

## No. 1981-28

## AN ACT

## HB 210

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," requiring the cashing of checks for senior citizens, authorizing construction loans without security, issuance of credit cards, mutual capital certificates, consumer lending, granting trust powers, increasing investment and lending powers, further providing for renegotiating mortgages, authorizing withdrawals by travelers' convenience withdrawals and providing for a uniform foreclosure notice form.

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

Section 1. Section 102, act of December 14, 1967 (P.L.746, No.345), known as the "Savings Association Code of 1967," is amended by adding definitions to read:

Section 102. Definitions.—The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

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(28) *"Travelers' convenience withdrawals," the right of an account holder of an association as a convenience when fifty miles or more from his or her principal residence to make a withdrawal from his or her regular savings account at the office of a financial institution, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or the Pennsylvania Savings Association Insurance Corporation.*

(29) *"Corporate debt security," a marketable obligation evidencing the indebtedness of any corporation in the form of a bond, note and/or debenture which is commonly regarded as debt security and is not predominantly speculative in nature. A security is marketable if it may be sold with reasonable promptness at a price which corresponds reasonably to its fair value.*

Section 2. Clauses (9) and (20) of subsection (a) of section 701 of the act are amended and clauses are added to read:

Section 701. Powers of Associations.—(a) Every association incorporated pursuant to or operating under the provisions of this code shall have all of the powers enumerated, authorized, and permitted by this code and such other rights, privileges and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the objects and purposes of the association. Among others, and except as otherwise limited by the provisions of this code, every association shall have the following powers:

\* \* \*

(9) To sell money orders, travelers checks and similar instruments as agent for any organization empowered to sell such instruments through agents within this Commonwealth and to receive money for transmission through a Federal Home Loan Bank, *to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operation and to honor withdrawals by travelers' convenience withdrawals, subject to regulations issued by the department after giving due consideration to the laws and regulations applicable to Federal savings and loan associations.*

\* \* \*

(20) To enter into a contract with any corporation authorized to transact the business of insurance in this Commonwealth, or to participate in, or become a member of a trust, fund, plan or agreement to provide retirement benefits, death benefits, or disability benefits, and to make such contributions out of the earnings of the association, as may be required to provide these benefits: **Provided, however, That the terms and conditions of any such contract, trust, fund, plan or agreement shall have first been approved in writing by the department**]; *provided that an association shall send the department a copy of any such contract, trust, fund, plan or agreement and of all changes therein immediately after every adoption and change.*

\* \* \*

(24) *Upon receiving written approval of the department an association may act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which banks, trust companies or other corporations are permitted to act. Such approval and the exercise of such powers shall be subject to regulations issued by the department after giving due consideration to the laws and regulations applicable to Federal savings and loan associations. The department shall also promulgate regulations governing the surrender or revocation of such powers. Upon receiving written approval of the department, service corporations may invest in State or Federally chartered corporations which are located in Pennsylvania and which are engaged in trust activities.*

(25) (i) *In accordance with regulations issued by the department, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates shall constitute a part of the general reserve and net worth of the issuing association; and*

*(A) shall be subordinate to all savings accounts, savings certificates and debt obligations;*

*(B) shall constitute a claim in liquidation on the general reserves, surplus and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates and debt obligation;*

*(C) shall be entitled to the payment of dividends; and*

*(D) may have a fixed or variable dividend rate.*

*(ii) The department shall provide in its regulations for charging losses to the mutual capital certificate, reserves and other net worth accounts.*

*(26) Any loans authorized by this code may be made at such interest, finance charge, rate, and/or terms herein authorized or at any interest, finance charge, rate, and/or terms permitted any other regulated lender. The department shall have power to issue regulations with respect to amounts, terms and conditions including prepayment penalties and late charges.*

\* \* \*

Section 3. Section 813 of the act, amended July 3, 1980 (P.L.378, No.96), is amended to read:

Section 813. Withdrawals from Savings Accounts.—Any savings account member may at any time withdraw all or any part of his savings account, *including the right to effect such withdrawals by travelers' convenience withdrawals*. An optional type savings account may be subject to withdrawal by a Negotiable Order of Withdrawal.

Section 4. The act is amended by adding a section to read:

*Section 824. Cashing Checks for Senior Citizens.—An institution shall after proper identification of payee cash, without charge, any State or Federal Government check presented for payment by the payee of the check who is a senior citizen sixty-five years of age or older.*

Section 5. Section 901 of the act is amended to read:

Section 901. Loans on Security of Real Estate.—An association may make a loan or participate in making loans or buy or sell participations in loans secured by a mortgage which is a [first] lien on real estate[, or if the association holds all prior liens on the real estate,] located in the regular lending area of the association, owned by the borrower in fee or in which he has a leasehold interest. [An association shall not at any time retain a mortgage loan which is not secured by a mortgage which is a first lien on the real estate unless the association owns all prior liens.] The total of all liens held by an association *and all prior liens* against real estate shall not exceed the maximum percentages of fair market value set forth in the subsections of this article. The loan shall be evidenced by a bond, note or other evidence of indebtedness and shall be made upon the security, terms and conditions and in the amount set forth in this article for such loan. Mortgage loans and participations shall be primarily on one to four family residential properties.

Section 6. Section 905 of the act, amended December 1, 1971 (P.L.572, No.148), is amended to read:

Section 905. Loans on Other Income Producing Properties.—An association may make a *mortgage* loan not exceeding [seventy-five] *ninety* percent of the fair market value of an income producing property not designed primarily for residential use *limited to not in excess of twenty percent of the assets of an association. Such mortgage loans shall be a first lien on the premises described in the mortgage.*

Section 7. Section 906 of the act is amended to read:

Section 906. Insured or Guaranteed Loans.—The maximum limitations on loans set forth in sections 902 through 905 inclusive, as to percentage of fair market value of properties on which loans are made, shall not apply to loans insured or guaranteed in whole or in part by the United States, *or by the Commonwealth of Pennsylvania*, or any instrumentality [thereof] *of either of them* or if there is a commitment to so insure or guarantee.

Section 8. Subsections (a) and (d) of section 908 of the act, subsection (a) amended December 27, 1974 (P.L.1012, No.329) and subsection (d) added December 1, 1971 (P.L.572, No.148), are amended to read:

Section 908. Development Loans.—(a) An association may lend on the security of developed building lots or sites, or for the acquisition and development of land into building lots or sites not in excess of seventy-five percent of the fair market value of the real estate security as of the date of the advancement of the funds and such loans may be combined with construction loans and permanent loans, subject to the following conditions:

**[(1) The net worth of the association is five percent or more of its savings accounts.]**

**[(2)] (1)** If the building lots or sites are completely developed at the time the loan is made the security documents shall require the borrower within a period of not more than six months to commence construction of one to four family residential structures on a specified number of such building lots or sites and within a period of [five] *eight* years to complete construction of said structures on all of the building lots or sites.

**[(3)] (2)** If the building lots or sites are to be developed out of the proceeds of the loan the security documents shall require development of the real estate security to be commenced in not more than nine months.

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(d) Notwithstanding the provisions of subsections (a) and (b) of this section an association may lend to an individual on the security of a developed building lot or site designed for the erection of his permanent one family residence, without any requirement for the commencement of construction, not in excess of [seventy-five] *ninety* percent of the fair market value, provided the security document shall require the borrower to repay the loan in a period not longer than [five] *fifteen* years and shall require equal monthly payments throughout said [five-year] *fifteen-year* period sufficient to result in an amortization of not less than [forty]

*thirty* percent of the principal amount of the loan at the expiration of ~~five~~ *fifteen* years.

Section 9. Section 910 of the act, amended December 27, 1974 (P.L.1012, No.329), is amended to read:

Section 910. Urban Renewal Loans.—An insured association may grant or participate in a grant of mortgage loans within an urban renewal area as defined in subsection (a) of section 110 of the Housing Act of 1949 as amended, provided, such loans shall not exceed ninety percent of the fair market value of any type of improved property. *An association may make investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) limited to not in excess of two percent of the assets of an association.*

Section 10. Section 913 of the act is amended to read:

Section 913. Construction Loans.—(a) Any mortgage herein authorized may be made for the acquisition and construction or the construction of a structure as hereinbefore classified for loans on improved real estate. The security documents shall specify the terms upon which advances are to be made on such construction loan and it may be combined with a permanent loan to continue after completion of the construction.

(b) *An association may also make construction loans without security. In such loans the investment shall not exceed the greater of:*

- (1) *The sum of its surplus, undivided profits, and reserves; or*
- (2) *Five percent of the assets of the association.*

(c) *The principal purpose of such construction loans without security, as provided in subsection (b), shall be to provide financing with respect to what is, or is expected to become primarily residential real estate where:*

(1) *the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security; or*

(2) *the association relies on other assurances for repayment, including, but not limited to a guarantee or similar obligation of a third party.*

(d) *Investments in construction loans without security shall not be included in any percentage of assets or other percentage referred to in this act.*

Section 11. The introductory paragraph and subsections (d) and (e) of section 915 of the act, amended October 5, 1978 (P.L.1123, No.263), are amended and subsections are added to read:

Section 915. Terms of Mortgage.—Mortgages other than those set forth in subsections (c), (d), (e), ~~[and]~~ (f), (k) and (l) 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:

\* \* \*

(d) If the loan is made for the purpose of facilitating the trade-in or exchange of residential real property a substantial portion of which is used as a dwelling for not more than four families and does not exceed [eighty] *ninety* percent of the fair market value of the property it may be made for a term not exceeding eighteen months without amortization ~~but~~ interest shall be payable not less frequently than semi-annually.

(e) Any development loan under section 908 shall be repayable within [five] *eight* years and the interest on any such loan shall be payable at least semi-annually.

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*(k) Except in the case of a due-on-sale clause or except in the case of a default and in accordance with the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, no loan for financing the purchase of an owner occupied one or two family residential property shall contain a provision that the loan may be accelerated at the lender's option. Balloon loans are prohibited for financing the purchase of an owner occupied one or two family residential property. This restriction shall apply to all commitments for mortgage loans granted subsequent to the effective date of this subsection.*

*(l) Whenever a renegotiable or adjustable rate mortgage loan is to be made under the authority of this act, the initial or base value of the reference index to be utilized shall be committed to the borrower at the same time that the initial contract interest rate is committed to the borrower and shall be entered in the loan documents as a contractual provision of the loan.*

Section 12. Section 919 of the act, amended December 13, 1979 (P.L.522, No.115), is amended to read:

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 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,] *Consumer Loans and Certain Securities.*—An association may make secured or unsecured loans for personal, family or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities subject to regulations issued by the department after giving due consideration to the laws and regulations applicable to Federal savings and loan associations. The total of such loans and investments are limited to not in excess of twenty percent of the assets of the association.

Section 13. Subsection (n) of section 922 of the act, amended December 1, 1971 (P.L.572, No.148), is amended to read:

Section 922. Securities and Obligations.—An association may invest its funds:

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(n) In capital stock obligations or other securities of any service corporation organized under the laws of the Commonwealth of Pennsylvania if the entire capital stock of such corporation is available for purchase only by savings associations and savings banks organized and existing under the laws of the Commonwealth of Pennsylvania and by Federal savings and loan associations having their home offices in the Commonwealth of Pennsylvania. The department shall have the right to define service corporations and the activities thereof. An association may

make investments in service corporations up to [one] two percent of its assets plus such additional percentage of assets as the department may by regulation authorize,

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Section 14. The act is amended by adding sections to read:

**Section 925. Nonconforming Loans.**—*An association shall have the right to invest limited to not in excess of five percent of the assets of the association in loans upon the security of or respecting real property or in interests therein used for primarily residential or farm purposes that do not comply with the limitations elsewhere provided in the code. Nothing in this section shall be construed to allow loans which would not otherwise be permitted under section 915(k).*

**Section 926. Enforcement of Mortgages.**—*Before any residential mortgage lender, as defined by the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, may accelerate the maturity of any residential mortgage obligation as defined by the Loan Interest and Protection Law, commence any legal action including mortgage foreclosure to recover under such obligation, or take possession of any security of the residential mortgage debtor, as defined by the Loan Interest and Protection Law, for such residential mortgage obligation, such person shall give the residential mortgage debtor notice of such intention as provided under section 403 of the Loan Interest and Protection Law. A form of notice of intention to foreclose, prescribed by regulations of the Secretary of Banking as provided under section 601 of the Loan Interest and Protection Law, shall be interpreted as satisfying the requirements of section 403 of said act.*

Section 15. This act shall take effect immediately.

APPROVED—The 5th day of June, A. D. 1981.

DICK THORNBURGH