

out the approval of the said department, shall be invalid and impose no municipal liability.

APPROVED—The 21st day of June, A. D. 1935.

GEORGE H. EARLE.

No. 179

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 penalties; and repealing certain acts and parts of acts," as amended, by further providing for the powers and limitations upon the acts of corporations or persons authorized to engage in a banking or fiduciary business, or both, and of affiliates of such corporations or persons, and of officers, directors, trustees, and employes of such corporations and persons; and by removing the exemption in the case of certain private banks; and by further defining the rights, powers, duties, liabilities, and immunities of private banks.

Banking.

Sections 511,
1022, 1302, 1303,
1309, 1310, 1505,
act of May 15,
1933 (P. L.
624), amended.

Section 1. Be it enacted, &c., That section five hundred eleven, section one thousand twenty-two, section one thousand three hundred two, section one thousand three hundred eight, section one thousand three hundred nine, section one thousand three hundred ten, and section one thousand five hundred five 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, and that section nine hundred six of that act, as last amended by the act, approved the second day of January, one thousand nine hundred and thirty-four (Pamphlet Laws, one hundred twenty-eight), is hereby further amended to read as follows:

Section 906 of said act, as amended by act of January 2, 1934 (P. L. 128), further amended.

Section 511. Officers of Institutions; Removal; Compensation.—A. Every institution *may, and every incorporated institution* shall have a president, a vice-president, a secretary, and a cashier or treasurer, and may have such other officers as the institution may require, but in the case of an incorporated institution, such additional officers shall not be elected unless provided for in the by-laws. Any two or more offices may be held by the same person except the offices of president and cashier or treasurer, but in the case of an incorporated institution, two offices shall not be held by one person unless specifically authorized by the by-laws.

B. The officers of an institution shall be selected at least annually. In the case of an incorporated institution, they shall be elected by the board of directors or the board of trustees, unless the by-laws provide a different method. The president shall be required to be a member of the board of directors or the board of trustees of the incorporated institution. Unless the by-laws specifically provide otherwise, the cashier or treasurer, or any other officer, may, however, be a member of the board of directors or of the board of trustees.

C. Unless specifically provided otherwise in the by-laws, the board of directors or the board of trustees shall fix the compensation of all officers.

D. An officer elected or appointed by the board of directors or the board of trustees may be removed by such board, whenever, in its judgment, the best interests of the incorporated institution will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

E. Unless specifically provided otherwise in the by-laws, the board of directors or the board of trustees shall have the power to fill any vacancies created by the death, removal, resignation, or otherwise, of any officer.

F. The officers, shall have such authority and perform such duties as shall, in the case of a private bank,

be given to them by the private banker or private bankers, and in the case of an incorporated institution, be specified in the articles or by-laws or by resolution of the board of directors or trustees.

Section 906. Deposits with Other Corporations or Persons Authorized to Receive Deposits; Reserve Agents.—A. Except as otherwise specifically provided in this act, any institution may deposit any of its funds in any other institution, national banking association, or any corporation or person authorized by law to receive deposits and *if situated within the United States*, subject to the supervision of the banking authorities of the United States or the state in which such corporation or person transacts business, but an incorporated institution shall not deposit any of its funds in such other institution, national banking association, or corporation or person unless it has been designated as a depository by a majority of all the members of the board of directors or of the board of trustees, as the case may be, of the depositing incorporated institution.

B. An institution shall not have on deposit at any one time with any other institution, national banking association, or other corporation or person an amount in excess of ten per centum of the unimpaired capital plus ten per centum of the unimpaired surplus of the depositing institution, if a bank, [or] a bank and trust company, *or a trust company*, or an amount in excess of ten per centum of its unimpaired surplus if a savings bank, or an amount in excess of ten per centum of its net worth if a private bank, unless such other institution, national banking association, or other corporation or person has been duly approved for this purpose by the department.

C. A director of a bank, a bank and trust company, or a trust company, or a trustee of a savings bank, shall not have a vote in designating as a depository any institution, national banking association, or other corporation or person of which he is an officer or director, or if the proposed depository is a private bank, of which he is one of the owners, or if it is an incorporated institution, a national banking association, or any other corporation, of which he owns five per centum or more of the shares of its capital.

D. A reserve agent of an institution, for the purposes of this act, shall be any institution, national banking association, or corporation or person designated as a depository of such institution in the manner provided by this act, and approved by the department as a depository for any moneys of such institution which are part of the reserve fund against deposits and demand liabilities, as defined herein, which is required by this act to be established and maintained by such institution.

Section 1022. Limitation upon Power to Act as Surety.—A. A bank, a bank and trust company, or a trust company shall not act as surety for the faithful performance of any trust, office, duty, action, or engagement, or upon any writ of error or appeal, or upon any other type of bond in any manner whatsoever, but a bank, a bank and trust company, or a trust company shall have the power, in the manner and under the circumstances provided by law, to give its own bond upon any writ of error or appeal, or in any proceeding instituted in any court of this Commonwealth, if such bank, bank and trust company, or trust company is one of the parties to such proceeding or such writ of error or appeal; and a bank and trust company or a trust company shall have the power, whenever necessary, to give its own bond for the faithful performance by it of its duties as trustee, guardian, executor, administrator, or other fiduciary, and as surety for the faithful performance by any person who may be a co-fiduciary acting with such bank and trust company or such trust company, *and a bank or a bank and trust company shall have the power to give its bond, either alone or as surety for another, in connection with any bona fide transaction involving the importation, exportation, or domestic shipment of goods or commodities.*

B. This section shall not be construed to affect in any manner a bond given as surety, or an obligation to act as surety legally entered into, by a bank, a bank and trust company, or a trust company prior to the effective date of this act.

Section 1302. Application to Be Filed with Department; Contents.—On or before the thirtieth day of December, one thousand nine hundred thirty-three, *or in the case of any private bank which has by law heretofore been exempted from the provisions of this act, then on or before the thirty-first day of December, one thousand nine hundred thirty-five*, every private bank which plans to continue in business shall file with the department a written application for a certificate of authorization. Such application shall be signed in duplicate originals and verified, in the case of a private bank owned and operated by an individual, by the oath or affirmation of such individual, and, in the case of a private bank owned and operated by a partnership or any other unincorporated association, by the oath or affirmation of all the partners or members of the unincorporated association. The application shall be in such form as is prescribed by the department, and shall be filed upon blanks supplied by the department. It shall set forth:

(1) The full name, residence, post-office address, and citizenship of such individual or of each member of such partnership or other unincorporated association, as well

as the names and post-office addresses of the officers, or agents in active charge of the business of the private bank;

(2) The statement that, in the case of a private bank owned by an individual, such individual is a resident of Pennsylvania, and in the case of a private bank owned by a partnership or other unincorporated association, at least [two] *one* of the partners or members [are residents] *is a resident* of Pennsylvania.

(3) The name of the private bank;

(4) The exact location of the place or places of business of the private bank;

(5) In the case of a partnership or other unincorporated association, the partnership or other agreement under which the business of the bank is being conducted, *or in the case of an unlimited partnership, a certified extract thereof, or if the partnership or other agreement does not contain provision therefor, a statement setting forth the liability of each member of such unlimited partnership;*

(6) A detailed statement of the resources, liabilities, and net worth of the private bank, as well as any other information bearing upon its financial condition, which the department shall prescribe.

Section 1308. Accumulation of Reserve Against Deposits.—The certificate of authorization provided for in this article shall not be granted to any private bank until it shall have a reserve fund for deposits and other demand liabilities to an amount equal to fifty per centum of that required by this act for all institutions, *provided, that in the case of any private bank heretofore by law exempted from the provisions of this act, the time limitation, specified in this section, shall be extended to the first day of June, one thousand nine hundred thirty-six.* Within sixty days after the date of the issuance of the certificate of authorization, such private bank shall have added at least twenty-five per centum to such reserve fund, and by the first day of June, one thousand nine hundred thirty-four, it shall have the full reserve fund required by this act. Thereafter the entire amount of such reserve fund shall be at all times maintained and kept on hand in the manner provided by this act for all institutions.

Section 1309. Segregation of Assets; Title to Be Carried in Name of Private Bank; Loans to Owners or Members of Private Bank.—A. All real or personal property, and all evidence of title thereto, which constitute the assets of a private bank, shall be segregated and kept apart from the property and assets belonging to the owner or owners thereof in their individual capacities. All such real or personal property owned by a private bank shall be carried in the name of such private bank *or in the name of a nominee authorized by*

such private bank. If such name is the same as that of the individual owner, or, in the case of a partnership or other unincorporated association, any of the owners thereof, all property of the private bank shall be carried in such name, with the addition of the descriptive words "private bank." In such case all deeds, mortgages, assignments, contracts, and agreements, received, taken, or entered into by any such private bank, shall be received, taken, or entered into in the name of such private bank with the addition of the descriptive words "private bank."

B. A private banker shall not appropriate to his own use any part of the deposits or moneys received for transmission by a private bank, or, in the case of a private bank which maintains a net worth of an established amount in lieu of furnishing a bond or securities to the department, any moneys or assets which would reduce such net worth below the minimum required by this act. Loans [which have, prior to the effective date of this act, been granted by a private bank, directly or indirectly, to the owner or owners thereof shall not be included as assets upon the books or other records, or in any statement of the financial condition, of such private bank] *made by a private bank, directly or indirectly, to the owner or owners thereof, or to any person with whom the owner or any of the owners of such private bank are associated as copartners or co-members of any other unincorporated association, or to any corporation of which the owner or all of the owners combined of such private bank are the legal or equitable owners to the amount of twenty-five per centum or more of the capital of such corporation, and investments made in any business conducted by a partnership or other unincorporated association of which the owner or any of the owners of such private bank are partners or members, shall not be included as assets upon the books or other records or in any statement of the financial condition of the private bank, unless such loan is secured by collateral having an ascertained market value, or by a mortgage upon real property which complies with the requirements of this act, or unless such investment is represented by assets having an ascertained market value, and then shall not be included as an asset upon its books or other records or in any statement of its financial condition to an amount in excess of the value of such collateral or mortgage or assets. A private bank, which maintains a net worth of an established amount in lieu of furnishing a bond or securities to the department, shall not make any such loan or investment which would reduce such net worth below the minimum required by this act.*

[For the purposes of this section, a loan to a partnership or other unincorporated association of which

the owner, or owners, of a private bank is a member, or to a corporation of which such owner or owners, individually or together, own twenty-five per centum of the capital, shall be construed to be a loan to such owner or owners.]

[C. A private bank shall not lend to any person with whom the owner or any of the owners of such private bank are associated as copartners or as co-members of any other unincorporated association, nor make any investment in any business conducted by a partnership or other unincorporated association of which the owner or any of the owners of such private bank are partners or members, nor grant any loan, directly or indirectly, to any corporation of which the owner, or all the owners combined, of such private bank, are the legal or equitable owners to the amount of twenty-five per centum or more of the capital of such corporation.]

Section 1310. Powers of Private Banks; Loans and Investments; Restrictions.—A. Except as otherwise specifically provided in this [article] act, [and except for the general corporate powers which are given by this act to a bank, a private bank shall have all the powers which are by this act granted to a bank, subject to the same restrictions and limitations as are imposed upon a bank by this act, in so far as such restrictions and limitations are applicable. A private bank shall have the power to make the same types of loans, discounts, and investments as are permitted to banks by this act, subject to the same limitations, and it shall not have power to make any other loans, discounts, and investments] *a private bank shall be subject to the same restrictions and limitations as are imposed by this act upon a bank regarding the payment of interest on deposits, the pledge of assets as security for deposits, borrowing for the purpose of relending, and total indebtedness loans to one corporation or person, loans to officers or employes, loans or discounts secured by shares or obligations of a corporation, loans on and investments in bonds and mortgages and judgments of record, the power to create mortgage pools for public participation, the ownership or holding of real property, bank buildings owned or leased and furniture and fixtures therein, guaranteeing of mortgages, and acting as surety.* Where any restriction or limitation is imposed upon the aggregate loans or investments which may be made by a bank, or upon the amount of such loans or investments which may be made to, or in the obligations of, a single corporation or person, or upon the cost of the real property and buildings occupied, and the furniture and fixtures used, for the transaction of business, or where any other restriction or limitation is made, based upon a percentage of the capital and surplus of a bank, such percentage shall be computed, in the case of a private bank, upon

its net worth. *No such percentage restriction or limitation shall apply to the issuing, negotiating, buying, or underwriting of, primarily for the purpose of resale or distribution, or to the selling or distributing of, or to the dealing in at wholesale or retail or through syndicate participation bonds, debentures, notes, or other securities by any private bank which is registered as a dealer in securities under the laws of this Commonwealth, and which has an unimpaired net worth of not less than one hundred thousand dollars.*

B. This section shall not be construed to render unlawful the continued ownership or holding by a private bank of any investments, loans, or other real or personal property lawfully acquired prior to the effective date of this act. However, such loans and investments, or such other real or personal property, shall be computed in determining the power, under this act, of a private bank to grant any additional loans or make any additional investments of the same or different kinds.

C. *The restrictions, imposed by this act, shall not be construed to prevent a private bank, in order to protect itself from loss upon a loan or investment previously made lawfully and in good faith, from acquiring ownership of, or otherwise taking and holding, any kind of property or security whether real or personal. Except as otherwise provided by this act, any property so acquired, unless of the character and nature by this act authorized to be purchased or held by such private bank, shall be sold by it within five years, but the department may, upon application of a private bank, grant to it, in writing, the power to hold such property for a longer period.*

Section 1505. Prohibition upon Unauthorized Banking Business.—A. The only corporations or persons who shall be authorized to engage in the business of receiving moneys in this Commonwealth for deposit or for transmission, or to establish in this Commonwealth a place of business for the purpose of receiving moneys for deposit or for transmission, shall be banks, bank and trust companies, savings banks, and private banks.

B. Any individual, who, either on his own behalf or as representative of any corporation or association, shall engage in the business of receiving in this Commonwealth moneys for deposit or for transmission, or shall establish a place of business for such purpose within this Commonwealth, when such individual or such corporation or association is not authorized under the laws of this Commonwealth to engage in the business of receiving such moneys, or to establish such place of business, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be subject to imprisonment for a period not exceeding one year, or a fine not exceeding one thousand dollars, or both. The corporation, which

such individual represents, or the members of the association, which he represents, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine not exceeding five thousand dollars.

C. The provisions of this section shall not apply to a national banking association, to a Federal Reserve Bank, [or to private banks exempted by this act] or to their representatives, or to clubs and hotels which receive money from members and guests for temporary safekeeping, express, steamship or telegraph companies which receive money for transmission, attorneys at law, real estate agents, fiscal agents, and attorneys in fact, who are not engaged in the business of receiving money in this Commonwealth for deposit or for transmission but receive and transmit such moneys only as an incident to their general business or profession, and brokers licensed under the laws of this Commonwealth, holding membership in a lawfully constituted brokerage exchange, who do and have authority to do only such banking as is incidental to their brokerage business.

When effective.

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

Sections 1313, 1314, 1315 and 1316 of said act, repealed.

Section 3. Section one thousand three hundred thirteen, section one thousand three hundred fourteen, section one thousand three hundred fifteen, and section one thousand three hundred sixteen of said act are hereby repealed.

Inconsistent acts repealed.

Section 4. All other acts and parts of acts inconsistent herewith are hereby repealed.

APPROVED—The 21st day of June, A. D. 1935.

GEORGE H. EARLE

No. 180

AN ACT

To amend the act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Act Number seventy-five), (Pamphlet Laws, one hundred sixty-six), entitled "An act providing for the abatement, under certain circumstances, of tax penalties and interest on certain city taxes in cities of the first class, and on certain school taxes in school districts of the first class," by changing the date on which the instalment payments, provided therein, shall commence; permitting taxpayers to anticipate the payment of delinquent taxes if current and prior taxes are paid; and relieving real estate from the payment of certain costs.

Act of
May 16, 1935
(Act No. 75),
(P. L. 166),
amended.

Section 1. Be it enacted, &c., That the act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Act Number seventy-five), (Pamphlet Laws, one hundred sixty-six), entitled "An act providing for the abatement, under certain circumstances, of tax penalties and interest on certain city taxes in cities of the