

Accompanying the fifth recommendation of the Commissioner of Banks (House, No. 2). Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Six.

AN ACT TO AMEND THE POWERS OF THE MUTUAL SAVINGS CENTRAL FUND, INC.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The first paragraph of section 3A of chapter 43 of the acts of
2 1934, as amended by chapter 134 of the acts of 1958, is hereby
3 amended by striking out the first sentence and inserting in place
4 thereof the following sentence: —

5 Whenever it shall appear to the commissioner that it is
6 inadvisable or inexpedient for any member bank to continue to
7 transact the business for which it is organized without receiving
8 financial assistance as provided in this section, he may, in his
9 discretion, so notify the corporation, and thereupon, if in the
10 judgment of the directors of the corporation such action may
11 reduce the risk or avert a threatened loss to the corporation, or
12 may facilitate a merger or consolidation of such bank with any
13 other member bank, or with any other bank doing business
14 within the commonwealth, as defined in section one of chapter
15 one hundred and sixty-seven of the General Laws, or may
16 facilitate the sale of the assets of such bank to and the assumption
17 of its liabilities by any one or more other member banks, or with
18 any other bank doing business within the commonwealth, as
19 defined in section one of chapter one hundred and sixty-seven of
20 the General Laws, the corporation may, with the approval of the
21 commissioner and in order to effect the purposes of this act, do
22 any one or more of the following: (a) purchase from said bank the
23 whole or any part of, or any equitable or other interest in, its
24 assets at the book value thereof, or at some other value mutually
25 agreed upon by said bank and said directors, notwithstanding

26 that either of such values may exceed the market value of the
27 assets so purchased, and upon such terms and conditions as said
28 directors, with the approval of the commissioner, may determine;
29 (b) make loans to such bank, secured in whole or in part, in such
30 amounts, and upon such terms and conditions, as said directors,
31 with the approval of the commissioner, may determine; (c) pay to
32 such bank in accordance with an agreement entered into between
33 such bank and the corporation, with the approval of the
34 commissioner, an amount not in excess of the difference between
35 the book value of certain or all its assets and the fair value thereof
36 as determined by said agreement, in consideration for which said
37 bank shall agree to write down such assets to such fair value and
38 to pay over to the corporation so much of any net proceeds
39 realized from the sale or other disposition of each and all such
40 assets as is in excess of such fair value, such payment to be made
41 in such amounts, at such times and upon such terms and
42 conditions as said directors, with the approval of the com-
43 missioner, may determine; provided, that any amount paid by the
44 corporation hereunder to such bank and the agreement of such
45 bank to repay the excess, as hereinbefore provided, shall
46 constitute liabilities of such bank only to the extent of any such
47 excess from time to time actually realized; (d) pay into the
48 guaranty fund or surplus account of such bank in accordance
49 with an agreement entered into between such bank and the
50 corporation, with the approval of the commissioner, an amount
51 not in excess of the difference between the book value of certain
52 or all its assets and the fair value thereof as determined by said
53 agreement, such bank being hereby authorized and empowered,
54 notwithstanding any other provision of law, to repay such
55 amount to the corporation at such time or times and in such
56 manner as such agreement may prescribe; provided, that any such
57 payment made by the corporation to such bank, and any
58 agreement of such bank to repay the same, shall constitute
59 liabilities of such bank only to the extent provided by said
60 agreement; (e) make a deposit in such bank of such amount as the
61 directors deem advisable which deposit shall not be subject to
62 limits imposed by section twenty-one of chapter one hundred and
63 sixty-eight of the General Laws or by the by-laws of the bank, and
64 which may or may not be a subordinated deposit and may or may
65 not be in accordance with an agreement that dividends thereon
66 will be at a lower rate than is paid to other depositors.