

conditions as to it seem necessary and proper under the circumstances of each case, stay such suit, action or proceeding, for a period not exceeding two years from the effective date of this act, upon petition of the corporate fiduciary, showing the investment to have been made in good faith for the account of the cestuis que trustent, and otherwise in compliance with law, and that such investment has been kept separate and apart from the corporate assets of the fiduciary on its own books and records, and clearly designated thereon as the property of the cestuis que trustent.

Section 2. In exercising the powers conferred by this act, the courts shall have the discretion of a chancellor sitting in equity. It shall be a sufficient reason for the grant of a stay that the proceeding would work serious inequity by reason of the economic emergency, and the right to stays on writs of execution under existing laws.

Court shall have powers of court of equity in exercising powers conferred by this act.

Section 3. This act shall not in any manner alter, limit or repeal any rights or powers heretofore or hereafter granted to banks, banks and trust companies, and trust companies respecting the investment of fiduciary funds in mortgage or securities pools, or participations therein.

Section 4. If any clause, phrase, section, or part of this act is held by any court to be unconstitutional, such ruling shall not affect the validity of the remaining or other portions of this act; it being the legislative intent that the provisions of this act are severable.

Constitutional provision.

Section 5. All acts or parts of acts inconsistent herewith are suspended while this act is in effect.

Inconsistent acts suspended.

Section 6. This act shall become effective immediately upon final passage by the Legislature and approval by the Governor.

When effective.

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

GEORGE H. EARLE

No. 202

AN ACT

To amend the act, approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, five hundred sixty-five), entitled "An act relating to the powers and duties of the Department of Banking and the Secretary of Banking in exercising supervision over, and taking possession of and conducting or liquidating the business and property of, corporations, associations, and persons receiving deposits or otherwise transacting a banking business, corporations acting as fiduciaries, and building and loan associations; providing for the payment of the expenses of the Department of Banking by supervised corporations, associations, or persons, and appropriating the Banking Department Fund; authorizing the Department of Banking, under certain circumstances, to exam-

ine corporations, associations, or persons affiliated, or having business transactions with supervised corporations, associations or persons; authorizing appeals to the Supreme Court, and prescribing and limiting the powers and duties of certain other courts and their prothonotaries, registers of wills, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services rendered under this act; providing penalties; and repealing certain acts and parts of acts," by modifying the powers and duties of the Department of Banking; and modifying the powers and duties of the Secretary of Banking as receiver of corporations and persons under his supervision; and by providing for the creation of the Banking Board, the appointment of its members, the payment of its expenses, and defining its powers and duties.

Sections 201, 301, 402, 501, 712, 905, and 1011, act of May 15, 1933 (P. L. 565), amended.

Section 1. Be it enacted, &c., That section 201, section 301, section 402, section 501, section 712, section 905, and section 1011 of the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws, five hundred sixty-five), entitled "An act relating to the powers and duties of the Department of Banking and the Secretary of Banking in exercising supervision over, and taking possession of and conducting or liquidating the business and property of, corporations, associations, and persons receiving deposits or otherwise transacting a banking business, corporations acting as fiduciaries, and building and loan associations; providing for the payment of the expenses of the Department of Banking by supervised corporations, associations, or persons, and appropriating the Banking Department Fund; authorizing the Department of Banking, under certain circumstances, to examine corporations, associations, or persons affiliated, or having business transactions with supervised corporations, associations or persons; authorizing appeals to the Supreme Court, and prescribing and limiting the powers and duties of certain other courts and their prothonotaries, registers of wills, recorders of deeds, and certain State departments, commissions, and officers; authorizing certain local public officers and State departments to collect fees for services rendered under this act; providing penalties; and repealing certain acts and parts of acts," are hereby amended to read as follows:

Section 201. Corporations and Persons Subject to Supervision of Department.—The department shall have the power to supervise—

(1) All corporations and persons which are authorized to receive or which do receive in this Commonwealth money on deposit or for safe-keeping, or which are authorized to engage or which do engage in this Commonwealth in a banking business, and all corporations which are authorized to act or which do act in this Commonwealth as trustees, guardians, executors, administrators, or in other fiduciary capacities, including banks, bank and trust companies, trust companies, private banks,

[other than those exempted by this act] savings banks, and mutual savings funds; [and safe-deposit companies] but not including hotels or clubs which receive money from guests or members for temporary safe-keeping, express, steamship, or telegraph companies which receive money for transmission, and attorneys at law, real estate agents, and attorneys in fact, who are not engaged in the business of receiving moneys in this Commonwealth for deposit or for transmission but receive and transmit moneys only as an incident to their general business or profession, 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;

(2) All building and loan associations authorized to transact or transacting business in this Commonwealth;

(3) All national banking associations, incorporated under the laws of the United States *and located within this Commonwealth*, which are authorized to act [and] *or which do act in this Commonwealth as trustees, guardians, executors, administrators, or in any other fiduciary capacities, to the extent to which supervision by State authorities is or may be permitted under the laws of the United States.*

However, when any corporation subject to the supervision of the Department of Banking shall also engage in a title insurance business, a mortgage guarantee business, or any other business subject to the supervision of the Insurance Department, such branch of its business shall not be subject to the supervision of the Department of Banking.

Section 301. Relationships of Employes of Department with Institutions; Penalty.—A. Neither the secretary, nor any deputy, examiner, clerk, or other employe of the department, *nor any deputy receiver, or other employe of the Secretary of Banking as receiver*, shall be an officer, director, trustee, manager, employe, or shareholder of, or directly or indirectly have any pecuniary interest in, any institution; nor shall he, after becoming secretary, or a deputy, examiner, clerk, or other employe of the department, *or a deputy receiver, or other employe of the Secretary of Banking as receiver*, directly or indirectly receive from any institution, or from any officer, director, or employe thereof, any sum of money or other property, whether as a gift, credit, loan, or otherwise. However, the secretary, or any deputy, examiner, clerk, or other employe of the department, *or any deputy receiver, or other employe of the Secretary of Banking as receiver*, may secure from any institution a mortgage loan upon his own home, upon the same terms and in the same manner as are provided by law for mortgage loans by such institutions upon real

property and as are customarily imposed and followed by the institution making such loan.

This section shall not be construed to prohibit the secretary, or any deputy, examiner, clerk, or other employe of the department, or any deputy receiver, or other employe of the Secretary of Banking as receiver, from becoming a depositor in any institution.

B. A violation by the secretary, deputy, deputy receiver, examiner, clerk, or other employe of the prohibitions of this section shall constitute sufficient ground for his removal from office. In addition, the secretary, deputy, deputy receiver, examiner, clerk, or other employe committing such violation shall be deemed 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; he shall also be subject to a further fine of a sum equal to the amount of the gift, credit, loan, or other sum of money which he has directly or indirectly received in violation of this section.

Section 402. Examination of Corporations or Persons Affiliated with Institutions.—A. The Department of Banking shall have the power to supervise, regulate, limit, or prohibit the activities of corporations or persons affiliated with institutions to the same extent as such activities of corporations or persons affiliated with national banking associations, or with members of a Federal Reserve Bank, are, or shall be, supervised, regulated, limited, or prohibited by general law, or by regulations issued by any Federal authority pursuant to law.

B. For the purpose of determining the condition of, and obtaining full information about, an institution, the department may examine and investigate the property, assets, books, papers, and affairs of any corporation or person affiliated with such institution. A corporation or person shall be deemed to be affiliated with an institution for the purposes of this section if—

(1) It is owned directly or indirectly by such institution; or

(2) It owns directly or indirectly such institution; or

(3) It is owned directly or indirectly by the same person or corporation which owns directly or indirectly such institution; or

(4) The election of a majority of its board of directors is controlled directly or indirectly by any instrumentality, agency, or arrangement that controls directly or indirectly the election of a majority of the board of directors of such institution; or

(5) A majority of its directors are also directors of such institution; or

(6) Members of its board of directors constitute a majority of the board of directors of such institution; or

(7) *Substantially all of its principal executive officers constitute a majority of the board of directors of any such institution, or comprise all or substantially all of the executive officers of any such institution; or*

(8) *Its board of directors is composed of executive officers of any such institution; or*

(9) *It dominates or controls, in whole or in part, the business or policy of such institution, either by contract or otherwise.*

*Provided, however, that the department shall not have power to examine any corporation or person as an affiliated corporation or person under this section, unless—(1) it either directly or indirectly owns or is owned by an institution; or (2) the institution within the preceding two-year period had investments in, or outstanding loans secured, in whole or in part, by shares of stock or securities of, such corporation or person, which have no readily ascertainable market value.*

*For the purposes of this section, the ownership of more than fifty per centum of the total number of shares, voted upon at the last meeting of the shareholders of a corporation for the election of its directors, shall be deemed to be ownership of such corporation.*

*Shares of stock, held in the name of a nominee of any corporation, for the benefit of such corporation, shall be deemed to be shares owned or controlled by the corporation.*

Section 501. Orders by Department.—A. Whenever it shall appear to the department that any institution is violating any provision of its charter, or of this act, or of any other law regarding the business of such institution, or that such institution is conducting business in an unsafe or unsound manner, the department may issue a written order, under the seal of the department, directing such institution to discontinue, within such period as shall be specified in the order, such violation of law or such unsafe or unsound practice.

B. *Whenever it shall appear to the department that an attorney, officer, or employe of an institution, other than a building and loan association, and in the case of an incorporated institution, other than a building and loan association, a director or trustee thereof, shall have continued to violate any law relating to such institution, or shall have continued unsafe or unsound practices in conducting the business of such institution, after having been warned by the department to discontinue such violations of law or such unsafe or unsound practices, the department may issue an order directing such attorney, officer, employe, director, or trustee to appear, on the day fixed in such order, before the Banking Board, and show cause why he should not be removed from his office or position and such office or position declared vacant. A copy of such order shall be sent to the institution of*

*which such person is an attorney, officer, employe, director, or trustee, and a copy of such order shall be sent to the Banking Board.*

*The office or position of any attorney, officer, employe, director, or trustee, so ordered by the department to appear before the Banking Board, who does not appear on the day fixed in such order, shall, unless the date for his appearance shall previously have been extended by the department, upon such failure to appear, be declared vacant. Notice of such failure to appear shall be given by the Banking Board to the department.*

*On the day fixed by the board such attorney, officer, employe, director, or trustee shall be heard, in person or by counsel, by the Banking Board. If, after such hearing, it shall appear to the Banking Board that such attorney, officer, employe, director, or trustee has not shown cause why he should not be removed from his office or position and such office or position declared vacant, it shall, within sixty days of such hearing, notify the department of its decision. Upon receipt of such notice, or of notice that an attorney, officer, employe, director, or trustee has failed to appear on the day fixed, the department shall issue an order directing the institution to remove such attorney, officer, employe, director, or trustee from his office or position, and declare such office or position vacant. A copy of such order shall be sent to the attorney, officer, employe, director, or trustee so removed.*

*The department shall set forth in its order the date upon which any such removal and declaration of vacancy shall become effective.*

*If, after such hearing, it shall appear to the Banking Board that such attorney, officer, employe, director, or trustee has shown proper cause for not removing him or declaring his office or position vacant, it shall, within sixty days of such hearing, notify the department to that effect.*

*If the institution, of which such person, ordered by the department to appear before the Banking Board, is an attorney, officer, employe, director, or trustee, is a member of a Federal Reserve Bank or the Federal Deposit Insurance Corporation, the department may notify such Federal Reserve Bank or Federal Deposit Insurance Corporation of its order directing such attorney, officer, employe, director, or trustee to appear before the Banking Board, and of the decision of the Banking Board. At such hearing, any duly authorized representative of such Federal Reserve Bank or Federal Deposit Insurance Corporation may appear as a witness against such attorney, officer, employe, director, or trustee.*

*Except as herein otherwise specifically provided, the proceedings of the Banking Board and its decisions shall not be published or divulged to anyone.*

*The decision of the Banking Board shall be conclusive and not subject to any review. Any attorney, officer, employe, director, or trustee, who is removed from his office or position as provided in this section, shall forever thereafter be disqualified from acting as an attorney, officer, employe, director, or trustee of any institution in this Commonwealth, for such period as the Banking Board shall prescribe.*

C. *There is hereby created a board to be known as the "Banking Board," which shall hear any attorney, officer, employe, director, or trustee of any corporation or person, subject to the supervision of the Department of Banking, who shall have been ordered, by the Department of Banking to appear before such board, to show cause why his office or position should not be declared vacant. The board shall also exercise such additional powers as shall be given to it, and shall act upon such matters as shall be referred to it by any laws of this Commonwealth.*

*The board shall consist of nine members, one of which shall be the Secretary of Banking, who shall act as chairman. Two of its members shall be appointed by the Governor to serve for two years from September first, one thousand nine hundred and thirty-five, and may be removed from the board at his pleasure, the remaining six members shall be appointed by the Governor from a list of nominations submitted to him as herein provided, but any such member shall not be removed from office, unless he shall have been absent from six consecutive meetings of such board.*

(1) *The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups one and two of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for four years from September first, one thousand nine hundred and thirty-five.*

(2) *The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups three, four, five, and six of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for eight years from September first, one thousand nine hundred and thirty-five.*

(3) *The Pennsylvania Bankers Association shall nominate, in writing, to the Governor, five persons from groups seven and eight of the Pennsylvania Bankers Association, two of whom shall be appointed by him, as members of the board, to serve for six years from September first, one thousand nine hundred and thirty-five.*

*Such nominations shall be submitted to the Governor not less than thirty days before July first, one thousand nine hundred and thirty-five, and thereafter not less*

than thirty days before September first of the year, in which the Governor shall make appointments of successors to fill the offices of such members, whose terms will expire on September first of such year. If such nominations are not so submitted to the Governor, he shall appoint, as members of the board, attorneys, officers, employes, directors, or trustees of corporations or persons subject to the supervision of the Department of Banking, two of whom shall be from groups 1 and 2 of the Pennsylvania Bankers Association, two from groups 3, 4, 5, and 6 of the Pennsylvania Bankers Association, and two from groups 7 and 8 of the Pennsylvania Bankers Association, but any such member shall not be removed from office, unless he shall have been absent from six consecutive meetings of such board.

Upon expiration of the respective initial terms of office, members shall be appointed to serve for eight years. Members shall serve until their successors are duly appointed and have qualified. Appointed members of the board shall qualify by giving written notice to the Secretary of Banking of their acceptance of such appointment.

The board may, by the vote of a majority of all its members, excuse any member for failure to attend its meetings, but if not so excused, the office of the member, who shall have been absent from six consecutive meetings, shall be declared vacant, and the vacancy filled as herein provided.

Vacancies in the board caused by death, resignation, failure to attend meetings, or otherwise, shall be filled by the Governor, but in the case of a vacancy caused by death, resignation, failure to attend meetings, or otherwise, of a member appointed from nominations submitted to the Governor, as herein provided, the Governor shall fill such vacancy by appointing, as a member of the board, an attorney, officer, employe, director, or trustee of a corporation or person subject to the supervision of the Department of Banking, having its principal place of business within the same groups of the Pennsylvania Bankers Association, as was represented by the list of nominations from which was appointed the member whose office became vacant.

The board shall meet upon the call of the chairman, notice of which shall be given to each member, in writing, not less than five days prior to the date fixed for such meeting.

A majority of all the members of the board in office shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the members, who are present at a meeting at which a quorum is present, shall be the acts of the board, provided that the chairman shall have no vote, unless they be equally divided.



*Members of the board shall serve without compensation, but shall be entitled to personal expenses actually incurred in the performance of duties, which, if approved by the Department of Banking, shall be paid by it.*

*The board shall meet in the office of the Department of Banking, for which purpose, the Department of Banking shall furnish to the board adequate office space and such other facilities as are necessary for its administration. The Department of Banking shall designate one of its employes to act as secretary to the board, and shall furnish such other employes as may be required.*

*The secretary shall keep full minutes of the proceedings of the board, which shall be available only to the members thereof.*

*In connection with any hearing or investigation, the board shall have power to issue subpoenas, requiring the attendance of or the production of pertinent books and papers by the officers, directors, agents, employes, or members, respectively, of any corporation or person which the department is authorized under the provisions of this act to examine. The board shall, upon application of the attorney, officer, employe, director, or trustee to be heard, subpoena such witnesses as are set forth in such application. The board shall also have the power to question such witnesses under oath or affirmation, and to examine such books and papers.*

*Any witness who refuses to obey a subpoena, issued under this section, or who refuses to be sworn or affirmed or to testify, or who is guilty of any contempt, after summons to appear, may be punished as for contempt of court, and for this purpose, an application may be made to any court of common pleas, within whose territorial jurisdiction the offense was committed, for which purpose such court is hereby given jurisdiction.*

[B] *D.* Whenever it shall appear to the department that the capital of a corporation under its supervision has been impaired, or the capital and surplus reduced below the minimum required by law or below the amount required by its articles of incorporation, the department may issue a written order, under the seal of the department, directing such corporation to make good the deficiency within such period as shall be specified in the order.

[C] *E.* Whenever it shall appear to the department, that the bond or securities of a person under its supervision, which are required by law to be deposited with the department, have depreciated in value so that their present value is below the minimum amount required by law, the department may issue a written order, under the seal of the department, directing such person to make good the deficiency within such period as shall be specified in the order.

[D] *F.* Whenever it shall appear to the department that any institution is not keeping its books and accounts in such manner as to enable the department with reasonable facility, to ascertain the true condition of the institution, the department may issue a written order, under the seal of the department, requiring such institution, within such period as shall be specified in the order, to open and keep such books as the department may, in its discretion, reasonably determine are essential for the purpose of keeping accurate and convenient records of the transactions and accounts of such institution.

[E] *G.* Whenever any institution shall refuse to submit its records and affairs to a legally conducted examination or investigation by the department, the department may issue a written order, under its seal, requiring such institution to permit the secretary, or other duly authorized examiner, to make such examination or investigation, within such period as shall be specified in the order.

Section 712. Liens, Judgments, and Executions; Assignments of Claims.—*A.* The status of all parties shall become fixed on the date the secretary takes possession of the business and property of the institution, as receiver. No corporation or person shall thereafter acquire any lien or charge against any of the assets of the institution of which the secretary is receiver, including mechanics' liens for charges, payments, advances, or clearances thereafter made or thereafter incurred, or liens by reason of the entry of any judgment against such institution after the secretary has taken possession.

*B.* *In the case of an institution, of which the secretary has taken possession, which, at the time of possession, was a member, in the case of a bank, bank and trust company, or savings bank of the Federal Deposit Insurance Corporation, and in the case of a building and loan association of the Federal Savings and Loan Insurance Corporation, the claims of depositors, and of shareholders of a building and loan association, shall be subrogated in favor of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, to the extent that the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation makes available, pursuant to applicable laws of the United States, for payment, the claims of such depositors or such shareholders: Provided, That the rights of such depositors or of such shareholders, to participate in and receive dividends or other distributions upon that portion of their claims not made available for payment, shall not be affected by such subrogation. When the claims of depositors or of shareholders have been made available for payment, in whole or in part, by the Federal Deposit*

*Insurance Corporation or the Federal Savings and Loan Insurance Corporation, as the case may be, the secretary shall file a partial or final account, in the manner required by this act, of his administration of the business and property of the institution.*

[B] C. Assignments of claims of depositors or other creditors of the institution, which are made before the secretary takes possession but notice of which is not received by the institution before such taking of possession, shall be regarded as, and shall have only the legal incidents of, assignments made after the secretary takes possession.

[C] D. No execution or attachment, pending or otherwise, shall respectively issue, or be proceeded with, against any property, moneys, or assets, owned by, or legally in the custody or possession of, an institution of which the secretary is in possession as receiver, except that an execution may be permitted by special leave of the court. In lieu of the right to issue an attachment against money or property belonging to others, which is legally in the custody or possession of such institution, a plaintiff may proceed as follows: He may give written notice of his claim to the secretary, or to the deputy receiver of such institution, and he shall thereafter present proof in the regular manner provided by this act for the proof of the claim, which he is attempting to attach. After the filing of the regular account of the secretary, the court shall adjudicate the matter as in the case of other disputed claims. Where two or more plaintiffs attempt to attach the same claim in this manner, the order in which they shall take, as among themselves, shall be determined by the order in which written notice of their claims was received by the secretary.

Section 905. Advances by Secretary to Substituted Fiduciary.—Whenever the secretary shall have filed an account as to any such mortgage or securities pool, or as to any mortgage, security, or other asset in which the institution shall have created undivided interests, and it shall appear to the court that any sum of cash will be needed by the substituted fiduciary for the protection of the owners of undivided interests in such mortgage or securities pools, or in any such mortgage, security, or other asset, as to which such account shall have been filed, and if it shall appear from the account that the secretary does not have any cash held by him in connection with such mortgage or securities pool, or in connection with any such mortgage, security, or other asset, or if the account discloses that the cash in his hands for that purpose is insufficient for the protection of the owners of the undivided interests in such mortgage or securities pool, or any such mortgage or security, or other asset, or where no account is filed, if the secretary shall demonstrate these facts to the satisfaction of the court,

the court may, upon petition of the secretary, and in the exercise of its discretion, order the secretary to advance to the substituted fiduciary, out of the general assets of the institution, such cash as may be necessary for the protection of the owners of such undivided interest. Such order shall provide that the amount of cash so advanced by the secretary, *with interest thereon at such rate as may be fixed by the court*, shall be repaid by the substituted fiduciary out of the first moneys realized by such substituted fiduciary on the mortgages, securities, and other assets transferred to him.

Section 1011. Order of Preference in Distribution.—

A. The following shall be the order followed by the secretary in the distribution, pursuant to the provisions of this act, of the assets of any institution, with the exception of a building and loan association, which he as receiver is liquidating:

First. Any expenditure made by the secretary as receiver, which, under the provisions of this act, is to be paid out of the assets of the institution.

Second. Any fee or other debt owing to the department for examinations, or other services rendered, or penalties incurred, prior to the taking of possession by the secretary as receiver; any deposit or other claim of the Commonwealth of Pennsylvania; and any other claim which is given a preference by law.

Third. Any deposit and any interest due thereon which has been, or according to the by-laws or rules and regulations of the institution should have been, credited to such deposit, prior to the date of the taking of possession of the institution by the secretary as receiver, whether subject to withdrawal by check or by any other method not requiring notice, or to withdrawal only after notice or after the expiration of a fixed period, whether or not such notice has been given or such period has expired at the date of distribution; any holder of a certified check drawn on the institution; the claim of any holder of a certificate of deposit of the institution, which evidences an actual deposit of moneys in such institution, and any interest which may be due thereon, whether such certificate of deposit is payable upon demand, or is payable only after notice or after the expiration of a fixed period, whether or not such notice has been given or such period has expired at the date of distribution; the claim of any holder of a check or draft of the institution, which has been given in exchange for, or in payment of, a check or draft drawn upon such institution by a depositor therein, or which has otherwise been charged to the account of a depositor therein, provided that the amount of such check or draft does not exceed the balance to the credit of such depositor, or which has been given in exchange for cash or for any check or draft, the proceeds of which

have been received by the institution, *excepting claims which are preferred by the Bank Collection Act of one thousand nine hundred and thirty-one, its amendments and supplements*; any claim for cash or for any check or draft, the proceeds of which have been received by the institution, which was delivered to the commercial department of such institution as fiduciary, either for transmission or for any purpose other than as a deposit, irrespective of whether all or part of such cash or the funds realized from such check or draft has been mingled with the assets of such institution.

Fourth. Any claim for the amount of any deficiency in the funds, property, or investments of an estate of which the institution was fiduciary, or any surcharge with respect to such estate, which is found to be due by the court in which the account for such estate is filed; and any claim of a creditor of the institution, not listed under any other category in this section.

Fifth. Any part of the amounts paid by shareholders, after an assessment upon them by the secretary pursuant to the provisions of this act, which has proved unnecessary to pay in full all depositors or other creditors of the institution; such payments are to be made pro rata up to the respective amounts paid by each shareholder. This clause shall not be construed to refer to payments made by shareholders on account of unpaid subscriptions to shares.

Sixth. Any moneys of the institution which still remain in the hands of the secretary, shall be paid to shareholders, in proportion to the number of shares held by them respectively, minus any amounts still owing by them on the assessment made by the secretary pursuant to the provisions of this act, or on unpaid subscriptions to shares: *Provided, however, If the articles of incorporation, or any amendments thereto, prefer any class of shareholders over another class, then distribution shall be made in conformity with the articles of incorporation and any amendments thereto.*

Seventh. Any unliquidated assets, to trustees for shareholders appointed pursuant to the provisions of this act.

B. The following shall be the order and preference followed by the secretary in the distribution, pursuant to the provisions of this act, of the assets of any building and loan association the affairs of which he as receiver is liquidating:

First. Any expenditure made by the secretary as receiver, which under the provisions of this act, is to be paid out of the assets of the institution.

Second. Any fee or other debt owing to the department for examinations, or other services rendered, or penalties incurred, prior to the taking of possession by the secretary, as receiver; any other claim of the Com-

monwealth of Pennsylvania; and any other claim which is given a preference by law.

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

Fourth. 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.

C. 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.

D. All claims provided for in this section shall be construed to refer only to claims presented to the secretary, and approved by the court, in accordance with the provisions of this act.

When effective.

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

Repealing section.

Section 3. All other acts and parts of acts inconsistent herewith are hereby repealed.

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

• GEORGE H. EARLE

No. 203

AN ACT

To amend the act, approved the fifteenth day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, five hundred sixty-five), entitled "An act relating to the powers and duties of the Department of Banking and the Secretary of Banking in exercising supervision over, and taking possession of and conducting or liquidating the business and property of, corporations, associations, and persons receiving deposits or otherwise transacting a banking business, corporations acting as fiduciaries, and building and loan associations; providing for the payment of the expenses of the Department of Banking by supervised corporations, associations, or persons, and appropriating the Banking Department Fund; authorizing the Department of Banking, under certain circumstances, to examine corporations, associations, or persons affiliated, or having business transactions with supervised corporations, associations or persons; authorizing appeals to the Supreme Court, and prescribing