

## No. 1979-116

## AN ACT

## SB 826

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 employes 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 real estate loans, mobile home financing and subordinated securities.

With respect to amendments contained herein to section 506, 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. Subsection (e) of section 505, act of November 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965," amended September 27, 1973 (P.L.251, No.72), is amended and a subsection is added to read:

Section 505. Real Estate Loans

\* \* \*

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

(i) **[a loan secured by a lien on a dwelling for not more than four families, guaranteed at least to the extent of twenty percent thereof, or for which a written commitment for such guarantee has been issued, by the Veterans Administration pursuant to the Veterans' Benefits Act,] *a loan secured by a lien on a dwelling for not more than four families, in which the total of the borrowers equity and any guarantee or written commitment for such guarantee issued by the Veterans Administration pursuant to the Veterans' Benefits Act, equals twenty percent or more of the principal amount of the loan,***

(ii) **a loan secured by a lien on business property, [guaranteed at least to the extent of one-third thereof, or for which a] *in which the total of the borrowers equity and any guarantee or*** written commitment for such

guarantee [**has been**] issued by the Veterans Administration pursuant to the Veterans' Benefits Act *equals one-third or more of the principal amount of the loan,*

(iii) a loan insured, or for which a written commitment to insure has been issued, pursuant to national housing legislation, *or a loan for repair, alteration or improvement of real estate made pursuant to section 506(a)(ii),*

(iv) a loan insured, or for which a written commitment to insure has been issued, by the Farmers Home Administration pursuant to the Consolidated Farmers Home Administration Act,

(v) an investment security, or

(vi) a loan which the savings bank is authorized to make and in connection with which it takes a real estate lien as security in the exercise of prudence but as to which it is relying for repayment on:

(A) the general credit of the obligor or of an installment buyer or of a lessee of the real estate,

(B) collateral other than the real estate lien,

(C) a guaranty, or an agreement to take over or purchase the loan in the event of default, by a financially responsible person other than a person engaged in the business of guaranteeing real estate loans, or

(D) an agreement by a financially responsible person to take over or purchase the loan, or to provide funds for payment thereof, within a period of five years from the date of the loan

and there is a certificate of reliance setting forth the applicable facts.

*(f) Maximum rates—Loans including variable interest rate loans may be made at rates of interest 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.*

Section 2. Subsection (a) of section 506 of the act, amended September 27, 1973 (P.L.251, No.72), is amended to read:

Section 506. Lending Powers; Direct Leasing of Personal Property

(a) A savings bank may:

(i) make loans for a period not in excess of ninety days on the collateral security of property in which the savings bank is authorized to invest, in an amount which shall not at any time exceed ninety percent of the market value of the collateral;

(ii) make loans for repair, alteration or improvement of real estate or for the purpose of mobile home financing [**which are insured, or for which a written commitment to insure has been issued, pursuant to national housing legislation, subject to a limitation for the aggregate amount of such loans of five percent of the total assets of the savings bank;**] *without the necessity for mortgage security, subject to the following provisions:*

*(A) when such loans are insured or are the subject of a written commitment to insure pursuant to national housing legislation, they*

*may be granted in such amounts and upon such terms as are permitted by such legislation or regulations issued thereunder,*

*(B) when any such loan is not insured under national housing legislation, the principal amount thereof shall not exceed the amount authorized under Title I of the National Housing Act and the loan shall be evidenced by a note or other written evidence of debt requiring repayment in regular monthly installments over a period not exceeding that authorized under Title I of the National Housing Act. The note or other written evidence of debt may 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. The annual interest rate for loans made under this subsection shall not exceed 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. In addition to the interest herein authorized a savings bank 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 delinquency on a prior installment in an amount not to exceed the lesser of five dollars (\$5) 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, and*

*(5) actual expenditures, including reasonable attorneys' fees, for proceedings to collect the loans,*

*(C) the aggregate amount of all such loans held by any one savings bank at one time with or without insurance under national housing legislation shall not exceed twenty percent of its total assets. Any such loan made without such insurance shall also conform to rules and regulations which may be prescribed from time to time by the department,*

*(D) a loan is authorized under subsection (a)(ii)(B) only if the savings bank 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 savings bank while the loan is outstanding and for a period of one year thereafter;*

(iii) *notwithstanding different provisions of any other law*, make loans secured by at least an equal amount of deposits of the borrower in the savings bank [or] *at a rate of interest not less than the rate of interest paid by the savings bank on said deposits, and the rate of interest charged on such loans shall not be more than two percent higher than the rate of interest paid by the savings bank, on said deposits or make loans secured by at least an equal amount* of cash surrender value of life insurance;

(iv) make loans to borrowers who are engaged in commercial, industrial or financial enterprises or who are nonprofit corporations or associations for terms not less than ten years—subject to the prudent man rule of section 504(c) of this act; and

(v) enter into transactions with a member or nonmember bank for the purpose of selling reserve balances of the savings bank to such banks without limitation

but may not lend money or discount or purchase evidences of indebtedness or agreements for the payment of money except as provided in sections 504 and 505 and in this subsection (a).

\* \* \*

Section 3. Subsection (b) of section 511 of the act, is amended to read:  
Section 511. Borrowings and Subordinated Securities

\* \* \*

(b) Notes, debentures and other obligations issued by a savings bank shall be deemed “subordinated securities” for the purpose of this act if they:

(i) are subordinated in right of payment, in the event of insolvency or liquidation of the savings bank, to the prior payment of all deposits of the savings bank and of all claims of other creditors of the savings bank except the holders of securities on a parity therewith and the holders of securities expressly subordinated thereto,

(ii) are authorized by action of at least a majority of all the trustees of the savings bank,

(iii) contain provisions for amortization, serial maturities, transfers to a sinking fund, allocation of reserves or *such* other provisions [sufficient to pay or to have paid at maturity all amounts due thereon] *as the department may require*, and

(iv) are approved by the department prior to the issue thereof.

Section 4. This act shall take effect immediately.

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

DICK THORNBURGH