

Accompanying the second recommendation of the Commissioner of Banks (House, No. 11). Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO THE OPERATION OF CERTAIN BANKING LAWS.

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

1 SECTION 1. Chapter 167E of the General Laws, is hereby
2 amended by striking out section 3, as appearing in the 1992
3 Official Edition, and inserting in place thereof the following
4 section: —

5 Section 3. Any bank may make or acquire mortgage loans of
6 the several classes or types specified in this chapter evidenced by
7 a note which provides for installment payments of principal or
8 interest, or both, that will not amortize the outstanding principal
9 amount in full by the maturity of such note; provided, however,
10 that if the term of mortgage securing the note is for a period longer
11 than such note and such loan is secured by a first lien on a dwelling
12 house in the Commonwealth of four or fewer separate households
13 occupied or to be occupied in whole or in part by the mortgagor,
14 such loan shall be subject to the conditions and restrictions
15 imposed under the provisions of section sixty of chapter one
16 hundred and eighty-three.

17 The provisions of this section shall only apply to a loan made
18 for personal, family or household purposes.

1 SECTION 2. Subsection C of section 14 of chapter 167E of
2 the General Laws, as appearing in the 1992 Official Edition, is
3 hereby amended by striking out paragraph 7.

1 SECTION 3. Section 2 of chapter 167F of the General Laws,
2 as so appearing, is hereby amended by striking out paragraph 2
3 and inserting in place thereof the following paragraph: —

4 2. To invest in the bonds or other evidences of indebtedness
5 of associations of trusts, both as defined in chapter one hundred
6 and eighty-two, and of corporations; provided, that, at the time
7 of investment, any such bonds or other evidences of indebtedness
8 are rated investment grade by a nationally recognized rating
9 service.

1 SECTION 4. Said section 2 of said chapter 167F of the General
2 Laws, as so appearing, is hereby amended by striking out
3 paragraph 8 and inserting in place thereof the following
4 paragraph: —

5 8. Such corporation may make any investment not otherwise
6 eligible under any other provision of this chapter or any other
7 provision of law including, but not limited to, investment in any
8 capital stock of a corporation organized for the purposes of
9 acquiring and managing interests in real property and acquiring,
10 constructing, rehabilitating, leasing, financing and disposing of
11 housing facilities, or in any other interest in real or personal
12 property, debt security, equity security or loan; provided,
13 however, that (a) no more than five per cent of the deposits of
14 such corporation shall be invested pursuant to the provisions of
15 this paragraph; and provided, further, that any amount in excess
16 of three of said five per cent shall be invested by any such
17 corporation in capital stock of a corporation organized for the
18 purpose of acquiring, constructing, rehabilitating, leasing,
19 financing and disposing of housing facilities; (b) no investment
20 shall be made by such corporation in any one person pursuant
21 to this paragraph if the aggregate amount invested by it in such
22 person will exceed ten percent of the capital stock, surplus account
23 and undivided profits of a stock corporation or ten percent of the
24 surplus account of a thrift institution; (c) any loan made or debt
25 security purchased pursuant to this paragraph shall be secured
26 over the term of the loan or the debt security; (d) this paragraph
27 shall not be deemed to alter any provision of this chapter or other
28 provision of law limiting the aggregate amount that may be
29 invested in any class of loan or investment; and (e) investments
30 authorized solely by this paragraph shall not be deemed
31 investments in which savings banks may legally invest for the
32 purposes of any other provision of law which restricts investments
33 to those in which savings banks may legally invest. For the

34 purposes of this paragraph, deposits shall mean the deposit figure
35 filed in the corporation's annual report to the commissioner as
36 of the last business day in December of the preceding year. In
37 calculating the amount invested under this paragraph, there shall
38 be counted the amount invested in or loaned to any one person.

1 SECTION 5. Paragraph 3 of section 10 of chapter 168 of the
2 General Laws, as so appearing, is hereby amended by adding the
3 following paragraph: —

4 The provisions of this paragraph shall not prohibit a trustee
5 or officer from serving nor require the issuance of a permit for
6 a trustee or officer to serve in the same or similar capacity in any
7 banking institution chartered by a state other than the
8 commonwealth or chartered by the federal government provided
9 that the main office of any such banking institution is located in
10 a state other than the commonwealth.

1 SECTION 6. Chapter 168 of the General Laws, as so
2 appearing, is hereby further amended by striking out section 34C,
3 and inserting in place thereof the following section: —

4 Section 34C. Notwithstanding any general or special law to the
5 contrary, a savings bank, subject to approval of the commissioner,
6 may convert to a stockholder owned form of corporation. A
7 request for such approval by the commissioner shall be
8 accompanied by an investigation fee the amount of which shall
9 be determined annually by the commissioner of administration
10 under the provisions of section three B of chapter seven.

11 Any savings bank which converts to a stockholder owned form
12 of corporation shall have all the powers and privileges of a savings
13 bank.

14 The commissioner shall prescribe from time to time such rules
15 and regulations as may be necessary or proper in carrying out the
16 provisions of this section. Such regulation shall be similar to
17 regulations promulgated under Title 12 USC 1725 or Title 12 USC
18 1464, provided, however, that the commissioner may make such
19 adjustments and exceptions as in his judgment are necessary to
20 carry out the purposes of this section or to facilitate compliance
21 therewith.

22 After conversion to a stockholder form of corporation pursuant

23 to this section, sections eight to eighteen, inclusive, and twenty-
24 five shall not apply to such a converted bank, and such bank shall
25 be subject to the provisions of sections eleven to fifteen, inclusive,
26 sections nineteen, twenty, twenty-two, twenty-four, twenty-six A,
27 twenty-eight, thirty-one and other applicable sections of chapter
28 one hundred and seventy-two. References to corporators and
29 trustees of savings banks in this chapter shall mean directors in
30 a stock savings bank.

31 Except for emergency regulations adopted pursuant to section
32 two of chapter thirty A, any regulations, as defined in section one
33 of said chapter thirty A, or any amendment or repeal of any such
34 regulation adopted by the commissioner pursuant to this section,
35 shall, after compliance with all applicable provisions of said
36 chapter thirty A except section five, be submitted to the general
37 court. Said commissioner shall file the proposed regulation,
38 amendment or repeal with the clerk of the house of representa-
39 tives, together with a statement that the pertinent provisions of
40 said chapter thirty A, except section five, have been complied
41 with. Such regulations shall be accompanied by a summary of the
42 regulations in layman's terms. The clerk of the house of
43 representatives, with the approval of the president of the senate
44 and the speaker of the house of representatives, shall refer such
45 regulations to the joint committee on banks and banking. Within
46 thirty days after such referral said committee may hold a public
47 hearing on the regulations and may make recommendations to
48 said commissioner. The commissioner shall review any such
49 recommendations and shall adopt final regulations as he deems
50 appropriate in view of said recommendations and shall file a
51 response to any such recommendations and the final regulations
52 with the clerk of the house of representatives. Not earlier than
53 thirty days after such filing with said clerk, the commissioner shall
54 file the final regulations with the state secretary as provided in
55 section five of said chapter thirty A and said regulations shall
56 thereupon take effect; provided, however, that if no such
57 recommendations are made to the commissioner within sixty days
58 of the initial filing of the proposed regulation or any amendment
59 or a repeal of such regulation with the clerk of the house of
60 representatives, the commissioner may file the final regulations
61 with the state secretary as provided in section five of said chapter
62 thirty A and said regulation shall thereupon take effect.

1 SECTION 7. Section 10 of chapter 170 of the General Laws,
2 as so appearing, is hereby amended by adding the following
3 paragraph: —

4 The provisions of this section shall not prohibit a director or
5 officer from serving nor require the issuance of a permit for a
6 director or officer to serve in the same or similar capacity in any
7 banking institution chartered by a state other than the
8 commonwealth or chartered by the federal government provided
9 that the main office of any such banking institution is located in
10 a state other than the commonwealth.

1 SECTION 8. Said chapter 170 of the General Laws, as so
2 appearing, is hereby amended by striking out section 26C and
3 inserting in place thereof the following section: —

4 Section 26C. Notwithstanding any general or special law to the
5 contrary a co-operative bank, subject to approval of the
6 commissioner, may convert to a stockholder owned form of
7 corporation. A request for such approval by the commissioner
8 shall be accompanied by an investigation fee the amount of which
9 shall be determined annually by the commissioner of administra-
10 tion under the provisions of section three B of chapter seven.

11 Any co-operative bank which converts to a stockholder owned
12 form of corporation shall have all the powers and privileges of
13 a co-operative bank.

14 The commissioner shall prescribe from time to time such rules
15 and regulations as may be necessary or proper in carrying out the
16 provisions of this section. Such regulations shall be similar to
17 regulations promulgated under Title 12 USC 1725 or Title 12 USC
18 1464; provided, that the commissioner may make such
19 adjustments and exceptions as in his judgment are necessary to
20 carry out the purposes of this section or to facilitate compliance
21 therewith.

22 After conversion to a stockholder form of corporation pursuant
23 to this section, sections seven to ten, inclusive, shall not apply to
24 a converted bank, and such bank shall be subject to the provisions
25 of sections eleven to fifteen, inclusive, sections nineteen, twenty,
26 twenty-two, twenty-four, twenty-six A, twenty-eight, thirty-one
27 and other applicable sections of chapter one hundred and seventy-
28 two.

29 Except for emergency regulations adopted pursuant to section
30 two of chapter thirty A, any regulations, as defined in section one
31 of said chapter thirty A, or any amendment or repeal of any such
32 regulation adopted by the commissioner pursuant to this section,
33 shall after compliance with all applicable provisions of said
34 chapter thirty A, except section five, be submitted to the general
35 court. Said commissioner shall file the proposed regulation,
36 amendment or repeal with the clerk of the house of representa-
37 tives, together with a statement that the pertinent provisions of
38 said chapter thirty A, except section five, have been complied
39 with. Such regulations shall be accompanied by a summary of the
40 regulations in layman's terms. The clerk of the house of
41 representatives, with the approval of the president of the senate
42 and the speaker of the house of representatives, shall refer such
43 regulations to the joint committee on banks and banking. Within
44 thirty days after such referral said committee may hold a public
45 hearing on the regulations and may make recommendations to
46 said commissioner. The commissioner shall review any such
47 recommendations and shall adopt final regulations as he deems
48 appropriate in view of said recommendations and shall file a
49 response to any such recommendations and the final regulations
50 with the clerk of the house of representatives. Not earlier than
51 thirty days after such filing with said clerk, the commissioner shall
52 file the final regulations with the state secretary as provided in
53 section five of said chapter thirty A and said regulations shall
54 thereupon take effect; provided, however, that if no such
55 recommendations are made to the commissioner with sixty days
56 of the initial filing of the proposed regulation or any amendment
57 or repeal of such regulation with the clerk of the house of
58 representatives, the commissioner may file the final regulations
59 with the state secretary as provided in section five of said chapter
60 thirty A and said regulations shall thereupon take effect.

1 SECTION 9. Section 19 of chapter 171 of the General Laws,
2 inserted by section 1 of chapter 79 of the acts of 1990, is hereby
3 amended by adding the following paragraph: —

4 The provisions of this section shall not prohibit a director from
5 serving nor require the issuance of a permit for a director or officer
6 to serve in the same or similar capacity in any banking institution

7 chartered by a state other than the commonwealth or chartered
8 by the federal government provided that the main office of any
9 such banking institution is located in a state other than the
10 commonwealth.

1 SECTION 10. Section 67 of chapter 171 of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 striking out paragraph (e).

1 SECTION 11. Said section 67 of said chapter 171, as so
2 appearing, is hereby amended by striking out paragraph (g).

1 SECTION 12. Said section 67 of said chapter 171, as so
2 appearing, is hereby amended by striking out paragraph (h) and
3 inserting in place thereof the following paragraph: —

4 (h) in the shares or deposits in federal savings and loan
5 associations or federal savings banks having a usual place of
6 business in the commonwealth to an amount not in excess of the
7 amount covered by federal deposit insurance.

1 SECTION 13. The first paragraph of section 70 of said
2 chapter 171, as so appearing, is hereby amended by adding the
3 following sentence: — Such reserves shall be calculated and
4 maintained in accordance with generally accepted accounting
5 principles.

1 SECTION 14. Section 71 of said chapter 171, as so appearing,
2 is hereby amended by striking out paragraph (e).

1 SECTION 15. Said section 71 of said chapter 171, as so
2 appearing, is hereby further amended by striking out para-
3 graph (f) and inserting in place thereof the following para-
4 graph: —

5 (f) Balances due from banks and trust companies which are
6 insured by the Federal Deposit Insurance Corporation.

1 SECTION 16. Said section 71 of said chapter 171, as so
2 appearing, is hereby further amended by striking out para-
3 graph (g) and inserting in place thereof the following para-
4 graph: —

5 (g) in the shares or deposits in federal savings and loan
6 associations or federal savings banks having a usual place of
7 business within the commonwealth.

1 SECTION 17. Said chapter 171 is hereby amended by inserting
2 after section 77, as so appearing, the following section: —

3 Section 77A. A credit union by vote of at least two-thirds of
4 those members present, qualified to vote, and voting at a meeting
5 duly called for the purpose, preceded by a notice in writing sent
6 to each member at his last address appearing on the records of
7 the credit union and to the commissioner at least sixty days before
8 said meeting, may convert into a federal credit union in
9 accordance with the laws of the United States and without the
10 approval of any authority of the commonwealth.

1 SECTION 18. Section 78 of said chapter 171 of the General
2 Laws, inserted by section 1 chapter 79 of the acts of 1990, is
3 hereby amended by adding the following paragraph: —

4 A credit union and a federally-chartered credit union may
5 consolidate into a single corporation or into a single federal credit
6 union pursuant to the applicable provisions of this section as
7 determined by the commissioner; provided, that any such federal
8 credit union complies with applicable provisions of federal law
9 and, provided further, that the main office of such federal credit
10 union is located within the geographical limitations set out in
11 section two of this chapter.

1 SECTION 19. Section 19 of chapter 172 of the General Laws,
2 as so appearing, is hereby amended by inserting after the first
3 paragraph the following paragraph: —

4 The provisions of this section shall not require the issuance of
5 a permit for a director or officer to serve in the same or similar
6 capacity in any banking institution chartered by a state other than
7 the commonwealth or chartered by the federal government,
8 provided that the main office of any such banking institution is
9 located in a state other than the commonwealth.

1 SECTION 20. Said chapter 172 of the General Laws, as so
2 appearing, is hereby amended by striking out section 28, and
3 inserting in place thereof the following section: —

4 Section 28. The directors of a trust company may annually,
5 semi-annually or quarterly, but not more frequently, declare such
6 dividends as they deem judicious to be paid from net profits. No
7 dividends shall be declared, credited or paid so long as there is
8 any impairment of capital stock. No trust company having
9 outstanding preferred stock shall, except as otherwise authorized
10 by the Commissioner, declare dividends upon common stock for
11 any period other than a period for which dividends are declared
12 upon preferred stock.

13 The approval of the Commissioner shall be required if the total
14 of all dividends declared by a trust company in any calendar year
15 shall exceed the total of its net profits for that year combined with
16 its retained net profits of the preceding two years, less any required
17 transfer to surplus or a fund for the retirement of any preferred
18 stock.

19 For the purposes of this section, the term "net profits" shall
20 mean the remainder of all earnings from current operations plus
21 actual recoveries on loans and investments and other assets, after
22 deducting from the total thereof all current operating expenses,
23 actual losses, accrued dividends on preferred stock, if any, and all
24 federal and state taxes.

1 SECTION 21. Section 60 of chapter 183 of the General Laws,
2 as so appearing in the 1992 Official Edition, is hereby amended
3 by striking out the first two paragraphs and inserting in place
4 thereof the following three paragraphs: —

5 Section 60. Whenever any note made to finance or refinance
6 the purchase of and secured by a first lien on a dwelling house
7 in the Commonwealth of four or fewer separate households
8 occupied or to be occupied in whole or in part by the mortgagor
9 provides for installment payments of principal or interest or both
10 that will not amortize the outstanding principal amount in full
11 by the maturity of such note and the term of the mortgage securing
12 the note is for a period longer than such note, such note and its
13 disposition at maturity shall be subject to automatic renewal or
14 extension of the note at the option of the mortgagor and such
15 conditions and restrictions imposed by the commissioner. Such
16 conditions and restrictions shall include but not be limited to the
17 following:

18 (1) the minimum term of the note;

19 (2) the method by which the rate of interest on a renewed or
20 extended note may be assigned;

21 (3) the maximum increase in the rate of interest at renewal or
22 extension of note;

23 (4) provisions for decreases in the rate of interest at renewal
24 or extension of the note as may be warranted by market
25 conditions;

26 (5) requirements for advance notification and explanation of
27 adjustment of the rate of interest in connection with renewing or
28 extending the note, provided that such notification and
29 explanation shall occur no less than thirty days prior to the rate
30 adjustment;

31 Notwithstanding any provision of law to the contrary, the
32 commissioner may, by further conditions and restrictions, provide
33 that the rate of amortization may be varied, including utilizing
34 a period of negative amortization, in order to adjust the rate of
35 interest.

36 The provisions of this section shall apply only to a note
37 evidencing a loan given for personal, family or household
38 purposes.

1 SECTION 22. Section thirteen of chapter two hundred and
2 fifty-five C of the General Laws, as so appearing, is hereby
3 repealed.

