

## No. 27

## AN ACT

To amend section 1408 of the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 624), entitled, as amended, "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 and employes' mutual banking associations; 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 employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations 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," by making further provision concerning the effect of merger or consolidation of banking institutions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: "Banking Code."

Section 1. Section 1408 of the act, approved the fifteenth day of May, one thousand nine hundred thirty-three (Pamphlet Laws 624), entitled, as amended, "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 and employes' mutual banking associations; 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 employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations 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

Section 1408, act of May 15, 1933, P. L. 624, amended.

deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," is hereby amended to read as follows:

Section 1408. Effect of Merger or Consolidation.— Upon the merger or consolidation becoming effective, the several corporations, parties to the plan of merger or consolidation, shall be a single incorporated institution, which, in the case of a merger, shall be that incorporated institution designated in the plan of merger as the surviving incorporated institution, and, in the case of a consolidation, shall be the new incorporated institution provided for in the plan of consolidation. [The separate existence of all corporations, parties to the plan of merger or consolidation, shall cease, except in the case of a merger, that of the surviving incorporated institution, and their articles and certificates of incorporation shall be considered forfeited.] *In the case of a merger, the surviving incorporated institution, and in the case of a consolidation, the new incorporated institution, shall be considered the same business and corporate entity as the several corporations parties to the plan of merger or consolidation, and the corporate existence of each of the several corporations, parties to the plan of merger or consolidation, shall be merged into and continued in the surviving incorporated institution in the case of a merger, and in the new incorporated institution in the case of a consolidation.* [Such corporations shall be continued bodies corporate for a period of three years after the time of such forfeitures, for the purpose of actions at law or in equity authorized by this section to be continued against them, or for the purpose of winding up their affairs, but they shall not continue the business for which they were incorporated in any manner whatsoever.] The surviving or new institution, as the case may be, shall not thereby acquire authority to engage in any business or exercise any right which is forbidden to a bank, a bank and trust company, a trust company, or a savings bank, as the case may be, when originally incorporated under this act. The surviving or new incorporated institution shall be subject to all the restrictions, limitations, or duties imposed upon such incorporated institutions when originally incorporated under this act. All the property, real, personal, and mixed, of each of the corporations, parties to the plan of merger or consolidation, and all debts or obligations due to any of them, including subscriptions to share and other choses in action belonging to either or any of them, shall be taken and deemed to be transferred to and vested in the surviving or new incorporated institution, as the case may be, without further act or deed. The surviving or new incorporated

institution shall thenceforth be responsible for all the liabilities and obligations of each of the corporations so merged or consolidated; but the liabilities of the merging or consolidating corporations, or of their shareholders, directors, trustees, or officers, shall not be affected, nor shall the rights of the creditors thereof or of any persons dealing with such corporations, or any liens upon the property of such corporations, be impaired by such merger or consolidation, and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted to judgment as if such merger or consolidation had not taken place, or the surviving or new incorporated institution may be proceeded against or substituted in its place. In the case of a merger, the articles of incorporation of the surviving incorporated institution shall be deemed to be amended to the extent, if any, that changes in its articles are stated in the articles of merger; and in the case of a consolidation, the statements set forth in the articles of consolidation, and which are required or permitted to be set forth in the articles of incorporated institutions formed under this act, shall be deemed to be the articles of incorporation of the new incorporated institution. The aggregate amount of the net assets of merging or consolidating banks, \*banks and trust companies, trust companies, or national banking associations, which was available for the payment of dividends immediately prior to such merger or consolidation, shall continue to be available for the payment of dividends by such surviving or new incorporated institution, except for any portion thereof which has been transferred to capital by the issuance of shares or otherwise, or to surplus or reserve.

The aggregate amount of the net assets of merging or consolidating savings banks, which was available for the payment of interest or dividends immediately prior to such merger or consolidation, shall continue to be available for the payment of interest or dividends by the surviving or new savings bank, except for any portion thereof which has been transferred to surplus, reserve, or the expense fund.

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

Act effective  
immediately

APPROVED—The 12th day of April, A. D. 1951.

JOHN S. FINE

\* "bank" in original.