

## No. 1977-37

## AN ACT

## HB 631

Amending the act of November 30, 1965 (P.L.847, No.356), entitled "An act relating to and regulating the business of banking and the exercise by corporations of fiduciary powers; affecting persons engaged in the business of banking and corporations exercising fiduciary powers and affiliates of such persons; affecting the shareholders of such persons and the directors, trustees, officers, attorneys and employes of such persons and of the affiliates of such persons; affecting national banks located in the Commonwealth; affecting persons dealing with persons engaged in the business of banking, corporations exercising fiduciary powers and national banks; conferring powers and imposing duties on the Banking Board, on certain departments and officers of the Commonwealth and on courts, prothonotaries, clerks and recorders of deeds; providing penalties; and repealing certain acts and parts of acts," further clarifying the definition of undivided profits; providing for deposit insurance or a pledge of assets to secure deposits; authorizing foreign banks to establish branches with permission of the department; redefining observance of a holiday; providing an additional exception to lending limitations; removing time limit for acceptances; providing for regulation of capital securities; and providing for monthly interest loans for individuals, partnerships and other unincorporated entities.

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

Section 1. Subsection (ff) of section 102, act of November 30, 1965 (P.L.847, No.356), known as the "Banking Code of 1965," added July 23, 1970 (P.L.597, No.199), is amended to read:

Section 102. Definitions

Subject to additional definitions contained in subsequent chapters of this act which are applicable to specific chapters or sections thereof, the following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

(ff) "Undivided profits"—accumulated and undistributed net profits as recorded on the books of an institution for the last complete [**fiscal or accounting period**] *calendar or fiscal year*, carried in an account captioned "undivided profits."

\* \* \*

Section 2. Subsection (a) of section 105 of the act, amended August 7, 1969 (P.L.227, No.91), is amended and a subsection is added to read:

Section 105. Persons Authorized to Engage in Business of Receiving Deposits and Money for Transmission

(a) Restriction of authorized persons—No person may lawfully engage in this Commonwealth in the business of receiving money for deposit or transmission, or lawfully establish in this Commonwealth a place of business for such purpose, except a bank, a bank and trust company, a savings bank, a private bank, [**an employes' mutual banking association,**] a

savings association to the extent provided in the Savings Association Code of 1967 and a person duly authorized by Federal law to engage in the business of receiving money for deposit or transmission. *A bank, a bank and trust company and a savings bank that receives money for deposit shall insure such deposits with the Federal Deposit Insurance Corporation or any other Federal agency authorized by law to insure deposits.*

\* \* \*

*(b.1) Offices of foreign organizations—An organization engaged in the banking business under the laws of a foreign nation where it is domiciled may be authorized to engage in the business of receiving money for deposit or transmission and to establish an office for that purpose in this Commonwealth by written permission of the department, subject to the provisions of this subsection.*

*In determining whether to grant such permission, the department shall consider the extent of reciprocity for banks from the United States to own interests in or operate banking businesses in the foreign nation which is the domicile of such organization and may deny such permission in the absence of substantial reciprocity. Any permission shall be subject to an agreement by the foreign banking organization which may include provisions as to the amount of its capital and surplus allocated to its business in this Commonwealth, a deposit of assets or other provisions to assure the safe and sound conduct of the business of the organization in this Commonwealth and the protection of its depositors and creditors, maintenance of books and records, examinations by and reports to the department, acceptance by the organization of the rules and regulations promulgated by the department governing the operations of such organizations in Pennsylvania, including appointment of a registered agent for service of process, requirements for periodic renewal of the permission to operate and such other terms and conditions as the department may in its discretion deem necessary for the proper conduct of business in Pennsylvania.*

\* \* \*

Section 3. Clause (v) of subsection (b) of section 113, added July 30, 1975 (P.L.108, No.56), is amended to read:

Section 113. Legal Holidays

\* \* \*

(b) Optional holidays—An institution may at its option observe as a legal holiday:

\* \* \*

(v) Columbus Day [(October 12)] *(the second Monday in October)*;

\* \* \*

Section 4. Clause (xiii) of subsection (c) of section 306 of the act, added November 27, 1968 (P.L.1104, No.345), is amended and subsection (c) is amended by adding a clause to read:

Section 306. Limits on Indebtedness of One Customer (Including Purchased Paper)

\* \* \*

(c) Indebtedness excluded—There shall be excluded from the indebtedness of one customer to which the ten percent limitation of this section applies:

\* \* \*

(xiii) transactions of the institution in connection with the sale of reserve balances to a member or nonmember bank; *and*

(xiv) *an assignment of funds on deposit in the lending institution.*

\* \* \*

Section 5. Subsection (a) of section 308 of the act is amended to read:

Section 308. Acceptances

(a) Commercial transactions—An institution may, *subject to regulation by the department*, accept drafts drawn upon it [**having not more than six months sight to run**] arising out of transactions involving:

(i) the import or export of goods,

(ii) the domestic shipment of goods, if secured by documents of title covering such goods, or

(iii) the storage of readily marketable staples, if secured by documents of title covering such staples.

\* \* \*

Section 6. The act is amended by adding a section to read:

**Section 317. Authorizing Monthly Interest Loans for Individuals, Partnerships and Other Unincorporated Entities.**

(a) *Maximum rate—An institution may make a charge for a loan which complies with the requirements of this section at a rate not in excess of one percent per month on the actual outstanding principal balance of the loan. This provision shall be in addition to and shall not be limited by other statutes authorizing rates of interest on charges for credit except it shall not be applicable to a residential mortgage loan for which a maximum rate of interest is provided under the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law. An institution which makes a charge permitted by this section may not also make a charge for the same transaction under any other statutory provision.*

(b) *Eligible borrowers—A loan for which the charge authorized by this section may be made may be granted only to an individual, partnership or other unincorporated entity.*

(c) *Maximum amount—The original principal amount of any loan, and the total of the principal balances of all loans to one borrower outstanding at any time, for which charges are made pursuant to the authorization of this section shall not be in excess of ten thousand dollars (\$10,000). The charge for the portion of a loan to one borrower in excess of such amount, shall be in accordance with law not contained in this section.*

(d) *Permissible charges—An institution may receive the charge permitted under subsection (a) and, in addition, may make the following charges:*

*(i) fees paid for filing documents in public offices in connection with the loan, and*

*(ii) actual expenditures, including reasonable attorney's fees, for proceedings to collect the loan.*

Section 7. Subsection (c) of section 1105 of the act is amended to read:  
Section 1105. Capital Securities

Notes, debentures and other obligations issued by an institution shall be deemed "capital securities" for the purpose of this act if they:

\* \* \*

(c) contain provisions for amortization, serial maturities, transfers to a sinking fund, allocation of reserves or *such* other provisions **[sufficient to pay or to have paid at maturity all amounts due thereon] as the department may require**, and

\* \* \*

Section 8. This act shall take effect immediately.

APPROVED—The 25th day of July, A. D. 1977.

MILTON J. SHAPP