

No. 1979-115

AN ACT

SB 825

Amending the act of December 14, 1967 (P.L.746, No.345), entitled "An act relating to and regulating the business of savings associations heretofore designated under other acts and special charters variously as building and loan associations and savings and loan associations; defining the rights, powers, duties, liabilities, and immunities of such associations; affecting persons engaged in the business of savings associations; affecting the members, account holders and borrowers of such associations; affecting Federal savings and loan associations whose principal office is located in the Commonwealth; prohibiting the transaction of business in this Commonwealth by foreign savings associations; conferring powers and imposing duties on certain departments and officers of the Commonwealth and on the courts, recorders of deeds; creating a Savings Association Board and defining its powers and duties; prohibiting certain actions and imposing penalties, and repealing certain acts," further providing for change of interest on loans for property repair, alteration and improvement and loans secured by chattel paper; providing that delinquency charges be increased, that the charge on inactive accounts be increased, that the percentage of assets which may be invested in housing for the aging be increased, providing for further delegation of powers by directors and further defining maximum interest rate.

With respect to amendments contained herein to section 918, the General Assembly recognizes an increasing public demand and community need for loans for the purpose of repair, alteration and improvement of residential properties and therefore intends to increase the availability of such loans to a greater segment of the public by supplementing and expanding existing home improvement lending options.

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

Section 1. Section 504, act of December 14, 1967 (P.L.746, No.345), known as the "Savings Association Code of 1967," is amended by adding a subsection to read:

Section 504. Method of Action by Board of Directors, Executive or Other Committee.—* * *

(e) The board of directors may by resolution adopted by a majority of the whole board designate two or more officers or personnel of the association to approve mortgages as to amount, type of property, and other requirements, as shall be established in the resolution authorizing the approval of said loans.

Section 2. Sections 819 and 909 of the act are amended to read:

Section 819. Service Charge.—An association may make a service charge of not more than [one dollar (\$1)] five dollars (\$5) in any calendar year against any savings account if at the time any such charge is made:

(a) The association is not required to distribute earnings to such account,

(b) No payment has been made and no earnings have been distributed on such account for a period of at least thirty-six months next preceding the date on which such charge is made, and

(c) Thirty days prior to making the first service charge the association has mailed to the holder of such account at his last known address a notice that service charges will be made in accordance with this section.

Section 909. Loans for Housing for the Aging.—An association may grant mortgage loans in an amount not exceeding at any time **[five] ten** percent of its assets in loans or participating interests therein to provide housing facilities for the aging which facilities are existing or are to be constructed for such purpose or altered for such purpose. No such loans shall exceed ninety percent of the fair market value of the improved real estate given as security therefor.

Section 3. Clause (1) of subsection (g) of section 915 of the act, amended October 5, 1978 (P.L.1123, No.263), is amended to read:

Section 915. Terms of Mortgage.—Mortgages other than those set forth in subsections (c), (d), (e) and (f) of this section shall be written on such basis and in such aggregate amounts as the department may by regulation authorize or on a monthly direct reduction loan basis and the contract shall provide that the first monthly payment shall be made not later than sixty days after the advance of the loan, provided however:

* * *

(g) Interest; premiums and charges:

(1) Loans *including variable interest rate loans* may be made at **[any rate] rates** of interest **[not exceeding the legal rate and variable interest rate loans may be made]** as authorized by the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, or any other statute, *or at a maximum rate of interest not in excess of the maximum lawful interest rate permitted to be charged by a National Bank located in Pennsylvania under 12 U.S.C. § 85*: Provided, That any applicant to whom a variable interest rate mortgage is offered is also offered a direct reduction loan at reasonably competitive terms and rate, and that any association offering variable interest rate loans which ceases to offer such loans shall be prohibited from again offering variable interest rate loans for a period of seven years from the date of making its last variable interest rate loan,

* * *

Section 4. Subsection (b) of section 917, clause (b) of section 918 and section 919 of the act, amended December 27, 1974 (P.L.1012, No.329), are amended to read:

Section 917. Right to Make, Purchase, Sell and Participate in Mortgages.—* * *

(b) In addition to the authority set forth in sections 901 and 910 of this article, an association shall have the right to make and purchase mortgages or participations in mortgages secured by property outside its regular lending area, subject to the following conditions:

(3) No mortgage shall be made nor shall a mortgage or participation interest in a mortgage be purchased unless the mortgage is one that the association could make under the provisions of this act if the security property were within its regular lending area, *provided, however, that if the mortgage which is being purchased or in which a participation is being purchased is in a state other than the Commonwealth of Pennsylvania and mortgage guarantee insurance is required, the insurer shall be a company that is authorized to do business in the state in which the real property which is security for the mortgage loan is situated.*

(4) The dollar amount that an association may have invested in mortgages and participation loans outside its regular lending area shall at no time exceed fifty percent of the assets of the association. This limitation shall not apply to loans insured or guaranteed in whole or in part by the United States or any instrumentality thereof or if there is a commitment to so insure or guarantee.

(5) Such further conditions as the department may prescribe by regulation, giving primary consideration to the Declaration of Purposes as provided under section 103 of this act.

Section 918. Loans for Property Repair, Alteration and Improvement.—* * *

(b) When any such loan is not insured under Title I of the National Housing Act the principal amount thereof shall not exceed **[ten thousand dollars (\$10,000)]** *the amount authorized under Title I of the National Housing Act* and the loan shall be evidenced by a judgment note or other written evidence of debt requiring repayment in regular monthly installments over a period not exceeding **[fifteen years and thirty-two days]** *that amount authorized under Title I of the National Housing Act* with *annual* interest at a rate not exceeding **[six percent per annum]** *the sum of the authorized interest rate for loans insured under Title I of the National Housing Act plus the annual rate for insurance on loans insured under Title I of the National Housing Act or creditor insurance applied to the loan* on the declining balance except that loans over five thousand dollars (\$5,000) shall be recorded or filed so as to create a lien position in the county in which the real estate is located. **[Such loans may be made with or without charging the borrower a premium. The premium shall be paid by the borrower in installments and shall not exceed one percent per annum of the unpaid balance of the principal amount of the loan and shall be payable in monthly installments extending over the period of the loan which installments shall be payable upon the same day as the monthly payment of principal and interest is due upon said loan.]** *A loan is authorized under this section only if the association prepares and retains in its files written evidence that the loan is of the type that would be insurable under Title I of the National Housing Act. Such written evidence shall be retained in the files of the association while the loan is outstanding and for a period of one year thereafter.* The note or other written evidence of debt shall contain a provision that if the borrower shall sell the premises or assign his leasehold

interest therein or remove therefrom any improvements described in the security agreement the entire balance remaining due on the loan shall immediately become due and payable. In addition to the interest herein authorized an association may make the following charges in connection with said loan:

(1) Premiums for insurance obtained in connection with the loan, ***but not including any charge for creditor insurance, if any, on such loan,***

(2) 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 **[two dollars and fifty cents (\$2.50)]** ***five dollars (\$5.00)*** or five percent of the amount of the installment,

(3) A charge for an extension in an amount not to exceed two percent of the unpaid balance of the loan. Said charge may be imposed only one time during the life of the loan,

(4) Fees paid for filing documents in public offices in connection with said loan,

(5) Actual expenditures including reasonable attorneys' fees for proceedings to collect the loan.

* * *

Section 919. Loans Secured by Chattel Paper.—(a) When an association holds a mortgage on real estate or on a leasehold interest therein it may also grant a loan secured by chattel paper to the mortgagor of the real estate or a leasehold interest to assist him in the purchase of consumers' durable goods, which shall be used in connection with said mortgaged premises, for the equipping of residential property provided:

(1) Any such loan shall conform to the requirements of Article 9 of the Uniform Commercial Code approved April 6, 1953 (P.L.3, No.1), its amendments and supplements. No examination of public records shall be required in connection with the loan secured by chattel paper if the borrower is newly acquiring title to all of the chattels described in the security agreement and the seller of the chattels furnishes to the association a receipted bill for the same,

(2) No such loan shall exceed ten thousand dollars (\$10,000) in amount, nor shall its term exceed fifteen years and thirty-two days,

(3) No such loan may be granted unless it constitutes a first lien on the chattels described therein,

(4) In addition to obtaining a security agreement for such loans, the association shall secure a promissory note evidencing the borrower's agreement to repay said loan in regular monthly installments over a period not exceeding five years with interest at a rate not exceeding **[six percent per annum]** ***that herein authorized under section 918 for loans for property repair, alteration and improvement*** on the declining balance. The note shall contain a provision that if the obligor shall sell the mortgaged real estate or assign his leasehold interest therein or remove therefrom any chattels described in the security agreement the entire balance remaining due on the loan shall immediately become due and payable,

(5) An association may make the following charges in connection with said loan:

- (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 two dollars and fifty cents (\$2.50) or five percent of the amount of the installment,
- (iii) A charge for an extension in an amount not to exceed two percent of the unpaid balance of the loan, said charge may be imposed only one time during the life of the loan,
- (iv) Fees paid for filing documents in public offices in connection with said loan,
- (v) Actual expenditures, including reasonable attorneys' fees for proceedings to collect the loan,
- [(vi) Such loans may be made with or without charging the borrower a premium. The premium shall be paid by the borrower in installments and shall not exceed one percent per annum of the unpaid balance of the principal amount of the loan and shall be payable in monthly installments extending over the period of the loan which installments shall be payable upon the same day as the monthly payment of principal and interest is due upon said loan.]**

Section 5. This act shall take effect immediately.

APPROVED—The 13th day of December, A. D. 1979.

DICK THORNBURGH