

No. 1992-90

AN ACT

SB 1007

Amending the act of November 30, 1965 (P.L.847, No.356), 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 employees 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 recorders of deeds; providing penalties; and repealing certain acts and parts of acts," further providing for the duties of the Advisory Commission, for nonconforming loans, for the regulation of mutual holding companies, for requirements in connection with real estate loans, for residency requirements of directors or trustees and for the powers of the department.

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

Section 1. Section 115.1(f) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, added December 18, 1990 (P.L.766, No.191), is amended to read:

Section 115.1. Mutual Holding Companies

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(f) Regulation—The department shall have the authority to issue rules, regulations and orders as may be necessary to properly administer this section. Until the department has adopted regulations pursuant to this section, the department shall not approve any application by a savings bank for approval of a plan of reorganization into a mutual holding company, *except that the department may approve, prior to the adoption of such regulations but subject to such terms and conditions as it deems necessary to carry out the purposes of this act, a plan of reorganization by a savings bank that has a CAMEL composite rating of one or two under the Uniform Financial Institutions Rating System (or an equivalent rating by the department under a comparable rating system)*. The regulations adopted under this section shall be no less restrictive than those promulgated by the Office of Thrift Supervision for federally chartered savings banks.

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Section 2. Section 116(k) of the act, added June 25, 1986 (P.L.259, No.69), is amended to read:

Section 116. Authorization of Reciprocal Interstate Banking

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(k) Establishment of Advisory Commission—For the purpose of advising the department in the conduct of its functions under subsections (i) and

(j) and as otherwise provided in this subsection, there is hereby established an Advisory Commission which shall consist of nine individuals selected as follows: five members appointed by the Governor, one of whom may be selected from a list of at least three names submitted by the Pennsylvania Bankers Association, one of whom may be selected from a list of at least three names submitted by the Association of Savings Institutions, one of whom may be selected from a list of at least three names submitted by the Pennsylvania Credit Union League, one of whom shall have been selected by the Governor to broadly represent business interests and one of whom shall have been selected by the Governor to broadly represent consumer interest; and one member each appointed by the President pro tempore and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. The term of the initial member of the Advisory Commission shall be until December 31, 1988, and the term of each member thereafter shall be two calendar years. The Secretary of Banking shall meet with the Advisory Commission at least quarterly for the first year and thereafter **[at least annually] three times a year**. Each member shall be entitled to receive travel and related expenses and such per diem honorarium as the department shall determine to be paid from the fees received by the department under this section. The Advisory Commission shall provide information, opinions and recommendations as to guidelines the department may establish, from time to time, for the purpose of determining the overall performance of an institution or company under subsection (i) and the availability of basic transaction account services under subsection (j). ***In addition, the Advisory Commission shall submit to the department a minimum of three reports each year. Each report shall include recommendations relative to banking operations in this Commonwealth.*** All decisions and determinations made under this section shall be made by the department.

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Section 3. Section 310(d) of the act, amended May 21, 1980 (P.L.173, No.51), is amended and subsection (e) is amended by adding a clause to read: Section 310. Real Estate Loans

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

(i) the loan shall be evidenced by a bond, note or other obligation and the lien securing such loan shall be obtained by a mortgage, deed of trust or judgment;

(ii) the lien shall be a first lien (except for a lien of taxes, assessments or charges which are not yet due or which are payable without penalty) unless all prior liens are held by the institution and the aggregate of all loans by the institution secured by liens on the real estate satisfy all other requirements of this section pertaining to such loans;

(iii) the value of the real estate shall be determined either by a real estate appraiser qualified in the state where the real estate is located who shall inspect the real estate and state its value to the best of his judgment in a written report signed by him which must be preserved in the records of

the institution or in the alternative by an appraisal signed by two reputable persons who shall:

(A) be 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 their judgment in a written report 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;

(iv) **[Insurance] insurance, as evidenced by a policy or binder or a copy of either**, against loss from fire on all buildings on the real estate which are included in the appraised value, issued by insurers acceptable to the institution and authorized to do business where the real estate is located and in form and amount satisfactory to the institution, shall be maintained during the term of the loan by or at the expense of the borrower, except that the institution may at its own expense maintain such insurance covering only its interest as lender; **[and]**

(v) the borrower shall pay all expenses in connection with the loan for title insurance, searches and certificates, appraisal fees and fees for preparation and recording of documents~~].~~; **and**

(vi) an institution may make a single delinquency charge for each payment 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 payment.

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

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(viii) a residential mortgage loan secured by real estate located in a low- to moderate-income area.

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Section 4. Section 1403(b) of the act is amended to read:

Section 1403. Number, Qualifications and Eligibility of Directors or Trustees

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(b) Qualifications—Each director or trustee shall be a citizen of the United States: *Provided, however, That this citizenship requirement may be waived for not more than twenty percent of the total number of directors of an institution or trustees of a savings bank with the prior written approval of the department*, and at least two-thirds of the directors or trustees **[shall be residents of Pennsylvania] must have resided in Pennsylvania or within one hundred miles of the location of the institution for at least one year immediately preceding their election and must be residents of Pennsylvania or reside within one hundred miles of the location of the institution during their continuance in office.**

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Section 5. Section 2005 of the act, amended December 17, 1982 (P.L.1367, No.313), is amended to read:

Section 2005. Additional Powers of the Department of Banking

(a) Functions of department—The functions of the Department of Banking shall be:

(i) To exercise the power to remove from his office or position an officer, employe, director, trustee or attorney of an institution pursuant to the provisions of section 501 of the Department of Banking Code.

(ii) To exercise the power to suspend from his office or position an officer, employe, director, trustee or attorney of an institution if the Department of Banking serves written notice under section 501 of the Department of Banking Code to an institution, its officers, employe, director, trustee or attorney of the department's intention to issue an order under such clause. The department may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the institution if the department:

(A) determines that such action is necessary for the protection of the depository institution or the interests of the depository institution's depositors; and

(B) serves such party with written notice of the suspension order.

(b) Effect of order—Any suspension order issued under this section shall become effective upon service and, unless a court of competent jurisdiction issues a stay of such order, shall remain in effect and enforceable until the date the department dismisses the charges on the effective date of an order issued by the department under section 501 of the Department of Banking Code.

Section 6. This act shall take effect in 30 days.

APPROVED—The 9th day of July, A. D. 1992.

ROBERT P. CASEY