

No. 1984-128

AN ACT

SB 1304

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 providing for stock of subsidiary corporations, refunds of certain interest payments, lending limitations, fiduciary activities, corporate names, emergency acquisitions, independent audits of private banks and loans to executive officers and examinations by the Department of Banking; and making a repeal.

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

Section 1. Section 203(d) of the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965, added December 17, 1982 (P.L.1367, No.313), is amended to read:

Section 203. Additional Powers Related to Conduct of Business of Incorporated Institutions Other Than Trust Companies

A bank, a bank and trust company and a savings bank shall have in addition to other powers granted by this act or its articles and subject to the limitations and restrictions contained in this act or in its articles:

* * *

(d) Subsidiaries—the power to acquire and hold, without limitation of amount, the stock of subsidiary corporations engaged in activities permissible for such institution *and activities permissible under the Bank Service Corporation Act (Public Law 87-856, 12 U.S.C. § 1861 et seq.)*, if the shares are acquired with the prior written approval of the department and in accordance with the terms and conditions of transfer prescribed by the department.

Section 2. Section 306 of the act, amended November 27, 1968 (P.L.1104, No.345), July 23, 1970 (P.L.597, No.199) and July 25, 1977 (P.L.101, No.37), is amended to read:

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

(a) General limit—An institution shall not at any time acquire indebtedness of any one customer (which includes an individual or any legal entity) of the types specified in this section, in an amount which together with all other such indebtedness then held would exceed [ten] fifteen percent of the [aggre-

gate of the capital, surplus, undivided profits and capital securities] *capital accounts* of the institution. If the department shall determine at any time that the interests of a group of more than one individual, partnership, unincorporated association or corporation are so interrelated that they should be considered as a unit for the purpose of extensions of credit, the total indebtedness of that group acquired at any time shall be combined and deemed indebtedness acquired from one customer in applying the limitation of this section. An institution shall not be deemed to have violated this section solely by reason of the fact that the indebtedness of a group then held exceeds the limitation of this section at the time of a determination by the department that the indebtedness of that group must be combined but the institution shall, if required by the department, dispose of indebtedness of the group in the amount in excess of the limitation of this section within such reasonable time as shall be fixed by the department.

(b) Indebtedness included—There shall be included in the indebtedness of one customer to which the **[ten] fifteen** percent limitation of this section applies:

(i) the aggregate rentals payable by the customer under leases of personal property by the institution;

(ii) to the extent that they exceed fifteen percent of the **[aggregate of the capital, surplus and capital securities] capital accounts** of the institution, the aggregate balances payable on all installment paper acquired by the institution from the customer, irrespective of the legal liability of the customer or absence of such liability;

(iii) to the extent that they exceed fifteen percent of the **[aggregate of the capital, surplus and capital securities] capital accounts** of the institution, obligations of the customer as indorser or guarantor of notes (other than those excluded by subsection (c)(ii) of this section) having a maturity of not more than six months and actually owned by the customer transferring the notes;

(iv) obligations of the customer by reason of acceptances by the institution of drafts or bills of exchange (other than those excluded by subsection (c)(v) of this section); and

(v) all other liabilities, not otherwise excluded by this section, of the customer to the institution, whether direct or indirect, primary or secondary, under evidences of indebtedness and agreements for the payment of money.

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

(i) obligations in the form of negotiable drafts or bills of exchange which have been drawn in good faith against actually existing values in connection with the sale of goods and which have been accepted or indorsed;

(ii) obligations arising out of the discount of commercial or business paper actually owned by the customer transferring it;

(iii) obligations drawn in good faith against actually existing values and secured by goods in process of shipment;

(iv) obligations in the form of banker's acceptances of other banks of the kind described in section 308;

(v) obligations of the customer by reason of acceptances by the institution for the customer's account pursuant to section 308, except to the extent that the institution acquires such acceptances;

(vi) obligations secured by documents of title covering:

(A) livestock,

(B) readily marketable nonperishable staples for a period of not more than ten months from the date of the document of title, or

(C) readily marketable frozen or refrigerated staples for a period of not more than six months from the date of the document of the title if such property has a market value of not less than one hundred fifteen percent of the amount of the obligation secured thereby and is fully covered by insurance;

(vii) obligations of, and obligations guaranteed by:

(A) the United States,

(B) the Commonwealth of Pennsylvania, a political subdivision of the Commonwealth, a public body of the Commonwealth or a public body of a political subdivision of the Commonwealth, or

(C) any state of the United States or any political subdivision thereof if the obligations or guarantees are general obligations;

(viii) obligations to the extent secured by:

(A) obligations specified in clause (vii) of this subsection,

(B) obligations which the institution would be authorized to acquire without limit as investment securities pursuant to section 307,

(C) obligations fully guaranteed by the United States,

(D) guaranties or commitments or agreements to take over or purchase made by any department, bureau, board, commission or establishment of the United States or any corporation owned directly or indirectly by the United States, or

(E) loan agreements between a local public agency or a public housing agency and an instrumentality of the United States pursuant to national housing legislation under which funds will be provided for payment of the obligations secured by such loan agreements;

(ix) obligations secured by:

(A) at least a like amount of cash surrender value of life insurance policies, or

(B) collateral which has a market value of not less than one hundred and twenty percent of the amount of the obligations secured thereby—

to the extent of fifteen percent of the aggregate of the capital[, **surplus and capital securities**] *accounts* of the institution;

(x) investment securities acquired pursuant to section 307; **[and]**

(xi) obligations of the kind covered by subsection (b)(ii) of this section, as to which there is a certificate of reliance on a primary obligor; **[and]**

(xii) obligations of the customer as to which there is a certificate of reliance on an obligor other than the customer; **[and]**

(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.

(d) Regulation—The department may by regulation not inconsistent with the provisions of this section prescribe definitions of and requirements for transactions included in or excluded from the indebtedness to which the **[ten] fifteen** percent limitation of this section applies.

(e) Definition—As used in this section the term “capital accounts” means the aggregate of capital, surplus, undivided profits, capital securities and reserve for loan losses of the institution. Reserve for loan losses shall mean that portion of an institution’s earnings set aside as a general reserve to absorb possible future losses on loans as of the last complete calendar or fiscal year, carried in an account captioned “reserve for loan loss” or “reserve for bad debts.”

Section 3. Section 308 of the act, amended July 25, 1977 (P.L.101, No.37) and April 8, 1982 (P.L.262, No.79), is amended to read:

Section 308. Acceptances

(a) Commercial transactions—An institution may, subject to regulation by the department, accept drafts drawn upon it 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.

(b) Limits on acceptances under subsection (a)—The aggregate amount of acceptances under subsection (a) of this section shall not at any time exceed:

(i) for all such acceptances on behalf of one customer, **[ten] fifteen** percent of capital, surplus and undivided profits, exclusive of any acceptance secured by documents of title or other security growing out of the same transaction as the acceptance, and

(ii) for all such acceptances:

(A) **[fifty] one hundred fifty** percent of capital, surplus and undivided profits, or

(B) with the prior written approval of the department, **[one hundred] two hundred** percent of capital, surplus and undivided profits, so long as acceptances growing out of domestic transactions do not exceed **[fifty] one hundred fifty** percent of capital, surplus and undivided profits.

(c) Dollar exchange—An institution may, with the prior written approval of the department, accept drafts having not more than three months sight to run drawn upon it by banks or bankers in foreign countries, or in dependencies or insular possessions of the United States, for the purpose of creating dollar exchange as required by the usages of trade where the drafts are drawn in an aggregate amount which shall not at any time exceed:

(i) for all such acceptances on behalf of a single bank or banker, **[ten]** *fifteen* percent of capital, surplus and undivided profits, and

(ii) for all such acceptances, **[fifty]** *one hundred fifty* percent of capital, surplus and undivided profits.

Section 4. Section 310(g) of the act is repealed.

Section 5. Section 311(d) of the act, amended July 23, 1970 (P.L.597, No.199), September 27, 1973 (P.L.251, No.72), October 10, 1974 (P.L.716, No.240) and April 8, 1982 (P.L.262, No.79), is amended to read:

Section 311. Transactions With Respect to Shares of Corporate Stock and Capital Securities

* * *

(d) Ownership—An institution may acquire and hold:

(i) shares of stock of a Federal Reserve Bank, without limitation of amount;

(ii) shares of stock of:

(A) the Federal National Mortgage Association and a corporation authorized to be created pursuant to Title IX of the Housing and Urban Development Act of 1968,

(B) a bank, a bank and trust company or a trust company subject to this act or, a national bank located in Pennsylvania—to the extent of ten percent of the sum of the par value of the issued and outstanding shares of any such issuer,

(B.1) a subsidiary corporation engaged in the functions or activities that an institution is authorized to carry on, if the shares are acquired with the prior written approval of, and in accordance with the terms and conditions of transfer prescribed by, the department, or

(C) a corporation organized under the laws of the United States or of any state or any foreign country and principally engaged, directly or indirectly, in international or foreign banking or financial operations or in banking or financial operations in a dependency, or insular possession of the United States or in the Commonwealth of Puerto Rico, if the shares are acquired with the prior written approval of, and in accordance with the terms and conditions prescribed by, the department in an amount the cost of which to the institution for the shares of any such association or corporation so acquired or held is not in excess of ten percent of the aggregate of the capital, surplus and capital securities of the institution and in the case of shares covered by clause (B) of this subsection (d)(ii), in an amount the cost of which to the institution for the shares of all such issuers so acquired or held is not in excess of the lesser of ten percent of the total assets of the institution or one hundred percent of the aggregate of the capital, surplus and capital securities of the institution;

(iii) shares of stock of small business investment companies organized pursuant to the Small Business Investment Act, in an amount the cost of which is not in excess of one percent of the aggregate of the capital, surplus and capital securities of the institution;

(iv) in the case of a bank and trust company, shares of stock of a corporation organized under the laws of the Commonwealth for the purpose of conducting a title insurance business to which the institution has transferred the assets of its title insurance business, in an amount:

(A) the cost of which is not in excess of the lesser of (1) ten percent of the aggregate of the capital, surplus and capital securities of the institution or (2) double the minimum amount of capital and paid-in surplus required for the incorporation of such corporation, or

(B) with the prior approval of the department, the cost of which is not in excess of fifteen percent of the aggregate of the capital, surplus and capital securities of the institution; **[and]**

(v) shares of stock of business development credit corporations to the extent provided by the Business Development Credit Corporation Law[.];

(vi) shares of stock of a corporation organized to promote the public welfare and community development, expand the economy or provide for social reform, subject to regulation by the department[.];

(vii) shares of stock of a clearing corporation as defined in Article 8 of the Uniform Commercial Code[.];

(viii) shares of stock of a stock savings bank located in Pennsylvania[.]; *and*

(ix) shares of stock of a corporation engaged exclusively in activities not prohibited by this act, which shares have been held continuously since November 30, 1965.

* * *

Section 6. Sections 404(a) and 405(a) of the act are amended to read:

Section 404. Collective Investment Funds

(a) Authorization—An institution may, to the extent provided in this section, establish and maintain common trust funds or collective investment funds for the investment and reinvestment of property which:

(i) is contributed by the institution *or by any affiliate of the institution as described in section 1504 of the Internal Revenue Code* in a capacity in which it *or the affiliate* is authorized to act pursuant to section 402, and

(ii) is eligible for contribution to a collective investment fund under the provisions of this section.

As used in this section, the term “collective investment fund” shall include a common trust fund and any other type of collective investment fund.

* * *

Section 405. Investment in Undivided Interests in a Real Estate Loan or a Single Security

(a) Authority to create; retention of interests by institution—An institution may, subject to the limitations of this section, create undivided interests in:

(i) a single loan secured by a first lien (other than a lien of taxes, assessments or charges which are not yet due or which are payable without penalty) on improved real estate, or

(ii) in a single security,

for the purpose of sale from time to time to accounts held by the institution in [a fiduciary capacity] *any capacity provided for under section 402 of this act*. The institution may retain a portion of such undivided interests for its own account if the loan or security is one which it would be authorized to acquire pursuant to this act wholly for its own account.

* * *

Section 7. Section 505(a) of the act, amended May 21, 1980 (P.L.173, No.51), is amended to read:

Section 505. Real Estate Loans

(a) Permissible loans; maximum amount and term—A savings bank may, subject to the requirements of this section, make or acquire a loan secured by a lien on real estate (including a leasehold) located in any state or the District of Columbia, in a dependency or insular possession of the United States or in the Commonwealth of Puerto Rico, in an amount and for a term not to exceed:

(i) in the case of improved real estate, including farm land:

(A) two-thirds of the value for ten years, if unamortized, *or three-fourths of the value for five years, if unamortized*; or

(B) four-fifths of the value for thirty years, if the terms of the loan require payments which are substantially equal except for the last payment at successive intervals of not more than one year each and in an amount sufficient to pay all principal of and interest on the loan within thirty years, except that a loan to a commercial or industrial borrower is exempted from the requirement of substantially equal payments and the date of the initial payment on a loan to such borrower may be deferred for a period not in excess of three years from the date of the loan; or

(C) ninety percent of the value of a one family residential property for thirty years, in an amount not to exceed forty thousand dollars (\$40,000), unless the department by regulation approves the granting of loans under this subsection in greater amounts, subject to the same requirements set forth in clause (B); or

(D) ninety-five percent of the value for thirty years, if that portion of the loan in excess of seventy-five percent of the value is made in reliance upon a private company mortgage insurance or guarantee acceptable to the Department of Banking, subject to the same requirements set forth in clause (B); or

(ii) in the case of unimproved real estate to be acquired or developed with the proceeds of the loan:

(A) two-thirds of the value for three years, or

(B) three-fourths of the value for five years, when utilities, roads or streets necessary for the development of such real estate have been completed.

* * *

Section 8. Sections 802(a) and 805(b) of the act, section 802(a)(vii) repealed May 21, 1980 (P.L.173, No.51), are amended to read:

Section 802. Names Permitted to Be Used

(a) The name of an institution:

(i) may be in any language but shall be expressed in English letters or characters;

(ii) in the case of a bank, shall contain in English the word "bank" or "banking" and shall not contain either of the words "trust" or "savings";

(iii) in the case of a bank and trust company, shall contain in English one or more of the words "bank", "banking", "trust" or "trusts", and shall not contain the word "savings";

(iv) in the case of a trust company, shall contain in English the words "trust company" or "company for trusts" and shall not contain any of the words "bank", "banking" or "savings";

(v) in the case of a savings bank, shall contain in English the words "[mutual] savings bank" and **[shall not] may** contain the word "trust" *if the savings bank acts in a fiduciary or other representative capacity as authorized in Chapter 4 of this act*;

(vi) in the case of a private bank, shall contain in English the words "private bank" or "unincorporated bank" and shall not contain either of the words "trust" or "savings";

(viii) shall not contain any word which may deceptively lead to the conclusion that the institution is authorized to perform any act or conduct any business which it is not authorized to perform or conduct or which is forbidden to it by law, its articles or otherwise;

(ix) shall not contain any of the words "Government", "Official", "Federal", "National" or "United States" or any abbreviation of any such word; and

(x) shall not be a name which would be unavailable for use by a business corporation under section 202(B) of the Business Corporation Law (dealing with names the same as, or deceptively similar to, certain other names).

* * *

Section 805. Prohibition of Adoption, Use or Advertisement of Certain Names, Titles and Descriptions

* * *

(b) Use of "bank", "banking" or "trust"—No person engaged in a financial business and having an office located in Pennsylvania shall adopt, use or advertise any name, title or description which contains any of the words "bank", "banking", "banker" or "trust" or the plural of any of such words except:

(i) an institution subject to this act,

(ii) a Federal Reserve Bank,

(iii) a national bank,

(iv) a Federal Intermediate Credit Bank, Federal Land Bank, Federal Home Loan Bank or a Bank for Cooperatives,

(v) the International Bank for Reconstruction and Development, [or]

- (vi) the Inter-American Development Bank[.], or
- (vii) *a Pennsylvania bank holding company.*

* * *

Section 9. Section 908 of the act, amended May 21, 1980 (P.L.173, No.51), is amended to read:

Section 908. Branches Acquired from the Receiver of a Closed Institution
or from an Institution in Danger of Closing

Any institution or national bank whose principal place of business is located in Pennsylvania may maintain as a branch any office which it acquires from *an institution or national bank in danger of closing or from the secretary, or public body of the United States, as receiver, in conjunction with an assumption of deposit liabilities of an institution or national bank in danger of closing or* a closed institution or national bank whether in connection with a purchase of assets, through a merger or consolidation or otherwise, without regard to the location of the principal place of business of the acquiring institution or national bank. **[A] *The secretary or comptroller of the currency, as appropriate, shall determine whether an institution is in danger of closing and the secretary may make such a determination only where the board of directors or trustees of the institution have specified in writing that the institution is in danger of closing. Until such time as an institution may establish branches within any county in the Commonwealth, a branch office [so] acquired under the authority of this section may be relocated within the same county but shall not be moved to a new location in a contiguous or bicontiguous county unless that county is also contiguous or bicontiguous to the county of the principal place of business of the acquiring institution or national bank.***

Section 10. Sections 1415(b) and 1609(a), (b) and (d) of the act, amended April 8, 1982 (P.L.262, No.79), are amended to read:

Section 1415. Loans to, and Agreements for the Payment of Money of,
Directors, Trustees and Executive Officers of Institutions
and Affiliates

* * *

(b) Limitations as to executive officers of the institution or an affiliate—
An institution shall not make a loan to an executive officer of the institution or of an affiliate of the institution, or acquire an agreement for the payment of money on which he is liable, in an amount, *exclusive of interest and charges*, in excess of **[ten thousand dollars (\$10,000) exclusive of interest and charges] *twenty-five thousand dollars (\$25,000) or two and one-half percent of the aggregate of capital, surplus, capital securities and undivided profits, whichever is greater, except that at no time may an institution's loans to an executive officer exceed one hundred thousand dollars (\$100,000),*** except one which either:

- (i) is secured by deposits in the institution or cash surrender value of life insurance in an amount equal to, or by other collateral with a market value of at least twenty percent more than, the amount of the loan or agreement for the payment of money,

- (ii) is secured by a mortgage on the home of such executive officer,
- (iii) is guaranteed, or is one for which a written commitment to guarantee has been made, by the Veterans Administration pursuant to the Veterans' Benefits Act,
- (iv) is insured, or is one for which a written commitment to insure has been issued, pursuant to national housing legislation, or
- (v) is an extension of credit **[not at any time exceeding twenty thousand dollars (\$20,000)]** for the purpose of financing the education of a child or children of an executive officer.

The aggregate of all loans and extensions of credit to one executive officer and of all agreements for the payment of money on which he is liable shall not at any time exceed **[ten] fifteen** percent of the aggregate of surplus, undivided profits, unallocated reserves and subordinated securities in the case of a mutual savings bank and **[ten] fifteen** percent of the aggregate of capital, surplus *and undivided profits* and capital securities in the case of any other institution.

* * *

Section 1609. Mergers, Consolidations and Conversions of Savings Banks

(a) Authority to merge, consolidate or convert—

(i) upon compliance with the requirements of sections 1602, 1603, 1604, 1605 and 1606, a **[mutual]** savings bank may enter into a merger or consolidation with one or more other **[mutual]** savings banks. In the event the book value of the total assets of the acquired **[mutual]** savings bank is less than one percent in excess of the book value of the total liabilities, the resulting institution may maintain as a branch, any office operated by the acquired institution.

(ii) upon compliance with the requirements of this section and other applicable law, one or more **[mutual]** savings banks and one or more associations may merge into a **[mutual]** savings bank or into an association or consolidate into a new **[mutual]** savings bank or a new association. The word "association" in this chapter shall mean an association subject to the Savings Association Code of 1967.

(iii) upon compliance with the requirements of this section, one or more **[mutual]** savings banks, one or more Federal **[mutual]** savings banks and one or more Federal savings and loan associations may merge into a **[mutual]** savings bank, Federal **[mutual]** savings bank or a Federal savings and loan association or consolidate into a new **[mutual]** savings bank, a new Federal **[mutual]** savings bank or a new Federal savings and loan association.

(iv) the authority of a **[mutual]** savings bank to merge or consolidate into a Federal **[mutual]** savings bank or Federal savings and loan association shall be subject to the condition that at the time of the transaction the laws of the United States shall authorize a Federal **[mutual]** savings bank or Federal savings and loan association to merge or consolidate into a **[mutual]** savings bank.

(v) upon compliance with the requirements of this section and other applicable law, a **[mutual]** savings bank may be converted into a Federal

[mutual] savings bank, a Federal savings and loan association or an association, subject to the condition that at the time of the transaction the laws of the United States shall authorize a Federal **[mutual]** savings bank or a Federal savings and loan association to convert into a **[mutual]** savings bank.

(vi) upon compliance with the requirements of this section and other applicable law and subject to the laws of the United States, a Federal **[mutual]** savings bank or a Federal savings and loan association may be converted into a **[mutual]** savings bank or an association.

(vii) upon compliance with the requirements of this section, a mutual savings bank may be converted into a stock savings bank. A stock savings bank shall have authority, upon compliance with the requirements of this section, to enter into a merger or consolidation with one or more other stock savings banks, banks, bank and trust companies, trust companies or stock savings and loan associations.

(viii) all mergers, consolidations and conversions in which the resulting corporation is a savings bank or an association shall be subject to the approval of the department.

(b) Requirements for a merger, consolidation or conversion—The requirements for a merger, consolidation or conversion under clauses (ii), (iii), (v), (vi) or (vii) of subsection (a) which must be satisfied by the parties thereto are as follows:

(i) the parties shall adopt a plan stating the method, terms and conditions of the merger, consolidation or conversion, including the rights under the plan of the members, depositors and shareholders, if any, of each of the parties, and any agreement concerning the merger or consolidation.

(ii) if the proposed merger, consolidation or conversion will result in a Federal **[mutual]** savings bank, a savings bank, a Federal savings and loan association or an association, adoption of the plan by each party thereto shall require the affirmative vote,

(A) in the case of a mutual savings bank, of at least two-thirds of the trustees present at a meeting at which the plan is proposed, and two-thirds of all the trustees at a subsequent meeting held upon not less than ten days' notice to all the trustees,

(B) in the case of a stock savings bank, of at least a majority of the trustees, at a meeting held upon not less than ten days' notice to all the trustees, and of the shareholders entitled to cast at least two-thirds of the votes which all shareholders are entitled to cast thereon, at a meeting held upon not less than ten days' notice to all shareholders, and

(C) in the case of any other party, of two-thirds of the entire membership of the board of directors of each Federal mutual savings bank, Federal savings and loan association, or association. The notice required to be given to the trustees of a savings bank and to the shareholders of a stock savings bank shall include a copy or summary of the plan. The department may require such vote of the members of an association as it deems proper.

(iii) any modification of a plan which has been adopted shall be made by any method provided therein, or in the absence of such provision by the same vote as that required for adoption.

(iv) if a proposed merger, consolidation or conversion will result in a savings bank or an association, an application for the required approval thereof by the department shall be made in a manner prescribed by the department. The department may require notice to be given to such persons as it designates. There shall also be delivered to the department:

(A) articles of merger, consolidation or conversion,

(B) applicable fees payable to the department in connection with the articles and with the conduct of the investigation required by subsection (e),

(C) if the resulting corporation is an association, any documents or other items required under the Savings Association Code of 1967.

(D) if the proposed name of the resulting savings bank or association is not identical with the name of one of the parties to the plan, evidence of reservation of such name in the Department of State, and

(E) if there is any modification of the plan at any time prior to the approval by the department, an amendment of the application and, if necessary, of the articles, signed in the same manner as the originals, setting forth the modification of the plan, the method by which such modification was adopted and any related change in the provisions of the articles of merger, consolidation or conversion.

* * *

(d) Action where approval by department not required—If a proposed merger, consolidation or conversion will result in a Federal **[mutual]** savings bank or a Federal savings and loan association, a savings bank which is a party to a plan shall:

(i) notify the department of the proposed merger, consolidation or conversion,

(ii) provide such evidence of the adoption of the plan as the department may request,

(iii) notify the department of any abandonment or disapproval of the plan,

(iv) file with the department and with the Department of State a certificate of the approval of the merger, consolidation or conversion by the Federal Home Loan Bank Board or its successor which has the right on behalf of the United States to approve such mergers, consolidations or conversions into Federal **[mutual]** savings banks or Federal savings and loan associations.

* * *

Section 11. Section 1910(d) of the act, amended May 21, 1980 (P.L.173, No.51), is amended to read:

Section 1910. Directors, Officers, Employes and Attorneys of Private Banks

* * *

(d) Responsibility of directors and officers—Directors and officers of a private bank shall discharge the duties of their respective positions in good faith and with that diligence, care and skill which ordinarily prudent men would exercise under similar circumstances in like positions. *The directors and officers shall, at least once each year, have made, by certified public accountants selected by the institution and satisfactory to the department, an audit of the books and affairs of the institution. The department may by regulation establish minimum standards for audits and reports under this subsection.*

Section 12. Section 2002(a) of the act is amended to read:

Section 2002. Examinations and Reports

(a) Frequency and scope of examinations—The department shall examine all institutions at least once ~~[each year]~~ *every two calendar years* and may examine any institution more frequently and at any time it deems such action necessary or desirable for protection of depositors, other creditors or shareholders. The examination shall include a review of the accounts, records and affairs of the institution, its compliance with law, such other matters as the department may determine and in the case of a bank and trust company or a trust company a review of accounts held in a fiduciary or other representative capacity.

* * *

Section 13. Notwithstanding the provisions of this act, section 641 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, shall remain in full force and effect and shall not be repealed, superseded, amended, modified or in any way restricted by any provision of this act or by any subsequent amendment of the Bank Service Corporation Act (Public Law 87-856, 12 U.S.C. § 1861 et seq.).

Section 14. This act shall take effect immediately.

APPROVED—The 6th day of July, A. D. 1984.

DICK THORNBURGH