

The Commonwealth of Massachusetts

EDWARD J. KING
GOVERNOR

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

April 1, 1980

TO THE HONORABLE SENATE AND HOUSE OF REPRESENTATIVES:

Today, I am submitting to your Honorable Bodies the accompanying legislation entitled, "AN ACT AMENDING THE AUTHORITY OF THE BOARD OF BANK INCORPORATION."

This legislation is being submitted as a result of a recent experience with closing a state-chartered Trust Company under emergency circumstances.

When forced by an insolvency to close a bank, there are two approaches available. The less attractive alternative is to pay off the depositors. This approach would leave some depositors uninsured with a resulting loss of their funds. In addition, it causes considerable public confusion and weakens public confidence in our state financial institutions.

The better solution is to sell the failed bank to an existing bank or to charter a new bank to effect the sale. The Board of Bank Incorporation would be concerned with either transaction. In each case the statutes require a full hearing under Chapter 30A of the General Laws with its formal prior notice and hearing requirements. Present legislation provides the acquiring bank take out a national charter under emergency provisions and a subsequent hearing by the Board of Bank Incorporation relative to the acquisition of the newly-chartered National Bank by the parent holding company. Present statutes result in a reluctance by banking organizations to come forward to solve these problem situations and a subsequent hearing on a matter already agreed to by the regulators.

This bill would remove those statutory requirements when the Commissioner had taken possession of a bank and had appointed the Federal Deposit Insurance Corporation as his liquidating agent. In addition, the liquidator must have determined that a

sale to another bank was feasible. Then and only then would the provisions of this legislation become operative. Thus these emergency powers are very limited to specific, extraordinary conditions.

I request your immediate attention to this legislation and ask for favorable action.

Respectfully submitted,

Edward J. King
Edward J. King
Governor

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT AMENDING THE AUTHORITY OF THE BOARD OF BANK INCORPORATION.

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 26 of chapter 167 of the General Laws, as most recently
2 amended by chapter 301 of the acts of 1972, is hereby further
3 amended by adding after the second paragraph the following
4 paragraph:

5 When the Federal Deposit Insurance Corporation accepts ap-
6 pointment as liquidating agent as provided in section twenty-six
7 and proposes a purchase and assumption resolution, the Board of
8 Bank Incorporation may exercise its authorities under chapter one
9 hundred and sixty-seven A or chapter one hundred and seventy-
10 two without regard to notice of hearing requirements to effect such
11 a resolution.

THE UNIVERSITY OF CHICAGO

OFFICE OF THE DEAN

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