shall not be eligible to be directors or trustees in any incorporated institution:

(1) A judge of any court of record in this Commonwealth; but this provision shall not operate to disqualify any judge who shall be a director or trustee of an institution upon the effective date of this act, as long as such judge continuously remains a director or trustee of such institution;

(2) Any person holding office under this Commonwealth in the Department of Banking, the Treasury Department, the Auditor General's Department, or the Department of Revenue;

[(3) Any person authorized to receive and account for the public moneys of this Commonwealth.]

G. A trustee of a savings bank shall not, at the same time, be a trustee, officer, or employe of any other savings bank.

Section 512. Eligibility for Cashier or Treasurer; Restrictions upon Office.—A. The following persons shall not be eligible to be cashiers or treasurers of any institution:

(1) A judge of any court of record in this Commonwealth;

(2) Any person holding office under this Commonwealth in the Department of Banking, the Treasury De-

partment, the Auditor General's Department, or the Department of Revenue;

(3) [Any person authorized to receive and account for the public moneys of this Commonwealth.

(4)] The treasurer of any county, city, township, borough, or other political subdivision of this Commonwealth. This provision shall not apply in any case where the funds of the particular county, city, township, borough, or other political subdivision of this Commonwealth, are not on deposit with the institution of which such treasurer of any county, city, township, borough, or other political subdivision is treasurer or cashier.

B. A cashier or treasurer of an institution shall not engage in any other gainful profession, business, occupation, or calling, either directly or indirectly, but this shall not be construed to affect the right to be at the same time a member of the board of directors or the board of trustees of the incorporated institution in which he is cashier or treasurer.

Section 518. Preferential Rate of Interest to Directors, Trustees, Officers, Attorneys, or Employes.—An institution shall not pay to any of its officers, attorneys, or employes, or in the case of an incorporated institution, any of its directors or trustees, nor shall it pay to the officers, attorneys, or employes of an affiliated institution, [or] an affiliated national banking association, or *affiliated corporation* as defined in this act, or in the case of an affiliated incorporated institution, [or] affiliated national banking association, or *affiliated corporation* as defined in this act, to any of the directors or trustees thereof, a greater rate of interest on the deposits of such director, trustee, officer, attorney or employe, than that paid to any other depositor on similar deposits with such institution, nor shall a lower rate of interest be charged to any such director, trustee, officer, agent, or employe, on any loan or discount granted than that charged other borrowers under similar circumstances on the same types of loans or discounts.

Section 519. Overdrafts by Directors, Trustees, Officers, Attorneys, or Employes.—A. An institution shall not permit any of its officers, attorneys, employes, and in the case of an incorporated institution, any of its directors or trustees, nor any of the officers, attorneys, or employes of an affiliated institution, [or] affiliated national banking association, or *affiliated corporation*, as defined in this act, or in the case of an affiliated incorporated institution, [or] affiliated national banking association, or *affiliated corporation*, as defined in this act, any of the directors or trustees to overdraw his deposit account.

B. Any officer, attorney, or employe of an institution, and in the case of an incorporated institution, any

director or trustee thereof, who knowingly overdraws his deposit account with such institution, or any officer, attorney, or employe of an affiliated institution, [or] an affiliated national banking association, *or affiliated corporation*, as defined in this act, and in the case of an affiliated incorporated institution, [or] affiliated national banking association, *or affiliated corporation*, as defined in this act, any director or trustee thereof, who knowingly overdraws his deposit account with such institution, and fails to repay to such institution the amount of such overdraft within ten days, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be subject to imprisonment for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both; he shall also be subject to a further fine of a sum equal to the amount to which his account is overdrawn.

Section 701. Declaration and Payment of Cash and Share Dividends.—A. Except as otherwise provided in this act, and subject to any restrictions contained in the articles of incorporation, any bank, any bank and trust company, or any trust company, by its board of directors, may declare and pay dividends upon its outstanding shares, out of its undivided profits, as hereinafter provided, from time to time and to such extent as the board of directors may deem advisable. A dividend shall not be declared or paid, unless, at the opening of business upon the day such dividend is declared, [the capital, the surplus, and] the reserve fund, required by this act, *and the capital and surplus of the bank, the bank and trust company, or the trust company* would despite such dividend be unimpaired.

B. Such dividends may be paid to the shareholders in cash, or, if such increase of capital has been authorized in the manner provided by this act, it may be paid in shares of the bank, the bank and trust company, or the trust company. If the dividend is in the form of shares of the bank, the bank and trust company, or the trust company, it may, if properly authorized, be paid out of unimpaired surplus, provided that such surplus is not thereby reduced to an amount less than one hundred per centum of its capital, as increased by virtue of such share dividend.

Section 702. Determination of Net Earnings, Disposition Thereof.—A. The net earnings of a bank, a bank and trust company, or a trust company shall, *at the option of the board of directors*, be determined [as follows] *upon either a cash basis or an accrual basis system of bookkeeping*.

[(1) The gross earnings for any period may include:

(a) All earnings actually received during such period, less accrued interest included in the last previous calculation of earnings.

(b) Interest accrued and unpaid upon debts owing to it, secured by collateral, upon which no default of more than one year exists, and upon bonds or other interest-bearing obligations owned by it, upon which no interest default exists, less unearned discount collected.

(c) Any profits actually received during such period from the sale of its securities, its other personal property and its real property.

(d) Sums recovered on items previously charged off.

(2) The following items shall be deducted from the gross earnings:

(a) Expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, in the collection of debts owing to it, and in the management of its affairs, less expenses incurred included in the last previous calculation of earnings.

(b) Interest paid, or accrued and unpaid, upon deposits and debts owing by it, less interest accrued included in the last previous calculation of earnings.]

B. A bank, a bank and trust company, or a trust company shall make the following deductions from gross earnings:

[c] (1) Losses sustained by it. In the computation of such losses *there shall be included* assets which have been disallowed by the department, or by the board of directors of the bank, bank and trust company, or trust company, [shall be included. Debts due such bank, such bank and trust company, or such trust company, upon which principal or interest is due and unpaid for six months, shall likewise be included in the computation of losses, to the extent of the estimated loss thereon, unless such debt is adequately secured] but [no] *such losses [under this paragraph] shall not be deducted from the gross earnings, if [such losses shall be charged against accumulated] appropriate reserves have been set up on the books to provide [for such contingencies] therefor, or if such losses be charged against undivided profits.*

[(d) Deferred assets in proportion to their use, and prepaid expenses in proportion to the use of the service represented thereby.

(3) The excess of the gross earnings over the deductions required by this section, if any, shall constitute the net earnings of the bank, the bank and trust company, or the trust company for such period.]

(2) *Taxes which are due and unpaid.*

[B] *C.* Such portion of the net earnings of a bank, a bank and trust company, or a trust company as is not required by this act to be credited to surplus may be credited to undivided profits.

[C] *D.* If the deduction required by this section exceeds the gross earnings for the period, the amount of such excess shall be charged against undivided profits.

[D] *E.* This section shall not be construed to limit the right of a bank, a bank and trust company, or a trust company to declare and pay any dividend, otherwise permitted by this act, out of accumulated undivided profits even if there shall be no net earnings for the current period.

Section 806. Advertisement.—[A] Except as [herein] otherwise provided *in this act*, the incorporated institution shall advertise its intention to file articles of amendment with the Department of State, in a manner similar to that heretofore prescribed in this act in the case of the formation of the particular type of incorporated institution. Advertisement shall appear at least three days prior to the day upon which the articles of amendment are to be presented to the Department of State, *and*

[B. If the effect of the articles of amendment is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the incorporated institution is located, the incorporated institution shall also advertise its intention to file articles of amendment with the Department of State, one time in a newspaper of general circulation in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located, and which is published in the city, borough, or township in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located, and one time in a legal newspaper published in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located. Such advertisement shall appear at least ten days prior to the day on which the articles are to be presented to the Department of State. The incorporated institution shall also give written notice, of its intention to file such articles of amendment with the Department of State, to every institution which has its principal place of business in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.

C. The advertisement and notice] shall set forth briefly:

(1) The name and location of the principal place of business of the incorporated institution.

(2) A statement that the articles of amendment are to be filed under the provisions of this act.

(3) The nature and character of the proposed amendment.

(4) [In the case of articles of amendment, the effect of which is to establish a branch bank, branch office,

agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the incorporated institution is located, a statement that written notice of the intention to file articles with the Department of State has been given to every institution which has its principal place of business in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.]

[(5)] The time when the articles of amendment will be filed with the Department of State.

Section 808. Approval of Articles of Amendment by Department of Banking.—A. [The] *Except as otherwise provided in this act, the Department of Banking shall, immediately upon the receipt of the articles of amendment from the Department of State, conduct such examination as it may deem necessary to ascertain, from the best sources of information at its command, whether such amendment or amendments will be lawful, not injurious to the community, and in accordance with the purposes of the articles of incorporation. The costs of such examination, and any other charges of the Department of Banking bearing upon the filing of articles of amendment, shall be assessed upon the incorporated institution, in the manner provided by law for assessments by the Department of Banking of costs of examinations or other charges.*

B. [(1) Excepting in the case of articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any city, borough or other community, other than the city of the first class or the second class, in which the principal place of business of the institution is located, or the city or borough in which the principal place of business of the incorporated institution is located, and in which the institution was authorized by law to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business on the first day of January, one thousand nine hundred and thirty-five, within thirty days after the receipt of the articles of amendment from the Department of State, the Department of Banking shall, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove such articles. It shall immediately notify the Department of State in writing of its action.

(2) In the case of articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any city, borough or other community, other than the city, borough or other community in which the principal place of business of the incorporated institution is located,

the Department of Banking shall, within sixty days after the receipt of the articles from the Department of State, upon the basis of the facts disclosed by the investigation or hearing provided for by this section, either approve or disapprove such articles. The Department of Banking may, in its sole discretion, disapprove articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the incorporated institution is located, if it shall appear, as a result of the investigation required by this section, that an incorporated institution having its principal place of business in the county in which such proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located, has in good faith notified the Department of Banking of its intention to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in accordance with the provisions of this act, in the same place in which such proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.

If it shall approve such articles, it shall forward them to the Banking Board for review. The Banking Board shall, after such investigation or hearing as it may deem advisable, either approve or disapprove the action of the Department of Banking, and shall return the articles to the Department of Banking with notice of its decision, and in the case of disapproval, with a statement in detail of its reasons for doing so. The decision of the Banking Board shall be binding upon the Department of Banking. Immediately upon receipt of the articles from the Banking Board, the Department of Banking shall, on the basis of the decision of the Banking Board, either approve or disapprove them, in the same manner as is provided by this section in the case of articles generally.

If it shall approve the articles of amendment, it shall endorse its approval thereon and shall return them to the Department of State.]

Within thirty days after the receipt of the articles of amendment from the Department of State, the Department of Banking shall, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove such articles. It shall immediately notify the Department of State in writing of its action. It shall approve the articles of amendment, it shall endorse its approval thereon and shall return them to the Department of State.

C. If the Department of Banking disapproves the articles of amendment, it shall return them to the Department of State, stating in detail its reasons for doing

so. The Department of State shall immediately give notice to the incorporated institution of the action of the Department of Banking, and of the reasons therefor, as stated to it by that department. The decision of the Department of Banking in disapproving any articles of amendment, shall be conclusive and not subject to any review.

[D. The costs of the examination required by this section, and any other charges of the Department of Banking bearing upon the filing of articles of amendment, shall be assessed upon the incorporated institution in the manner provided by law for assessments by the Department of Banking of costs of examinations or other charges.]

Section 908. Reserve Fund Against Deposits and Demand Liabilities.—A. Every bank, bank and trust company, or private bank shall establish and maintain a reserve fund in an amount equal to at least fifteen per centum of the total of its demand deposits and demand liabilities, plus seven and one-half per centum of its total time deposits, as herein defined.

B. Except in the case of a savings bank, the term “demand deposits” shall be construed to refer to all deposits, payment of which can legally be required on demand, or within any period less than thirty days after demand.

The term “demand liabilities” shall be construed to refer to all obligations of the institution, other than deposits, payment of which can legally be required on demand.

Except in the case of a savings bank, the term “time deposits” shall be construed to refer to all deposits, payment of which cannot legally be required within thirty days.

C. Except in the case of a savings bank, the total of such reserve fund may, and at least one-third of the reserve fund against demand deposits and demand liabilities shall, unless the department gives its written approval of a lesser amount, consist of gold bullion, gold coin, silver coin, United States gold or silver certificates, notes or bills issued by any national banking association or Federal reserve bank, or any other form of currency of the United States, and be kept on hand at the place of business of the institution, unpledged, unassigned, and unencumbered.

One-third of such reserve fund may consist of bonds or other interest-bearing obligations of the United States, the Commonwealth of Pennsylvania, or any political sub-division thereof. Such bonds, while being carried in the reserve fund, shall be computed at their current market value. They shall be the absolute property of the

institution and shall not be pledged, assigned, or hypothecated in any manner whatsoever.

Any part of such reserve fund not required to consist of gold bullion, gold coin, or any form of currency kept on hand at the place of business of the institution, may consist of an actual net balance of moneys on deposit, subject to call without notice, in any reserve agent as hereinbefore defined.

D. Every savings bank shall establish and maintain a reserve fund in an amount equal to at least seven and one-half per centum of the total of its deposits.

E. In the case of savings banks, the total of such reserve fund may, and at least [two-thirds] *one-third* thereof shall, consist of gold bullion, gold coin, silver coin, United States gold or silver certificates, notes or bills, issued by any national banking association or Federal reserve bank, or any other form of currency of the United States, kept on hand at the place of business of the institution, unpledged, unassigned, and unhy-potheated, or an actual net balance of moneys on deposit, subject to call without notice, in any reserve agent, as hereinbefore defined.

The balance of such reserve fund may consist of bonds or other interest-bearing obligations of the United States, the Commonwealth of Pennsylvania, or any political subdivision thereof. Such bonds, while being carried in the reserve fund, shall be computed at their current market value. They shall be the absolute property of the institution and shall not be pledged, assigned, or hypothecated in any manner whatsoever.

F. The reserve fund prescribed by this section may be increased or decreased by the department, with the approval of the Banking Board. However, the reserve fund shall not at any time be required to be more than double the amount prescribed by this section, nor shall it be decreased to less than the amount prescribed by this section. In the case of a savings bank, the additional reserve fund provided for by this paragraph, may consist of bonds or other interest-bearing obligations of the United States or of the Commonwealth of Pennsylvania.

Section 1007. Loans to Directors, Officers or Em-ployes of a Bank, [or] Bank and Trust Company, or a Trust Company; Penalty.—A. *Loans to a director of a bank, a bank and trust company, or a trust company shall be subject to the same limitations as are by this act prescribed in the case of loans by a bank or a bank and trust company to corporations and persons generally, and to the additional limitations prescribed by this section. Any director, however, who is at the same time a salaried officer or employe of the bank, the bank and trust company, or the trust company, or of an*

affiliated bank, bank and trust company, or trust company, or an affiliated national banking association, as defined in this act, shall be subject to the additional limitations of this section in respect to loans to salaried officers or employes.

B. A bank, [or] a bank and trust company, or a trust company shall not, unless such loan shall be secured by collateral having an ascertained market value of at least twenty per centum more than the amount of the loan so secured, grant to any director, officer, or employe thereof any loan or line of credit without (1) the prior affirmative vote, or the prior written assent filed in the place of business of the institution, of a majority of all the directors of the bank, [or] bank and trust company, or trust company granting the loan, except that, if it is a director who is directly or indirectly interested in obtaining the loan, he shall not have a vote, or (2) the prior vote of a majority of the executive committee of the board of directors subsequently ratified by an affirmative vote of a majority of the members of the board of directors present at the meeting at which such action of the executive committee shall be ratified.

[B] C. A bank, [or] a bank and trust company, or a trust company shall not grant a loan in excess of one thousand dollars to a salaried officer or employe thereof, or to a salaried officer or employe of an affiliated bank, bank and trust company, or trust company or an affiliated national banking association, as defined in this act, unless the amount of the loan in excess of one thousand dollars be secured by readily marketable collateral, the market value of which shall at no time be less than one hundred and twenty per centum of the amount of the loan in excess of one thousand dollars. *The aggregate amount of loans to any such salaried officer or employe, including therein any extension of credit by means of letters of credit, or by acceptance of drafts for, or the discount or purchase of, notes, bills of exchange, or other obligations of such salaried officer or employe, shall not exceed ten per centum of the unimpaired capital plus ten per centum of the unimpaired surplus of such bank, bank and trust company, or trust company.* [This section shall not apply to loans to any such salaried officer or employe] *The limitations of this subsection relating to collateral, and the amount thereof, shall not be construed to prevent any such salaried officer or employe from obtaining a loan upon the security of a mortgage upon the home of such salaried officer or employe.*

[C] D. Any director, officer, or employe of a bank, [or] a bank and trust company, or a trust company who, on behalf of such bank, [or] bank and trust company, or trust company, knowingly grants a loan in violation

of this section, and any director, officer, or employe of such bank, bank and trust company, trust company, or national banking association, who wilfully accepts such a loan with knowledge that it was granted in violation of this section, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be subject to imprisonment for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both; he shall also be subject to a further fine of a sum equal to the amount of the loan; he shall furthermore be forever disqualified from acting as a director, officer, or employe of any institution in this Commonwealth.

Section 1009. Limitation upon Investing in Shares.—
A. Except as otherwise specifically authorized by this act, a bank or a bank and trust company shall not purchase or invest in the shares of capital of any corporation whatsoever.

B. Any bank or bank and trust company may purchase or invest in the shares of a Federal Reserve Bank, a national banking association *located within this Commonwealth*, or any bank, bank and trust company, or trust company, incorporated under the laws of this Commonwealth, or of any corporation organized for the purpose of conducting a safe deposit business.

C. Any bank and trust company may, in exchange or in consideration for such assets and property as comprised its title insurance business, take and hold the shares of any corporation, organized and existing under the laws of this Commonwealth, for the purpose of conducting a title insurance business, provided that such shares shall not, except with the written approval of the department, be entered upon its books at an amount greater than the amount at which the assets and property, which comprised its title insurance business, were theretofore entered upon its books.

D. This section shall not be construed to affect the power of a bank or a bank and trust company to take or hold shares of capital of a corporation in accordance with the provisions of this act, as security for loans granted by such bank or bank and trust company.

Section 1012. Loans on and Investments in Bonds and Mortgages and Judgments of Record.—A. A bank or a bank and trust company shall have the power to lend on the security of, or invest in, bonds secured by mortgages upon real property, but it shall lend upon, or invest in, only such bonds and mortgages as (1) are first liens on unencumbered improved real property, including improved farm land, situated within the Commonwealth, and (2) do not exceed two-thirds of the actual value of such real property, and (3) become due within ten years after the making of such loan or investment, unless amortized in equal annual installments over a

period not exceeding fifteen years after the making of such loan or investment. Any building which is upon, and is included in the valuation of, such real property shall be insured against loss by fire, to the benefit of such bank or bank and trust company, by the borrower or mortgagor during the term of the bond, in a company which is authorized to do business in Pennsylvania and is approved by the bank or bank and trust company making the investment. It shall be lawful for a bank or bank and trust company to renew such policies, at the expense of the borrower or mortgagor, from year to year, or for a longer or a shorter period, not, however, exceeding the term of the obligation, in case he shall fail to do so. All necessary charges and expenses paid by such bank or bank and trust company for such renewals shall be paid by such borrower or mortgagor. In case such borrower or mortgagor shall refuse, upon demand, to pay such charges and expenses, they shall be added to the amount secured by the mortgage, and shall, together with interest from the date of the payment of such charges and expenses, constitute a lien upon the property so mortgaged. All expenses of searches, examinations, certificates of title, or appraisal of actual value, and all expenses of drawing and recording of papers, shall be paid by such mortgagor or borrower. The actual value of the real property shall be determined by two reputable persons, especially familiar with real property values in the vicinity of the particular property to be appraised, selected from or approved by the board of directors. They shall inspect the property, and shall state, in writing, that the actual value of the real property inspected, to the best of their judgment, is as stated. Such report shall be filed and preserved among the records of the bank or bank and trust company. The restrictions imposed by this section shall not apply to *bonds secured by mortgages which are insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator, pursuant to the provisions of the National Housing Act of one thousand nine hundred and thirty-four, approved the twenty-seventh day of June, one thousand nine hundred and thirty-four, its amendments and supplements, nor to public utility, railroad, or industrial bonds, or other securities, commonly known as investment securities, although such bonds may be secured in whole or in part by a mortgage upon real property.*

B. A bank or bank and trust company shall have the power to lend on the security of, or invest in, judgments of record which are first liens on unencumbered real property situated within the Commonwealth, to the amount of fifty per centum of the actual value of such property, under the same circumstances and subject to

the same conditions as are established by this section in the case of loans on the security of, or investments in, bonds secured by mortgages upon real property.

C. The aggregate amount of all loans and investments made by virtue of this section shall not at any time exceed twenty-five per centum of the unimpaired capital and twenty-five per centum of its unimpaired surplus, or fifty per centum of the total time deposits of such bank or bank and trust company, at the option of the bank or bank and trust company.

[D. The limitations, herein prescribed, in respect to the percentage of the actual value of the property upon which a bank or a bank and trust company may lend on the security of, or invest in, bonds secured by mortgages upon real property, the term for which such loan may be granted, shall not apply to bonds secured by mortgages which are insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator pursuant to the provisions for mutual mortgage insurance in title two of the National Housing Act, for the purpose of financing the construction or purchase of dwellings and similar residential property, and the refinancings of mortgages.]

Section 1021. Prohibition upon Guaranteeing Mortgages.—A. A bank, a bank and trust company, or a trust company shall not, in any manner whatsoever, guarantee the payment of the principal or the interest of bonds or other obligations secured by mortgages upon real property, *nor shall a bank and trust company or a trust company, in any manner whatsoever, guarantee the payment of the principal or income thereon of any funds held by it in a fiduciary capacity.*

B. This section shall not, however, be construed to affect contracts and policies guaranteeing the payment of the principal or the interest of bonds or other obligations secured by mortgages upon real property when such contracts and policies have been lawfully executed by a bank, a bank and trust company, or a trust company, and are valid and outstanding upon the effective date of this act, or any continuation, extension, or renewal thereof.

Section 1208. Authorized Investments of Savings Banks Not under Special Charter.—A. Except as otherwise specifically provided in this act, a savings bank other than a savings bank organized under a special act of the General Assembly, shall not make any investments except as follows:

(1) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged, including the bonds or other interest-bearing obligations of the District of Columbia.

(2) Farm loan bonds issued by Federal land banks operating under the provisions of the Federal Farm Loan Act, approved the seventeenth day of July, one thousand nine hundred sixteen, its amendments and supplements.

(3) Bonds or other interest-bearing obligations of the Commonwealth of Pennsylvania, or of any state of the United States, or those for the payment of the principal and interest on which the faith and credit of this Commonwealth, or of such state, is pledged, provided that it has not, at any time within the ten years immediately preceding the date of the purchase of such bonds or other obligations by the savings bank, defaulted in the payment of any part of any principal or interest due by it.

(4) Bonds or other interest-bearing obligations of any county, city, borough, township, school district, or other political subdivision of the Commonwealth of Pennsylvania, or of any city, borough, township, school district, or other political subdivision of any state of the United States, or those for the payment of the principal and interest on which the faith and credit of such political subdivision is pledged, provided that it has not, within the ten years immediately preceding the date of the purchase of such bonds or other obligations by the savings bank, defaulted in the payment of any part of any principal or interest due by it.

(5) Obligations issued, assumed, or guaranteed as to principal and interest by, or equipment bonds of, any railroad corporation, whether incorporated under the laws of this Commonwealth, of any other state, or of the Dominion of Canada, provided that such railroad corporation has not, at any time within the five years immediately preceding the date of the investment in such obligations or bonds by the savings bank, failed punctually to pay the matured principal and interest on all of its indebtedness.

(6) The bonds of any corporation, whether incorporated under the laws of the United States, of any other state, or of the District of Columbia, which transacts the business of supplying electrical energy, artificial gas, or natural gas purchased from another corporation and supplied in substitution for, or in mixture with, artificial gas, for light, heat, power, and other purposes, or which transacts any two or all of such businesses; but at least seventy-five per centum of the gross operating revenues of such corporation shall be derived from such business, and not more than fifteen per centum of the gross operating revenues shall be derived from any one kind of business other than supplying electricity and gas, and such corporation shall be subject to regulation by a public service commission, a public utility

commission, or any other similar regulatory body duly established by the laws of the United States, or of any state in which such corporation operates, subject to the following conditions:

(a) Such corporation shall have all the franchises necessary to operate in territory in which at least seventy-five per centum of its gross income is earned, which franchises shall either be indeterminate permits of or agreements with, or subject to the jurisdiction of, a public service commission or other duly constituted regulatory body, or shall extend at least five years beyond the maturity of such bond; and such corporation shall file with the department and make public in each year, a statement and a report giving the income account covering the previous fiscal year, and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year.

(b) The outstanding full-paid capital stock of such corporation shall, at the time of such investment, be equal to at least two-thirds of the total debt secured by mortgage liens on any part or all of its property, but in the case of a corporation having non-par value shares, the amount of capital which such shares represent shall be the capital as shown by the books of the corporation.

(c) Such corporation shall have been in existence for a period of not less than eight fiscal years, and at no time, within such period of eight fiscal years immediately preceding the date of such investment, shall such corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness, direct, assumed or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a major portion of its property was acquired by consolidation, merger, or purchase, shall be considered together in determining such required period.

(d) For a period of five fiscal years immediately preceding such investment, the net earnings of such corporation shall have averaged per year not less than twice the average annual interest charges on its total funded debt applicable to that period, and for the last fiscal year preceding such investment, such net earnings shall have been not less than twice the interest charges for a full year on its total funded debt outstanding at the time of such investment, and, for such period, the gross operating revenues of any such corporation shall have averaged per year not less than one million dollars, and such corporation shall have, for each such year, either earned an amount available for dividends, or paid an amount in dividends, equal to four per centum upon a sum equivalent to two-thirds of its funded debt.

(e) In determining the qualifications of any bond under this clause, where a corporation shall have acquired its property, or any substantial part thereof, within the five years immediately preceding the date of such investment by consolidation or by merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, the gross operating revenues, net earnings, and interest charges of the several predecessor or constituent corporations shall be consolidated and adjusted, so as to ascertain whether the requirements of the paragraph immediately preceding this one, as to net and gross earnings and as to dividends, have been complied with.

(f) The gross operating revenues and expenses of a corporation, for the purpose of this clause, shall be, respectively, the total amount earned from the operation of and the total expense of maintaining and operating all property owned and operated by, or leased and operated by, such corporation, as determined by the system of accounts prescribed by the public service commission, or public utility commission, or other similar regulatory body having jurisdiction in the matter. The gross operating revenues and expenses, as defined above, of subsidiary companies may be included, provided that all the mortgage bonds, and a controlling interest in shares of such subsidiary companies, are pledged as part of the security for the mortgage debt of the principal company.

The net earnings of any corporation, for the purpose of this clause, shall be the balance obtained by deducting from its gross operating revenues its operating and maintenance expenses, taxes, other than Federal and State income taxes, rentals, and provision for renewals and retirements of the physical assets of the corporation, and by adding to such balance its income from securities and miscellaneous sources, but not, however, exceeding fifteen per centum of such balance.

(g) Such bonds must be part of an issue of not less than one million dollars and must be mortgage bonds secured by a first or refunding mortgage secured by property owned and operated by the corporation issuing or assuming them, or must be underlying mortgage bonds secured by property owned and operated by the corporations issuing or assuming them, but such bonds shall be refunded by a junior mortgage providing for their retirement; the bonds under such junior mortgage shall comply with the requirements of this section, and such underlying mortgage shall be either a closed mortgage or shall remain open solely for the issue of additional bonds which are to be pledged under such junior mortgage. The aggregate principal amount of bonds secured by such first or refunding mortgage, plus the principal amount of all the underlying outstanding bonds, shall

not exceed sixty per centum of the value of the physical property owned, as shown by the books of the corporation, and subject to the lien of such mortgage or mortgages securing the total mortgage debt. However, if such mortgage is a refunding mortgage, it must provide for the retirement on or before the date of their maturity of all bonds secured by prior liens on the property.

(h) The term funded debt shall be construed to mean all interest-bearing debts maturing more than one year from date of issue.

(7) The bonds of any corporation, whether incorporated under the laws of the United States, of any other state, or of the District of Columbia, which engages and is authorized to engage in the business of furnishing telephone service in the United States, provided that such corporation is subject to regulation by the Interstate Commerce Commission, a public service commission, a public utility commission, or any other similar Federal or State regulatory body duly established by the laws of the United States or by the laws of any state in which such corporation operates, subject to the following conditions:

(a) Such corporations shall have been in existence for a period of not less than eight fiscal years, and at no time, within such period of eight fiscal years immediately preceding the date of such investment, shall such corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness, direct, assumed, or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a major portion of its property was acquired by consolidation, merger, or purchase shall be considered together in determining the required period; and such corporation shall file with the department, and make public, in each year a statement and a report giving the income account covering the previous fiscal year, and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year.

(b) The outstanding full-paid capital stock of such corporation shall at the time of such investment be equal to at least two-thirds of the total debt secured by mortgage liens on any part or all of its property.

(c) For a period of five fiscal years immediately preceding such investment, the net earnings of such corporation shall have averaged per year not less than twice the average annual interest charges on its total funded debt applicable to that period, and for the last fiscal year preceding such investment, such net earnings shall have been not less than twice the interest charges for a full year on its total funded debt outstanding at the time of such investment, and, for such period, the gross

operating revenues of any such corporation shall have averaged per year not less than five million dollars, and such corporation shall have, for each such year, either earned an amount available for dividends, or paid an amount in dividends, equal to four per centum upon all its outstanding capital stock.

(d) Such bonds must be part of an issue of not less than five million dollars and must be secured by a first or refunding mortgage, and the aggregate principal amount of bonds secured thereby, plus the principal amount of all underlying outstanding bonds, shall not exceed sixty per centum of the value of the property, real and personal, owned absolutely and subject to the lien of such mortgage. However, if such mortgage is a refunding mortgage, it must provide for the retirement of all bonds secured by prior liens on the property. Not more than thirty-three and one-third per centum of the property, constituting the specific security for such bonds, may consist of shares or unsecured obligations of affiliated or other telephone companies, or both.

(e) In determining the qualifications of any bond under this clause, where a corporation shall have acquired its property, or any substantial part thereof, within five years immediately preceding the date of such investment by consolidation, by merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, the gross operating revenues, net earnings, and interest charges of the several predecessor or constituent corporations shall be consolidated and adjusted, so as to ascertain whether the requirements of this clause, as to earnings and dividends, have been complied with.

(f) The gross operating revenues and expenses of a corporation, for the purpose of this clause, shall be, respectively, the total amount earned from the operation of and the total expense of maintaining and operating all property owned and operated by, or leased and operated by such corporation, as determined by the system of accounts prescribed by the Interstate Commerce Commission, or the public service commission, or the public utility commission, or any other similar Federal or State regulatory body having jurisdiction in the matter.

(g) The net earnings of any corporation, for the purpose of this clause, shall be the balance obtained by deducting from its gross operating revenues its operating and maintenance expenses, provision for depreciation of the physical assets of the corporation, taxes, other than Federal and State income taxes, rentals and miscellaneous charges, and by adding to such balance its income from securities and miscellaneous sources, but not, however, to exceed fifteen per centum of such balance.

(h) The term funded debt shall be construed to mean all interest-bearing debts maturing more than one year from date of issue.

(8) Bonds secured by mortgages which are first liens upon unencumbered improved real property, including improved farm land, situated within the Commonwealth, to the extent of not more than two-thirds of the actual value of such real property, and for a term not exceeding ten years, unless amortized in equal annual installments over a period not exceeding fifteen years, and bonds secured by mortgages which are first liens upon unencumbered improved real property, including improved farm land, situated within the Commonwealth, which are insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator pursuant to the provisions of mutual mortgage insurance [in title two] of the National Housing Act of one thousand nine hundred and thirty-four, approved the twenty-seventh day of June, one thousand nine hundred and thirty-four, its amendments and supplements. [for the purpose of financing the construction or purchase of dwellings and similar residential property, and the refinancing of mortgages.] Any building which is upon, and is included in the valuation of, such real property shall be insured against loss by fire, to the benefit of the savings bank, by the mortgagor during the term of the bond, in a company which is authorized to do business in Pennsylvania and is approved by the savings bank making the investment. It shall be lawful for a savings bank to renew such policies, at the expense of such mortgagor, from year to year, or for a longer or shorter period, not, however, exceeding the term of the bond, in case the mortgagor shall fail to do so. All necessary charges and expenses paid by such savings bank for such renewals shall be paid by such mortgagor. In the event that the mortgagor shall refuse, upon demand, to pay such charges and expenses, they shall be added to the amount secured by the mortgage, and shall, together with interest from the date of payment of such charges and expenses by such savings bank, constitute a lien upon the property so mortgaged. All expenses of searches, examinations, certificates of title, or appraisal of actual value, and all expenses of drawing and recording of papers, shall be paid by such mortgagor. The actual value of the real property shall be determined by two reputable persons, especially familiar with real property values in the vicinity of the particular property to be appraised, selected from or approved by the board of trustees. They shall inspect the property, and shall state, in writing, that the actual value of the real property inspected, to the best of their judgment, is as stated.

Such report shall be filed and preserved among the records of the savings bank.

B. A savings bank, other than a savings bank organized under a special act of the General Assembly, may make such additional investments as are authorized by its articles, but it shall not purchase or invest in bonds, secured by mortgage upon real property, other than such as are expressly authorized by this act, nor shall it invest in the shares of capital of any corporation whatsoever, except a Federal Reserve Bank.

Section 1209. Authorized Investments of Special Charter Savings Banks.—A savings bank organized under a special act of the General Assembly may make such investments as may be authorized by its articles of incorporation, but no such savings bank shall purchase or invest in the shares of capital of any corporation whatsoever, except a Federal Reserve Bank, or purchase or invest in bonds secured by mortgages upon real property, unless such bonds and mortgages are first liens upon unencumbered improved real property, including improved farm land, situated within the Commonwealth, and do not exceed two-thirds of the actual value of such real property, and become due within ten years after the making of such purchase or investment, unless amortized in equal annual installments over a period not exceeding fifteen years after the making of such purchase or investment, or unless such bonds and mortgages which are first liens upon unencumbered improved real property, including improved farm land, situated within the Commonwealth, are insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator pursuant to the provisions for mutual mortgage insurance [in title two] of the National Housing Act of *one thousand nine hundred and thirty-four, approved the twenty-seventh day of June, one thousand nine hundred and thirty-four, its amendments and supplements.* [for the purpose of financing the construction or purchase of dwellings and similar residential property, and the refinancing of mortgages] Any building which is upon, and is included in the valuation of, such real property shall be insured against loss by fire, to the benefit of the savings bank, by the mortgagor during the term of the bond, in a company which is authorized to do business in Pennsylvania and is approved by the savings bank making the purchase or investment. It shall be lawful for a savings bank to renew such policies, at the expense of such mortgagor, from year to year, or for a longer or shorter period, not, however, exceeding the term of the bond, in case the mortgagor shall fail to do so. All necessary charges and expenses paid by such savings bank for such renewals shall be paid by such mortgagor. In the event that the mortgagor shall

refuse, upon demand, to pay such charges and expenses, they shall be added to the amount secured by the mortgage, and shall, together with interest from the date of payment of such charges and expenses by such savings bank, constitute a lien upon the property so mortgaged. All expenses of searches, examinations, certificates of title, or appraisal of actual value, and all expenses of drawing and recording of papers shall be paid by such mortgagor. The actual value of the real property shall be determined by two reputable persons, especially familiar with real property values in the vicinity of the particular property to be appraised, selected from or approved by the board of trustees. They shall inspect the property, and shall state, in writing, that the actual value of the real property inspected, to the best of their judgment, is as stated. Such report shall be filed and preserved among the records of the savings bank. The restrictions contained in this section, with reference to real estate bonds, shall not apply to public utility, railroad, or industrial bonds, or other securities, commonly known as investment securities, although such bonds may be secured, in whole or in part, by a mortgage upon real property.

Section 1302. Application to Be Filed With Department; Contents.—On or before the thirtieth day of December, one thousand nine hundred thirty-three, or in the case of any private bank which has by law heretofore been exempted from the provisions of this act, then on or before the thirty-first day of December, one thousand nine hundred thirty-five, every private bank which plans to continue in business, *and every private bank which is required by the provisions of this act to obtain a new certificate of authorization by reason of a change in the ownership, name, or place of business of such private bank*, shall file with the department a written application for a certificate of authorization. Such application shall be signed in duplicate originals and verified, in the case of a private bank owned and operated by an individual, by the oath or affirmation of such individual, and, in the case of a private bank owned and operated by a partnership or any other unincorporated association, by the oath or affirmation of [all] *not less than two* of the partners or members of the unincorporated association, *and, in the case of a private bank filing an application by reason of the admission of a new partner or partners, the application shall also be verified by the oath or affirmation of the partner or partners being admitted.* The application shall be in such form as is prescribed by the department, and shall be filed upon blanks supplied by the department. It shall set forth:

(1) The full name, residence, post-office address, and citizenship of such individual or of each member of such

partnership or other unincorporated association, as well as the names and post-office addresses of the officers, or agents in active charge of the business of the private bank;

(2) The statement that, in the case of a private bank owned by an individual, such individual is a resident of Pennsylvania, and in the case of a private bank owned by a partnership or other unincorporated association, at least one of the partners or members is a resident of Pennsylvania;

(3) The name of the private bank;

(4) The exact location of the place or places of business of the private bank;

(5) In the case of a partnership or other unincorporated association, the partnership or other agreement under which the business of the bank is being conducted, or in the case of an unlimited partnership, a certified extract thereof, or if the partnership or other agreement does not contain provision therefor, a statement setting forth the liability of each member of such unlimited partnership;

(6) A detailed statement of the resources, liabilities, and net worth of the private bank, as well as any other information bearing upon its financial condition, which the department shall prescribe.

Section 1404. Advertisement.—[A] Except as [herein] otherwise provided *in this act*, the incorporated institution or the national banking association shall advertise its intention to file articles of merger or articles of consolidation, as the case may be, with the Department of State, in a manner similar to that heretofore prescribed in this act in the case of the formation of the particular type of surviving or new incorporated institution. Advertisements shall appear at least three days prior to the day on which the articles of merger or articles of consolidation are to be presented to the Department of State, *and*

[B. If the effect of the merger or consolidation is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the surviving or new incorporated institution is to be located, the incorporated institution or national banking association shall also advertise its intention to file articles of merger or articles of consolidation, as the case may be, with the Department of State, one time in a newspaper of general circulation in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency or branch place of business is to be located, and which is published in the city, borough or township in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of

business is to be located, and one time in a legal newspaper published in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located. Such advertisement shall appear at least ten days prior to the day on which the articles of merger or articles of consolidation are to be presented to the Department of State. The incorporated institution or national banking association shall also give written notice of its intention to file such articles of merger or such articles of consolidation with the Department of State, to every institution which has its principal place of business in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.

C. The advertisement and notice] shall set forth briefly:

(1) The name and the location of the principal place of business of each of the constituent corporations intending to merge or consolidate.

(2) The name and the location of the principal place of business of the surviving or new incorporated institution.

(3) A statement that the articles of merger or consolidation are to be filed under the provisions of this act.

(4) The purpose or purposes of the surviving or new incorporated institution.

(5) [In the case of articles of merger or articles of consolidation, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the surviving or new incorporated institution is to be located, a statement that written notice of the intention to file articles of merger or articles of consolidation with the Department of State, has been given to every institution which has its principal place of business in the county in which the proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.]

[(6)] The time when the articles of merger or consolidation will be delivered to the Department of State.

Section 1406. Approval of Articles of Merger or Consolidation by Department of Banking.—A. [The] *Except as otherwise provided in this act, the* Department of Banking shall, immediately upon the receipt from the Department of State of the articles of merger or articles of consolidation, conduct such examination as it may deem necessary to ascertain from the best sources of information at its command:

(1) Whether the name of the surviving or new incorporated institution is likely to mislead the public as to its character or purpose.

(2) Whether the consolidation or merger is made for legitimate purposes.

(3) Whether the interests of the depositors or other creditors, and in the case of a bank, a bank and trust company, or trust company, the shareholders, are adequately protected.

(4) Whether the surviving or new incorporated institution meets all the requirements of this act and violates none of its prohibitions applicable to a bank, bank and trust company, trust company, or a savings bank, as the case may be, incorporated under this act.

(5) Whether, where a national banking association is one of the parties of the merger or consolidation, it has complied with the requirements of the laws of the United States.

B. [(1) Excepting in the case of articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any city, borough or other community, other than the city of the first class or the second class, in which the principal place of business of the institution is located, or the city or borough in which the principal place of business of the incorporated institution is located, and in which the institution was authorized by law to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business on the first day of January, one thousand nine hundred and thirty-five, within thirty days after the receipt of the articles of merger or articles of consolidation from the Department of State, the Department of Banking shall, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove such articles.

(2) In the case of articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any city, borough or other community, other than city, borough or other community in which the principal place of business of the incorporated institutions is located, the Department of Banking shall, within sixty days after the receipt of the articles from the Department of State, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove such articles. The Department of Banking may, in its sole discretion, disapprove articles, the effect of which is to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in any county contiguous to the county in which the principal place of business of the incorporated institution is located, if it shall appear as a result of the investigation or hearing, required by this section, that an incorporated

institution, having its principal place of business in the county in which such proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located, has in good faith notified the Department of Banking of its intention to establish a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business in accordance with the provisions of this act, in the same place in which such proposed branch bank, branch office, agency, sub-office, sub-agency, or branch place of business is to be located.

If it shall approve such articles, it shall forward them to the Banking Board for review. The Banking Board shall, after such investigation or hearing as it may deem advisable, either approve or disapprove the action of the Department of Banking in respect to the establishment of a branch bank, branch office, agency, sub-office, sub-agency, or branch place of business, and shall return the articles to the Department of Banking with notice of its decision, and, in the case of disapproval, with a statement in detail of its reasons for doing so. The decision of the Banking Board shall be binding upon the Department of Banking. Immediately upon receipt of the articles from the Banking Board, the Department of Banking shall, on the basis of the decision of the Banking Board, either approve or disapprove them in the same manner as is provided by this section, in the case of articles of merger or articles of consolidation generally. It shall immediately notify the Department of State in writing of its action. If it shall approve the articles of merger or articles of consolidation, it shall sign its approval thereon and shall return them to the Department of State.]

Within thirty days after the receipt of the articles of merger or articles of consolidation from the Department of State, the Department of Banking shall, upon the basis of the facts disclosed by the investigation provided for by this section, either approve or disapprove such articles. It shall immediately notify the Department of State, in writing, of its action. If it shall approve the articles of merger or articles of consolidation, it shall endorse its approval thereon and shall return them to the Department of State.

C. If the Department of Banking disapproves the articles of merger or the articles of consolidation, it shall return them to the Department of State, stating in detail its reasons for doing so. The Department of State shall immediately give notice to the corporations desiring to merge or consolidate of the action of the Department of Banking, and of the reasons therefor as stated to it by that department. The decision of the Department of Banking shall be conclusive and not subject to review.

Section 1503. Relationship of Institution with Employes of Department.—A. An institution shall not grant or give any sum of money or other property, whether as a gift, credit, loan, or otherwise, either directly or indirectly, to the Secretary of Banking, or to any deputy, examiner, clerk, or other employe of the department, *or to a deputy receiver or other employe of the Secretary of Banking as receiver*. However, any institution may grant a loan to the Secretary of Banking, or any deputy, examiner, clerk, or other employe of the department, *or to a deputy receiver or other employe of the Secretary of Banking as receiver*, if such loan is secured by a mortgage upon his own home which meets all the terms and conditions provided by this act for loans secured by mortgages, and which, in addition, meets any additional conditions imposed and followed by such institution in making such loan.

This section shall not be construed to prohibit the Secretary of Banking, or any deputy, examiner, clerk, or other employe of the department, *or a deputy receiver or other employe of the Secretary of Banking as receiver*, from becoming a depositor in any institution.

B. Any officer or employe of an institution, and, in the case of an incorporated institution, any director or trustee, who knowingly violates the provisions of this section, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be subject to imprisonment for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both; he shall also be subject to a further fine of a sum equal to the amount of the gift, credit, loan, or other sum of money, or the value of any other property given in violation of this section.

Section 1504. Forfeiture of Articles of Incorporation or Certificate of Authorization.—A. The articles of incorporation in the case of an incorporated institution, and the certificate of authorization in the case of a private bank, shall be automatically forfeited by operation of law when—

(1) In the case of a bank, a bank and trust company, or a trust company, the capital, surplus, and expense fund required by law, and in the case of a savings bank, the expense fund required by law, have not been paid in within two years after the issuance of its certificate of incorporation;

(2) In the case of an incorporated institution, it has not in any manner exercised at least one of the powers conferred upon it by its articles of incorporation, and in the case of a private bank, by its certificate of authorization, within two years after the issuance thereof;

(3) In the case of an incorporated institution, it has formerly exercised any of the powers conferred upon it by its articles of incorporation, or in the case of a private

bank, by its certificate of authorization, but for a period of two years it has not exercised at least one of such powers;

(4) The secretary, after having taken possession of the business and property of an institution, as receiver, has completely liquidated its assets;

(5) In case of a bank, a bank and trust company, or a trust company, the secretary, after having taken possession of the business and property of the bank or bank and trust company, as receiver, has paid the depositors and other creditors in full, and has surrendered the assets remaining to liquidating trustees for the benefit of the shareholders;

(6) The secretary, after having taken possession of the business and property of an institution, as receiver, has surrendered possession to the institution itself because he was without funds to liquidate the business and property;

(7) The secretary, after having taken possession of the business and property of an institution, as receiver, has surrendered to the institution itself, or to any other corporation or person, the assets of the institution in order to permit the carrying out of a special plan of liquidation.

B. Whenever it shall appear to the department that any of the conditions, which under the provisions of this section, shall effect the forfeiture of the articles of an incorporated institution, or the certificate of authorization of a private bank, it shall issue a certificate of forfeiture of the articles of incorporation or of the certificate of authorization, which shall be filed with the Department of State. The Department of State shall send a copy of such certificate to the last known address of the institution and a copy to the Department of Banking.

C. If the articles of incorporation of an incorporated institution have been forfeited in the manner provided by this section, the corporate powers may, whenever necessary to effect the liquidation and winding up of the business and property of such institution, continue for a period of [three] *five* years, but they shall not be considered in existence for any other purposes whatsoever.

When effective.

Section 2. Effective Date.—This act shall become effective immediately upon final enactment.

APPROVED—The 22d day of April, A. D. 1937.

GEORGE H. EARLE