

and trust company, whether or not they have consented to such plan of reorganization.

Section 5. This act shall apply to all banks or bank and trust companies within this Commonwealth, incorporated under general or special act of General Assembly, whether or not they are operating upon a restricted basis in accordance with the provisions of the aforementioned act number six, approved the eighth day of March, one thousand nine hundred thirty-three, but it shall not apply to banks or bank and trust companies in possession of the Secretary of Banking.

Application
of the act.

Section 6. If any part of this act shall be declared unconstitutional by any court, the remaining provisions of the act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

Constitutional
provision.

Section 7. The power of a bank or a bank and trust company to reorganize in the manner provided by this act shall be in addition to any power to reorganize granted, and notwithstanding any limitation imposed by existing law. The operation of any act, or part of any act, inconsistent herewith shall be suspended during the period this act shall continue to be effective.

Section 8. This act shall become effective immediately upon its approval by the Governor, and shall be retroactive to the thirty-first day of March, nineteen hundred thirty-five, and shall continue to be effective until the thirty-first day of March, one thousand nine hundred thirty-seven.

When effective.

APPROVED—The 2d day of July, A. D. 1935.

GEORGE H. EARLE

No. 200

AN ACT

To amend the act approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, six hundred twenty-four), entitled "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; 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 of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations 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 penal-

ties; and repealing certain acts and parts of acts," by further providing for the powers and limitations upon powers of corporations with fiduciary powers.

Sections 1101,
1102, 1106,
and 1108, act
of May 15,
1933 (P. L.
624), amended.

Section 1. Be it enacted, &c., That section 1101, section 1102, section 1106, and section 1108 of the act, approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, six hundred twenty-four), entitled "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; 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 of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations 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," are hereby amended to read as follows:

Section 1101. Power of Bank to Become Bank and Trust Company; Acquisition of Fiduciary Powers.—A bank, which has an *aggregate* unimpaired capital and [an] unimpaired surplus at least equal to the *aggregate* capital and surplus required by this act for the incorporation of a bank and trust company, *provided that its unimpaired capital is at least equal to the capital required by this act for the incorporation of a bank and trust company*, may, by amending its articles of incorporation in the manner provided by this act, acquire the additional power of, and thereby become, a bank and trust company. Such bank, upon becoming a bank and trust company, shall include in or add to its corporate name the words "and trust company," in accordance with the provisions of this act, but the amendment to the articles of incorporation of a bank, by virtue of which such bank is to become a bank and trust company, shall be approved by two-thirds of all the shareholders of such bank.

Section 1102. Powers of Bank and Trust Companies or Trust Companies.—In addition to the general corporate powers granted by this act, and in addition to any power specifically granted to a bank and trust company or a trust company elsewhere in this act, a bank and

trust company or a trust company shall have the following powers, subject to the limitations and restrictions imposed by this act:

- (1) To act as fiduciary and, pursuant thereto, to receive and dispose of real or personal property;
- (2) To act as agent or attorney in fact;
- (3) To act as transfer or fiscal agent, and registrar of shares, bonds, or other obligations.
- (4) To pool mortgages or securities for the investment of funds held by it as fiduciary;

(5) In the case of certain existent bank and trust companies or trust companies, to insure owners, mortgagees, and others interested in real property from loss by reason of defective titles, liens, and encumbrances.

Section 1106. Capital of Bank and Trust Company or Trust Company in Lieu of Bond.—A bank and trust company or a trust company, acting as a fiduciary, shall not be required to execute the bond or put up the security required by law of fiduciaries, but its capital shall be considered as the security required by law for the faithful performance of its duties. The capital of such bank and trust company *or such trust company* shall be absolutely liable in case of any default whatsoever.

Section 1108. Segregation and Designation of Trust Funds; Deposit of Uninvested Funds.—A bank and trust company or a trust company shall keep all funds, property, or investments, held by it in a fiduciary capacity, separate and apart from the assets of such bank and trust company or trust company. All investments made by a bank and trust company or a trust company, as fiduciary, *including fractional interests in investments may be held in the name of such bank and trust company or trust company, or in the name of a nominee of such bank and trust company or trust company, but all such investments* shall be so designated, *upon the records of such bank and trust company or trust company*, that the estate to which such investments belong shall be [apparent] *clearly shown upon such records* at all times. [but such] *Such* bank and trust company or such trust company may, *however*, clear receipts and payments of such funds in the regular course of business in the same manner as other funds held by it. Funds held by a bank and trust company or a trust company as fiduciary, awaiting investment or distribution, may be deposited in any other institution, in any national banking association, or with any corporation or person in any other state, which is authorized to receive deposits and is subject to the full supervision of the banking authorities of such other state, or, in the case of a bank and trust company, may be used by it in the conduct of its business. If such funds held by a bank and trust company as fiduciary are used by such bank and trust

company in the conduct of its business, there shall be pledged or hypothecated by such bank and trust company, with the trust department of the bank and trust company acting as fiduciary, interest-bearing bonds or other obligations of the United States *or those for the payment of the principal and interest on which the faith and credit of the United States is pledged* or of the Commonwealth of Pennsylvania, or such other securities as may be approved by the department. The par value of the bonds, other obligations, or securities so pledged or hypothecated to secure such funds, or the market value if such market value is less than the par value, shall at all times be equal to an amount not less than the funds so used or deposited, *provided that security for such funds shall not be required to the extent that such funds are insured, under the provisions of section 12B of the Federal Reserve Act, approved the twenty-third day of December, one thousand nine hundred and thirteen, its amendments and supplements.* If the bank and trust company which has put up such collateral should fail or be taken in possession by the department, the estate from which the funds were taken shall have a lien for the amount of such funds on the bonds, other obligations, or securities so pledged or hypothecated, in addition to their claim against the estate of such bank and trust company.

When effective.

Section 2. Effective Date.—This act shall become effective immediately upon final enactment.

APPROVED—The 2d day of July, A. D. 1935.

GEORGE H. EARLE

No. 201

AN ACT

Authorizing courts to stay suits or proceedings brought against any corporate fiduciary to enforce payment of cash by the fiduciary, for the reason that it has made and carried a trust investment solely in its corporate name on the public records, provided such investment has been kept separate and apart from its corporate assets by the fiduciary, and clearly designated on its records as the property of the trust estate.

Be it enacted, &c., as follows:

Fiduciaries.
Court may stay proceedings instituted to enforce payment, in cash, of trust investments, under certain conditions.

Section 1. In any suit, action or proceeding hereafter commenced to enforce the payment of cash by a bank, bank and trust company, or a trust company, acting as fiduciary by reason of the fact that any mortgage upon real estate securing a bond, or real estate acquired thereunder constituting a trust investment has been carried in the name of such corporate fiduciary on the public records, the court having jurisdiction over such suit, action or proceeding may, upon such terms and