

HOUSE No. 5137

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 4, 1970.

The committee on Banks and Banking, to whom was referred the petition (accompanied by bill, House, No. 1876) of the Savings Banks Association of Massachusetts and others that the Commissioner of Banks be authorized to regulate the advertising and payment by banks of interest or dividends on deposits, report the accompanying bill (House, No. 5137).

For the committee,

JAMES ADAMS.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT RELATIVE TO REGULATION BY THE COMMISSIONER OF BANKS OF THE ADVERTISING AND PAYMENT BY BANKS OF INTEREST OR DIVIDENDS ON DEPOSITS.

1 *Whereas*, The Congress of the United States has enacted
2 and the President has signed the Act of December 23, 1969,
3 Public Law 91-151, which grants certain federal agencies
4 certain limited immediate authority and full authority on and
5 after July 31, 1970 to regulate the rates of interest or
6 dividends paid on deposits by non-federally-insured banks in
7 the absence of the exercise of comparable authority by a state
8 bank supervisory agency; and whereas no such comparable
9 authority now exists in this Commonwealth; and whereas the
10 deferred operation of this act would tend to defeat its
11 purpose, which is to confer such comparable authority on the
12 commissioner of banks forthwith; therefore this act is hereby
13 declared to be an emergency law, necessary for the immediate
14 preservation of the public convenience.

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

1 Chapter 167 of the General Laws is hereby amended by
2 inserting after section 18A the following section:—

3 *Section 18B. Rates of Interest or Dividends on Time and*
4 *Savings Deposits.*—The advertising and payment of interest
5 or dividends on deposits, including time and savings deposits,
6 shares, or withdrawable accounts, shall be subject to regula-
7 tion by the commissioner as provided in this Section:

8 1. *Definitions.*—As used in this section (a) the term “non-
9 federally-insured bank” means any bank (except a credit
10 union as defined in section one of chapter one hundred and
11 seventy-one of the General Laws) which is subject to super-
12 vision by the commissioner, which is not a “member” of a
13 Federal Home Loan Bank as defined in section 2 of the Fed-

14 eral Home Loan Bank Act, 12 U.S.C. §1244, and the deposits
15 of which are not insured in accordance with the provisions of
16 the Federal Deposit Insurance Act, 12 U.S.C. §§1181–31;

17 (b) the term “insured nonmember bank” has the same mean-
18 ing that such term has in the Federal Deposit Insurance Act;

19 (c) the term “member” has the same meaning that such
20 term has in the Federal Home Loan Bank Act;

21 (d) the term “insured institution” has the same meaning
22 that such term has in section 401(a) of the National Housing
23 Act, 12 U.S.C. §1724(a);

24 (e) the term “deposits” includes time and savings deposits,
25 shares, and withdrawable accounts; and

26 (f) the term “affiliate” has the same meaning that such
27 term has in section 2(b) of the Banking Act of 1933, 12
28 U.S.C. §221a, except that the term “member bank”, as used in
29 such section 2(b), shall be deemed to refer to a non-federally-
30 insured bank.

31 2. *Regulation by Commissioner.*—The commissioner may
32 from time to time prescribe rules and regulations governing
33 the payment and advertisement of interest on deposits,
34 including limitations on the rates of interest or dividends that
35 may be paid on deposits, by all non-federally-insured banks.
36 The commissioner may prescribe different rate limitations for
37 different classes of deposits, for deposits of different amounts
38 or with different maturities or subject to different conditions
39 regarding withdrawal or repayment, according to the nature
40 or location of such non-federally-insured banks or their depos-
41 itors, or according to such other reasonable bases as the
42 commissioner may deem desirable in the public interest. The
43 commissioner is authorized for the purposes of this section to
44 define the terms “time deposits” and “savings deposits”, to
45 determine what shall be deemed a payment of interest, and to
46 prescribe such regulations as he may deem necessary to
47 effectuate the purposes of this section and to prevent evasions
48 thereof. Such regulations shall prohibit any non-federally-
49 insured bank from paying any time deposit before its maturity
50 except upon such conditions and in accordance with such
51 rules and regulations as may be prescribed by the commis-
52 sioner and from waiving any requirement of notice before

53 payment of any savings deposit except as to all savings
54 deposits having the same requirement. The provisions of this
55 section and of regulations thereunder shall also apply, in the
56 discretion of the commissioner, to obligations other than
57 deposits that are undertaken by non-federally-insured banks
58 or their affiliates for the purpose of obtaining funds to be used
59 in the banking business. The commissioner shall also have any
60 such authority with respect to non-federally-insured banks as
61 the Board of Directors of the Federal Deposit Insurance
62 Corporation now has or may in the future have with respect
63 to insured nonmember banks pursuant to section 18(g) of the
64 Federal Deposit Insurance Act, 12 U.S.C. §1828(g), as the
65 same may be from time to time amended, and as the Federal
66 Home Loan Bank Board now has or may in the future have
67 with respect to members and insured institutions pursuant to
68 section 5B of the Federal Home Loan Bank Act, §142(b), as
69 the same may be from time to time amended. Any authority
70 conferred on the commissioner by this section with respect to
71 non-federally-insured banks shall be effective only during
72 such time as the Board of Directors of the Federal Deposit
73 Insurance Corporation shall have comparable authority with
74 respect to insured nonmember banks or as the Federal Home
75 Loan Bank Board shall have comparable authority with
76 respect to members and insured institutions.

77 3. *Remedies.*—(a) Whenever it shall appear to the commis-
78 sioner that any bank is engaged or has engaged or is about to
79 engage in any act or practice which constitutes or will
80 constitute a violation of the provisions of this section or of
81 any regulations thereunder, the commissioner may, in his
82 discretion, bring an action in the superior court for the county
83 in which the principal office of such bank or association is
84 located to enjoin such act or practice, to enforce compliance
85 with this section or any regulations thereunder, or for a
86 combination of the foregoing, and such court shall have
87 jurisdiction of such action, and, upon a proper showing, an
88 injunction, restraining order, or other appropriate order may
89 be granted without bond.

90 (b) In addition to any other penalty provided by this or any
91 other law, any institution subject to this section which
92 violates a rule promulgated pursuant to this section shall be

93 subject to such civil penalties, which shall not exceed one
94 hundred dollars for each violation, as may be prescribed by
95 the commissioner by regulation, and such regulation may
96 provide with respect to any or all such violations that each
97 day on which the violation continues shall constitute a
98 separate violation. The commissioner may recover any such
99 civil penalty for his own use, through action or otherwise
100 including recovery thereof in any other action or proceeding
101 under this section. The commissioner may, at any time before
102 collection of any such penalty, whether before or after the
103 bringing of an action or other legal proceeding, the obtaining
104 of any judgment or other recovery, or the issuance or levy of
105 any execution or other legal process therefor, and with or
106 without consideration, compromise, remit, or mitigate in
107 whole or in part any such penalty or any such recovery.

108. 4. *Procedure.*—Any rule or regulation made by the com-
109 missioner pursuant to the authority conferred by this section
110 shall be promulgated and shall take effect according to the
111 provisions of chapter thirty A of the General Laws, including
112 the emergency provisions of paragraph three of section two
113 thereof, except that the commissioner may from time to time
114 change the maximum rate of interest or dividends on deposits
115 without holding a public hearing by publishing in any news-
116 paper or newspapers of general circulation in the common-
117 wealth selected by the commissioner and delivering to any
118 bank subject to such maximum rate a notice which states the
119 substance of the proposed maximum rate limitation and fixes
120 an effective date for such limitation not earlier than thirty
121 days after the date of publishing or delivering such notice.

