

AN ACT

To amend the act, approved the fifth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, four hundred fifty-seven), entitled "An act relating to the business of building and loan associations; providing for the organization and voluntary dissolution of such associations; defining the rights, powers, duties, liabilities, and immunities of such associations, and of their officers, directors, shareholders, solicitors, and other employees; prohibiting the transaction of business in this Commonwealth by foreign building and loan associations; conferring powers and imposing duties upon the courts, recorders of deeds, and certain State departments, commissions, and officers; establishing limitations of actions; imposing penalties; and repealing certain acts and parts of acts," by further defining the rights, powers, duties, liabilities, and immunities of building and loan associations, and of their officers, directors, shareholders, solicitors, and other employees; and providing for the approval of a plan of merger without action of the shareholders of the surviving association.

Sections 2, 203,
204, 313, 402,
411, 415, 604,
616, 618, 621,
801, 808, 910,
1002, 1003, 1009,
and 1112, act of
May 5, 1933
(P. L. 457),
amended.

Section 1. Be it enacted, &c., That section 2, section 203, section 204, section 313, section 402, section 411, section 415, section 604, section 616, section 618, section 621, section 801, section 808, section 910, section 1002, section 1003, section 1009, and section 1112 of the act, approved the fifth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, four hundred fifty-seven), entitled "An act relating to the business of building and loan associations; providing for the organization and voluntary dissolution of such associations; defining the rights, powers, duties, liabilities, and immunities of such associations, and of their officers, directors, shareholders, solicitors, and other employees; prohibiting the transaction of business in this Commonwealth by foreign building and loan associations; conferring powers and imposing duties upon the courts, recorders of deeds, and certain State departments, commissions, and officers; establishing limitations of actions; imposing penalties; and repealing certain acts and parts of acts," are hereby amended to read as follows:

Section 2. Definitions.—A. The following terms shall be construed in this act to have the following meanings except in those instances where the context clearly indicates otherwise:

"Articles" includes the original articles of incorporation, any or all amendments thereto, articles of merger or consolidation, and also what have heretofore been designated by law as certificates of incorporation or charters.

"Assets" includes all the property and rights of every kind of the association.

"Association" includes any building and loan association organized under this act, or heretofore organized

under or by virtue of any other law of this Commonwealth.

“Authorized Capital” means the sum of the par value of the shares authorized to be issued by an association.

“Corporation” means a corporation or a joint stock association, organized under the laws of this Commonwealth, of the United States, or of any other state, territory, foreign country, or dependency.

“Department” means the Department of Banking of this Commonwealth.

“Incorporator” means a signer of the original articles of incorporation.

“Mortgage Loans” means loans which are secured, pursuant to the provisions of this act, by the bond of the borrower, by a mortgage on real property, and by installment shares.

“Person” means an individual, or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals.

“Shares” means the units into which the shareholders’ rights to participate in the control of a building and loan association are divided.

“Share Certificate” means a written instrument signed by the proper corporate officers as required by this act, and evidencing the fact that the corporation or person therein named is the registered owner of the shares therein described; it also includes the term “certificate of stock” as used in existing laws.

“Share Loans” means loans which are secured, pursuant to the provisions of this act, by the note of the borrower and by prepaid, *full-paid* or installment shares.

“Shareholder” means a registered owner of shares in a building and loan association.

“Subscriber” means one who subscribes for shares in a building and loan association whether before or after incorporation.

“Written” includes printed, typewritten, engraved, lithographed, telegraphed, cabled, radiogramed, photographed, photostated, telephotographed, or other form of recorded or transmitted message.

B. The singular shall be construed to include the plural. The masculine shall be construed to include the feminine and the neuter, and conversely the neuter shall be construed to include the masculine and the feminine.

Section 203. Place of Business; Change of Place of Business.—A. An association shall not hold any of the regular meetings of its directors, grant any loans, or transact any business, except at the place of business designated in its by-laws; but the collection of dues, *interest, premiums, and fines* by any corporation or person authorized by the association to make such collection at any place other than the place of business of the

association; and the holding of shareholders' meetings, shall not be construed to be the transaction of business within the meaning of this section. In the event that the place of business designated in the by-laws becomes unavailable, the directors may specify another place, within the city, borough, or township, as a temporary place of business.

B. An association may change its place of business to any place within the city, borough, or township named in its articles, in the manner provided in its by-laws. An association, upon changing its place of business, shall forthwith give notice of such change to the Department of Banking. [and the Department of State.]

Section 204. Branch Offices and Sub-Agencies.—An association shall not establish, maintain, or operate, either directly or indirectly, any branch association, branch office, agency, sub-office, sub-agency, or branch place of business within this Commonwealth, for the holding of the regular meetings of its directors, the granting of any loans, or the transaction of any part of its business, but all of the business of such association shall be carried on solely and exclusively at its place of business. The collection of dues, *interest, premiums, and fines* by any corporation or person authorized by the association to make such collection at any place other than the place of business of the association, and the holding of shareholders' meetings, shall not be construed to be the transaction of business within the meaning of this section.

Section 313. By-Laws; Adoption, Amendment, or Repeal; Approval by Department.—A. Except as herein otherwise provided, the shareholders shall have the power to make, alter, amend, and repeal the by-laws of an association. The authority to make by-laws may be expressly vested by the articles in the board of directors, subject to the power of the shareholders to change or repeal such by-laws, but the board of directors shall not make or alter any by-laws fixing their qualifications, classification, term of office, or compensation, [or] any by-laws regulating the proportion of the profits of the association or the rate of interest paid to a withdrawing shareholder, *or any by-laws authorizing the board of directors, without action by the shareholders of the association, to approve a plan of merger.* Unless the articles or by-laws otherwise provide, the by-laws shall be adopted, altered, amended, and repealed by a majority vote of the board of directors or of the shareholders entitled to vote thereon, as the case may be, at any regular or special meeting duly convened after notice to the shareholders or directors of that purpose.

B. The by-laws of an association may contain any provision for the regulation and management of the af-

fairs of such association not inconsistent with law or the articles.

C. Immediately upon the adoption of the by-laws, or of any additions thereto, or any alteration, amendment, or repeal thereof, notice of such fact and a copy of such by-law or such alteration, amendment, or repeal shall forthwith be sent to the Department of Banking. The Department of Banking shall, *within ninety days after receipt thereof*, have the power to disapprove, for any reasonable cause stated in writing, any such by-law or any such alteration, amendment, or repeal thereof, but such by-law, alteration, amendment, or repeal shall be effective until the department actually disapproves it and gives notice thereof to the association.

Section 402. Term of Office and Qualification of Directors.—A. The business and affairs of every association shall be managed by a board of at least five directors. Except as otherwise provided by this act or by the articles or by-laws of the association, such board of directors shall exercise all the powers and fulfill all the duties granted to or imposed upon the association by this act.

B. Each director shall hold office for the term for which he is elected and until his successor shall have been duly elected and qualified. The names and terms of office of the first directors shall be stated in the articles. Except as otherwise provided in this act for the filling of vacancies, directors, other than those constituting the first board of directors, shall be elected by the shareholders.

C. Every director shall, during his term of office, be a citizen of the United States and [a bona fide resident in this Commonwealth. Every director shall own, in his own name, and free of any lien or encumbrance, at least five shares of the association, but the number of shares required to be owned by any person who is a director of an association upon the effective date of this act shall be the same as was required by the articles or by-laws of such association prior to the effective date of this act, so long as such director shall serve continuously. The share certificates or the passbook or other receipt for the minimum number of shares which each director is required to own, free of any lien or encumbrance, shall be filed, unendorsed, unpledged, and unassigned by him, with the treasurer of the association. Such shares shall remain in the custody of the treasurer during the term of office of such director.

Any director who, during his term of service, pledges, assigns, or in any manner ceases to be the owner in his own name of the number of shares which he is required to own, free of any lien or encumbrance, shall forthwith cease to be a director of the association, and his office shall be vacant.] *at least two-thirds of the directors*

shall, during their terms of service, be bona fide residents in this Commonwealth.

Every director shall be a shareholder of the association. Any director who, during his term of service, ceases to be a shareholder, shall forthwith cease to be a director of the association, and his office shall be declared vacant. Any vacancy thus occurring shall be filled in the regular manner for filling vacancies in the board.

Section 411. Bonds of Officers, Directors, and Employees.—A. The officers, directors, and employes of every association, [as well as any directors] who are authorized to receive payments of moneys or to handle negotiable securities on behalf of such association, shall [before entering upon the performance of their duties, furnish to it bonds] *be bonded* in such form of bond and in such amount as is specified, with such corporate surety as is approved, by the board of directors. [Such bond shall be conditioned upon the faithful performance of the duties of such officers, directors, or employes.] The cost of such bonds may be paid by the association.

B. The department shall have the power to require any such officer, employe, or director, at any time during his term of office or employment, to [furnish a bond] *be bonded* in an amount greater than that required by the board of directors, or it may require new or additional corporate surety.

Section 415. Purchases from and Sales to Directors, Officers, Solicitors, or Employees.—A. An association shall not contract for or purchase from any of its directors, officers, solicitors, or employes any securities or other property, *or contract for or pay for services rendered in the repair, maintenance, or management of properties belonging to, or under the control of, the association*, unless such [purchase] *transaction* is made in the regular course of business upon terms not less favorable to the association than those offered to any other corporation or person, unless such [purchase] *transaction* could not be made [from] *with* another reliable source at a more favorable price or upon more favorable terms, and unless such [purchase] *transaction* is authorized by the vote of at least two-thirds of all the members of the board of directors of such association, who are not interested in such transaction except in their capacity as directors of the association.

B. An association shall not sell securities or other property, owned or held by it, to any of its directors, officers, solicitors, or employes, unless such sale is made in the regular course of business upon terms not less favorable to the association than those offered to any other corporation or person, unless such sale could not be made elsewhere at a more favorable price or upon more favorable terms, and unless such sale is authorized

by the vote of at least two-thirds of all the members of the board of directors of such association, who are not interested in such transaction except in their capacities as directors of the association.

C. For the purpose of this section, a purchase from or a sale to a corporation of which any director, officer, solicitor, or employe, described in this section, owns ten per centum or more of the outstanding shares, or a purchase from or a sale to an unincorporated association of which any such director, officer, solicitor, or employe is a member, shall be considered a purchase from or a sale to such director, officer, solicitor, or employe.

D. Any director, officer, solicitor, or employe of an association, who knowingly violates the provisions of this section, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be subject to an imprisonment not exceeding one year, or a fine not exceeding one thousand dollars, or both; he shall also be subject to a further fine equal to any profit which he shall have made upon the transaction.

Section 604. Membership or Withdrawal Fees; Other Charges.—An association shall not levy upon any shareholder, or upon any corporation or person intending to become a shareholder, a [membership or] withdrawal fee, or any other charge not specifically permitted by this act.

An association may levy upon any shareholder, or upon any corporation or person intending to become a shareholder, a membership fee which shall not exceed one-eighth of one per centum of the par value of each share issued or to be issued to such shareholder, corporation, or person. All membership fees so paid shall be credited to the general profit account of the association, and shall not be credited as dues in the passbook or other receipt issued to the shareholder.

Section 616. Order of Payment and Funds to Be Used to Pay Matured or Withdrawn Shares; Power to Sue.—A. Withdrawn or matured shares shall be paid in the order in which the withdrawals become effective or the maturities are declared, but withdrawals which become effective or maturities which are declared upon the same day shall be paid on a pro rata basis. However, the board of directors may at any time either authorize payment of withdrawn [or matured] shares on a pro rata basis, or, with the consent of the department, fix a maximum amount to be paid periodically on such shares. The action of the board of directors in authorizing payment to be made on a pro rata basis, or in fixing a maximum amount to be paid periodically, shall also apply to unpaid withdrawals which became effective [or to unpaid maturities which were declared] prior to the date on which such action was taken by the board of directors.

B. At least two-thirds of the funds in the treasury of an association shall be applied to the payment of matured or withdrawn shares, whenever such amount is necessary for this purpose, but the association shall first deduct such amount as shall be necessary to pay current expenses and interest or dividends on full-paid shares, to protect or preserve the assets of the association, and to make proper provisions for meeting such obligations as it may reasonably be expected to be compelled to pay. Whenever two-thirds of the funds in the treasury, other than such amounts as are required by this section to be deducted, are insufficient to pay in full all matured or withdrawn shares, one-third of such funds shall be applied to the payment of matured shares and one-third to the payment of withdrawn shares, but if less than one-third of such funds shall be sufficient to pay in full all matured shares, the balance of such one-third shall be applied to pay withdrawn shares, and conversely, if less than one-third of such funds shall be sufficient to pay in full all withdrawn shares, the balance of such one-third shall be applied to pay matured shares.

C. Whenever funds are not available, in the manner hereinbefore provided, to pay any matured or withdrawn share upon which payment has been due for a period in excess of six months, [all] *eighty per centum* of the funds in the treasury, other than such amounts as are required by this section to be deducted, shall be applied to the payment of matured or withdrawn shares. Whenever [all] *eighty per centum* of the funds in the treasury, other than such amounts as are required by this section to be deducted, are insufficient to pay in full matured or withdrawn shares, [one-half] *forty per centum* of such funds shall be applied to the payment of matured shares and [one-half] *forty per centum* to the payment of withdrawn shares. If less than [one-half] *forty per centum* of such funds shall be sufficient to pay in full all matured shares, the balance of such [one-half] *forty per centum* shall be applied to pay withdrawn shares, and conversely, if less than [one-half] *forty per centum* of such funds shall be sufficient to pay in full all withdrawn shares, the balance of such [one-half] *forty per centum* shall be applied to pay matured shares.

D. Whenever matured or withdrawn shares have not been paid by an association for a period of six months after the maturities have been declared, or the withdrawals have become effective, owing to the fact that the funds in the treasury, which, under this act, are to be applied to the payment of such shares, are insufficient to pay them in full, so much of the bonds or other obligations of the United States, of the Commonwealth of Pennsylvania, or of a Federal Home Loan Bank, owned by the association, as shall be necessary to pay such

matured or withdrawn shares shall be sold and the proceeds paid into the treasury of the association to be used to pay such shares, *unless the department shall give written permission to the association to hold such bonds or other obligations for a longer period of time.*

E. For the purposes of this section, the words "funds in the treasury" shall be construed to include all moneys received by the association from any source whatsoever, except money borrowed from the Federal Home Loan Bank.

F. The holders of matured or withdrawn shares shall not have the power to sue for the amount due them by virtue of such maturity or such withdrawal until such time as, under the provisions of this section, such matured or such withdrawn shares should have been paid.

Section 618. Restriction on Dividends on Full-Paid Shares; Undivided Profits.—A. The *rate of* cash dividend or periodical interest paid on full-paid shares during any year shall not exceed the [net] rate of [dividends earned] *earnings apportioned* during such year [on all the outstanding] *to installment or prepaid* shares of the association. [less the amount thereof if any set aside as a reserve for contingent losses.]

B. *An association may retain earnings in an undivided profit account to be used, at the discretion of the board of directors, for the purpose of paying additional dividends: Provided, That the total undivided profits on hand at any one time shall not exceed two per centum of the amount paid in by shareholders on account of shares.*

Section 621. Reduction of Liability to Shareholders.—Whenever the losses of any association resulting from a depreciation of its securities, or otherwise, exceed its accumulated profits and its reserve for contingent losses, so that the fair value of its assets is less than the total amount due its creditors and shareholders, the court of common pleas of the county in which the place of business of the association is located may, upon the petition of the association, approved by a majority of all its directors, and by the department, order a reduction of its liability to its shareholders. [in such manner as to distribute the loss equitably among such shareholders.] *The manner of apportioning the losses among the corporations or persons, whose claims arose through the ownership of shares of the association, shall be the same as that provided by this act in the case of an association which is in possession of the Secretary of Banking as receiver, or which is being liquidated in pursuance of a plan of voluntary dissolution authorized by this act.*

Such petition shall be advertised at least once in a newspaper of general circulation.

Section 801. Powers of Associations.—In addition to the general corporate powers granted by this act, and

in addition to any powers specifically granted to an association elsewhere in this act, an association shall have the following powers, subject to the limitations and restrictions imposed by this act:

(1) To issue full-paid, prepaid, and installment shares.

(2) To borrow money, and in the case of the Federal Home Loan Bank, or any other agency or instrumentality of the United States Government, other than a national bank, to pledge collateral therefor.

(3) To grant loans to its shareholders.

(4) To make investments.

(5) To become a member of the Federal Home Loan Bank, or of any other corporation or agency established under the authority of the United States Government, and to comply with any of the provisions required for membership in the Federal Home Loan Bank or in such other corporation or agency, provided the association is authorized to do so by resolution of its board of directors.

(6) To become a member of a league or leagues organized to protect and promote the interests of building and loan associations, and to pay dues to or a proportionate share of the expenses of such league or leagues.

(7) To purchase, improve, or lease real property for its accommodation.

(8) *To make application for, and obtain insurance of, mortgages and of shares or accounts as provided by 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.*

Section 808. Segregation of Dues Upon Order of Department.—A. Whenever it shall appear to the department that the affairs of an association are in such condition that the action hereinafter provided in this section is justified, the department may, by written order issued in the manner provided by law, direct that all payments of dues made on account of installment shares which have not been transferred and pledged to the association as security for loans shall be segregated from the other assets of the association, and that the association shall not grant any further loans, [issue any new shares] make any payments on account of withdrawn or matured shares, or allow any credit for the value of any shares on account of the principal of any loan, until such order is revoked in writing by the department. Such order of the department shall be known as an order of segregation. Such segregated moneys shall either be kept on deposit in a depository selected in the manner provided by this act, or invested in the bonds designated by this act as authorized investments for associations. The moneys so segregated, and the bonds

in which such moneys are invested, shall be known as the segregated fund.

If an association at any time after an order of segregation has become effective has no liability except to its shareholders arising from the ownership of shares, it may, with the written consent of the department, transfer to the segregated fund a portion or all of any cash which it may have on hand and bonds, if any, designated by this act as authorized investments. Cash and bonds so transferred shall become a part of the segregated fund the same as though paid into the segregated fund by the shareholders whose shares are not pledged to the association as security for loans in proportion to the amounts paid in on account of their shares on the date that the order of segregation was issued. Such segregated fund shall not be subject to any attachment issued on a judgment obtained by any creditor or shareholder of the association.

During the period of segregation, the segregated fund shall be available exclusively for the benefit of the shareholders who made such payments or for whose benefit the transfer of cash and bonds was made, and may be withdrawn during such period of segregation upon thirty days' written notice.

B. All dues paid in during the period of segregation by shareholders whose shares are pledged to the association as security for loans shall be known as segregated credits, and shall be applied as credits against the principal of any loans so secured which are repaid during the period of segregation.

When any transfer of cash and bonds is made to the segregated fund, the shareholders whose shares are pledged to the association as security for loans shall be entitled to segregated credits, which shall bear the same relation to the amounts paid in by them on account of their shares, prior to the effective date of the order of segregation, as the amount of cash and bonds so transferred bears to the total amount paid in on account of shares, prior to the effective date of the order of segregation, by shareholders whose shares are not pledged as security for loans.

If at any time during the period of segregation the segregated credits on shares pledged for a loan exceed the amount of the loan for which such shares are pledged, all payments made by the borrower thereafter shall be segregated in the same manner as payments made by shareholders whose shares have not been pledged to the association as security for loans.

C. If the Secretary of Banking shall in the manner provided by law take possession of the business and property of an association while an order of segregation is in force, or if a liquidating trustee or liquidating trustees shall, pursuant to a plan of voluntary dissolu-

tion, take possession of the business and property of such association while such order is in force, the amount in the segregated fund shall be paid only to the shareholders whose payments were segregated or for whose benefit the transfer of cash and bonds was made, and only to the extent that they can be paid from the segregated fund or from the proceeds of the sale of the bonds in which such segregated fund has been invested, and the shareholders whose shares have been transferred and pledged as security for loans shall receive credit on account of the principal of their loans for the full amount of their segregated credits.

D. If an association, while an order of segregation is in force, shall enter into an agreement of merger or consolidation with another association or with other associations, the shareholders whose shares have not been pledged to the association as security for loans shall receive credit in full for their interest in the segregated fund on account of the shares of the surviving or new association into which their shares are converted, and the shareholders whose shares have been pledged to the association as security for loans shall receive credit in full for their segregated credits on account of the shares of the surviving or new association into which their shares are converted.

E. If, while an order of segregation is in force, the liability of an association to its shareholders shall be reduced by order of the court of common pleas, pursuant to the provisions of this act, the interest of the shareholders in the segregated fund and the segregated credits of shareholders shall not be reduced by the order of court, but such shareholders shall receive credit in full on account of their shares for such interest in the segregated fund or for such segregated credits.

F. The department may revoke an order of segregation whenever it shall appear that the condition of an association justifies such action. In such event the association may exercise all the powers it could have exercised prior to the issuance of such order. It shall treat all payments on account of shares, or otherwise, made by shareholders during the period of segregation, and all segregated credits, in the same manner as all other payments on account of shares whenever made.

G. The department in its order of segregation may impose all or any part of the directions authorized by this section, or may limit, modify, or qualify them, and may also, from time to time, after an order of segregation has been issued, by an amended order or orders, limit, modify, or qualify directions already given, but this subsection shall not be construed to authorize the department to omit from the original order of segregation, or to limit, modify, or qualify the requirement that all payments of dues made on account of installment

shares, which have not been transferred and pledged to the association as security for loans, shall be segregated from the other assets of the association. In the event that a limited, modified or qualified order of segregation is issued by the department, the association shall have the right to conduct its business in accordance with such order or amended order of segregation as limited, modified, or qualified.

Section 910. Security for Share Loans.—An association may grant share loans to any of its shareholders upon the following security only: The note of the borrower, secured by the transfer and pledge to the association of installment, *full-paid*, or prepaid shares, which have not previously been transferred or pledged to anyone other than the association; the amount paid in on account of such shares prior to or at the time of the granting of any loan upon the security of such shares shall be at least equal to the total amount of all loans granted thereon.

Section 1002. Approval of Joint Plan of Merger or Consolidation.—A. The board of directors of each of the associations which desire to merge or consolidate shall, by resolution adopted by at least a majority of all the members of each board, approve a joint plan of merger or consolidation, as the case may be, setting forth the terms and conditions of the merger or consolidation and the mode of carrying the same into effect, the manner and basis of converting the shares of each association into shares or other securities or obligations of the surviving or new [corporation] *association*, as the case may be, and such other details and provisions as are deemed necessary.

B. The board of directors of each association, upon approving such plan of merger or plan of consolidation in accordance with the provisions of this act, shall, by resolution, direct that the plan be submitted to a vote of the shareholders of such association entitled to vote thereon, at an annual or special meeting of the shareholders. Written notice shall, not less than fifteen days before such annual or special meeting, be given respectively to each shareholder of record, unless the plan of merger or [plan of] consolidation contemplates an increase in the authorized capital of the constituent associations, in which event sixty days' notice of such meeting shall be given to each shareholder. The notice shall state the place, day, hour, and purpose of the meeting, and a copy or a summary of the plan of merger or plan of consolidation, as the case may be, shall be included in or enclosed with such notice: *Provided, however, That in the case of the surviving association in a merger, if the articles or by-laws specifically so provide, the plan of merger shall not be required to be submitted to the shareholders for approval, but in such case written*

notice of such contemplated merger shall be given to all shareholders of the surviving association, prior to the day upon which the articles of merger are filed with the Department of State: And provided further, That in such event, upon request in writing to the secretary of the association, any shareholder of the surviving association shall be entitled to receive forthwith a copy of the proposed plan of merger.

C. The plan of merger or consolidation shall be ratified upon receiving the affirmative vote of the holders of at least a majority of the outstanding shares entitled to vote thereon of each of the merging or consolidating associations, *except in the case of a surviving association, the articles or by-laws of which, pursuant to this act, provide that action by the shareholders shall not be required, in which case no ratification shall be necessary.*

Section 1003. 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 the associations desiring to merge or consolidate, *or in the case of a surviving association, the articles or by-laws of which, pursuant to this act, provide that action by the shareholders shall not be required upon the giving of written notice to the shareholders of the intention of the board of directors to file articles of merger with the Department of State,* articles of merger or articles of consolidation, as the case may be, shall be executed under the seal of each association and verified by two duly authorized officers of each association, and shall set forth:

- (1) The name of the surviving or new association.
- (2) The time and place of the meeting of the directors at which the plan of merger or consolidation was proposed, and *except where, pursuant to the provisions of this act, the plan of merger is not submitted to a vote of the shareholders of the surviving association,* the time and place of the meeting of the shareholders of each association 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, and the total vote by which the plan was adopted.
- (3) In the case of a merger, any changes desired to be made in the articles of the surviving association, 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 an association.
- (4) The number, names, and addresses of the persons to be the first directors of the surviving or new association.
- (5) The plan of merger or consolidation.

Section 1009. Rights of Dissenting Shareholders.— A. If any shareholder of an association which becomes a party to a plan of merger or consolidation shall file with

such association, prior to or at the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote, or in the case of a shareholder of a surviving association which, pursuant to the provisions of this act, becomes a party to a plan of merger without action by its shareholders, shall file, within twenty days after the written notice of such merger has been given as required by this act, a written objection to such plan of merger or consolidation, and shall not vote in favor thereof, and such shareholder, within twenty days after the merger or consolidation was effected, shall make written demand on the surviving or new association for the payment of the fair value of his shares as of the day prior to the date on which the vote was taken approving the merger or consolidation, or in the case of a surviving association which, pursuant to this act, became a party to the merger without action of its shareholders the day, prior to the date on which the articles of merger were filed with the Department of State, without regard to any depreciation or appreciation thereof in consequence of the merger or consolidation, the surviving or new association shall pay to such shareholder the fair value of his shares upon surrender of the share certificate or other evidence of his shares. The demand of the shareholder shall state the number and kind of the shares owned by him. Any shareholder [failing] who fails to file such written objection, or any shareholder who files such written objection and fails to make demand within the twenty-day period, shall be conclusively presumed to have consented to the merger or consolidation, and shall be bound by the terms thereof. If within thirty days after the date on which such merger or consolidation was effected the value of such shares shall be agreed upon by the dissenting shareholder and the surviving or new association, payment thereof shall be made in cash, within ninety days after the date on which such merger or consolidation was effected, upon the surrender of the share certificate or other evidence of his shares. Upon payment of the agreed value, the dissenting shareholder shall cease to have any interest in such shares or in the association.

B. If within such period of thirty days the shareholder and the surviving or new association do not so agree, then the dissenting shareholder may, within sixty days after the expiration of the thirty-day period, apply, by petition to the court of common pleas, in equity, within the county in which the place of business of the surviving or new association is situated for the appointment by the court of three disinterested persons to appraise the fair market value of his shares without regard to any depreciation or appreciation thereof in consequence of the merger or consolidation. The award of the appraisers, or of a majority of them, when confirmed

by the court, shall be final and conclusive. The costs of such appraisal, including a reasonable fee to the appraisers, shall be fixed by the court, and shall be assessed either upon the new or surviving association, or upon the dissenting shareholder, or upon both, in the discretion of the court. The award shall be payable only upon, and simultaneously with, the surrender to the surviving or new association of the share certificate or certificates representing the shares of the dissenting shareholder. If the award shall not be paid by the surviving or new association within thirty days after the award was made by the appraisers, the amount of the award shall be a judgment against the surviving or new association, as the case may be, and may be collected as other judgments in such court are by law collectible. Upon the payment of the award or judgment, the dissenting shareholder shall cease to have any interest in such shares or in the surviving or new association. Unless the dissenting shareholder shall file a petition within the time herein limited, such shareholder, and all persons claiming under him, shall be conclusively presumed to have approved and ratified the merger or consolidation and shall be bound by the terms thereof. The right of the dissenting shareholder to be paid the fair value of his shares, as herein provided, shall cease if and when the association shall abandon the merger or consolidation.

Section 1112. Order of Preference in Distribution.—

A. The following shall be the order followed by the liquidating trustee or trustees, as the case may be, in the distribution, pursuant to the provisions of this act, of the assets of any association which is being liquidated in pursuance of a plan of voluntary dissolution:

First. Any reasonable expense incurred by the liquidating trustee or trustees, as the case may be, in the management, liquidation, or distribution of the assets and affairs of the association; any fee or other debt owing to the department for examinations, or other services rendered, or penalties incurred; any other claim of the Commonwealth of Pennsylvania; and any other claim which is given a preference by law.

Second. Any claim of a creditor of the association, other than the claim of a shareholder arising from his ownership of shares.

Third. Any claim of a shareholder, whether or not reduced to a judgment, arising from his ownership of shares, whether such shares be installment, full-paid, prepaid, matured, or any other type, *and whether or not notice of withdrawal of such shares has been given to the association*. The amount of the claim arising from each share shall be the amount actually paid in on account of such share, less any amount lawfully deductible therefrom by the association, except in the case of a lawfully and properly matured share, in which case the

amount of the claim shall be the actual par value of the share less any payment received on account thereof from the association and less any other amount lawfully deductible therefrom by the association.

B. Every claim enumerated above shall have the same rank and priority as every other claim in the same numbered paragraph, regardless of the order in which such claims are enumerated.

C. All claims provided for in this section shall be construed to refer only to claims presented to the liquidating trustee or trustees in the manner provided in this act and approved by him or them in accordance with the plan of dissolution.

Section 2. This act shall become effective immediately upon its final enactment. When effective.

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

GEORGE H. EARLE

—
No. 210

AN ACT

To safeguard human health and life by providing for the issuance of permits to, and regulation of persons and entities selling milk and milk products; conferring powers, and imposing duties on the Secretary of Health, the Advisory Health Board; and otherwise providing for the administration of the act; and imposing penalties.

Section 1. Be it enacted, &c., That for the purpose and within the meaning of this act, the following definitions shall obtain:

“Milk” means milk, skimmed milk, cream, sour milk, sour cream, buttermilk, and all other fluid derivatives of milk, except condensed milk and evaporated milk for manufacturing purposes.

“Milk products” means ice cream, ice cream mix, custard ice cream, french ice cream, frozen custard, and other similar frozen products, and all dairy products used in the manufacture thereof.

“Certified Milk” means the product of dairy farms operated in accordance with the “Methods and Standards for the Production and Distribution of ‘Certified Milk,’ last adopted by the American Association of Medical Milk Commissions Incorporated,” and the production and handling of which shall be certified to by a commission instituted in compliance therewith.

“Secretary” means the Secretary of Health of this Commonwealth, or his authorized representative.

“Person” includes singular and plural, masculine and feminine, and any individual, firm, copartnership, institution, association, or corporation thereof.

Regulating
entities
and persons
selling milk
and milk
products.

Definitions.