

No. 1981-52

AN ACT

HB 106

Amending the act of May 15, 1933 (P.L.565, No.111), entitled "An act relating to the powers and duties of the Department of Banking and the Secretary of Banking in exercising supervision over, and taking possession of and conducting or liquidating the business and property of, corporations, associations, and persons receiving deposits or otherwise transacting a banking business, corporations acting as fiduciaries, and building and loan associations; providing for the payment of the expenses of the Department of Banking by supervised corporations, associations, or persons, and appropriating the Banking Department Fund; authorizing the Department of Banking, under certain circumstances, to examine corporations, associations, or persons affiliated, or having business transactions with supervised corporations, associations or persons; authorizing appeals to the Supreme Court, and prescribing and limiting the powers and duties of certain other courts and their prothonotaries, registers of wills, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services rendered under this act; providing penalties; and repealing certain acts and parts of acts," further providing for the elimination of the Banking Board and the Building and Loan Board.

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

Section 1. Subsections B and C of section 501, act of May 15, 1933 (P.L.565, No.111), known as the "Department of Banking Code," subsection B amended April 22, 1937 (P.L.337, No.96) and the third paragraph of subsection C amended June 28, 1947 (P.L.1089, No.469), are amended to read:

Section 501. Orders by Department.—* * *

B. Whenever it shall appear to the department that an attorney, officer, or employe of an institution, and in the case of an incorporated institution, a director or trustee thereof, shall have continued to violate any law relating to such institution, or shall have continued unsafe or unsound practices in conducting the business of such institution, after having been warned by the department to discontinue such violations of law or such unsafe or unsound practices, the department may issue an order directing such attorney, officer, employe, director, or trustee to appear on the day fixed in such order[, **in the case of a building and loan association, before the Building and Loan Board, and, in the case of any other institution, before the Banking Board,**] *before the department* and show cause why he should not be removed from his office or position and such office or position declared vacant. A copy of such order shall be sent to the institution of which such person is an attorney, officer, employe, director, or trustee[, **and a copy of such order shall be sent to the Building and Loan Board or to the Banking Board, as the case may be**].

The office or position of any attorney, officer, employe, director, or trustee, so ordered by the department to appear, **[before the Building and Loan Board or the Banking Board, as the case may be]** who does not appear on the day fixed in such order, shall, unless the date for his appearance shall previously have been extended by the department, upon such failure to appear, be declared vacant. **[Notice of such failure to appear shall be given by the Building and Loan Board or the Banking Board, as the case may be, to the department.]**

On the day fixed in the department's order such attorney, officer, employe, director, or trustee shall be heard, in person or by counsel, by the **[Building and Loan Board or the Banking Board, as the case may be]** *department*. If, after such hearing, it shall appear to the **[Building and Loan Board or the Banking Board, as the case may be,]** *department* that such attorney, officer, employe, director, or trustee has not shown cause why he should not be removed from his office or position and such office or position declared vacant, **[it] the department** shall, within sixty days of such hearing, **[notify the department of its decision. Upon receipt of such notice, or of notice that an attorney, officer, employe, director, or trustee has failed to appear on the day fixed, the department shall]** issue an order directing the institution to remove such attorney, officer, employe, director, or trustee from his office or position, and declare such office or position vacant. A copy of such order shall be sent to the attorney, officer, employe, director, or trustee so removed.

The department shall set forth in its order the date upon which any such removal and declaration of vacancy shall become effective.

[If, after such hearing, it shall appear to the Building and Loan Board or the Banking Board, as the case may be, that such attorney, officer, employe, director, or trustee has shown proper cause for not removing him or declaring his office or position vacant, it shall, within sixty days of such hearing, notify the department to that effect.]

If the institution, of which such person, ordered by the department to appear **[before the Building and Loan Board or the Banking Board, as the case may be,]** is an attorney, officer, employe, director, or trustee, is a member of a Federal Reserve Bank, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank, or the Federal Savings and Loan Insurance Corporation, the department may notify such Federal Reserve Bank, Federal Deposit Insurance Corporation, Federal Home Loan Bank, or Federal Savings and Loan Insurance Corporation, as the case may be, of its order directing such attorney, officer, employe, director, or trustee to appear before the **[Building and Loan Board or the Banking Board, as the case may be, and of the decision of the Building and Loan Board or the Banking Board, as the case may be]** *department*. At such hearing, any duly authorized representative of such Federal Reserve Bank, Federal Deposit Insurance Corporation, Federal Home Loan Bank or Federal Savings and Loan Insurance Corporation, as the case may be, may appear as a witness against such attorney, officer, employe, director, or trustee.

Except as herein otherwise specifically provided, the proceedings of the [Building and Loan Board and the Banking Board] *department* and [their] *its* decisions shall not be published or divulged to anyone.

[The decision of the Building and Loan Board or of the Banking Board, as the case may be, shall be conclusive and not subject to any review.] Any attorney, officer, employe, director, or trustee, who is removed from his office or position as provided in this section, shall thereafter be disqualified from acting as an attorney, officer, employe, director, or trustee of any institution in this Commonwealth, for such period as the [Building and Loan Board or the Banking Board, as the case may be,] *department* shall prescribe.

C. [There is hereby created a board to be known as the "Banking Board," which shall hear any attorney, officer, employe, director, or trustee of any corporation or person, subject to the supervision of the Department of Banking, who shall have been ordered, by the Department of Banking to appear before such board, to show cause why his office or position should not be declared vacant. The board shall also exercise such additional powers as shall be given to it, and shall act upon such matters as shall be referred to it by any laws of this Commonwealth.

There is hereby created a board to be known as the "Building and Loan Board," which shall hear any attorney, officer, employe, director, or trustee of any building and loan association, subject to the supervision of the Department of Banking, who shall have been ordered, by the Department of Banking to appear before such board, to show cause why his office or position should not be declared vacant. The board shall also exercise such additional powers as shall be given to it, and shall act upon such matters as shall be referred to it by any laws of this Commonwealth.

The Banking Board shall consist of eleven members and the Building and Loan Board shall consist of nine members. One member of each board shall be the Secretary of Banking, who shall act as chairman. Two of the members of the Building and Loan Board shall be appointed by the Governor to serve, for two years from September first, one thousand nine hundred and thirty-seven, and four members of the Banking Board shall be appointed by the Governor; the two additional members provided for by this amendment to serve for a period of two years from the first day of September, one thousand nine hundred forty-seven, and may be removed from office at his pleasure; the remaining six members of each board shall be appointed by the Governor from lists of nominations submitted to him as herein provided, but any such member shall not be removed from office, unless he shall have been absent from six consecutive meetings of such board.

In the case of members of the Banking Board.

(1) The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups one and two, of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for four years from September first, one thousand nine hundred and thirty-five.

(2) The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups three, four, five, and six of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for eight years from September first, one thousand nine hundred and thirty-five.

(3) The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups seven and eight of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for six years from September first, one thousand nine hundred and thirty-five.

In the case of members of the Building and Loan Board, the Pennsylvania League of Building and Loan Associations shall nominate, in writing, to the Governor, fifteen persons, who shall be duly representative of the geographical distribution of building and loan associations in this Commonwealth, six of whom shall be appointed by him as members of the board, two to serve for four years from September first, one thousand nine hundred and thirty-seven, two to serve for six years from September first, one thousand nine hundred and thirty-seven, and two to serve for eight years from September first, one thousand nine hundred and thirty-seven.

Such nominations shall, in the case of the Banking Board, be submitted to the Governor not less than thirty days before July first, one thousand nine hundred and thirty-five, and, in the case of the Building and Loan Board, not less than thirty days before September first, one thousand nine hundred and thirty-seven, and thereafter not less than thirty days before September first of the year, in which the Governor shall make appointments of successors to fill the offices of such members, whose terms will expire on September first of such year. If such nominations are not so submitted to the Governor, he shall appoint as members, in the case of the Banking Board, attorneys, officers, employes, directors, or trustees of corporations or persons subject to the supervision of the Department of Banking, two of whom shall be from groups 1 and 2 of the Pennsylvania Bankers Association, two from groups 3, 4, 5, and 6 of the Pennsylvania Bankers Association, and two from groups 7 and 8 of the Pennsylvania Bankers Association, and, in the case of the Building and Loan Board, attorneys, officers, employes, or directors of building and loan associations subject to the supervision of the Department of Banking, but any such member shall not be removed from office, unless he shall have been absent from six consecutive meetings of such board.

Upon expiration of the respective initial terms of office, members shall be appointed to serve for eight years. Members shall serve until their successors are duly appointed and have qualified. Appointed members of the board shall qualify by giving written notice to the Secretary of Banking of their acceptance of such appointment.

Each board may, by the vote of a majority of all its members, excuse any member for failure to attend its meetings, but if not so excused, the

office of the member, who shall have been absent from six consecutive meetings, shall be declared vacant, and the vacancy filled as herein provided.

Vacancies in the boards caused by death, resignation, failure to attend meetings, or otherwise, shall be filled by the Governor, but in the case of a vacancy caused by death, resignation, failure to attend meetings, or otherwise, of a member appointed from nominations submitted to the Governor, as herein provided, the Governor shall fill such vacancy by appointing, as a member, in the case of the Banking Board, an attorney, officer, employe, director, or trustee of a corporation or person subject to the supervision of the Department of Banking, having its principal place of business within the same groups of the Pennsylvania Bankers Association, as was represented by the list of nominations from which was appointed the member whose office became vacant, and in the case of the Building and Loan Board, an attorney, officer, employe, or director of a building and loan association subject to the supervision of the Department of Banking.

Each board shall meet upon the call of the chairman, notice of which shall be given to each member, in writing, not less than five days prior to the date fixed for such meeting.

In the case of each board, a majority of all the members in office shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the members, who are present at a meeting at which a quorum is present, shall be the acts of the board, provided that the chairman shall have no vote, unless they be equally divided.

Members of the boards shall serve without compensation, but shall be entitled to personal expenses actually incurred in the performance of duties, which, if approved by the Department of Banking, shall be paid by it.

The boards shall meet in the office of the Department of Banking, for which purpose, the Department of Banking shall furnish adequate office space and such other facilities as are necessary for their administration. The Department of Banking shall designate from among its employes a secretary to each board, and shall furnish such other employes as may be required.

Full minutes of the proceedings of each board shall be kept by the secretary, which shall be available only to the members thereof.]

In connection with any hearing or investigation, the [boards] *department* shall have power to issue subpoenas, requiring the attendance of or the production of pertinent books and papers by the officers, directors, agents, employes, or members, respectively, of any corporation or person which the department is authorized under the provisions of this act to examine. The [Building and Loan Board or the Banking Board, as the case may be, shall,] *department may*, upon application of the attorney, officer, employe, director, or trustee to be heard, subpoena such witnesses as are set forth in such application. The [boards] *department* shall also have the power to question such witnesses under oath or affirmation, and to examine such books and papers.

Any witness who refuses to obey a subpoena, issued under this section, or who refuses to be sworn or affirmed or to testify, or who is guilty of any contempt, after summons to appear, may be punished as for contempt of court, and for this purpose, an application may be made to any court of common pleas, within whose territorial jurisdiction the offense was committed, for which purpose such court is hereby given jurisdiction.

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Section 2. This act shall take effect immediately.

APPROVED—The 1st day of July, A. D. 1981.

DICK THORNBURGH