

No. 1998-122

AN ACT

HB 2193

Amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, providing for continuity of contract under the monetary union in member states of the European Union.

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

Section 1. Title 12 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 97
FOREIGN CURRENCY

Sec.
9701. Continuity of contract under European monetary union.

§ 9701. Continuity of contract under European monetary union.

(a) Continuity of contract.—

(1) If a subject or medium of payment of a contract, security or instrument is a currency that has been substituted or replaced by the euro, the euro shall be a commercially reasonable substitute and substantial equivalent that may be either:

- (i) used in determining the value of that currency; or
- (ii) tendered;

in each case at the conversion rate specified in and otherwise calculated in accordance with the regulations adopted by the Council of the European Union.

(2) If a subject or medium of payment of a contract, security or instrument is the ECU, the euro will be a commercially reasonable substitute and substantial equivalent that may be either:

- (i) used in determining the value of that currency; or
- (ii) tendered;

in each case at the conversion rate specified in and otherwise calculated in accordance with the regulations adopted by the Council of the European Union.

(3) Performance of any of the obligations described in paragraph (1) or (2) may be made in the currency or currencies originally designated in the contract, security or instrument so long as the currency or currencies remain legal tender or in euro, but not in any other currency, whether or not the other currency:

(i) has been substituted or replaced by the euro; or

(ii) is a currency that is considered a denomination of the euro and has a fixed conversion rate with respect to the euro.

(b) Effect of currency substitution on performance.—None of the following shall have the effect of discharging or excusing performance under any contract, security or instrument or give a party the right unilaterally to alter or terminate any contract, security or instrument:

(1) Introduction of the euro.

(2) Tender of euros in connection with any obligation in compliance with subsection (a)(1) or (2).

(3) Determination of the value of any obligation in compliance with subsection (a)(1) or (2).

(4) Calculation or determination of the subject or medium of payment of a contract, security or instrument with reference to an interest rate or other basis that has been substituted or replaced due to the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent.

(c) References to ECU in contracts.—When the euro first becomes the monetary unit of participating member states of the European Union, references to the ECU in a contract, security or instrument that also refers in substance to the definition of the ECU as set forth in subsection (g) shall be replaced by references to the euro at a rate of one euro to one ECU. References to the ECU in a contract, security or instrument without such a definition of the ECU shall be presumed, rebuttable by proof of the contrary intention of the parties, to be references to the currency basket that is from time to time used as the unit of account of the European Community.

(d) Effect of agreements.—This section shall not alter or impair and shall be subject to any agreements between parties with specific reference to the introduction of the euro.

(e) Application.—Notwithstanding the provisions of Title 13 (relating to commercial code) or any other law of this Commonwealth, this section shall apply to all contracts, securities and instruments, including contracts with respect to commercial transactions, and shall not be deemed to be displaced by any other law of this Commonwealth.

(f) No application to other currency alteration.—In circumstances of currency alteration other than the introduction of the euro, this section shall not be interpreted as creating any negative inference or negative presumption regarding the validity or enforceability of contracts, securities or instruments denominated in whole or part in a currency affected by that alteration.

(g) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“ECU” or “European currency unit.” The currency basket that is from time to time used as the unit of account of the European Community, as defined in European Council Regulation No.3320/94.

“Euro.” The currency of participating member states of the European Union that adopt a single currency in accordance with the Treaty on European Union signed February 7, 1992.

“Introduction of the euro.” Includes, but is not limited to, the implementation from time to time of economic and monetary union in member states of the European Union in accordance with the Treaty on European Union signed February 7, 1992.

Section 2. The addition of 12 Pa.C.S. Ch. 97 shall apply to contracts, securities and instruments entered into or issued before, on or after the effective date of this act.

Section 3. This act shall take effect immediately.

APPROVED—The 3rd day of December, A.D. 1998.

THOMAS J. RIDGE