

No. 413

AN ACT

Amending the act of May 15, 1933 (P. L. 624), entitled, as amended, "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers and employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations or private bankers, or of affiliated corporations, associations, or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," removing the requirement that certification of branch openings and discontinuances be filed with the Department of State, and providing that such branch records be maintained by the Department of Banking; providing that only the location of the principal place of business of institutions be included in articles of incorporation, merger, consolidation or conversion; amending and repealing provisions relating to the declaration of dividends; providing further for the acquisition and sale of undivided interests in evidences of debt; providing for additional classifications for deposits; amending provisions relating to the discount of commercial and business paper; further regulating loans secured by mortgages, deeds of trust and judgments on real property; authorizing additional lending powers for private banks, and removing certain requirements with respect to filing and approving articles of conversion.

Banking Code.

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

Subsection F,
section 204.1, act
of May 15, 1933,
P. L. 624,
added December
30, 1955, P. L.
920, amended.

Section 1. Subsection F of section 204.1 of the act of May 15, 1933 (P. L. 624), known as the "Banking Code," added December 30, 1955 (P. L. 920), is amended to read:

Section 204.1. Branches.—

* * * * *

F. Upon the opening or discontinuance of any branch the institution shall certify such fact to the department in such form as the department shall prescribe. [Upon receipt and approval by the department of the certificate, the department shall send a copy of the certificate to the Department of State for filing with the corporate records of the institution.] *The department shall maintain a record of the number and location of all branches of institutions.*

Section 2. Section 303 of the act is amended to read as follows: Section 303 of
act, amended

Section 303. Articles of Incorporation.—Articles of incorporation shall be signed by each of the incorporators and acknowledged by at least two of them before any officer within this Commonwealth authorized to take acknowledgments, except in the case of a savings bank, in which case they shall be signed and acknowledged by at least five of the incorporators.

The articles shall set forth, in the English language:

(1) The name of the proposed incorporated institution.

(2) The exact location of its *principal* place [or places] of business.

(3) A precise and accurate statement of the purpose or purposes for which it is organized, as well as a statement that it is organized under the provisions of this act.

(4) The term for which it is to exist, which may be perpetual.

(5) In the case of a bank, a bank and trust company, or a trust company, the aggregate number of shares which it shall have authority to issue, the par value of each of the shares, and the amount of the capital, as well as the amount of the surplus, and expense fund, with which the bank, bank and trust company, or trust company will commence business. If the shares are to be divided into classes, the *number of shares of each class shall be given, together with a description of each class and a statement of the preferences, qualifications, limitations, restrictions, and the special or relative rights granted to, or imposed upon, the shares of each class.

(6) In the case of a savings bank, the amount of the expense fund which will be paid-in, in accordance with this act.

(7) The name, occupation, citizenship, place of residence, and post-office address of each incorporator, and, except in the case of a savings bank, the number of shares to which he has subscribed.

(8) The name, occupation, citizenship, place of residence, post-office address, and term of office of each of the first directors, and, in the case of a savings bank, each of the first trustees. In the case of each director, the articles shall state the number of shares to which he has subscribed.

(9) The name, place of residence, and post-office address of each of the first officers.

* "numbers" in original.

(10) In the case of a bank, a bank and trust company, or trust company, any provision which the incorporators may choose to insert denying to common shareholders, or granting to preferred shareholders, preemptive rights to subscribe to any or all issues of additional shares of the corporation.

(11) Any provision, not inconsistent with law, which the incorporators may choose to insert for the regulation of the business and the internal affairs of the incorporated institution.

Section 3. Section 702 of the act, amended April 22, 1937 (P. L. 349), is amended to read:

Section 702 of act, amended April 22, 1937. P. L. 349, further amended.

Section 702. Determination of Net Earnings; Disposition Thereof.—

A. The net earnings of a bank, a bank and trust company, or a trust company shall, at the option of the board of directors, be determined upon either a cash basis or an accrual basis system of bookkeeping.

[B. A bank, a bank and trust company, or a trust company shall make the following deductions from gross earnings:

(1) Losses sustained by it. In the computation of such losses there shall be included assets which have been disallowed by the department, or by the board of directors of the bank, bank and trust company, or trust company, but such losses shall not be deducted from the gross earnings, if appropriate reserves have been set up on the books to provide therefor, or if such losses be charged against undivided profits.

(2) Taxes which are due and unpaid.]

[C] B. Such portion of the net earnings of a bank, a bank and trust company, or a trust company as is not required by this act to be credited to surplus may be credited to undivided profits.

[D. If the deduction required by this section exceeds the gross earnings for the period, the amount of such excess shall be charged against undivided profits.

E. This section shall not be construed to limit the right of a]

C. A bank, a bank and trust company, or a trust company [, to] *may* declare and pay any dividend, otherwise permitted by this act, out of accumulated undivided profits even if there shall be no net earnings for the current period.

Section 703 of act, repealed.

Section 4. Section 703 of the act is repealed.

Section 705 of act, repealed.

Section 5. Section 705 of the act is repealed.

Section 6. Clause (5) of subsection A of section 1001 of the act, amended July 26, 1961 (P. L. 908) and July 26, 1961 (P. L. 914), is amended to read:

Section 1001. Powers of Banks, Bank and Trust Companies, or Trust Companies.—

A. In addition to the general corporate powers granted by this act, and in addition to any powers specifically granted to a bank or a bank and trust company elsewhere in this act, a bank or a bank and trust company shall have the following powers, subject to the limitations and restrictions imposed by this act:

* * * * *

(5) To discount, buy, sell, negotiate, or assign promissory notes, drafts, bills of exchange, trade and bank acceptances, stocks, bonds, or other evidences of debt, and to discount, buy, sell, negotiate, or assign without retention of any specific interest any fractional interest in any such single evidence of debt or in one or more evidences of debt of the same debtor or debtors from, or to other banks, bank and trust companies, savings banks, or trust companies, *national banking associations, similar banking companies chartered under the laws of any other state, savings and loan associations, or insurance companies incorporated under the laws of this or any other state, Federal savings and loan associations, [national banking associations,] factoring and warehousing companies, The International Bank for Reconstruction and Development, the Inter-American Development Bank, the Pennsylvania Industrial Development Authority, any Federal Reserve Bank, [and] any department, bureau, board, commission, authority or establishment of the United States or Pennsylvania, including any corporation wholly owned, directly or indirectly, by the United States or Pennsylvania, any persons or corporations joining in original financing with such instrumentalities of the United States or Pennsylvania and any persons or corporations joining in original financing of any industrial development project engaged in pursuant to the Pennsylvania Industrial Development Authority Act.*

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Section 7. Subsection A of section 1003 of the act, amended August 18, 1961 (P. L. 1001), is amended to read:

Section 1003. Interest on Deposits.—

A. A bank or a bank and trust company shall have the power to credit and pay on all deposits such interest as may be established, from time to time, by agreement or regulation. Such interest shall be paid to the respective depositors, or credited to their accounts, at least

Clause (5), subsection A, section 1001 of act, amended July 26, 1961, P. L. 908 and July 26, 1961, P. L. 914, further amended.

Subsection A, section 1003 of act, amended August 18, 1961, P. L. 1001, further amended.

annually, and in the case of certificates of deposit, interest shall be paid or accrued at least annually. The department may, from time to time, limit by regulation the maximum rate of interest which may be paid by a bank or a bank and trust company; may classify deposits according to maturities and locations of banks and of bank and trust companies, and may establish a separate classification for time deposits of foreign governments, monetary and financial authorities of foreign governments, when acting as such, or international financial institutions of which the United States is a member; may prescribe conditions respecting receipt, withdrawal, or repayment, or otherwise, as may be deemed advisable in the public interest; and may prescribe different maximum rates for deposits of different classes.

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Clause (4), subsection A, section 1006 of act, amended April 21, 1949, P. L. 686, further amended.

Section 8. Clause (4) of subsection A of section 1006 of the act, amended April 21, 1949 (P. L. 686), is amended to read:

Section 1006. Limitations upon Loans to One Corporation or Person.—

A. A bank or a bank and trust company shall not, directly or indirectly, lend to any corporation or person an amount which, including any extension of credit to such corporation or person by acceptance of drafts for, or the discount of purchase of the notes, bonds, bills of exchange, or other evidences of indebtedness of, such corporation or person, shall exceed ten per centum of the unimpaired capital and ten per centum of the unimpaired surplus of the bank or bank and trust company. However, this restriction shall have no application whatsoever to the following:

* * * * *

(4) The discount of commercial or business paper as such paper is defined by regulation of the department, actually owned by the corporation or person negotiating or assigning it to the bank or bank and trust company [, and endorsed without restriction by such corporation or person].

* * * * *

Subsections A, B and C, section 1012 of act, subsection A, amended August 7, 1961, P. L. 948; subsection B, amended June 28, 1947, P. L. 1104, and subsection C, amended May 23, 1957, P. L. 193, further amended.

Section 9. Subsections A, B and C of section 1012 of the act, subsection A as amended August 7, 1961 (P. L. 948), subsection B as amended June 28, 1947 (P. L. 1104) and subsection C as amended May 23, 1957 (P. L. 193), are amended to read:

Section 1012. Loans on and Investments in Bonds or Notes Secured by Mortgages or Deeds of Trust and Judgments of Record.—

A. A bank or a bank and trust company shall have the power to lend on the security of, or invest in, bonds or notes secured by mortgages or deeds of trust upon real property, but it shall lend upon, or invest in, only such bonds or notes secured by mortgages or deeds of trust as (1) are first liens on improved real property, including improved farm land, situated within the Commonwealth, or within fifty miles of a boundary thereof, and (2) do not exceed two-thirds of the actual value of such real property, where such bonds or notes or deeds of trust shall become due within ten years after the making of such loan or investment or do not exceed three-quarters of the actual value of such real property where such loan or investment shall be amortized *under the terms of the mortgage or deed of trust or under the terms of another instrument referred to in the mortgage or deed of trust, executed simultaneously therewith and not inconsistent with such mortgage or deed of trust*, over a period not exceeding twenty years after the making of such loan or investment in substantially equal monthly, quarterly, semi-annual or annual payments sufficient in amount to pay all interest and effect full repayment of principal within such twenty-year period: Provided, however, That a bank or a bank and trust company while having the entire investment in [such a first lien] *all prior liens* on real property may, subject to like conditions in respect to amortization, invest in [a second lien] *junior liens* on the same real property, which may be either [a bond or note] *bonds or notes* secured by a mortgage or deed of trust or [a judgment] *judgments*, if the total amount invested in [both] *such* liens does not at any time exceed two-thirds or three-quarters as the case may be of the actual value of such real property. Any building which is upon, and is included in the valuation of, such real property shall be insured against loss by fire, to the benefit of such bank or bank and trust company, by the borrower or mortgagor during the term of the bond, note, mortgage, deed of trust or judgment, in a company which is authorized to do business in Pennsylvania and is approved by the bank or bank and trust company making the investment. It shall be lawful for a bank or bank and trust company to renew such policies, at the expense of the borrower or mortgagor, from year to year, or for a longer or a shorter period, not however, exceeding the term of the obligation, in case he shall fail to do so. All necessary charges and expenses paid by such bank or bank and trust company for such renewals shall be paid by such borrower or mortgagor. In case such borrower or mortgagor shall refuse, upon demand, to pay such charges and expenses, they shall be added to the amount secured by the mortgage, deed of trust or judgment, and shall, together

with interest from the date of the payment of such charges and expenses, constitute a lien upon the property subject to the mortgage, deed of trust or judgment. All expenses of searches, examinations, certificates of title, or appraisal of actual value, and all expenses of drawing and recording of papers, shall be paid by such mortgagor or borrower. The actual value of the real property shall be determined by two reputable persons, especially familiar with real property values in the vicinity of the particular property to be appraised, selected from or approved by the board of directors. They shall inspect the property, and shall state, in writing, that the actual value of the real property inspected, to the best of their judgment, is as stated. Such report shall be filed and preserved among the records of the bank or bank and trust company. The provisions of this subsection shall not apply to loans on the security of, or investments in, bonds or notes secured by mortgages or deeds of trust upon leasehold interests in real property made under such rules and regulations as may be prescribed by the Secretary of Banking, with the approval of the Banking Board, nor to loans on the security of bonds or notes secured by mortgages or deeds of trust upon real property situated within the Commonwealth, or within fifty miles of a boundary thereof, made or for which a written commitment to guarantee has been made, in accordance with the provisions of the "Servicemen's Readjustment Act of 1944," its amendments and supplements, and rules and regulations promulgated from time to time pursuant to the provisions of said act, provided that such loans are guaranteed in an amount equal to at least twenty per centum thereof, nor shall the provisions of this section apply to bonds or notes secured by mortgages or deeds of trust which are insured by, or for which a commitment to insure has been made by, the Federal Housing Administrator, pursuant to the provisions of the National Housing Act of one thousand nine hundred and thirty-four, approved the twenty-seventh day of June, one thousand nine hundred and thirty-four, its amendments and supplements, nor shall the provisions of this subsection apply to loans on the security of bonds or notes secured by mortgages or deeds of trust upon real property situated within the Commonwealth for which a written commitment to insure the payment thereof has been made by the United States Department of Agriculture, in accordance with the provisions of Title I of the Bankhead-Jones Farm Tenant Act of the twenty-second day of July, one thousand nine hundred thirty-seven, its amendments and supplements, rules and regulations, promulgated from time to time pursuant to the provisions of said act, nor shall the provisions of this subsection apply to loans

secured, in whole or in part, by bonds or notes secured by mortgages or deeds of trust made under the provisions of the Small Business Act of 1953, approved July 30, 1953, its amendments and supplements, and rules and regulations promulgated from time to time pursuant to the provisions of said act, nor to public utility, railroad, or industrial bonds, or other securities, commonly known as investment securities, although such bonds may be secured in whole or in part by a mortgage upon real property.

B. A bank or bank and trust company shall have the power to lend on the security of, or invest in, judgments of record which are first liens on [unencumbered] real property or *junior liens on such real property where the bank or bank and trust company has the entire investment in all prior liens* situated within the Commonwealth, or within fifty miles of a boundary thereof, [to the amount of fifty per centum of the actual value of such property] under the same circumstances and subject to the same conditions as are established by this section in the case of loans on the security of, or investments in, bonds secured by mortgages upon real property.

C. The aggregate amount of all loans and investments made by virtue of this section shall not at any time exceed one hundred per centum of the unimpaired capital and one hundred per centum of its unimpaired surplus, or [sixty] *seventy* per centum of the total time deposits of such bank or bank and trust company, at the option of the bank or bank and trust company, except that the limitations of this subsection shall not apply to loans guaranteed or for which a written commitment to guarantee has been made, in accordance with the provisions of the "Servicemen's Readjustment Act of 1944," its amendments and supplements, and rules and regulations promulgated from time to time pursuant to the provisions of said act: Provided, That such loans are guaranteed in an amount equal to at least twenty per centum thereof.

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Section 10. Subsection A of section 1310 of the act, amended May 12, 1949 (P. L. 1227), is amended to read:

Section 1310. Powers of Private Banks and Employes' Mutual Banking Associations; Loans and Investments; Restrictions.—

A. Except as otherwise specifically provided in this act, a private bank shall be subject to the same restrictions and limitations as are imposed by this act upon a bank regarding the payment of interest on deposits, the pledge of assets as security for deposits, borrowing for

Subsection A,
section 1310 of
act, amended
May 12, 1949,
P. L. 1227, fur-
ther amended.

the purpose of relending, and total indebtedness loans to one corporation or person, loans to officers or employes, loans or discounts secured by shares or obligations of a corporation, loans on and investments in bonds or notes [and] secured by mortgages or deeds of trust and judgments of record, the power to create mortgage pools for public participation, the ownership or holding of real property, bank buildings owned or leased and furniture and fixtures therein, guaranteeing of mortgages, and acting as surety. Where any restriction or limitation is imposed upon the aggregate loans or investments which may be made by a bank, or upon the amount of such loans or investments which may be made to, or in the obligations of, a single corporation or person, or upon the cost of the real property and buildings occupied, and the furniture and fixtures used, for the transaction of business, or where any other restriction or limitation is made, based upon a percentage of the capital and surplus of a bank, such percentage shall be computed, in the case of a private bank, upon its net worth. No such percentage restriction or limitation shall apply to the issuing, negotiating, buying, or underwriting of, primarily for the purpose of resale or distribution, or to the selling or distributing of, or to the dealing in at wholesale or retail or through syndicate participation bonds, debentures, notes, or other securities by any private bank which is registered as a dealer in securities under the laws of this Commonwealth, and which has an unimpaired net worth of not less than one hundred thousand dollars. *A private bank shall have the same power to lend money and collect charges therefor as is granted to banks and bank and trust companies in clause (4) of subsection A of section 1001 of this act.*

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Section 1403 of
act, amended
September 11,
1959, P. L. 881,
further amended.

Section 11. Section 1403 of the act, amended September 11, 1959 (P. L. 881), is amended to read:

Section 1403. Articles of Merger or Consolidation.—Upon the approval, pursuant to the provisions of this act, of the plan of merger or the plan of consolidation by the shareholders of each of the banks, bank and trust companies, trust companies, or national banking associations, or by the trustees of each of the savings banks, desiring to merge or consolidate, articles of merger or articles of consolidation as the case may be, shall be executed under the seal of each corporation and verified by two duly authorized officers of each corporation, and shall set forth:

(1) The name of the surviving or new incorporated institution.

(2) The exact location of the *principal* place [or places] of business of the surviving or new incorporated institution.

(3) The time and place of the meeting of the directors or trustees at which the plan of merger or consolidation was proposed, and the time and place of the meeting of the shareholders, or of the trustees of each corporation, at which the plan of merger or consolidation, as the case may be, was ratified, the kind and period of notice given to the shareholders, or to the trustees who had not attended the meeting at which the merger or consolidation plan was by resolution proposed, and the total vote by which the plan was adopted.

(4) In the case of a merger, any changes desired to be made in the articles of the surviving incorporated institution, including a restatement of the articles, provided that any such changes or restatement would be authorized by this act as original articles of incorporation, except that restated articles shall state the location and post office address of the surviving corporation's current instead of its initial registered office in this Commonwealth, and need not state the names and addresses of the first directors or of the incorporators, or the number and class of shares subscribed for by the incorporators, or, in the case of a consolidation, all of the statements required by this act to be set forth in the original articles in the case of the formation of such an incorporated institution.

If an amendment made in the manner permitted by this clause restates articles in their entirety, thenceforth the articles shall not include any articles adopted prior thereto of the constituent corporations to the merger.

(5) The number, names, and addresses of the persons to be the first directors or trustees of the surviving or new incorporated institution.

(6) The plan of merger or consolidation.

Section 12. Section 1415 of the act is amended to read as follows:

Section 1415 of
act, amended.

Section 1415. Articles of Conversion of National Bank into Bank or Bank and Trust Company.—Upon the approval, pursuant to the provisions of this act, and in accordance with the requirements of Federal law, of the plan of conversion, by the directors and the shareholders of the national banking association which proposes to become converted into a bank or a bank and trust company, articles of conversion shall be executed, under the seal of such corporation, by two of its duly authorized officers, and shall set forth:

(1) The proposed name of the bank or bank and trust company.

(2) The exact location of the *principal* place [or places] of business of the bank or bank and trust company into which the national banking association plans to become converted.

(3) The time and place of the meeting of the directors at which the plan of conversion was proposed, and the time and place of the meeting of the shareholders at which the plan was ratified, the kind and period of notice given to the shareholders, and the vote of the directors and the vote of the shareholders by which the plan was adopted.

(4) All of the statements required by this act to be set forth in original articles of incorporation in the case of the formation of a bank or a bank and trust company, as the case may be, in so far as such information is applicable to the case of a national banking association proposing to become converted into a bank or a bank and trust company, respectively.

(5) The number, names, and addresses of the persons to be the first directors of the bank or bank and trust company.

[(6) A statement of the approval of such officer of the United States as may be empowered by law to approve the same.

(7)] (6) The plan of conversion.

Subsection A,
section 1417,
amended June 21,
1935, P. L. 369,
further amended.

Section 13. Subsection A of section 1417, amended June 21, 1935 (P. L. 369), is amended to read:

Section 1417. Approval by Department of Banking of Articles of Conversion of National Bank into Bank or Bank and Trust Company.—

A. The Department of Banking shall, immediately upon the receipt from the Department of State of the articles of conversion of a national banking association into a bank or a bank and trust company, conduct such examination as it may deem necessary to ascertain from the best sources of information at its command:

(1) Whether the name of the proposed bank or bank and trust company is likely to mislead the public as to its character or purpose.

(2) Whether the conversion is made for legitimate purposes.

(3) Whether the interests of the depositors, other creditors, and shareholders are adequately protected.

(4) Whether the proposed bank or bank and trust company meets all the requirements of this act and violates none of its prohibitions applicable to a bank or a bank and trust company, as the case may be, incorporated under this act.

(5) Whether the national banking association has complied with the requirements of the laws of the United States [, and has been approved by such officer of the United States as may be empowered by law to approve the same].

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Section 14. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 414

AN ACT

Amending the act of May 15, 1933 (P. L. 565), 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," requiring institutions, except building and loan associations, to furnish annually a complete report of earnings to the Department of Banking.

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

Department of
Banking Code.

Section 1. Subsections A and C of section 403, act of May 15, 1933 (P. L. 565), known as the "Department of Banking Code," amended July 29, 1941 (P. L. 583), are amended to read:

Subsections A
and C, section
403, act of May
15, 1933, P. L.
565, amended
July 29, 1941,
P. L. 583, fur-
ther amended.

Section 403. Reports to Department; Publication; Penalties.—A. Every institution, except building and loan associations, shall send to the department at least twice each year, and more frequently if the department shall so order, a complete report of its condition, exhibiting in detail, under appropriate headings, the resources and liabilities of the institution, *and shall also send to the department at least once each year, and more*