

## No. 1986-69

## AN ACT

## SB 1075

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," authorizing acquisitions of bank holding companies and banks in Pennsylvania by bank holding companies located in other states on a regional, reciprocal basis for a certain period of time and on a reciprocal basis without a regional requirement thereafter.

The General Assembly makes the following findings as the basis for this act:

(1) The rapid development of interstate banking in recent years can be expected to continue and to have significant effects on the business of commercial banking in this Commonwealth by reason of the economic, regulatory, financial and technological forces that affect the business.

(2) It is in the best interests of the economy of this Commonwealth and its public to enable commercial banks in this Commonwealth to remain sound, strong and competitive with banks located elsewhere and with other financial organizations.

(3) As an increasing number of other states authorize interstate banking in some form, banks and bank holding companies in this Commonwealth would be disadvantaged if not permitted to combine with banks and bank holding companies elsewhere.

(4) A fundamental change in the banking structure to accommodate interstate banking can be made in a more orderly manner and with an opportunity for participation by banks of all sizes by an authorization of interstate combinations in a limited regional area during an initial period of time before reciprocal banking without a regional requirement is permitted.

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

Section 1. Section 115(b)(i) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, added March 4, 1982 (P.L.135, No.44), is amended to read:

## Section 115. Bank Holding Companies

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## (b) Control of institutions—

(i) No bank holding company other than a Pennsylvania bank holding company may control an institution *except as expressly provided in section 116 with respect to bank holding companies in other states.*

\* \* \*

Section 2. The act is amended by adding a section to read:

**Section 116. Authorization of Reciprocal Interstate Banking****(a) Definitions—As used in this section:**

(i) “Bank,” “bank holding company” and “control”—shall have the same meanings as those terms have under the Federal Bank Holding Company Act (70 Stat. 133, Public Law 84-511) and regulations of the Federal Reserve Board as in effect, from time to time, and the terms “acquire” and “acquisition” shall include any transaction or event which would be deemed to result in an acquisition under such act and regulations. A bank holding company shall be deemed to be “located” in the state in which the total deposits of all its bank subsidiaries are largest.

(ii) “Institution” and “Pennsylvania Bank Holding Company”—shall have the same meanings as those terms are defined in section 115(a).

(iii) “Region”—shall mean, in addition to this State, the states of Delaware, Kentucky, Maryland, New Jersey, Ohio, Virginia and West Virginia and the District of Columbia.

(iv) “Domestic deposits” of a bank or a bank holding company—shall mean all deposits in offices in the United States, as determined by the most recent report of condition of such bank, or, in the case of such bank holding company, its bank subsidiaries, other than deposits in:

(A) A bank in which shares may be lawfully acquired without approval under the Federal Bank Holding Company Act.

(B) A bank acquired pursuant to section 13(f) of the Federal Deposit Insurance Act (64 Stat. 873, Public Law 82-30).

(C) An international banking facility.

(v) “State”—shall also include the District of Columbia.

(b) Acquisitions by bank holding companies in other states—A bank holding company located in another state may acquire control of an institution or a Pennsylvania bank holding company or five percent or more of the voting shares of an institution or Pennsylvania bank holding company if:

(i) The law of the state where the acquiring bank holding company is located and the law of the state where any bank holding company which controls such acquiring bank holding company is located satisfies in each case the reciprocity requirement of subsection (c).

(ii) The acquiring bank holding company and any bank holding company which controls it is, in each case, located in the region except that the requirement of location in the region will not be applicable to an acquisition consummated after March 4, 1990.

(iii) Immediately prior to the acquisition and after giving effect thereto, seventy-five percent of the total domestic deposits of the acquiring

*bank holding company and any bank holding company which controls it are in banks located in states in the region if the requirement of location in the region is at the time applicable under clause (ii) and, in any event, are in banks located in states which satisfy the reciprocity requirements of subsection (c).*

*(iv) The number of institutions controlled by a bank holding company located in another state as a result of such acquisition would not exceed the number of institutions which a Pennsylvania bank holding company would be authorized to control at that time.*

*(v) The acquisition has been approved by the department.*

*(c) Reciprocity requirement—The law of another state is reciprocal with this section to the extent it expressly authorizes Pennsylvania bank holding companies to acquire banks or bank holding companies located in that state on terms and conditions substantially no more restrictive than those applicable to such an acquisition by a bank holding company located in that state. For the purpose of determining whether the law of another state does or does not satisfy this reciprocity requirement:*

*(i) The law of a state will not satisfy the reciprocity requirement if a bank in that state which a Pennsylvania bank holding company is authorized to acquire is subject to restrictions on competition with banks located in that state or restrictions on deposits or commercial loans not generally applicable to banks located in that state.*

*(ii) The law of a state will not fail to satisfy the reciprocity requirement solely by reason of the fact that a Pennsylvania bank holding company would be subject to limitations or restrictions on an acquisition of a bank or a bank holding company located in that state which would also be applicable to an acquisition by a bank holding company located in that state or which do not materially limit the ability of Pennsylvania bank holding companies to acquire banks or bank holding companies located in that state generally.*

*(iii) The law of a state which permits an acquisition of a bank only on the condition that such bank has been in operation for some specified period of time will not satisfy the reciprocity requirement with respect to the acquisition of an institution which has not been in operation for at least the same period of time, except that this provision shall not prohibit the organization of a new institution solely to effect an acquisition otherwise permitted by this section.*

*(iv) The reciprocal interstate banking statute of each of the states of Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Rhode Island, Utah, Washington and West Virginia shall be deemed reciprocal with this section in the form in which such statute existed on March 31, 1986. In the event of an amendment of any such statute, the determination whether it continues to be reciprocal with this section shall be made in accordance with this subsection in the same manner as the determination shall be made whether a statute of any state not specified in this clause is or is not reciprocal with this section.*

(v) *The department may determine whether the law of another state satisfies the reciprocity requirement.*

(d) *Approval by department—An application for approval by the department of an acquisition permitted by subsection (b) shall be made in such form and upon payment of such fee as the department shall prescribe and shall be supplemented by such additional information as the department shall request. Upon receipt of an application, the department shall conduct an investigation to determine whether to approve or disapprove the application on the basis of the financial and managerial resources of the applicant, the financial history and future prospects of the applicant and each institution and Pennsylvania bank holding company proposed to be acquired, and any undue concentration of resources that would result from the acquisition and the convenience and needs of the public. In its investigation of the convenience and needs of the public, the department shall give specific attention to the effects of the acquisition on the availability, in this State, of those banking and basic transaction account services set forth in subsections (i) and (j). Within sixty days after receipt of the application or within such longer period, not in excess of thirty days, after receipt from the applicant of additional information requested by the department, the department shall approve or disapprove the proposed acquisition and give written notice of its decision to the applicant. In approving an acquisition under this section, the department may place conditions upon such approval and incorporate such terms and agreements as are deemed necessary to effect the purposes of this act.*

(e) *Change in circumstances—If a bank holding company located in another state which has acquired an institution or Pennsylvania bank holding company should have a change of circumstances so that at the time it would not satisfy the conditions of subsection (b) either by reason of a change in the place where it is located for the purpose of this section or by reason of the fact that it becomes subject to direct or indirect control by a bank holding company located in a state which does not satisfy the conditions of subsection (b), it shall divest control of each institution and Pennsylvania bank holding company which it controls prior to any voluntary combination which causes such change of circumstances or within one year (or such longer period of not more than an additional year as the department may permit in writing) after the occurrence of the reason other than a voluntary combination which caused the change of circumstances. A combination shall be deemed to be voluntary for the purpose of this subsection if an agreement or plan for such combination has been approved by a vote of the board of directors or a vote of the shareholders of the bank holding company located in another state which has acquired control of an institution or a Pennsylvania bank holding company.*

(f) *Effect of invalidity—The purpose of this section is solely to authorize reciprocal, regional banking for the initial period after the effective date of this section during which the requirement of location in the region is applicable under subsection (b) and reciprocal banking without a regional requirement thereafter to the extent expressly provided herein, and this section shall*

*not be construed to authorize any acquisition of control of ~~an institution or~~ Pennsylvania bank holding company by a bank holding company located in another state except as expressly provided in this section. In the event that any limitation on acquisitions of this section is held to be invalid by a final order of a court which is not subject to further review or appeal, or in the event that section 3(d) of the Federal Bank Holding Company Act, or any substantially similar provision enacted in lieu thereof, is ruled by a final order of the United States Supreme Court either, within the period during which the requirement of location in the region is in effect under subsection (b), not to permit a regional restriction on interstate acquisitions of banks or bank holding companies or, at any time, not to permit a reciprocity requirement as a condition of such acquisitions or, in either event, not to be valid to the extent it does so, the authorization of this section shall terminate immediately. Any acquisition consummated pursuant to this section prior to such termination shall not be affected thereby.*

*(g) Supervisory authority of department—The department shall have the same authority to require reports of condition from, and to examine, a bank holding company located in another state which acquires an institution or Pennsylvania bank holding company pursuant to this section as the authority it has to require reports of condition from, and to examine, Pennsylvania bank holding companies and to assess fees and collect expenses for such examinations. The department may accept examination reports in lieu of such examination and enter agreements with Federal and State banking regulators for exchange of information, including examination reports.*

*(h) Acquisitions in other states by Pennsylvania bank holding companies—A Pennsylvania bank holding company which proposes to acquire a bank or bank holding company located in another state shall file an application for approval by the department in such form and upon payment of such fee as the department shall prescribe and shall supplement such application with such additional information as the department may reasonably request. The department shall conduct such investigation as it deems necessary to determine whether to approve or disapprove the application on the basis of the effects the proposed acquisition would have on the availability, in this State, of those banking services and basic transaction account services set forth in subsections (i) and (j). Within sixty days after receipt of the application or within such longer period, not in excess of thirty days, after receipt from the applicant of additional information requested by the department, the department shall approve or disapprove the proposed acquisition and give written notice of its decision to the applicant. In approving an acquisition under this section, the department may place conditions upon such approval and incorporate such terms and agreements as are deemed necessary to effect the purposes of this act.*

*(i) Availability of banking services—The department shall have the authority to assure that interstate banking acquisitions authorized by this section will not diminish reasonable availability of banking services to all segments of the public and economy of this State, with special emphasis on economic development and the financing of enterprises to the end that*

*employment opportunities will be either increased or, where there is the prospect of reduction, retained. Upon receipt of an application for approval of an acquisition by a company located in another state under subsection (d) or approval of an acquisition in another state by a Pennsylvania bank holding company under subsection (h), the department shall review the credit practices and policies of each Pennsylvania bank holding company or institution which is involved in the proposed transaction. Such review shall determine the overall performance of such company or institution in providing credit and financial services to individuals and business enterprises in the communities which it serves in the light of its resources, its capital and its income, the particular needs of such communities, competition and alternative sources of credit. With respect to individuals, there shall be a review of consumer loans, residential mortgages, home improvement loans and student loans, particularly to residents of low-income and moderate-income neighborhoods. With respect to business enterprises, there shall be a review of extensions of credit and investments intended to promote economic development and creation, or retention where there is the prospect of reduction, of employment opportunities, including, without limitation, Small Business Administration and other small business loans, industrial development loans, financing of employe stock option plans and leveraged buy-outs of businesses by employes, financing of non-profit community development projects, loans and investments intended to maintain existing businesses and to encourage economic expansion and job opportunities, and loans and investments to promote participation by businesses in this State in international trade and to increase exports. The review by the department shall also include all other activities of the institution or company deemed to be suitable to its particular circumstances and the communities served. If the department determines that the overall performance of the institution or company has not been materially deficient and that it justifies the conclusion that the institution or company does and will provide suitable credit and financial services to its communities, it may approve the application without imposing any terms or conditions but otherwise may impose such terms and conditions as it deems appropriate to improve such overall performance over a stated period of time. The department shall, from time to time, review the continuing overall performance of each such institution or company after an acquisition and, if it finds that its overall performance has not continued to be satisfactory, shall issue such order to the applicant as it deems appropriate.*

*(j) Availability of basic transaction account services—The department shall have the authority to assure that bank holding companies and institutions that become part of interstate banking organizations by reason of acquisitions requiring approval under this section make basic transaction account services available to the public. For this purpose the department shall obtain, from all sources available to it or through such studies as it may commission, adequate information to determine:*

*(i) The needs of the public and, in particular, individuals with low or moderate income, for a basic checking or other transaction account.*

(ii) *The principal characteristics that such an account should have, such as the number of checks, deposits and other items for which a minimum charge may be made, the amount or rate of such minimum charge and the forms of identification that may be required for opening and using such an account.*

(iii) *The existing availability of basic accounts with some or all of such principal characteristics currently offered by depository institutions, including applicants under this section, in separate communities of the State.*

*An applicant shall, at the request of the department, supply information to the department with respect to such accounts offered by each institution which is a subsidiary of the applicant. The department may approve an application prior to the time it has acquired the information required by this section, but each institution which is a subsidiary of the applicant shall be subject, both before and after an approval of the acquisition under this section, to requirements imposed by the department, from time to time, to assure to the public, in the communities served by the institution, the continuing availability of the basic transaction account services which the department has determined the public needs.*

(k) *Establishment of Advisory Commission—For the purpose of advising the department in the conduct of its functions under subsections (i) and (j), 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. 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). All decisions and determinations made under this section shall be made by the department.*

***(l) Enforcement—The department shall have the authority to issue regulations to carry out the provisions of this section and to issue orders to enforce the provisions of this section and its regulations thereunder, subject to the standards for exercise of power and discretion by the department under section 103.***

Section 3. All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 4. This act shall take effect in 60 days.

APPROVED—The 25th day of June, A. D. 1986.

DICK THORNBURGH