

No. 329

AN ACT

HB 2505

Amending the act of December 14, 1967 (P.L.746, No.345), entitled "An act relating to and regulating the business of savings associations heretofore designated under other acts and special charters variously as building and loan associations and savings and loan associations; defining the rights, powers, duties, liabilities, and immunities of such associations; affecting persons engaged in the business of savings associations; affecting the members, account holders and borrowers of such associations; affecting Federal savings and loan associations whose principal office is located in the Commonwealth; prohibiting the transaction of business in this Commonwealth by foreign savings associations; conferring powers and imposing duties on certain departments and officers of the Commonwealth and on the courts, recorders of deeds; creating a Savings Association Board and defining its powers and duties; prohibiting certain actions and imposing penalties, and repealing certain acts," further providing for the powers of associations, earnings on inactive accounts, prepayment of residential mortgages, for making and purchasing of mortgages, for loans secured by chattel paper, for investments and for distributions to creditors; removing the limitation on an association's net worth to assets as a condition of making loans; and changing limits on multiple family residence loans, on development loans, on urban renewal loans, and on loans for repairs, alterations, or improvements.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clause (12) of subsection (a) of section 701 and section 820, act of December 14, 1967 (P.L.746, No.345), known as the "Savings Association Code of 1967," are amended to read:

Section 701. Powers of Associations.—(a) Every association incorporated pursuant to or operating under the provisions of this code shall have all of the powers enumerated, authorized, and permitted by this code and such other rights, privileges and powers as may be incidental to or reasonably necessary or appropriate for the accomplishment of the objects and purposes of the association. Among others, and except as otherwise limited by the provisions of this code, every association shall have the following powers:

* * *

(12) To act as trustee of funds or contributions received under a trust plan or instrument prepared in accordance with the requirements of the Self Employed Individuals Tax Retirement Act of 1962, its amendments and supplements, and the regulations promulgated thereunder, and as such trustee to invest such funds or contributions only in savings accounts, *deposits, obligations and securities* of the association which **[are] is [fully]** insured by the Federal Savings and Loan Insurance Corporation pursuant to the provisions of the National Housing Act, its amendments and supplements.

* * *

Section 820. Inactive Accounts.—Savings on which no payments have been made and on which earnings are unclaimed for a period of six years or longer may be listed for withdrawal by action of the association's board of directors without regard to any other provisions or limitations of the statute. Notice of such action shall forthwith be mailed to the holder of such savings at his last known address. Any such withdrawals that remain unclaimed after thirty days from the mailing of such notice may be placed in a special account held solely for the purpose of paying any future claims of the rightful owners thereof. Earnings shall *cease to* accrue on such withdrawals after the placing of the funds in the special account.

Section 2. Clause (a) of section 903 of the act is repealed.

Section 3. Section 907, subsection (a) of section 908, section 910, clause (e) and subclause (7) of clause (g) of section 915, subsection (b) of section 917, clause (b) of section 918 and clauses (1) and (2) of subsection (a) of section 919 of the act are amended to read:

Section 907. Limitation on Aggregate of Loans Made on Five or More Family Residential Properties, Development Loans, and Other Income Producing Properties.—The aggregate of all loans made by an association on residential properties for five or more families, development loans, and other income producing properties and of participation loans secured by such properties shall not exceed **[forty] fifty** percent of the assets of the association.

Section 908. Development Loans.—(a) An association may lend on the security of developed building lots or sites, or for the acquisition and development of land into building lots or sites not in excess of **[seventy] seventy-five** percent of the fair market value of the real estate security as of the date of the advancement of the funds and such loans may be combined with construction loans and permanent loans, subject to the following conditions:

(1) The net worth of the association is five percent or more of its savings accounts.

(2) If the building lots or sites are completely developed at the time the loan is made the security documents shall require the borrower within a period of not more than six months to commence construction of one to four family residential structures on a specified number of such building lots or sites and within a period of **[three] five** years to complete construction of said structures on all of the building lots or sites.

(3) If the building lots or sites are to be developed out of the proceeds of the loan the security documents shall require development of the real estate security to be commenced in not more than nine months.

* * *

Section 910. Urban Renewal Loans.—An insured association may grant or participate in a grant of mortgage loans within an urban

renewal area as defined in subsection (a) of section 110 of the Housing Act of 1949 as amended, provided, such loans shall not exceed **[eighty] ninety** percent of the fair market value of any type of improved property.

Section 915. Terms of Mortgage.—All mortgages shall be written on a monthly direct reduction loan basis and the contract shall provide that the first monthly payment shall be made not later than sixty days after the advance of the loan, provided however:

* * *

(e) Any development loan under section 908 shall be repayable within **[three] five** years and the interest on any such loan shall be payable at least semi-annually.

* * *

(g) Interest; premiums and charges;

(7) **[Borrowers shall have the right to prepay loans without penalty unless the loan contract makes express provision for a prepayment penalty. The prepayment penalty for a loan secured by a one to four family residence property shall not exceed six months advance interest on that part of the aggregate amount of all prepayments made on a loan in any one year which exceeds twenty percent of the original principal amount of the loan.]** *Borrowers shall have the right to repay a residential mortgage as defined in the act of January 30, 1974 (No.6) without the payment of any prepayment penalty or other charge for such prepayment at any time before the end of the period of the loan. On all other loans such limitations on prepayment and prepayment penalties and charges may be made and changed as are provided in the loan contract.*

Section 917. Right to *Make*, Purchase, Sell and Participate in Mortgages.—* * *

(b) In addition to the authority set forth in sections 901 and 910 of this article, an association shall have the right to **make and** purchase mortgages **[and] or** participations in mortgages secured by property outside its regular lending area, subject to the following conditions:

[(1) Mortgages shall be secured by property within the regular lending area of the originating lender,

(2) The originating lender shall agree to serve the entire loan until it is repaid in full,]

(3) No mortgage **shall be made nor shall a mortgage** or participation interest in a mortgage **[shall]** be purchased unless the mortgage is one that the **[purchasing]** association could make under the provisions of this act if the security property were within its regular lending area,

(4) The dollar amount that an association may have invested in mortgages and participation loans outside its regular lending area shall at no time exceed **[forty] fifty** percent of the assets of the association. This limitation shall not apply to loans insured or guaranteed in whole

or in part by the United States or any instrumentality thereof or if there is a commitment to so insure or guarantee.

(5) Such further conditions as the department may prescribe by regulation, giving primary consideration to the Declaration of Purposes as provided under section 103 of this act.

Section 918. Loans for Property Repair, Alteration and Improvement.—Notwithstanding any other provisions of this or any other act an association may grant loans for repair, alteration or improvement of real property without the necessity of mortgage security subject to the following provisions:

* * *

(b) When any such loan is not insured under Title I of the National Housing Act the principal amount thereof shall not exceed [**five thousand dollars (\$5,000)**] **ten thousand dollars (\$10,000)** and the loan shall be evidenced by **a judgment** note or other written evidence of debt requiring repayment in regular monthly installments over a period not exceeding [**five**] **fifteen years and thirty-two days** with interest at a rate not exceeding six percent per annum on the declining balance **except that loans over five thousand dollars (\$5,000) shall be recorded or filed so as to create a lien position in the county in which the real estate is located.** Such loans may be made with or without charging the borrower a premium. The premium shall be paid by the borrower in installments and shall not exceed one percent per annum of the unpaid balance of the principal amount of the loan and shall be payable in monthly installments extending over the period of the loan which installments shall be payable upon the same day as the monthly payment of principal and interest is due upon said loan. The note or other written evidence of debt shall contain a provision that if the borrower shall sell the premises or assign his leasehold interest therein or remove therefrom any improvements described in the security agreement the entire balance remaining due on the loan shall immediately become due and payable. In addition to the interest herein authorized an association may make the following charges in connection with said loan:

- (1) Premiums for insurance obtained in connection with the loan,
- (2) A single delinquency charge for each installment in arrears for a period of more than fifteen days other than by reason of acceleration or by reason of a delinquency on a prior installment in an amount not to exceed the lesser of two dollars and fifty cents (\$2.50) or five percent of the amount of the installment,
- (3) A charge for an extension in an amount not to exceed two percent of the unpaid balance of the loan. Said charge may be imposed only one time during the life of the loan,
- (4) Fees paid for filing documents in public offices in connection with said loan,

(5) Actual expenditures including reasonable attorneys' fees for proceedings to collect the loan.

* * *

Section 919. Loans Secured by Chattel Paper.—(a) When an association holds a mortgage on real estate or on a leasehold interest therein it may also grant a loan secured by chattel paper to the mortgagor of the real estate or a leasehold interest to assist him in the purchase of consumers' durable goods, which shall be used in connection with said mortgaged premises, *for the equipping of residential property* provided:

(1) Any such loan shall conform to the requirements of Article 9 of the Uniform Commercial Code approved April 6, 1953 (P.L.3, No.1), its amendments and supplements. No examination of public records shall be required in connection with the loan secured by chattel paper if the borrower is newly acquiring title to all of the chattels described in the security agreement and the seller of the chattels furnishes to the association a receipted bill for the same,

(2) No such loan shall exceed [**five thousand dollars (\$5,000)**] *ten thousand dollars (\$10,000)* in amount, nor shall its term exceed [**five years,**] *fifteen years and thirty-two days,*

* * *

Section 4. Section 922 of the act is amended by adding a clause to read:

Section 922. Securities and Obligations.—An association may invest its funds:

* * *

(r) An association may invest its assets in time deposits of the Bank for Savings and Loan Associations, Chicago, Illinois.

Section 5. Clause (c) of section 1208 of the act amended August 1, 1969 (P.L.208, No.84), is amended and section 1208 is amended by adding clauses to read:

Section 1208. Distribution of Assets Upon Liquidation.—In the distribution of assets of an association which is liquidated or dissolved, either under this act or by any other method, payment shall be made of liabilities and obligations to members in the following order:

* * *

(c) [**Third, the payment of all other creditors and savings accounts of all types. Said payments to each creditor shall be pro rata to the amount owing said creditor and savings accounts on a basis pro rata to the balance in each account. Any excess of assets remaining after creditors and savings accounts are paid in full shall be distributed to savings accounts on a basis pro rata to the balance in each account as of the date of liquidation or dissolution.**]

Third, the payment of the balance as of the date of dissolution or liquidation in savings accounts of all types and of all other creditors

except those creditors who have in writing subordinated their claims in favor of savings accounts. Said payments shall be pro rata to the amount owing said creditor and savings accounts on a basis pro rata to the balance in each account.

(d) Fourth, payment to creditors who have in writing subordinated their claims in favor of savings accounts.

(e) Fifth, any excess of assets shall be distributed to savings accounts on a basis pro rata to the balance in each account as of the date of liquidation or dissolution.

APPROVED—The 27th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 329.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.