

ness or other self-employed occupation, including in the case of a woman housekeeping and attending to the needs of her family, seeking employment, attendance at an educational institution or securing medical treatment. The order of court may be rescinded or modified at any time with or without notice to the prisoner.

APPROVED—The 26th day of November, A. D. 1968.

RAYMOND P. SHAFER.

No. 345

AN ACT

SB 1573

Amending the act of November 30, 1965 (P. L. 847), entitled "An act relating to and regulating the business of banking and the exercise by corporations of fiduciary powers; affecting persons engaged in the business of banking and corporations exercising fiduciary powers and affiliates of such persons; affecting the shareholders of such persons and the directors, trustees, officers, attorneys and employes of such persons and of the affiliates of such persons; affecting national banks located in the Commonwealth; affecting persons dealing with persons engaged in the business of banking, corporations exercising fiduciary powers and national banks; conferring powers and imposing duties on the Banking Board, on certain departments and officers of the Commonwealth and on courts, prothonotaries, clerks and ¹ recorders of deeds; providing penalties; and repealing certain acts and parts of acts," expanding the power of institutions and the exclusion from indebtedness, changing the appraisal requirements for loans, deleting a reference to the Federal Housing Administration, revising the provisions dealing with transactions by an institution in its own stock, expanding the investment powers of institutions, increasing certain limits for the cost of shares, changing the application of the reserve fund, providing for reports or certificates of judges, revising the vacancy provisions, expanding the authority of institutions to make loans to officers or employes, and changing the provisions relating to approval of merger or consolidation, and making editorial changes.

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

Section 1. Clause (a) of section 202, subsection (c) of section 306, clause (iii) of subsection (d) and clause (ii) of subsection (e) of section 310, and subsection (c) of section 311, act of November 30, 1965 (P. L. 847), known as the "Banking Code of 1965," are amended to read:

Section 202. Additional Powers of Incorporated Institutions Related to Conduct of Business

An incorporated institution shall have in addition to other powers granted by this act or its articles and subject to the limitations and restrictions contained in this act or in its articles:

¹ "records" in original.

(a) Agency for United States—the power to act as agent of the United States or of any instrumentality or agency thereof for the sale, [or] issue or redemption of bonds, notes or other obligations of the United States, or those for the payment of which the full faith and credit of the United States is pledged, and to pledge its assets for the faithful performance of its duties as such agent;

* * *

Section 306. Limits on Indebtedness of One Customer (Including Purchased Paper)

* * *

(c) ¹ Indebtedness excluded—There shall be excluded from the indebtedness of one customer to which the ten percent limitation of this ² section applies:

(i) obligations in the form of negotiable drafts or bills of exchange which have been drawn in good faith against actually existing values in connection with the sale of goods and which have been accepted or indorsed;

(ii) obligations arising out of the discount of commercial or business paper actually owned by the customer transferring it;

(iii) obligations drawn in good faith against actually existing values and secured by goods in process of shipment;

(iv) obligations in the form of banker's acceptances of other banks of the kind described in section 308;

(v) obligations of the customer by reason of acceptances by the institution for the customer's account pursuant to section 308, except to the extent that the institution acquires such acceptances;

(vi) obligations secured by documents of title covering:

(A) livestock,

(B) readily marketable nonperishable staples for a period of not more than ten months from the date of the document of title, or

(C) readily marketable frozen or refrigerated staples for a period of not more than six months from the date of the document of the title

if such property has a market value of not less than one hundred fifteen percent of the amount of the obligation secured thereby and is fully covered by insurance;

(vii) obligations of, and obligations guaranteed by:

(A) the United States,

(B) the Commonwealth of Pennsylvania, a political subdivision of the Commonwealth, a public body of the Commonwealth or a public body of a political subdivision of the Commonwealth, or

(C) any state of the United States or any political subdivision thereof if the obligations or guarantees are general obligations;

¹ "Intedbtedness" in original.

² "sction" in original.

(viii) obligations to the extent secured by:

(A) obligations specified in clause (vii) of this subsection,

(B) obligations which the institution would be authorized to acquire without limit as investment securities pursuant to section 307,

(C) obligations fully guaranteed by the United States,

(D) guaranties or commitments or agreements to take over or purchase made by any department, bureau, board, commission or establishment of the United States or any corporation owned directly or indirectly by the United States, or

(E) loan agreements between a local public agency or a public housing agency and an instrumentality of the United States pursuant to national housing legislation under which funds will be provided for payment of the obligations secured by such loan agreements;

(ix) obligations secured by

(A) at least a like amount of cash surrender value of life insurance policies, or

(B) collateral which has a market value of not less than one hundred and twenty percent of the amount of the obligations secured thereby—

to the extent of fifteen percent of the aggregate of the capital, surplus and capital securities of the institution;

(x) investment securities acquired pursuant to section 307; and

(xi) obligations of the kind covered by subsection (b) (ii) of this section as to which there is a certificate of reliance on a primary obligor or on security of real or personal property; and

(xii) obligations of the customer as to which there is a certificate of reliance on an obligor other than the customer or on security of real or personal property; and

(xiii) transactions of the institution in connection with the sale of reserve balances to a member or nonmember bank.

* * *

Section 310. Real Estate Loans

* * *

(d) Requirements in connection with loans—The requirements for a loan subject to this section shall be:

* * *

(iii) the value of the real estate shall be determined by [the average of appraisals] an appraisal signed by two reputable persons who shall [each]:

(A) be [a director] directors of the institution or selected in a manner authorized by the directors,

(B) be familiar with real estate values in the vicinity where the real estate is located, and

(C) inspect the real estate and state its value to the best of [his] their judgment in a written report [to] which must be preserved in the records of the institution. In the event the appraisers arrive at different conclusions as to the value of the real estate, it shall be permissible to use the average of their two appraisals to determine the value of the real estate: Provided, however, That each valuation is stated in the report;

* * *

(e) Excepted loans—The restrictions and requirements of this section shall not apply to:

* * *

(ii) a loan insured, or for which a written commitment to insure has been issued, [by the Federal Housing Administration] pursuant to national housing legislation;

* * *

Section 311. Transactions With Respect to Shares of Corporate Stock

* * *

(c) Collateral loans—An institution [may require and hold an interest in shares of corporate stock as collateral security for a loan except shares of stock of:

(i) the institution, or

(ii) a corporation whose stock is not dealt in on a recognized stock exchange in an amount the value of which, together with the total amount of:]

shall not take pledges of stock of the institution itself as collateral security for a loan, nor shall an institution take pledges of corporate stocks not dealt in on a recognized exchange if the amount of the loan secured by said pledge, together with the total amount of:

[(A)] (i) all indebtedness of the corporation to the institution,

[(B)] (ii) rentals payable to the institution under leases of personal property to the corporation, and

[(C)] (iii) the [face amount] book value of investment securities of the corporation [held] which are owned by the institution

would at any time exceed twenty-five per cent of the aggregate of the capital, surplus and capital securities of the institution.

* * *

Section 2. The act is amended by adding after section 315, a new section to read as follows:

Section 316. Authorizing Certain Loans for Commercial, Business, Professional, Agricultural or Nonprofit Purposes

(a) Maximum rate—An institution may make a charge for an installment loan which complies with the requirements of this section at a rate not in excess of five dollars (\$5) per one hundred dollars (\$100) per annum computed on the original principal amount for the period of the loan.

(b) Eligible borrowers—An installment loan for which the charge authorized by this section may be made may be granted only to a customer which is a nonprofit organization or to a customer which is engaged in a commercial, business, professional or agricultural enterprise for purposes of such enterprise.

(c) Term—The term of the loan shall be a period not in excess of seven years from the date of the loan. The aggregate period for which the final maturity of the loan may be extended shall be one year.

(d) Maximum amount—The original principal amount of any loan, and the total of the principal balances of all loans to one borrower outstanding at any time, for which charges are made pursuant to the authorization of this section and of section 309, shall not be in excess of fifty thousand dollars (\$50,000). For any portion of one or more loans to one borrower in excess of such amount, the charge which the institution may make shall be governed by law other than this section.

(e) Installments—The total amount payable on the loan shall be payable in installments of substantially equal amounts at substantially equal intervals of not more than six months each.

(f) Permissible charges—An institution may receive in advance the charge permitted under subsection (a) of this section and in addition may make the following charges:

(i) premiums for insurance obtained in connection with the loan,

(ii) a single delinquency charge for each installment in arrears for a period of more than fifteen days other than by reason of acceleration or by reason of a delinquency on a prior installment, in an amount not to exceed the lesser of fifteen dollars (\$15) or five percent of the amount of the installment,

(iii) a charge for an extension in an amount not to exceed

one percent of the unpaid balance of the loan for each month of such extension or portion thereof in excess of fifteen days,

(iv) fees paid for filing documents in public offices in connection with the loan, and

(v) actual expenditures, including reasonable attorneys' fees, for proceedings to collect the loan.

(g) Rebate of unearned charges—In the event of payment or re-financing of the balance of a loan prior to maturity, the institution shall pay or credit a refund of the unearned portion of the charge made pursuant to subsection (a) of this section in an amount which shall be at least the amount computed, for the unexpired period to the date of scheduled maturity, by the accounting method known as the "Sum of the Digits" or "The Rule of 78," except that no such refund shall be required in an amount less than one dollar (\$1) or in any amount until the institution has received a minimum charge of ten dollars (\$10) for the loan.

Section 3. Subsection (b) of section 504, clause (iii) of subsection (d) of section 505, subsection (a) of section 506, subsection (a) of section 511, subsection (a) of section 704, clause (vi) of subsection (b) of section 1220, subsection (b) of section 1404, subsection (b) of section 1415 and subsection (b) of section 1604, of the act, are amended to read:

Section 504. Investments

* * *

(b) Authority under this act or other statutes—Except as otherwise provided in its articles, a savings bank may, in addition to investments authorized by its articles, other provisions of this act or other statutes, make investments in:

(i) obligations of the United States or of the District of Columbia or obligations for which the full faith and credit of the United States is pledged:

(ii) obligations of the Federal National Mortgage Association, a Federal Land Bank, a Federal Home Loan Bank, a Bank for Cooperatives, a Federal Intermediate Credit Bank, the Tennessee Valley Authority, the International Bank for Reconstruction and Development [and], the Inter-American Development Bank and the Asian Development Bank, or any other such corporations or agencies as may from time to time be approved by the Department of Banking:

(iii) obligations of any state of the United States or of any political subdivision of any state, obligations for which the full faith and credit of any state or of any political subdivision of any state is pledged and obligations of any authority existing

under the laws of the Commonwealth of Pennsylvania—subject to the prudent man rule;

(iv) obligations of any corporation or similar entity existing under the laws of the United States, ¹ any state or the District of Columbia—subject to the prudent man rule;

(v) bankers' acceptances and bills of exchange eligible for purchase in the open market by a Federal Reserve Bank which have been accepted by a member of a Federal Reserve Bank, subject to a limit for all acceptances by one acceptor held at any time of twenty-five percent of the capital and surplus of such acceptor and to a limit for the aggregate of all acceptances held at any time of five percent of the book value of the assets of the savings bank;

(vi) shares of preferred stock, guaranteed stock or common stock of a corporation or similar entity existing under the laws of the United States, any state or the District of Columbia, subject to:

(A) the prudent man rule,

(B) a limit for the aggregate cost of all shares acquired pursuant to this subsection (vi) of the lesser of [five] seven and one-half percent, of the book value of the assets of the savings bank or [fifty] seventy-five percent of the aggregate of its surplus, unallocated reserves, undivided profits and subordinated securities, at the time of acquisition of each of such shares,

(C) a limit for the aggregate cost of all shares of one issuer of one-fifth of one percent of the book value of the assets of the savings bank at the respective times of acquisition of each of such shares, and

(D) a limit for the aggregate number of shares of one issuer of five percent of the total number of issued and outstanding shares of such issuer at the respective times of acquisition of each of such shares;

(vii) obligations of the Pennsylvania Housing Agency;

(viii) real estate loans made pursuant to this chapter; and

(ix) personal property leased to customers pursuant to this

chapter.

* * *

Section 505. Real Estate Loans

* * *

(d) Requirements in connection with loans—The requirements for a loan subject to this section shall be:

* * *

(iii) the value of the real estate shall be determined by [the average of appraisals] an appraisal signed by two reputable persons who shall [each]:

¹ "and" in original.

(A) be [a trustee] trustees of the savings bank or selected in a manner authorized by the trustees,

(B) be familiar with real estate values in the vicinity where the real estate is located, and

(C) inspect the real estate and state its value to the best of [his] their judgment in a written report [to] which must be preserved in the records of the savings bank. In the event the appraisers arrive at different conclusions as to the value of the real estate, it shall be permissible to use the average of their two appraisals to determine the value of the real estate: Provided, however, That each valuation is stated in the report.

* * *

Section 506. Lending Powers; Direct Leasing of Personal Property

(a) A savings bank may:

(i) make loans for a period not in excess of ninety days on the collateral security of property in which the savings bank is authorized to invest, in an amount which shall not at any time exceed ninety percent of the market value of the collateral;

(ii) make loans for repair, alteration or improvement of real estate which are insured, or for which a written commitment to insure has been issued, pursuant to national housing legislation, subject to a limitation for the aggregate amount of such loans of five percent of the total assets of the savings bank;

(iii) make loans secured by at least an equal amount of deposits of the borrower in the savings bank or of cash surrender value of life insurance; [and]

(iv) make loans to borrowers who are engaged in commercial, industrial or financial enterprises or who are nonprofit corporations or associations for terms not less than ten years—subject to the prudent man rule of section 504 (c) of this act; and

(v) enter into transactions with a member or nonmember bank for the purpose of selling reserve balances of the savings bank to such banks without limitation

but may not lend money or discount or purchase evidences of indebtedness or agreements for the payment of money except as provided in sections 504 and 505 and in this subsection (a).

* * *

Section 511. Borrowings and Subordinated Securities

(a) A savings bank may:

(i) borrow money to repay deposits,

(ii) borrow money from a Federal Reserve Bank or a Federal Home Loan Bank, [and]

(iii) borrow money for any purpose other than repayment of deposits in amounts not in excess of five percent of the book

value of its assets and for a period not in excess of three months and in any larger amount or for any longer period authorized by the department, and

(iv) acquire reserve balances at a Federal Reserve Bank or other reserve agent from a member or nonmember bank without limitation.

A savings bank may issue notes, debentures and other obligations to evidence borrowings.

* * *

Section 704. Composition of Reserve Fund

(a) Institutions other than savings banks—In the case of an institution other than a savings bank, such portion of the reserve fund against [demand] deposits as shall be fixed by regulation of the department shall consist of United States coin and currency on hand or on deposit, subject to call without notice, in a reserve agent. The balance of such reserve fund shall be kept in obligations of:

(i) the United States or any instrumentality thereof, the Commonwealth of Pennsylvania, any political subdivision of the Commonwealth, any public body of the Commonwealth or any public body of any political subdivision of the Commonwealth, or

(ii) other issuers whose obligations are marketable and approved by regulation of the department for the purpose of this section.

* * *

Section 1220. Judges of Election

* * *

(b) The judge or judges of election shall perform his or their duties impartially, expeditiously and in good faith and shall:

* * *

(vi) upon the request of the chairman or any shareholder present at the meeting, make a written report of any matter determined by him or them and execute a certificate of any fact found by him or them. Any report or certificate made by the judge or judges of election shall be prima facie evidence of the facts stated therein.

Section 1404. Term of Office of Directors or Trustees; Vacancies; Classification of Directors

* * *

(b) Vacancies—Except as otherwise provided in the articles or by-laws, vacancies in the board of directors or trustees, including vacancies resulting from an increase in the number of directors, may be filled by the remaining members of the board even though less than a quorum. Each director so elected shall be a director until his successor is elected by the shareholders who shall make such election at the next annual meeting of shareholders or at any special meeting called for that purpose prior thereto, unless the by-laws or articles provide otherwise.

* * *

Section 1415. Loans to, and Agreements for the Payment of Money of Directors, Trustees, Officers and Employes of Institutions and Affiliates

* * *

(b) Limitations as to salaried officers or employes of the institution or an affiliate—An institution shall not make a loan to a salaried officer or employe of the institution or of an affiliate of the institution, or acquire an agreement for the payment of money on which he is liable, in an amount in excess of five thousand dollars (\$5,000) exclusive of interest and charges, except one which either:

(i) is secured by deposits in the institution or cash surrender value of life insurance in an amount equal to, or by other collateral with a market value of at least twenty percent more than, the amount of the loan or agreement for the payment of money,

(ii) is secured by a mortgage on the home of such officer or employe,

(iii) is guaranteed, or is one for which a written commitment to guarantee has been made, by the Veterans Administration pursuant to the Veterans' Benefits Act, [or]

(iv) is insured, or is one for which a written commitment to insure has been issued, pursuant to national housing legislation, or

(v) is an extension of credit not at any time exceeding ten thousand dollars (\$10,000) for the purpose of financing the education of a child or children of a salaried officer or employe.

The aggregate of all loans and extensions of credit to one officer or employe and of all agreements for the payment of money on which he is liable shall not at any time exceed ten percent of the aggregate of surplus, undivided profits, unallocated reserves and subordinated securities in the case of a savings bank and ten percent of the aggregate of capital, surplus and capital securities in the case of any other institution.

* * *

Section 1604. Approval of Merger or Consolidation By Department

* * *

(b) Within sixty days after receipt of the application, the articles of merger or consolidation and the applicable fee payable to the department, or within an additional period of not more than thirty days after [receipt of] an amendment [of] to the application is received within the initial sixty day period, the department shall approve or disapprove the application on the basis of its investigation. The department shall immediately give to the parties to the plan written notice of its decision and, in the event of disapproval, a statement in detail of the reasons for its decision. The decision of the department shall be conclusive and shall not be subject to review except by the Supreme Court upon broad certiorari.

Section 4. This act shall take effect immediately.

APPROVED—The 27th day of November, A. D. 1968.

RAYMOND P. SHAFER.

No. 346

AN ACT

SB 1768

Amending the act of July 28, 1953 (P. L. 723), entitled as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," removing the county surveyor as a county officer and further providing for the duties of the county engineer.

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

Section 1. Subsection (a) of section 401, subsection (a) of section 450, Article X and section 1808, act of July 28, 1953 (P. L. 723), known as the "Second Class County Code," are amended to read:

Section 401. Enumeration of Elected Officers.—(a) In the county there shall be the following officers elected by the qualified electors of the county:

- (1) three county commissioners;
- (2) one controller;
- (3) one treasurer;
- [(4) one county surveyor;]
- [(5)] (4) one coroner;
- [(6)] (5) one recorder of deeds;
- [(7)] (6) one prothonotary;
- [(8)] (7) one clerk of the court of quarter sessions and of the court of oyer and terminer;
- [(9)] (8) one register of wills;
- [(10)] (9) one sheriff;
- [(11)] (10) one district attorney;
- [(12)] (11) two jury commissioners.

* * *

Section 450. Removal of County Officers and Appointees.—(a) The county commissioners, the sheriffs, coroners, prothonotaries, registers of wills, recorders of deeds, treasurers, [surveyors,] controllers, clerks