

No. 1981-4

AN ACT

HB 89

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," granting additional powers to savings banks.

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

Section 1. Section 401 and subsection (c) of section 403, act of November 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965," are amended to read:

Section 401. Application of Chapter

This chapter shall apply to, and the word "institution" in this chapter shall mean, a bank and trust company, [and] a trust company *and a savings bank*, except that section 407 shall apply only to a trust company. The powers conferred by this chapter on a bank and trust company shall be independent of, and shall not expand, the banking powers of such an institution.

Section 403. Actions Required, Permitted or Prohibited in Fiduciary Capacity

The following rules shall be applicable to an institution acting in the capacity of fiduciary.

* * *

(c) Deposits of funds and security—The institution may deposit funds of a fiduciary account awaiting investment or distribution in:

(i) a depository which is authorized by law to receive deposits and is subject to supervision by public authorities, or

(ii) if the institution is a bank and trust company *or a savings bank*, in its commercial, *savings or other* department where the funds may be used in the conduct of its business and, to the extent so deposited in an amount in excess of insurance provided by the Federal Deposit Insurance Corporation, shall be secured by a pledge of obligations of the United States or of the Commonwealth of Pennsylvania or obligations for which the full faith and credit of the United States is pledged, or by a pledge of other securities

approved by the department, with a market value not less than the amount of the funds secured, for the pro rata benefit of each account whose funds are so deposited in the event of insolvency of the institution.

* * *

Section 2. Subsection (b) of section 504 of the act is amended by adding a clause to read:

Section 504. Investments

* * *

(b) Authority under this act or other statutes—Except as otherwise provided in its articles, a savings bank may, in addition to investments authorized by its articles, other provisions of this act or other statutes, make investments in:

* * *

(xiii) in the case of a savings bank which has elected to exercise the conditional powers provided in section 513, capital stock securities or other obligations of any service corporation organized under the laws of this Commonwealth, subject to the following limitations:

(A) the entire capital stock of the service corporation shall be available for purchase by, or be transferable to, only savings banks, savings and loan associations organized under the laws of this Commonwealth or Federal savings and loan associations having their home offices in this Commonwealth,

(B) unless authorized by the department a savings bank shall not have an aggregate outstanding investment in the capital stock, securities or obligations of service corporations the cost of which exceeds one percent of the assets of the savings bank at the time of acquisition of such stock, securities or obligations,

(C) a service corporation qualifying for investment under this subsection may engage in the following activities:

(1) originating, purchasing, selling and servicing loans upon real estate and participating interests therein,

(2) performing clerical, bookkeeping, accounting, statistical or similar functions, primarily for financial institutions,

(3) acquisition and development of real estate, principally for construction of housing or for resale to others for such construction or for use as mobile home sites, either separately or in conjunction with others provided that such development shall be completed within five years of the commencement of development, unless that period is extended by the department,

(4) acquiring interests in improved residential real estate and mobile homes to be held for rental, and

(5) any other activity authorized by the department by regulation.

* * *

Section 3. Subsection (a) of section 506 of the act, amended December 13, 1979 (P.L.527, No.116), 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 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 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]

(A) for terms not less than ten years, or

(B) in the case of a savings bank which has elected to exercise the conditional powers provided in section 513, for terms of less than ten years, except that the total amount of such short term loans shall not exceed five percent of the assets of the savings bank, and except that such loans may only be made within this Commonwealth or within seventy-five miles of the savings bank's principal place of business;

(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; and

(vi) in the case of a savings bank which has elected to exercise the conditional powers provided in section 513, make secured or unsecured loans for personal, family or household purposes, and subject to regulation by the department, issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations, except that the total amount of such loans or extensions of credit shall not exceed twenty percent of the assets of such savings bank. In any loan or extension of credit made under the authority of this clause a savings bank may charge or impose any rate or charge which could be imposed by a bank in

connection with any such loan or extension of credit under section 309 of this act and under the act of October 28, 1966 (1st Sp.Sess. P.L.55, No.7), known as the "Goods and Services Installment Sales Act," as in effect on September 30, 1980 and shall be subject to the same restrictions and limitations imposed upon a bank in connection with such loan or extension of credit under such section and act.

[but] *A savings bank 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 4. The act is amended by adding a section to read:

Section 513. Conditional Powers of Savings Banks

(a) A savings bank which makes an election provided in subsection (b) shall, in addition to its other powers under this act, have the powers specified in section 504(b)(xiii), section 506(a)(iv)(B) and (a)(vi) on the condition that it accepts the requirements provided in subsection (c).

(b) An election to exercise the conditional powers provided in this section shall be made by filing with the department a written statement of such election in such form as the department may provide. Such election shall become effective upon publication thereof by the department in the Pennsylvania Bulletin or at such later time following such publication as the savings bank may specify in its election.

(c) Upon the effective date of an election by a savings bank to exercise the conditional powers provided in this section, it shall become subject to regulations which after giving due consideration to the laws and regulations applicable to Federal mutual savings banks, the department shall adopt and such regulations shall impose on such savings banks requirements and limitations with respect to the election of trustees by depositors and the exercise of such conditional powers as are deemed appropriate to protect the public interest in the soundness and preservation of the banking system and to foster competition among financial institutions in Pennsylvania, including Federal mutual savings banks in this Commonwealth existing under the laws of the United States and subject to the regulations of the Federal Home Loan Bank Board. In the event of future changes in such Federal law and regulation, the department may amend the regulations required by this subsection so as to assure that they continue to reflect the purpose of this section. A savings bank may at any time rescind its election by filing a notice with the department in such form as it may provide. The department shall promptly publish in the Pennsylvania Bulletin each such notice to rescind an election which shall be effective on the date of such publication or on such later date after publication as the savings bank may specify in its notice.

Section 5. This act shall take effect immediately.

APPROVED—The 16th day of April, A. D. 1981.

DICK THORNBURGH