

loan, or declare or pay any dividends, until the reserve fund required by this act shall have been restored in full.]

[B] A. Every institution shall give immediate written notice to the department, in the manner prescribed by the department for such notice, whenever its total reserve fund has been deficient for five consecutive business days or for a total of ten business days during any thirty-day period.

[C] B. Any institution which fails to give the notice required by this section shall pay to the department a penalty of fifty dollars for each day that it does not do so after the time fixed by this section for the giving of such notice, but the department may, in its discretion, relieve any institution from the payment of such penalty, in whole or in part, if good cause be shown to it for the failure of such institution to give such notice. If an institution fails to pay a penalty from which it has not been thus relieved, the department may, through the Department of Justice, maintain an action at law to recover it.

Act effective immediately.

Section 3. This act shall take effect immediately.

APPROVED—The 1st day of December, A. D. 1959.

DAVID L. LAWRENCE

No. 601

AN ACT

Amending the act of May 15, 1933 (P. L. 624), entitled, as amended, "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 and employes' mutual banking associations; 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 employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations 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," authorizing certain banking institutions to invest funds administered by such institutions and to invest funds of **employee pension, welfare

* "fiduciary" in original.

** "employee" in original.

and benefit plans of which they are trustees, agents or custodians in common trust funds maintained by them.

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

Section 1. Subsection A of section 1109, act of May 15, 1933 (P. L. 624), known as the "Banking Code," amended June 24, 1939 (P. L. 726), is amended to read:

Subsection A, section 1109, act of May 15, 1933, P. L. 624, amended June 24, 1939, P. L. 726, further amended.

Section 1109. Common Trust Funds.—A. A trust company, or a bank and trust company in its trust department, may establish and maintain one or more common trust funds. The term "common trust fund," as used in this section, shall mean a fund maintained by a trust company or a bank and trust company for the collective investment and reinvestment of moneys of estates contributed thereto by the trust company or bank and trust company as fiduciary. The term "estate" or "estates," as used in this section, shall include any trust or other fund administered by the trust company or bank and trust company as trustee, committee, or guardian, *and shall also include a fund administered by the trust company, or *bank and trust company, as executor, if under the will such fund might later become distributable to the trust company, or bank and trust company, as trustee or guardian, and any employes' welfare, pension, profit sharing, share, purchase, or other **employee benefit plans administered by the trust company, or bank and trust company, as trustee, agent or custodian.*

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Section 2. Subsection B of section 1109 of said act, amended June 28, 1951 (P. L. 656), is amended to read:

Subsection B, section 1109, act of May 15, 1933, P. L. 624, amended June 28, 1951, P. L. 656, further amended.

Section 1109. Common Trust Funds.—

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B. If the instrument under which a trust company or bank and trust company acts as fiduciary, whether such fiduciary capacity arose before or is created after this act takes effect, shall limit or restrict the investment of moneys of the estate in assets of the class authorized by law as legal investments, the trust company or bank and trust company may, in its capacity as sole fiduciary or with the consent of any person acting with it in a fiduciary capacity, invest and reinvest moneys of the estate in any such common trust fund maintained by the trust company or bank and trust company, provided, the assets composing such fund consist solely of assets of the class authorized as legal investments for funds held by fiduciaries.

If the instrument under which a trust company or bank and trust company acts as fiduciary, whether such

* "bank" in original.
 ** "employee" in original.

fiduciary capacity arose before or is created after this act takes effect, shall authorize the investment of moneys of the estate in a common trust fund or in investments other than those designated by law as legal investments, or shall authorize the trust company or bank and trust company either alone or in conjunction with any person acting with it in a fiduciary capacity, to exercise its or their discretion with respect to the investment of moneys of the estate, the trust company or bank and trust company may, in its capacity as sole fiduciary or with the consent of any person acting with it in a fiduciary capacity, invest and reinvest moneys of the estate in any such common trust fund maintained by the trust company or bank and trust company. Any such common trust fund, consisting solely of moneys of estates contributed thereto by the trust company or bank and trust company pursuant to authority contained in any such instruments creating the fiduciary capacity to invest moneys of the estates in a common trust fund, or in investments other than such legal investments, or pursuant to such discretionary power with respect to the investment of moneys of the estates as contained in any such instruments creating the fiduciary capacity, may be composed of investments other than those of the class designated by law as legal investments for funds held by fiduciaries including common and preferred stocks.

Bonds secured by mortgages and securities of the class authorized by law as legal investments for fiduciaries, shall be deemed proper investments for any such common trust funds: Provided, however, That no investment for a common trust fund shall be made or maintained in bonds, secured by mortgages, which would cause the total amount of the investment for such fund in bonds, secured by mortgages, to exceed forty per centum of the value of all the assets comprising such fund.

No moneys of any one estate in excess of one hundred thousand dollars *other than a pension, welfare, profit sharing, share, purchase, or other employe benefit plan*, shall be invested in any one or more of such common trust funds as may be maintained by a trust company or bank and trust company. In applying this limitation, if two or more trusts are created by the same settlor or settlors, and as much as one-half of the income or principal, or both, of each trust is presently payable or applicable to the use of the same person or persons, such trusts shall be considered as one.

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Act effective
immediately.

Section 3. This act shall take effect immediately.

APPROVED—The 1st day of December, A. D. 1959.

DAVID L. LAWRENCE