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charged by the comptroller against this item; provided, further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers, payments, or allocations shall be made from this item without the prior approval of the house and senate committees on ways and means and that no payments to said unions or joint union-management trust fund shall be made from this item without the prior approval of the house and senate committees on ways and means

\$22,972,000

SECTION 3. This act shall take effect upon its passage.

Approved October 18, 1985.

Chapter 405. AN ACT RELATIVE TO DEPOSIT INSURANCE.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately facilitate the acquisition of federal deposit insurance coverage by Massachusetts thrift institutions, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Chapter 167F of the General Laws is hereby amended by striking out sections 6 and 7, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 6. A bank may become a member of (i) the Federal Deposit Insurance Corporation, subject to the provisions of the act of Congress approved in nineteen hundred and fifty, known as the Federal Deposit Insurance Act, or (ii) the Federal Savings and Loan Insurance Corporation, subject to the provisions of the act of Congress, approved in nineteen hundred and thirty-four, known as the National Housing Act, or (iii) or any successor of either corporation. A member of the Deposit Insurance Fund of the Mutual Savings Central Fund, Inc., established by chapter forty-three of the acts of nineteen hundred and thirty-four, shall also be subject to sections twelve to seventeen, inclusive, of said

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chapter forty-three. A member of the Share Insurance Fund of The Co-operative Central Bank, established by chapter seventy-three of the acts of nineteen hundred and thirty-four, shall also be subject to the provisions of sections eleven to sixteen, inclusive, of said chapter seventy-three.

The Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, upon payment of the insured portion of any share, deposit or other accounts in a bank so insured, shall, subject to the provisions of said section seventeen of said chapter forty-three, or the provisions of section sixteen of said chapter seventy-three, be subrogated to the rights of the person to whom the insurance was so paid to receive the same distribution from the proceeds of the assets and claims of the bank as would have been payable to that person on a claim for the portion of the deposit insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; but such person shall retain the right to receive distribution on so much of such person's claim as represents the uninsured portion of the share, deposit or other account.

SECTION 2. Section 36 of chapter 168 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraphs:—

Upon the acceptance by such corporation of a federal charter, it shall cease to be a member bank in the Mutual Savings Central Fund, Inc. and shall be entitled to receive from the Mutual Savings Central Fund, Inc. an amount not to exceed the actual deposits made by it to the Liquidity Fund pursuant to the provisions of section four of chapter forty-four of the acts of nineteen hundred and thirty-two less its indebtedness, if any, to said Mutual Savings Central Fund, Inc.; provided, however, that no part of the income, surplus, undivided profits or other reserves of the Liquidity Fund shall be so paid. All amounts required to be paid by the corporation pursuant to the provisions of sections one and seventeen of chapter forty-three of the acts of nineteen hundred and thirty-four, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Mutual Savings Central Fund, Inc. as a charge for the insurance of deposits of such corporation while it was a member bank. Such corporation shall participate in any distributions made under the provisions of section ten of said chapter forty-three, but the aggregate amount of such distributions, including the amount of any dividend paid as an advanced dividend distribution in connection with the partial dissolution and liquidation of the fund, shall be limited to an amount equal to the amount the corporation would have received had the Deposit Insurance Fund been liquidated at the time such corporation acquired its federal charter; provided, however, that such corporation may also participate in any dividends paid pursuant to section three of said chapter forty-three to the extent the board of directors of said Mutual Savings Central Fund, Inc. declares dividends for payment to former member banks which have accepted federal charters, subject to the prior approval of the commissioner as provided for in said section three of said chapter forty-three.

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Any such corporation which accepts or has accepted a federal charter after January first, nineteen hundred and eighty-three may apply to the Mutual Savings Central Fund, Inc. for insurance coverage of its deposits in excess of the amount insured by a federal deposit insurance agency, hereinafter referred to as "excess insurance", in accordance with the requirements of chapter forty-four of the acts of nineteen hundred and thirty-two and chapter forty-three of the acts of nineteen hundred and thirty-four; provided, however, that no such corporation shall apply for such excess insurance unless such corporation shall have capital and surplus if a stock institution or surplus if a mutual institution, less any intangible asset value, equal to or greater than six per cent of total assets. The Mutual Savings Central Fund, Inc. shall not accept for excess insurance coverage any such corporation which fails to meet the requirements specified above or the requirements set out in section nineteen of said chapter forty-three. For purposes of this section, federal deposit insurance agency shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

SECTION 3. Section 37 of said chapter 168, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

All amounts required to be paid by the corporation pursuant to the provisions of sections one and seventeen of chapter forty-three of the acts of nineteen hundred and thirty-four, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Mutual Savings Central Fund, Inc. as a charge for the insurance of the deposits of such corporation while it was a member bank. Such corporation shall participate in any distributions authorized and made pursuant to section ten of said chapter forty-three, but the aggregate amount of such distributions, including the amount of any dividend paid in connection with the partial dissolution and liquidation of the fund, shall be limited to an amount the corporation would have received had the Deposit Insurance Fund been liquidated at the time such corporation accepted its federal charter; provided, however, that such corporation may also participate in any dividends paid pursuant to section three of said chapter forty-three to the extent that the board of directors of said Mutual Savings Central Fund, Inc. declares dividends for payment to former member banks which have accepted federal charters, subject to the prior approval of the commissioner as provided in said section three of said chapter forty-three.

SECTION 4. The fifth paragraph of section 28 of chapter 170, as so appearing, is hereby amended by striking out clause 1 and inserting in place thereof the following clause:-

1. The central bank shall pay to said succeeding association from the fund representing deposits of member banks made pursuant to said chapter forty-five, hereinafter called the Reserve Fund, an amount equal to not more than the aggregate of all deposits made by the predecessor corporation held in said Reserve Fund on the effective date

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of the conversion, less all indebtedness of such corporation to the central bank; provided, however, that no part of the income, surplus, undivided profits or other reserves held by the central bank in said Reserve Fund shall be so paid.

SECTION 5. Clause 2 of said fifth paragraph of said section 28 of said chapter 170, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:– All amounts required to be paid by the predecessor corporation while a member bank to the Share Insurance Fund of the central bank pursuant to section one of chapter seventy-three, including the income, surplus, undivided profits and other reserves of the Share Insurance Fund, shall be retained by the central bank as a charge for insurance of the shares of such corporation while a member of the said Share Insurance Fund. Such corporation shall, participate in any distributions authorized and made pursuant to section nine of chapter seventy-three of the acts of nineteen hundred and thirty-four, but the aggregate amount of such distributions shall be limited to an amount equal to the amount the corporation would have received had the Share Insurance Fund been liquidated at the time such corporation accepted its federal charter.

SECTION 6. The first paragraph of section 10 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following sentence:– The preceding limitations shall also apply to members of credit unions which are insured by the administrator of the National Credit Union Administration; provided, however, that no such credit union shall accept deposits or payments for shares for the account or accounts of a shareholder or depositor in excess of the amount which is insured by said administrator unless the excess is insured by the Massachusetts Credit Union Share Insurance Corporation pursuant to section six D of chapter two hundred and ninety-four of the acts of nineteen hundred and sixty-one.

SECTION 6A. Section 1 of chapter 44 of the acts of 1932 is hereby amended by adding the following two paragraphs:–

Any federal savings bank with its main office located in the commonwealth and which has converted from a state charter shall be eligible and may apply for insurance coverage by the Deposit Insurance Fund of its deposits in excess of the amount insured by a federal deposit insurance agency in accordance with the requirements of chapter forty-three of the acts of nineteen hundred and thirty-four.

The term federal deposit insurance agency as used in this act shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

SECTION 7. Section 2A of said chapter 44, as amended by section 2 of chapter 229 of the acts of 1981, is hereby further amended by striking out subsection (a) and inserting in place thereof the following

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subsection:-

(a) For the purpose of election of directors, each of the counties of Essex, Hampden, Middlesex, Suffolk and Worcester shall constitute an election district, the counties of Barnstable, Bristol, Dukes County, Nantucket, Norfolk, and Plymouth as a group shall constitute an election district, and the counties of Berkshire, Franklin and Hampshire as a group shall constitute an election district. Three directors shall be elected from the trustees or officers of member banks of each election district. Each director shall be elected for a two year term.

SECTION 8. Section 4 of said chapter 44, as amended by section 4 of said chapter 229, is hereby further amended by inserting after the first sentence the following sentence:- No part of the income, surplus, undivided profits or other reserves held by the Mutual Savings Central Fund in the Liquidity Fund may be subject to withdrawal, except where a member bank is in liquidation.

SECTION 9. Said chapter 44 is hereby further amended by striking out section 9 and inserting in place thereof the following section:-

Section 9. So much of the deposits of member banks as is deposited with the Liquidity Fund under the provisions of this act shall, so long as they remain deposited therewith, be exempt from taxation.

SECTION 10. Section 1 of chapter 45 of the acts of 1932, as amended by section 2 of chapter 323 of the acts of 1956, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The deposits of the member banks under the provisions of this act and chapter seventy-three of the acts of nineteen hundred and thirty-four, together with any surplus which may hereafter be accumulated by the central bank, shall constitute its capital structure. The central bank shall be exempt from all state and local taxation, except in respect to any real estate owned or used by it for its corporate purposes; provided, however, that within thirty days of the vote of the corporation to dissolve and liquidate the Share Insurance Fund, declared eligible for distribution, in accordance with section nine of said chapter seventy-three, and prior to any distribution to member banks, an excise of five million dollars shall be paid by the corporation to the commissioner of revenue as an excise for the privilege of dissolving and liquidating said fund in whole or in part. No such excise shall be paid for such privilege subsequent to the initial distribution made in accordance with said section nine. After payment of such excise, the balance of the proceeds declared eligible for distribution shall be distributed in accordance with said section nine. Such excise shall be subject to all other relevant provisions of applicable law consistent with the provisions of this section; provided, however, that the application of such relevant provisions shall in no way diminish the amount of such excise. The revenues received by the commonwealth from the excise imposed by this section shall be placed in a separate fund to be applied solely to defray the cost of the purposes set forth in chapter twenty-one E of

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the General Laws.

SECTION 11. Section 2 of said chapter 45, as most recently amended by section 1 of chapter 176 of the acts of 1984, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:–

(a) There shall be fifteen directors of the Central Bank elected from the board of directors or officers of member banks by delegates as provided herein.

SECTION 12. Section 6 of said chapter 45, as most recently amended by section 79 of chapter 371 of the acts of 1983, is hereby further amended by adding the following sentence:– For purposes of this section, no part of the income, surplus, undivided profits or other reserves held by the central bank in the Reserve Fund may be subject to withdrawal, except where a member bank is in liquidation.

SECTION 12A. Section 8 of said chapter 45, as amended by section 3 of chapter 219 of the acts of 1943, is hereby further amended by striking out, in line 2, the words "central bank" and inserting in place thereof the words:– Reserve Fund.

SECTION 12B. Section 1 of chapter 43 of the acts of 1934 is hereby amended by adding the following paragraph:–

The term "federal deposit insurance agency" as used in this act shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

SECTION 12C. Section 1A of said chapter 43 is hereby amended by adding the following paragraph:–

If the directors determine that a special examination and audit, including a current appraisal of the assets, of any federally chartered bank which has excess insurance pursuant to section nineteen would be in the interests of its depositors or in the interests of the sound and effective operation of the Deposit Insurance Fund, the board of directors by vote of at least two-thirds of its members may cause a special examination, audit and appraisal to be made by a certified public accountant in such form and manner as the directors may prescribe. The corporation may engage any qualified appraiser for the purpose of making a current appraisal of such federally chartered bank's assets. The expense of such examination, audit and appraisal shall be paid by the Deposit Insurance Fund. After receiving the reports of such accountant or appraiser, the corporation shall promptly furnish to the federally chartered bank copies of such reports. The directors shall have the authority to make recommendations to any federally chartered bank for the purpose of correcting practices or policies of the bank in conducting its business, including loan or dividend policies, which the directors deem to be unsafe or unsound, or to have a tendency to impair the financial condition of such federally chartered bank. If such federally chartered

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bank fails to follow such recommendations within a reasonable time, the directors may give written notice of such failure to the commissioner who may give written notice of such failure to the federally chartered bank and to the federal regulatory agency having regular supervisory authority over such bank and to the federal deposit insurance agency for such federally chartered bank. If it appears to the directors that such practices or policies have impaired or are likely to impair the solvency of such bank, or are unreasonably increasing the insurance risk of the Deposit Insurance Fund with respect to such federally chartered bank, the directors may include a statement to such effect, together with a report of the facts and circumstances, in the aforesaid notice to the commissioner who may include such a statement and report in his aforesaid notice to the federally chartered bank and to the appropriate federal regulatory agency and to the federal deposit insurance agency for such federally chartered bank.

SECTION 13. Section 3 of said chapter 43, as amended by section 5 of chapter 276 of the acts of 1984, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– In the case of a merger or consolidation of a savings bank with one or more other savings banks under section thirty-four of said chapter one hundred and sixty-eight, or in the case of a sale of assets of such bank to and the assumption of the liabilities by one or more other savings banks under section thirty-five of said chapter one hundred and sixty-eight, the continuing bank shall succeed to any of the rights of the discontinuing bank in the assessments theretofore paid by the discontinuing bank; provided, however, that if the continuing bank is, and the discontinuing bank is not, a member of a federal deposit insurance agency the provisions of section fifteen shall apply to such assessments of the discontinuing bank as though such bank had become a member of a federal deposit insurance agency as provided in sections twelve to fifteen, inclusive.

SECTION 14. Said chapter 43 is hereby further amended by inserting after section 3A the following section:–

Section 3B. The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for member banks the acquisition of membership in a federal deposit insurance agency.

SECTION 15. Said chapter 43 is hereby further amended by striking out section 8 and inserting in place thereof the following section:–

Section 8. So much of the deposits of member banks as is deposited with the corporation under the provisions of this act shall, so long as they remain deposited therewith, be exempt from taxation; provided, however, that within thirty days of the vote of the corporation to dissolve and liquidate the Deposit Insurance Fund, declared eligible for distribution, in accordance with section ten, and prior to any distribution to member banks, an excise of sixteen million dollars shall be paid by the corporation to the commissioner of revenue as an excise for the privilege

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of dissolving and liquidating said fund in whole or in part. No such excise shall be paid for such privilege subsequent to the initial distribution made in accordance with section ten. After payment of such excise, the balance of the proceeds declared eligible for distribution shall be distributed in accordance with section ten. Such excise shall be subject to all other relevant provisions of applicable law consistent with the provisions of this section; provided, however, that the application of such relevant provisions shall in no way diminish the amount of such excise. The revenues received by the commonwealth from the excise imposed by this section shall be placed in a separate fund to be applied solely to defray the cost of the purposes set forth in chapter twenty-one E of the General Laws.

SECTION 16. Said chapter 43 is hereby further amended by striking out section 10 and inserting in place thereof the following section:–

Section 10. The corporation, at special county or district meetings held in accordance with the bylaws and with section two of said chapter forty-four, and called by the directors for this special purpose, may determine, by four-fifths vote of all member banks, that, as a fact, the deposits of all member banks are adequately insured by a federal deposit insurance agency and that the Deposit Insurance Fund is needed solely for the insurance of deposits in excess of the sum covered by a federal deposit insurance agency hereinafter referred to as excess insurance or that the fund is no longer needed for such excess insurance. If the commissioner concurs with such determination of fact, he shall determine the portion of the fund, if any, required for the excess insurance of deposits of member banks and shall declare any balance of such fund, after payment of losses, expenses and obligations of the corporation, eligible for distribution to member banks upon any dissolution and liquidation of the fund in whole or in part; provided, however, that the corporation, by simple majority vote of its board of directors, agrees with the commissioner on the amount required for said excess insurance. If the corporation does not agree with the commissioner's determination of said amount, then a three-member panel, consisting of the commissioner or his designee, a member chosen by the corporation and a member chosen by agreement of the commissioner and the corporation, shall, by majority vote, determine the amount required for said excess insurance. The corporation shall immediately furnish to the commissioner any and all information he deems necessary to assist him in his determination of what is required for excess insurance. The corporation may, by a like four-fifths vote of all member banks and with the approval of the commissioner, vote to dissolve and liquidate the balance of the fund so declared eligible for distribution. When voting for the purposes provided in this section, each member bank shall have one vote for each ten million dollars or fraction thereof of deposits then insured by the Deposit Insurance Fund, including excess deposits, if any, referred to in section seventeen, as shown by such member bank's latest report to the commissioner or to the corporation. Upon any such vote to dissolve and liquidate the Deposit Insurance

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Fund, the corporation shall distribute, over a period of not more than twelve months, the amount of the fund so voted for distribution pro rata to the member banks based upon their total amounts of assessments and participations in said fund. Loans made by the corporation to member banks shall not be deemed part of any amount required for the excess insurance of deposits.

SECTION 17. Said chapter 43 is hereby further amended by striking out section 12, as amended by section 88 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

Section 12. Any member bank which shall apply for membership in a federal deposit insurance agency referred to in section six of chapter one hundred and sixty-seven F of the General Laws, shall forthwith give written notice thereof to the Mutual Savings Central Fund, Inc., and to the commissioner. If such application is accepted and such member bank is notified that said corporation is willing to insure its deposits, such member bank may become a member of a federal deposit insurance agency subject to the terms and conditions set forth in this section and in sections thirteen, fourteen, fifteen and seventeen; provided, however, that such membership shall have been approved by vote of at least two-thirds of the trustees or directors of such banks.

SECTION 18. Said chapter 43 is hereby further amended by striking out section 13, inserted by section 10 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

Section 13. When any member bank which has applied for membership in a federal deposit insurance agency shall have complied with all requirements prerequisite to such membership and shall have received notice in writing from said agency that it is a member thereof and its deposits are insured thereby, such member bank shall file copies of said notice and of the votes of its trustees or directors, provided in section twelve, certified by its president and its clerk, with the commissioner and with the Mutual Savings Central Fund, Inc., and shall thereupon give written notice thereto and to the commissioner of the acquisition of such membership. On the effective date of such membership, the insurance of the deposits of such bank by the Deposit Insurance Fund, to the extent that such deposits shall then or thereafter be insured by a federal deposit insurance agency shall terminate, and such bank shall not be liable for any further annual or other assessments required by section one except for (a) unpaid annual assessments due and payable on or before the preceding October first, and (b) for any other unpaid assessments due and payable prior to the effective date of such membership, but shall be liable for all annual excess insurance assessments required of such bank by section seventeen.

SECTION 19. Section fourteen of said chapter forty-three is hereby repealed.

SECTION 20. Said chapter 43 is hereby further amended by striking out section 15, inserted by section 10 of chapter 324 of the acts of 1956,

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and inserting in place thereof the following section:–

Section 15. Upon the acquisition of membership by any member bank in a federal deposit insurance agency, the following provisions shall apply to the assessments theretofore paid by such bank into the Deposit Insurance Fund:

(a) The Deposit Insurance Fund shall repay in cash to such bank an amount equal to its assessment of one-fourth of one per cent of its deposits paid or payable to said fund in nineteen hundred and thirty-four, sometimes referred to as the "original assessment"; provided, however, that such payment shall not be made to such bank prior to the expiration of six months from the effective date of its membership in the federal deposit insurance agency as provided in section thirteen, but the directors of the Mutual Savings Central Fund, Inc., with the approval of the commissioner may, by a two-thirds vote, provide for earlier payment thereof by agreement with such bank;

(b) The sums representing all annual assessments, referred to in section one, and any other assessments at any time paid by such bank as provided in sections one and seventeen, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Deposit Insurance Fund, and such bank shall be entitled to participate in the net assets of the fund in the event of its dissolution and liquidation in the manner and to the extent provided in section ten.

SECTION 21. Section sixteen of said chapter forty-three is hereby repealed.

SECTION 22. Said chapter 43 is hereby further amended by striking out section 17, as most recently amended by section 89 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

Section 17. The portions of the deposits of all member banks which shall have become members of a federal deposit insurance agency, in excess of ten thousand dollars or of such other sums as from time to time shall be covered by the insurance of the federal deposit insurance agency, hereinafter referred to as excess deposits, shall continue to be insured in full by the Deposit Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) On October first of each year after becoming a member of a federal deposit insurance agency, such member bank shall pay to the Deposit Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year under section one, computed upon the member bank's excess deposits as of the date of the trial balance of deposit accounts of such member bank taken immediately after the payment or provision for payment of the bank's last preceding dividend, as shown by a statement filed with the Deposit Insurance Fund at least ten days prior to said October first and certified by an authorized officer of such bank.

(b) During the time that such member bank is a member of a federal deposit insurance agency, it shall not be liable for any assessments to the Deposit Insurance Fund except as hereinbefore provided in paragraph (a).

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(c) Notwithstanding the provisions of section eleven of this act, sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws shall apply and sections four, five and six of this act shall not apply to a member bank so long as it is a member of and its deposits are insured in whole or in part in a federal deposit insurance agency.

(d) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by the fund in any member bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a claim for the portion of his deposit so paid by the Deposit Insurance Fund, but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to a federal deposit insurance agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(e) Notwithstanding any other provisions hereof, if the federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any member bank which is a member of a federal deposit insurance agency, the amounts deposited, directly or indirectly, by the federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

SECTION 22A. Said chapter 43 is hereby further amended by adding the following two sections:-

Section 19. The portions of the deposits of any state-chartered savings bank which accepts or has accepted a federal charter after January first, nineteen hundred and eighty-three in excess of those insured by a federal deposit insurance agency, hereinafter referred to as excess deposits, may be insured in full by the Deposit Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) Any such bank shall first give notice in writing to the corporation and the commissioner of its desire to obtain such excess insurance and shall make application for the same on such form and in such manner as the corporation, with the approval of the commissioner, may prescribe. Any such bank shall also submit such financial statements and other information concerning its assets, liabilities and affairs as the commissioner and the corporation may require.

(b) No such bank shall apply for such excess insurance unless such bank shall have capital and surplus if a stock institution or surplus if a mutual institution, less any intangible asset value, equal to or greater than six per cent of the total assets.

(c) Any such bank shall first enter into a binding agreement with the corporation. Under such agreement, which shall be subject to the approval of the commissioner, such bank shall be required to provide to the corporation copies of examination reports and other reports and information regarding such bank comparable in form and substance to

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information requested and received by the corporation with respect to state member banks and to comply with such other terms and conditions, including a provision permitting the corporation to terminate, subject to the approval of the commissioner, such bank's excess insurance if arrangements satisfactory to the corporation have not been made by such bank in connection with any merger, consolidation or purchase of assets and assumption of liabilities affecting such bank, as the directors deem to be appropriate.

(d) The directors of the corporation, with the approval of the commissioner, shall determine the eligibility of each such bank for acceptance. The directors shall not accept for excess insurance any such bank which fails to meet the requirements of paragraphs (a), (b) and (c).

(e) Any such bank, upon acceptance by the corporation for excess insurance, shall be categorized as a "federal member bank", which, for the purposes of this act, shall mean any state-chartered savings bank which has accepted a federal charter and which has been accepted for excess insurance by the corporation.

(f) Federal member banks shall not have any of the rights and privileges of member banks except as expressly provided otherwise herein.

(g) On October first of each year, such bank shall pay to the Deposit Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year for a member bank under section one, computed on such bank's excess deposits as of the date of the trial balance of deposit accounts of such bank taken immediately after the payment or provision for payment of the bank's last preceding dividend, as shown by a statement filed with the Deposit Insurance Fund at least ten days prior to said October first and certified by an authorized officer of such bank.

(h) Such bank shall not be liable for any assessments to the Deposit Insurance Fund except as hereinbefore provided in paragraph (g).

(i) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by the fund in such bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a claim for the portion of his deposit so paid by the Deposit Insurance Fund, but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to the Federal Deposit Insurance Corporation as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(j) Notwithstanding any other provisions hereof, if a federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any federal member bank, the amounts deposited, directly or indirectly, by such federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

Section 20. If the corporation shall not have received such requested

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reports or information from any federal member bank as defined in section nineteen within a reasonable time, or if such federal member bank shall otherwise be in breach of such agreement made pursuant to paragraph (c) of section nineteen, or if such federal member bank shall fail to maintain the capital and surplus requirements of paragraph (b) of said section nineteen, the corporation shall give written notice to such federal member bank, specifying the breach or failure which remains uncured. If such breach is not cured within sixty days after such written notice or if such capital and surplus requirements are not cured by a reasonable time specified, the directors may at any time thereafter, subject to the approval of the commissioner, terminate the excess insurance of such federal member bank. Notice of such termination shall be given to the federal member bank and subsequently to all of its depositors in such manner as the corporation, with the approval of the commissioner, may require.

SECTION 23. Section 1 of chapter 73 of the acts of 1934, as most recently amended by section 5 of chapter 323 of the acts of 1956, is hereby further amended by striking out the fifth and sixth sentences.

SECTION 23A. Section 3 of said chapter 73, as amended by section 91 of chapter 371 of the acts of 1983, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In case of the merger or consolidation of a co-operative bank with one or more other co-operative banks under section twenty-five of chapter one hundred and seventy of the General Laws, or in the case of a sale of assets of such bank to and the assumption of its liabilities by one or more other co-operative banks under section seven of this chapter or under section twenty-four of said chapter one hundred and seventy, the continuing bank shall succeed to any of the rights of the discontinuing bank in the assessments theretofore paid by the discontinuing bank; provided, however, that if the continuing bank is, and the discontinuing bank is not, a member of a federal deposit insurance agency, the provisions of section fourteen shall apply to such assessments of the discontinuing bank as though such bank had become a member of a federal deposit insurance agency as provided in sections eleven to fourteen, inclusive. For purposes of this act, the term federal deposit insurance agency shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

SECTION 24. Said chapter 73 is hereby further amended by inserting after section 3A the following section:-

Section 3B. The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for member banks the acquisition of membership in a federal deposit insurance agency.

SECTION 25. Said chapter 73 is hereby further amended by striking

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out section 9 and inserting in place thereof the following section:–

Section 9. The corporation, at a special meeting called for this purpose and held in accordance with the by-laws and with section five of said chapter forty-five, may determine, by four-fifths vote of all member banks, that, as a fact, the deposits of all member banks are adequately insured by a federal deposit insurance agency and that the Share Insurance Fund is needed solely for the insurance of deposits in excess of the sum covered by a federal deposit insurance agency hereinafter referred to as excess insurance or that the fund is no longer needed for such excess insurance. If the commissioner concurs with such determination of fact, he shall determine the portion of the fund, if any, required for the excess insurance of deposits of member banks and shall declare any balance of such fund, after payment of losses, expenses and obligations of the corporation, eligible for distribution to member banks upon any dissolution and liquidation of the fund in whole or in part; provided, however, that the corporation, by simple majority vote of its board of directors, agrees with the commissioner on the amount required for said excess insurance. If the corporation does not agree with the commissioner's determination of said amount, then a three-member panel, consisting of the commissioner or his designee, a member chosen by the corporation and a member chosen by agreement of the commissioner and the corporation, shall, by majority vote, determine the amount required for said excess insurance. The corporation shall immediately furnish to the commissioner any and all information he deems necessary to assist him in his determination of what is required for excess insurance. The corporation may, by a like four-fifths vote of all member banks and with the approval of the commissioner, vote to dissolve and liquidate the balance of the fund so declared eligible for distribution. When voting for the purposes provided in this section, each such member bank, by a delegate authorized by its board of directors, shall have one vote. Upon any such vote to dissolve and liquidate the Share Insurance Fund, the corporation shall distribute, over a period of not more than twelve months, the amount of the fund so voted for distribution to the then member banks in the following order of priority: First, in payment pro rata of the balance of the original assessment referred to in section one and of special assessments referred to in section one; Second, in payment pro rata of all annual assessments paid by the then member banks under section one; and Third, the balance, if any, shall be distributed pro rata to the then member banks based upon their total amounts of assessments paid into said fund. Loans made by the corporation to member banks shall not be deemed part of any amount required for the excess insurance of deposits.

SECTION 26. Said chapter 73 is hereby further amended by striking out section 11, as amended by section 94 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

Section 11. Any member bank which shall apply for membership in a federal deposit insurance agency, referred to in section six of chapter one hundred and sixty-seven F of the General Laws, shall forthwith give written notice thereof to The Co-operative Central Bank, and to the

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commissioner. If such application is accepted and such member bank is notified that either said insurance corporation is willing to insure its shares, accounts and deposits, referred to as accounts in this section and in sections twelve to sixteen, inclusive, such member bank may become a member of a federal deposit insurance agency subject to the terms and conditions set forth in this section and sections twelve, fourteen and sixteen; provided, however, that such membership shall have been approved by vote of at least two-thirds of the directors of such bank.

SECTION 27. Said chapter 73 is hereby further amended by striking out section 12, inserted by section 12 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

Section 12. When any member bank which has applied for membership in a federal deposit insurance agency shall have complied with all requirements prerequisite to such membership and shall have received notice in writing from either said corporation that it is a member thereof and its accounts are insured thereby, such member bank shall file copies of said notice and of the votes of its directors provided in section eleven, certified by its president and its clerk, with the commissioner and with The Co-operative Central Bank, and shall thereupon give written notice thereto and to the commissioner of the acquisition of such membership. On the effective date of such membership, the insurance of the accounts of such bank by the Share Insurance Fund, to the extent that such accounts shall then or thereafter be insured by the federal deposit insurance agency shall terminate and such bank shall not be liable for any further assessments to the Share Insurance Fund, except for (a) unpaid annual assessments due and payable on or before the preceding July first, and (b) for any other unpaid assessments due and payable prior to the effective date of such membership, and (c) for all annual excess insurance assessments and special assessments required of such bank by section sixteen.

SECTION 28. Section thirteen of said chapter seventy-three is hereby repealed.

SECTION 29. Said chapter 73 is hereby further amended by striking out section 14, inserted by section 10 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

Section 14. Upon the acquisition of membership by any member bank in a federal deposit insurance agency in the manner prescribed in sections eleven and twelve, the following provisions shall apply to the assessments theretofore paid by such bank into the Share Insurance Fund:

(a) The Share Insurance Fund shall, subject to any repayment made under section one, repay in cash to such bank an amount equal to one-half of its assessment of one per cent of share liabilities made under section one in nineteen hundred and thirty-four, sometimes referred to as the "original assessment"; provided, however, that such repayment shall not be made to such bank prior to the expiration of six months from the effective date of its membership in the federal deposit insurance agency as provided in section twelve, but the directors of The

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Co-operative Central Bank, with the approval of the commissioner, may, by a two-thirds vote, provide for earlier payment thereof by agreement with such bank.

(b) The sums representing the unpaid portion of said original assessment and all annual assessments and unpaid special assessments made under sections one and sixteen and any other assessments at any time paid by such bank including any assessments under section fifteen, including the income, surplus, undivided profits and other reserves of the Share Insurance Fund, shall be retained by the Share Insurance Fund, and such bank shall be entitled to participate therefore in the net assets of the fund in the event of its dissolution and liquidation in the manner and to the extent provided in section nine.

SECTION 30. Section fifteen of said chapter seventy-three is hereby repealed.

SECTION 31. Said chapter 73 is hereby further amended by striking out section 16, as amended by section 95 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

Section 16. The portions of the shares and accounts of all member banks which shall have become members of a federal deposit insurance agency, in excess of ten thousand dollars or of such other sums as from time to time shall be insured by a federal deposit insurance agency, hereinafter referred to as excess accounts, shall continue to be insured in full by the Share Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) On July first of each year after becoming a member of a federal deposit insurance agency, such member bank shall pay to the Share Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year under section one, computed upon the member bank's excess accounts and notes payable as shown by its last preceding annual report to the commissioner. Such member bank shall pay to the Share Insurance Fund any special assessment made under the provisions of said section one, computed upon the bank's excess accounts and notes payable as above for annual assessments.

(b) During the time that such member bank is a member of a federal deposit insurance agency, it shall not be liable for any assessments to the Share Insurance Fund except as provided in section twelve and in paragraph (a).

(c) Notwithstanding the provisions of section ten of this act, sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws shall apply to a member bank so long as it is a member of and its accounts are insured in whole or in part in a federal deposit insurance agency.

(d) Upon payment by the Share Insurance Fund of all or any parts of the portion of any account insured by the fund in any member bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a

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claim for the portion of his account so paid by the Share Insurance Fund but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Share Insurance Fund as provided in this paragraph and to a federal deposit insurance agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

SECTION 32. Chapter 294 of the acts of 1961 is hereby amended by inserting after section 6G the following section:–

Section 6H. The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for credit unions the acquisition of insurance from the administrator of the National Credit Union Administration.

SECTION 33. Notwithstanding the provisions of section ten of chapter forty-three of the acts of nineteen hundred and thirty-four, if the commissioner makes a determination that all member banks have either (1) obtained insurance from the Federal Deposit Insurance Corporation or from the Federal Savings and Loan Insurance Corporation for their deposits or (2) applied to the Federal Deposit Insurance Corporation or to the Federal Savings and Loan Insurance Corporation for such deposit insurance, the commissioner may declare a portion of the Deposit Insurance Fund, not to exceed one hundred and ten million dollars, eligible for distribution to member banks as an advance dividend distribution in connection with the partial dissolution and liquidation of the fund. The corporation may, by majority vote of its board of directors and with the approval of the commissioner, authorize the advance dividend distribution in the amount so declared eligible for distribution by the commissioner. Upon such vote, the corporation shall proceed to distribute forthwith the amount of the fund so declared eligible for advance dividend distribution pro rata to the member banks based upon their total amounts of assessments and participations in said fund.

Notwithstanding any provision of law to the contrary, each member bank shall pay as part of its excise imposed under chapter sixty-three of the General Laws a tax to the commonwealth in an amount equal to ten per cent of any advance dividend distribution or other dividend distribution made to it by the corporation in connection with the partial dissolution and liquidation of the fund under this section. The liability of each member bank for such tax shall be satisfied by the corporation deducting, withholding and paying over to the commonwealth the amount of such tax prior to making the associated dividend distribution.

Notwithstanding the provisions of chapter sixty-three of the General Laws or any other provision of law the distributions made under this section shall not be considered gross income for the purpose of determining net income as defined in section one of chapter sixty-three of the General Laws.

Former member banks shall participate in dividends paid and distributions made under this section as provided in section thirty-six of

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chapter one hundred and sixty-eight of the General Laws.

SECTION 34. Every bank as defined in section one of chapter sixty-three of the General Laws shall pay, as part of its excise imposed under that chapter, an amount equal to twelve and fifty-four one-hundredths per cent of any proceeds received pursuant to section ten of chapter forty-three of the acts of nineteen hundred and thirty-four or section nine of chapter seventy-three of the acts of nineteen hundred and thirty-four; provided, however, that if the amount of any distribution pursuant to said section ten combined with the total amount of advanced dividend distributed pursuant to section thirty-three of this act is two hundred and fifty million dollars or more, such excise applicable to the amounts received under said section ten shall be an amount equal to ten per cent; and provided, further, if the amount of distribution pursuant to said section nine is thirty million dollars or more then such excise applicable to the amounts received under said section nine shall be an amount equal to ten per cent. The proceeds subject to tax under this section shall not be considered gross income for purposes of determining net income as defined in section one of said chapter sixty-three.

SECTION 35. There is hereby established and set up on the books of the commonwealth a fund to be known as the Massachusetts Housing Partnership Fund, hereinafter referred to as the fund. It shall be the sole purpose of the fund to provide funds within the limits and in the manner hereinafter described to provide programs designed to: (a) produce housing for low and moderate income households, (b) broaden opportunities for homeownership for low and moderate income persons and families, and (c) aid in the reclamation of abandoned property for use as housing. Such programs may include contracts, grants, loans for writing down the cost of home ownership, or front-end costs, so called, associated with the reclamation of abandoned property including securing options to purchase such property, preparation of plans and interim management.

The fund shall be organized as follows:

(a) There shall be seven members of the board of directors, which shall govern the operations of the fund, one of whom shall be the secretary of administration and finance or his designee, one of whom shall be the secretary of communities and development, or his designee, two of whom shall be appointed by the governor from among persons recommended by the Savings Bank Association of Massachusetts; provided, however, that one of the two such recommended persons shall be from an area encompassing the counties of Hampden, Hampshire, Worcester, Franklin, and Berkshire, one of whom shall be recommended by the Co-operative Bank League of Massachusetts, and two of whom shall be a member of the Massachusetts Housing Partnership. Each such appointment shall be made by letter to the appointee with a copy to the secretary of administration and finance and each person so appointed shall serve at the pleasure of the governor or organization which made the appointment and until his successor has been appointed

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in like manner.

(b) The initial organizational meeting of the board of directors shall be held at a date and time to be determined by the secretary of the executive office of administration and finance; provided, however, that at least two weeks prior notice shall be given to the other members of such meeting. At such meeting, said board shall elect a chairman, vice-chairman and secretary from among the members.

(c) The board of directors shall have the authority to exercise all the powers of the fund. Said board shall have the authority to make, amend, and repeal by-laws, rules and regulations to govern the management and affairs of the fund. A majority of the members of said board shall constitute a quorum for the purpose of conducting the business of said board and said board shall act by a majority vote of the whole board in exercising its authority. A meeting of said board shall be held at least monthly and at such other times as may be provided in its by-laws.

(d) Said board of directors shall have the authority to enter into such service and other contracts as it deems necessary or incidental to the performance of its duty to conduct the management and affairs of the fund.

(e) The members of said board of directors shall serve without compensation but shall be paid their necessary expenses incurred in the discharge of their official duties.

(f) Said board of directors shall file a certificate with the state secretary to the effect that the Massachusetts Housing Partnership Fund has been organized and listing the names and addresses of its officers and members. A copy of its by-laws and rules and regulations adopted by the board of directors shall be filed with the state secretary. Amendments to such certificate, by-laws or rules and regulations shall be filed with the state secretary.

(g) Said board of directors shall file a report of the activities and accomplishments of the fund with the governor and the commissioner of administration and the house and senate committees on ways and means on or before January first, nineteen hundred and eighty-six and each year thereafter. Said board shall file copies of said report with the clerk of the house of representatives.

(h) All reasonable expenses incurred pursuant to this section shall be considered to be incidental administrative expenses of the fund.

Revenues received by the commonwealth in an amount not to exceed thirty-five million dollars from the excise imposed by sections thirty-three and thirty-four of this act and from any loan repayments received pursuant to the programs established by this section, shall be placed in the Massachusetts Housing Partnership Fund to be applied solely to defray the costs of the programs established.

Approved October 18, 1985.

Chapter 406. AN ACT RELATIVE TO BID BONDS IN PUBLIC WORKS CONSTRUCTION CONTRACTS.