[CHAPTER 967]

AN ACT

To amend the Federal Deposit Insurance Act (U. S. C., title 12, sec. 264).

September 21, 1950
[S. 2822]
[Public Law 797]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12B of the Federal Reserve Act, as amended, is hereby withdrawn as a part of that Act and is made a separate Act to be known as the "Federal Deposit Insurance Act".

Federal Deposit Insurance Act.
48 Stat. 168.
12 U. S. C. § 264; Sup. III, § 264.
Ante, pp. 457, 458.

SEC. 2. The Federal Deposit Insurance Act is amended to read as follows:

"SEC. 1. There is hereby created a Federal Deposit Insurance Corporation (hereinafter referred to as the 'Corporation') which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this Act, and which shall have the powers hereinafter granted.

Creation of Corporation.

"SEC. 2. The management of the Corporation shall be vested in a Board of Directors consisting of three members, one of whom shall be the Comptroller of the Currency, and two of whom shall be citizens of the United States to be appointed by the President, by and with the advice and consent of the Senate. One of the appointive members shall be the Chairman of the Board of Directors of the Corporation and not more than two of the members of such Board of Directors shall be members of the same political party. Each such appointive member shall hold office for a term of six years. In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, or during the absence of the Comptroller from Washington, the Acting Comptroller of the Currency shall be a member of the Board of Directors in the place and stead of the Comptroller. In the event of a vacancy in the office of the Chairman of the Board of Directors, and pending the appointment of his successor, the Comptroller of the Currency shall act as Chairman. The members of the Board of Directors shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any insured bank, except that this restriction shall not apply to any member who has served the full term for which he was appointed. No member of the Board of Directors shall be an officer or director of any insured bank or Federal Reserve bank or hold stock in any insured bank; and before entering upon his duties as a member of the Board of Directors he shall certify under oath that he has complied with this requirement and such certification shall be filed with the secretary of the Board of Directors.

Board of Directors.

Terms of office.

Restrictions.

"SEC. 3. As used in this Act—

Definitions.

"(a) The term 'State bank' means any bank, banking association, trust company, savings bank, or other banking institution which is engaged in the business of receiving deposits, other than trust funds as herein defined, and which is incorporated under the laws of any State, any Territory of the United States, Puerto Rico, or the Virgin Islands, or which is operating under the Code of Law for the District of Columbia (except a national bank), and includes any unincorporated bank the deposits of which are insured on the effective date of this amendment.

"(b) The term 'State member bank' means any State bank which is a member of the Federal Reserve System, and the term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.

"(c) The term 'District bank' means any State bank operating under the Code of Law for the District of Columbia.

"(d) The term 'national member bank' means any national bank located in any of the States of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, or the Virgin Islands which is a member of the Federal Reserve System.

"(e) The term 'national nonmember bank' means any national bank located in any Territory of the United States, Puerto Rico, or the Virgin Islands which is not a member of the Federal Reserve System.

"(f) The term 'mutual savings bank' means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers.

"(g) The term 'savings bank' means a bank (other than a mutual savings bank) which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business: *Provided*, That the bank maintains, until maturity date or until withdrawn, all deposits made with it (other than funds held by it in a fiduciary capacity) as time savings deposits of the specific term type or of the type where the right is reserved to the bank to require written notice before permitting withdrawal: *Provided further*, That such bank to be considered a savings bank must elect to become subject to regulations of the Corporation with respect to the redeposit of maturing deposits and prohibiting withdrawal of deposits by checking except in cases where such withdrawal was permitted by law on August 23, 1935, from specifically designated deposit accounts totaling not more than 15 per centum of the bank's total deposits.

"(h) The term 'insured bank' means any bank the deposits of which are insured in accordance with the provisions of this Act; and the term 'noninsured bank' means any bank the deposits of which are not so insured.

"(i) The term 'new bank' means a new national banking association organized by the Corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions prescribed in this Act.

"(j) The term 'receiver' includes a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank.

"(k) The term 'Board of Directors' means the Board of Directors of the Corporation.

"(l) The term 'deposit' means the unpaid balance of money or its equivalent received by a bank in the usual course of business and for which it has given or is obligated to give credit to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, and trust funds held by such bank whether retained or deposited in any department of such bank or deposited in another bank, together with such other obligations of a bank as the Board of Directors shall find and shall prescribe by its regulations to be deposit liabilities by general usage: *Provided*, That any obligation of a bank which is payable only at an office of the bank located outside the States of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, and the Virgin Islands, shall not be a deposit for any of the purposes of this Act or be included as a part of total deposits or of an insured deposit: *Provided further*, That any insured bank having its principal place of business in any of the States of the United States or in the District of Columbia which maintains a branch in any Territory of the United States, Puerto Rico, or the Virgin Islands may elect to exclude from insurance

under this Act its deposit obligations which are payable only at such branch, and upon so electing the insured bank with respect to such branch shall comply with the provisions of this Act applicable to the termination of insurance by nonmember banks: *Provided further*, That the bank may elect to restore the insurance to such deposits at any time its capital stock is unimpaired.

"(m) The term 'insured deposit' means the net amount due to any depositor for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of $10,000. Such net amount shall be determined according to such regulations as the Board of Directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others except trust funds which shall be insured as provided in subsection (i) of section 7. Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of the Virgin Islands, of any county, of any municipality, or of any political subdivision thereof, herein called 'public unit', having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity.

Post, p. 879.

"(n) The term 'transferred deposit' means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

"(o) The term 'branch' includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, or the Virgin Islands at which deposits are received or checks paid or money lent.

"(p) The term 'trust funds' means funds held by an insured bank in a fiduciary capacity and includes, without being limited to, funds held as trustee, executor, administrator, guardian, or agent.

Insured bank.

"SEC. 4. (a) Every bank, which is an insured bank on the effective date of this amendment, shall be and continue to be, without application or approval, an insured bank and shall be subject to the provisions of this Act.

National member banks.

"(b) Every national member bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every such national nonmember bank which becomes a member of the Federal Reserve System, and every State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits, other than trust funds as herein defined, shall be an insured bank from the time it is authorized to commence or resume business or becomes a member of the Federal Reserve System. The certificate herein prescribed shall be issued to the Corporation by the Comptroller of the Currency in the case of such national member bank, or by the Board of Governors of the Federal Reserve System in the case of such State member bank: *Provided*, That in the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such certificate shall not be required, and the bank shall continue as an insured bank. Such certificate shall state that the bank is authorized to transact the business of

Issuance of certificate.

Exception.

banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State member bank, and that consideration has been given to the factors enumerated in section 6. A State bank, resulting from the conversion of an insured national bank, shall continue as an insured bank. A State bank, resulting from the merger or consolidation of insured banks, or from the merger or consolidation of a noninsured bank or institution with an insured State bank, shall continue as an insured bank.

State banks.

Application for insurance by nonmember bank.

"SEC. 5. Subject to the provisions of this Act, any national nonmember bank which is engaged in the business of receiving deposits, other than trust funds as herein defined, upon application by the bank and certification by the Comptroller of the Currency in the manner prescribed in subsection (b) of section 4 and any State nonmember bank, upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured bank. Before approving the application of any such State nonmember bank, the Board of Directors shall give consideration to the factors enumerated in section 6 and shall determine, upon the basis of a thorough examination of such bank, that its assets in excess of its capital requirements are adequate to enable it to meet all of its liabilities to depositors and other creditors as shown by the books of the bank.

Factors enumerated in certificate, etc.

"SEC. 6. The factors to be enumerated in the certificate required under section 4 and to be considered by the Board of Directors under section 5 shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this Act.

Assessment rate, base, etc.

"SEC. 7. (a) The assessment rate shall be one-twelfth of 1 per centum per annum. The semiannual assessment for each insured bank shall be in the amount of the product of one-half the annual assessment rate multiplied by the assessment base. The assessment base shall be the amount of the liability of the bank for deposits, according to the definition of the term 'deposit' in and pursuant to subsection (1) of section 3, without any deduction for indebtedness of depositors: *Provided*, That the bank—

Deductions.

"(1) may deduct (i) from the deposit balance due to an insured bank the deposit balance due from such insured bank (other than trust funds deposited by it in such bank) which is subject to immediate withdrawal; (ii) trust funds held by the bank in a fiduciary capacity and which are deposited in another insured bank; and (iii) cash items as determined by either of the following methods, at the option of the bank: (aa) By multiplying by 2 the total of the cash items forwarded for collection on the assessment base days (being the days on which the average deposits are computed) and cash items held for clearings at the close of business on said days, which are in the process of collection and which the bank has paid in the regular course of business or credited to deposit accounts; or (bb) by deducting the total of cash items forwarded for collection on the assessment base days and cash items held for clearings at the close of business on said days, which are in the process of collection and which the bank has paid in the regular course of business or credited to deposit accounts, plus such uncollected items paid or credited on preceding days which are in the process of collection: *Provided*, That the Board of Directors may define the terms 'cash items', 'process of collection', and 'uncollected items' and shall fix the maximum period for which any such item may be deducted; and

Definitions, etc., by Board of Directors.

"(2) may exclude from its assessment base (i) drafts drawn by it on deposit accounts in other banks which are issued in the regular course of business; and the amount of any advices or authorizations, issued by it for cash letters received, directing that its deposit account in the sending bank be charged with the amount thereof; and (ii) cash funds which are received and held solely for the purpose of securing a liability to the bank but not in an amount in excess of such liability, and which are not subject to withdrawal by the obligor and are carried in a special non-interest-bearing account designated to properly show their purpose.

Exclusions.

Each insured bank, as a condition to the right to make any such deduction or exclusion in determining its assessment base, shall maintain such records as will readily permit verification of the correctness thereof. The semiannual assessment base for one semiannual period shall be the average of the assessment base of the bank as of the close of business on March 31 and June 30, and the semiannual assessment base for the other semiannual period shall be the average of the assessment base of the bank as of the close of business on September 30 and December 31: *Provided*, That when any of said days is a nonbusiness day or a legal holiday, either National or State, the preceding business day shall be used. The certified statements required to be filed with the Corporation under subsections (b) and (c) of this section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe. The assessment payments required from insured banks under subsections (b) and (c) of this section shall be made in such manner and at such time or times as the Board of Directors shall prescribe, provided the time or times so prescribed shall not be later than sixty days after filing the certified statement setting forth the amount of assessment.

Maintenance of records.

Semiannual assessment base.

Certified statements.

Assessment payments.

"(b) On or before the 15th day of July of each year, each insured bank shall file with the Corporation a certified statement showing for the six months ending on the preceding June 30 the amount of the assessment base and the amount of the semiannual assessment due to the Corporation for the period ending on the following December 31, determined in accordance with subsection (a) of this section, which shall contain or be verified by a written declaration that it is made under the penalties of perjury. Each insured bank shall pay to the Corporation the amount of the semiannual assessment it is required to certify. On or before the 15th day of January of each year, each insured bank shall file with the Corporation a similar certified statement for the six months ending on the preceding December 31 and shall pay to the Corporation the amount of the semiannual assessment for the period ending on the following June 30 which it is required to certify.

Filing of certified statements.

"(c) Each bank which becomes an insured bank shall not be required to file any certified statement or pay any assessment for the semiannual period in which it becomes an insured bank. On the expiration of such period, each such bank shall comply with the provisions of subsection (b) of this section except that the semiannual assessment base for its first certified statement shall be the assessment base of the bank as of the close of business on the preceding June 30 or December 31, whichever is applicable, determined in accordance with subsection (a) of this section. If such bank has assumed the liabilities for deposits of another bank or banks, it shall include such liabilities in its assessment base. The first certified statement shall show as the amount of the first semiannual assessment due to the Corporation, an amount equal to the product of one-half of the annual assessment rate multiplied by such assessment base.

Exemptions.

"(d) As of December 31, 1950, and as of December 31, of each calendar year thereafter, the Corporation shall transfer 40 per centum

Net assessment income.

of its net assessment income to its capital account and the balance of the net assessment income shall be credited pro rata to the insured banks based upon the assessments of each bank becoming due during said calendar year. Each year such credit shall be applied by the Corporation toward the payment of the total assessment becoming due for the semiannual assessment period beginning the next ensuing July 1 and any excess credit shall be applied upon the assessment next becoming due. The term 'net assessment income' as used herein means the total assessments which become due during the calendar year less (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance losses during the calendar year, except that any adjustments to reserve which result in a reduction of such reserve shall be added; and (3) the insurance losses sustained in said calendar year plus losses from any preceding years in excess of such reserves. If the above deductions exceed in amount the total assessments which become due during the calendar year, the amount of such excess shall be restored by deduction from total assessments becoming due in subsequent years.

Refund or credit of excess payment.

"(e) The Corporation (1) may refund to an insured bank any payment of assessment in excess of the amount due to the Corporation or (2) may credit such excess toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

Suit to compel filing of statement.

"(f) Any insured bank which fails to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the bank to the Corporation may be compelled to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Corporation against the bank and any officer or officers thereof in any court of the United States of competent jurisdiction in the District or Territory in which such bank is located.

Recovery of unpaid assessment, etc.

"(g) The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured bank the amount of any unpaid assessment lawfully payable by such insured bank to the Corporation, whether or not such bank shall have filed any such certified statement and whether or not suit shall have been brought to compel the bank to file any such statement. No action or proceeding shall be brought for the recovery of any assessment due to the Corporation, or for the recovery of any amount paid to the Corporation in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except where the insured bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of assessment, in which case the claim shall not be deemed to have accrued until the discovery by the Corporation that the certified statement is false or fraudulent: *Provided, however*, That where a cause of action has already accrued, and the period herein prescribed within which an action may be brought has expired, or will expire within one year from the date this amendment becomes effective, an action may be brought on such cause of action within one year from the effective date of this amendment: *And provided further*, That no action or proceeding shall be brought for the recovery of any assessment on deposits alleged to have been omitted from the assessment base of any insured bank for any year prior to 1945 except that any claim of the Corporation for the payment of any assessment may be offset by it against any claim of the bank for the overpayment of any assessment.

"(h) Should any national member bank or any insured national nonmember bank fail to file any certified statement required to be filed by such bank under any provision of this section, or fail to pay any assessment required to be paid by such bank under any provision of this Act, and should the bank not correct such failure within thirty days after written notice has been given by the Corporation to an officer of the bank, citing this subsection, and stating that the bank has failed to file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under the National Bank Act, as amended, the Federal Reserve Act, as amended, or this Act, shall be thereby forfeited. Whether or not the penalty provided in this subsection has been incurred shall be determined and adjudged in the manner provided in the sixth paragraph of section 2 of the Federal Reserve Act, as amended. The remedies provided in this subsection and in the two preceding subsections shall not be construed as limiting any other remedies against any insured bank, but shall be in addition thereto.

Forfeiture of franchises, etc.

18 Stat. 123; 38 Stat. 251.
12 U. S. C. §§ 38 and note, 226 and note; Sup. III, §§ 2 *et seq.*, 241 *et seq.*
Ante, pp. 80, 307, 457, 458, 463,
38 Stat. 252.
12 U. S. C. § 501a.

"(i) Trust funds held by an insured bank in a fiduciary capacity whether held in its trust or deposited in any other department or in another bank shall be insured in an amount not to exceed $10,000 for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust funds shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this Act, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or the beneficiaries of such trust estates: *Provided*, That where the fiduciary bank deposits any of such trust funds in other insured banks, the amount so held by other insured banks on deposit shall not for the purpose of any certified statement required under subsections (b) and (c) of this section be considered to be a deposit liability of the fiduciary bank, but shall be considered to be a deposit liability of the bank in which such funds are so deposited by such fiduciary bank. The Board of Directors shall have power by regulation to prescribe the manner of reporting and of depositing such trust funds.

Insurance of trust funds.

"SEC. 8. (a) Any insured bank (except a national member bank or State member bank) may, upon not less than ninety days' written notice to the Corporation, and to the Reconstruction Finance Corporation if it owns or holds as pledgee any preferred stock, capital notes, or debentures of such bank, terminate its status as an insured bank. Whenever the Board of Directors shall find that an insured bank or its directors or trustees have continued unsafe or unsound practices in conducting the business of such bank, or have knowingly or negligently permitted any of its officers or agents to violate any provision of any law or regulation to which the insured bank is subject, the Board of Directors shall first give to the Comptroller of the Currency in the case of a national bank or a District bank, to the authority having supervision of the bank in the case of a State bank, or to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof and shall give a copy thereof to the bank. Unless such correction shall be made within one hundred and twenty days or such shorter period of time as the Comptroller of the Currency, the State authority, or Board of Governors of the Federal Reserve System, as the case may be, shall require, the Board of Directors, if it shall determine to proceed further, shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the Board of Directors or before a person

Termination of status by insured bank.

Correction of unsafe practices, etc.

Hearing.

designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the Board of Directors shall make written findings which shall be conclusive. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank. If the Board of Directors shall find that any unsafe or unsound practice or violation specified in such notice has been established and has not been corrected within the time above prescribed in which to make such corrections, the Board of Directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. The Corporation may publish notice of such termination and the bank shall give notice of such termination to each of its depositors at his last address of record on the books of the bank, in such manner and at such time as the Board of Directors may find to be necessary and may order for the protection of depositors. After the termination of the insured status of any bank under the provisions of this subsection, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue for a period of two years to be insured, and the bank shall continue to pay to the Corporation assessments as in the case of an insured bank during such period. No additions to any such deposits and no new deposits in such bank made after the date of such termination shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall also state with equal prominence that such additions to deposits and new deposits made after such date are not so insured. Such bank shall, in all other respects, be subject to the duties and obligations of an insured bank for the period of two years from the date of such termination, and in the event that such bank shall be closed on account of inability to meet the demands of its depositors within such period of two years, the Corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

Publication of notice.

Continuation of insured deposits.

Noninsurance of additions and new deposits.

Duties of insured bank after termination, etc.

State member bank. Termination of membership in Federal Reserve System.

38 Stat. 260.
12 U. S. C. § 327.
Appointment of receiver for national member bank.
Ante, p. 875.

"(b) Whenever the insured status of a State member bank shall be terminated by action of the Board of Directors, the Board of Governors of the Federal Reserve System shall terminate its membership in the Federal Reserve System in accordance with the provisions of section 9 of the Federal Reserve Act, and whenever the insured status of a national member bank shall be so terminated the Comptroller of the Currency shall appoint a receiver for the bank, which shall be the Corporation. Except as provided in subsection (b) of section 4, whenever a member bank shall cease to be a member of the Federal Reserve System, its status as an insured bank shall, without notice or other action by the board of directors, terminate on the date the bank shall cease to be a member of the Federal Reserve System, with like effect as if its insured status had been terminated on said date by the board of directors after proceedings under subsection (a) of this section.

Bank not receiving deposits other than trust funds. Termination of insured status.

"(c) Notwithstanding any other provision of law, whenever the Board of Directors shall determine that an insured banking institution is not engaged in the business of receiving deposits, other than trust funds as herein defined, the Corporation shall notify the banking institution that its insured status will terminate at the expiration of the first full semiannual assessment period following such notice. A finding by the Board of Directors that a banking institution is not engaged in the business of receiving deposits, other than such trust funds, shall be conclusive. The Board of Directors shall prescribe the notice to be given by the banking institution of such termination

and the Corporation may publish notice thereof. Upon the termination of the insured status of any such banking institution, its deposits shall thereupon cease to be insured and the banking institution shall thereafter be relieved of all future obligations to the Corporation, including the obligation to pay future assessments.

Assumption of liabilities by another insured bank.

"(d) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption with like effect as if its insured status had been terminated on said date by the Board of Directors after proceedings under subsection (a) of this section: *Provided*, That if the bank whose liabilities are so assumed gives to its depositors notice of such assumption within thirty days after such assumption takes effect, by publication or by any reasonable means, in accordance with regulations to be prescribed by the Board of Directors, the insurance of its deposits shall terminate at the end of six months from the date such assumption takes effect. Such bank shall be subject to the duties and obligations of an insured bank for the period its deposits are insured: *Provided*, That if the deposits are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.

Corporate powers.
48 Stat. 162.
12 U. S. C. § 227 and note; Sup. III, § 24 *et seq.*
Ante, pp. 457, 458.

"SEC. 9. Upon the date of enactment of the Banking Act of 1933, the Corporation shall become a body corporate and as such shall have power—

"First. To adopt and use a corporate seal.

"Second. To have succession until dissolved by an Act of Congress.

"Third. To make contracts.

"Fourth. To sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States: *Provided*, That any such suit to which the Corporation is a party in its capacity as receiver of a State bank and which involves only the rights or obligations of depositors, creditors, stockholders, and such State bank under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board of Directors shall designate an agent upon whom service of process may be made in any State, Territory, or jurisdiction in which any insured bank is located.

"Fifth. To appoint by its Board of Directors such officers and employees as are not otherwise provided for in this Act, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"Sixth. To prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"Seventh. To exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act, and such incidental powers as shall be necessary to carry out the powers so granted.

"Eighth. To make examinations of and to require information and reports from banks, as provided in this Act.

"Ninth. To act as receiver.

"Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act.

Administration of Corporation.

"SEC. 10. (a) The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Board of Directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The Corporation with the consent of any Federal Reserve bank or of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this Act.

Free use of U. S. mails.

Examiners.

"(b) The Board of Directors shall appoint examiners who shall have power, on behalf of the Corporation, to examine any insured State nonmember bank (except a District bank), any State nonmember bank making application to become an insured bank, and any closed insured bank, whenever in the judgment of the Board of Directors an examination of the bank is necessary. In addition to the examinations provided for in the preceding sentence, such examiners shall have like power to make special examination of any State member bank and any national bank or District bank, whenever in the judgment of the Board of Directors such special examination is necessary to determine the condition of any such bank for insurance purposes. Each such examiner shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine and take and preserve the testimony of any of the officers and agents thereof, and shall make a full and detailed report of the condition of the bank to the Corporation. The Board of Directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured deposits and transferred deposits. Each claim agent shall have power to administer oaths and to examine under oath and take and preserve the testimony of any persons relating to such claims.

Oaths.

Claim agents.

Oaths.

Conduct of hearing. Powers of Board.

"(c) For the purpose of any hearing under this Act, the Board of Directors, any member thereof or any person designated by the Board of Directors to conduct any such hearing, is empowered to administer oaths and affirmations, subpena any officer or employee of the insured bank, compel his attendance, take evidence, take depositions and require the production of any books, records, or other papers of the insured bank which are relevant or material to the inquiry. For the purpose of any hearing, examination, or investigation under this Act, the Board of Directors may apply to any judge or clerk of any court of the United States within the jurisdiction of which such hearing, examination, or investigation is carried on, or where such person resides or carries on business, to issue a subpena commanding each person to whom it is directed to attend and give testimony or for the taking of his deposition and to produce books, records, or other papers relevant or material to such hearing, examination, or investigation at a time and place and before a person therein specified. Such attendance of witnesses and the production of any such papers may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place where such a hearing is being held or such examination or inves-

U. S. Courts.

tigation is being made: *Provided, however*, That the production of a person's documents at any place other than his place of business shall not be required in any case in which, prior to the return date specified in the subpena with respect thereto, such person either has furnished as directed a copy of such documents (certified by such person under oath to be a true and correct copy) or has entered into a stipulation with any authorized representative of the Corporation as to the information contained in such documents. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

Witness fees.

"(d) In cases of refusal to obey a subpena issued to, or contumacy by, any person, the Board of Directors may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. And such court may issue an order requiring such person to appear before the Board of Directors or member or person designated by the Board of Directors, there to produce records, if so ordered, or to give testimony touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpena issued under the authority of this Act on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Contumacy, etc.

"(e) Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition in such form and at such times as the Board of Directors may require. The Board of Directors may require such reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within such time, not less than five days, as the Board of Directors may require, shall be subject to a penalty of not more than $100 for each day of such failure recoverable by the Corporation for its use.

Reports of condition by State nonmember banks.

"(f) The Corporation shall have access to reports of examination made by, and reports of condition made to, the Comptroller of the Currency or any Federal Reserve bank, may accept any report made by or to any commission, board, or authority having supervision of a State nonmember bank (except a District bank), and may furnish to the Comptroller of the Currency, to any Federal Reserve bank, and to any such commission, board, or authority, reports of examinations made on behalf of, and reports of condition made to, the Corporation.

Access to reports.

"(g) The Corporation may cause any and all records, papers, or documents kept by it or in its possession or custody to be photographed or microphotographed or otherwise reproduced upon film, which photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the National Bureau of Standards. Such photographs, microphotographs, or photographic film or copies thereof shall be deemed to be

Permanent photographic records.

an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded. Such photographs, microphotographs, or reproduction shall be preserved in such manner as the Board of Directors of the Corporation shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Board shall direct.

Permanent Insurance Fund.

Ante, p. 873.

"SEC. 11. (a) The Temporary Federal Deposit Insurance Fund and the Fund For Mutuals heretofore created pursuant to the provisions of section 12B of the Federal Reserve Act, as amended, are hereby consolidated into a Permanent Insurance Fund for insuring deposits, and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation: *Provided*, That the obligations to and rights of the Corporation, depositors, banks, and other persons arising out of any event or transaction prior to the effective date of this amendment shall remain unimpaired. On and after August 23, 1935, the Corporation shall insure the deposits of all insured banks as provided in this Act: *Provided further*, That the insurance shall apply only to deposits of insured banks which have been made available since March 10, 1933, for withdrawal in the usual course of the banking business: *Provided further*, That if any insured bank shall, without the consent of the Corporation, release or modify restrictions on or deferments of deposits which had not been made available for withdrawal in the usual course of the banking business on or before August 23, 1935, such deposits shall not be insured. The maximum amount of the insured deposit of any depositor shall be $10,000: *And provided further*, That in the case of banks closing prior to the effective date of this amendment, the maximum amount of the insured deposit of any depositor shall be $5,000.

Maximum amount of insured deposit.

Closed bank; inability to meet demands.

"(b) For the purposes of this Act an insured bank shall be deemed to have been closed on account of inability to meet the demands of its depositors in any case in which it has been closed for the purpose of liquidation without adequate provision being made for payment of its depositors.

Appointment of receiver.

"(c) Notwithstanding any other provision of law, whenever the Comptroller of the Currency shall appoint a receiver other than a conservator of any insured national bank or insured District bank, or of any noninsured national bank or District bank hereafter closed, he shall appoint the Corporation receiver for such closed bank.

Duties of Corporation as receiver.

"(d) Notwithstanding any other provision of law, it shall be the duty of the Corporation as such receiver to cause notice to be given, by advertisement in such newspapers as it may direct, to all persons having claims against such closed bank pursuant to section 5235 of the Revised Statutes (U. S. C., title 12, sec. 193); to realize upon the assets of such closed bank, having due regard to the condition of credit in the locality; to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in conformity with the provisions of law relating to the liquidation of closed national banks, except as herein otherwise provided. The Corporation as such receiver shall pay to itself for its own account such portion of the amounts realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors, and it shall pay to depositors and other creditors the net amounts available for distribution to them. The Corporation as such receiver, however, may, in its discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to the aforesaid section of the Revised Statutes, and no liability shall attach to the Corporation itself or as such receiver by reason of any

such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. With respect to any such closed bank, the Corporation as such receiver shall have all the rights, powers, and privileges now possessed by or hereafter granted by law to a receiver of a national bank or District bank and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of the Secretary of the Treasury or the Comptroller of the Currency.

Rights, powers, etc., as receiver.

"(e) Whenever any insured State bank (except a District bank) shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall accept appointment as receiver thereof, if such appointment is tendered by the authority having supervision of such bank and is authorized or permitted by State law. With respect to any such insured State bank, the Corporation as such receiver shall possess all the rights, powers and privileges granted by State law to a receiver of a State bank.

Receiver for closed State bank.

"(f) Whenever an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits in such bank shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g) of this section either (1) by cash or (2) by making available to each depositor a transferred deposit in a new bank in the same community or in another insured bank in an amount equal to the insured deposit of such depositor: *Provided*, That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim.

Payment of insured deposits.

Proof of claims.

"(g) In the case of a closed national bank or District bank, the Corporation, upon the payment to any depositor as provided in subsection (f) of this section, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. In the case of any other closed insured bank, the Corporation shall not make any payment to any depositor until the right of the Corporation to be subrogated to the rights of such depositor on the same basis as provided in the case of a closed national bank under this Act shall have been recognized either by express provision of State law, by allowance of claims by the authority having supervision of such bank, by assignment of claims by depositors, or by any other effective method. In the case of any closed insured bank, such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: *Provided*, That, with respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated: *Provided further*, That the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law.

Closed national or District bank, etc. Subrogation of depositor's rights.

Banks closing after May 25, 1938. Waiver of claim.

Organization of new national bank.

"(h) As soon as possible after the closing of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the closed bank or the public, shall organize a new national bank to assume the insured deposits of such closed bank and otherwise to perform temporarily the functions hereinafter provided for. The new bank shall have its place of business in the same community as the closed bank.

"(i) The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations. The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $10,000 from any depositor. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, with a Federal Reserve bank, or, to the extent of the insurance coverage thereon, with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this Act and as may be incidental to its organization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

Deposit limitation.

Insured status of new bank.

Restriction on transaction of business.

Tax exemption.

Availability of funds.

"(j) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such closed bank plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for his insured deposit in the closed bank, and the total expenses of operation of the new bank. Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined. Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment. If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses. The new bank shall assume as transferred deposits the payment of the insured deposits of such closed bank to each of its depositors. Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

Earnings.

Additional funds for losses.

Cash transfers.

Capital stock.

"(k) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the

Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes, as amended (U. S. C., title 12, sec. 51), for the organization of a national bank in the place where such new bank is located. The stockholders of the closed insured bank shall be given the first opportunity to purchase any shares of common stock so offered. Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, he shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law, and it shall be subject to all the provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

Purchase by stockholders of closed bank.

Issuance of certificate of authority.

"(1) If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured bank in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided. Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured bank as above provided within two years from the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets. The provisions of sections 5220 and 5221 of the Revised Statutes (U. S. C., title 12, secs. 181 and 182) shall not apply to such new banks.

Transfer of business.

Termination of new bank.

Liability for obligations.

"SEC. 12. (a) Notwithstanding any other provision of law, the Corporation as receiver of a closed national bank or District bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver.

Corporation as receiver.

"(b) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

"(c) Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such new bank or other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner

is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

Withholding payment for liability.

"(d) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

Barring of depositor's rights, etc.

"(e) If, after the Corporation shall have given at least three months' notice to the depositor by mailing a copy thereof to his last-known address appearing on the records of the closed bank, any depositor in the closed bank shall fail to claim his insured deposit from the Corporation within eighteen months after the appointment of the receiver for the closed bank, or shall fail within such period to claim or arrange to continue the transferred deposit with the new bank or with the other insured bank which assumes liability therefor, all rights of the depositor against the Corporation with respect to the insured deposit, and against the new bank and such other insured bank with respect to the transferred deposit, shall be barred, and all rights of the depositor against the closed bank and its shareholders, or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. The amount of any transferred deposits not claimed within such eighteen months' period, shall be refunded to the Corporation.

Refund of transferred deposits.

Investment of funds.

"SEC. 13. (a) Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States: *Provided*, That the Corporation shall not sell or purchase any such obligations for its own account and in its own right and interest, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury: *And provided further*, That the Secretary of the Treasury may waive the requirement of his approval with respect to any transaction or classes of transactions subject to the provisions of this subsection for such period of time and under such conditions as he may determine.

Banking or checking accounts.

"(b) The banking or checking accounts of the Corporation shall be kept with the Treasurer of the United States, or, with the approval of the Secretary of the Treasury, with a Federal Reserve bank, or with a bank designated as a depositary or fiscal agent of the United States: *Provided*, That the Secretary of the Treasury may waive the requirements of this subsection under such conditions as he may determine: *And provided further*, That this subsection shall not apply to the establishment and maintenance in any bank for temporary purposes of banking and checking accounts not in excess of $50,000 in any one bank, or to the establishment and maintenance in any bank of any banking and checking accounts to facilitate the payment of insured deposits, or the making of loans to, or the purchase of assets of, insured banks. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public moneys, except receipts from customs, under such regulations as may be prescribed by the said Secretary, and may also be employed as a financial agent of the Government. It shall perform all such reasonable duties as depositary of public moneys and financial agent of the Government as may be required of it.

Depositary of public moneys.

Loans, etc.

"(c) In order to reopen a closed insured bank or, when the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, the Corporation, in the discretion of its

Board of Directors, is authorized to make loans to, or purchase the assets of, or make deposits in, such insured bank, upon such terms and conditions as the Board of Directors may prescribe, when in the opinion of the Board of Directors the continued operation of such bank is essential to provide adequate banking service in the community. Such loans and deposits may be in subordination to the rights of depositors and other creditors.

Offer of assets for sale to Corporation, etc.

"(d) Receivers or liquidators of insured banks closed on account of inability to meet the demands of their depositors shall be entitled to offer the assets of such banks for sale to the Corporation or as security for loans from the Corporation, upon receiving permission from the appropriate State authority in accordance with express provisions of State law in the case of insured State banks. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such banks. In any case where prior to the effective date of this amendment, the Comptroller of the Currency has appointed a receiver of a closed national bank other than the Corporation, he may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to section 5235 of the Revised Statutes (U. S. C., title 12, sec. 193), and no liability shall attach to the Comptroller of the Currency or to the receiver of any such national bank by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured bank which is now or may hereafter be closed on account of inability to meet the demands of its depositors, but in any case in which the Corporation is acting as receiver of a closed insured bank, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

Payment of dividends on proved claims.

Loans secured by assets.

"(e) Whenever in the judgment of the Board of Directors such action will reduce the risk or avert a threatened loss to the Corporation and will facilitate a merger or consolidation of an insured bank with another insured bank, or will facilitate the sale of the assets of an open or closed insured bank to and assumption of its liabilities by another insured bank, the Corporation may, upon such terms and conditions as it may determine, make loans secured in whole or in part by assets of an open or closed insured bank, which loans may be in subordination to the rights of depositors and other creditors, or the Corporation may purchase any such assets or may guarantee any other insured bank against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured bank. Any insured national bank or District bank, or the Corporation as receiver thereof, is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans.

Validity of agreement.

"No agreement which tends to diminish or defeat the right, title or interest of the Corporation in any asset acquired by it under this section, either as security for a loan or by purchase, shall be valid against the Corporation unless such agreement (1) shall be in writing, (2) shall have been executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank, (3) shall have been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of said board or committee, and (4) shall have been, continuously, from the time of its execution, an official record of the bank.

Payment on advances.

"(f) Prior to July 1, 1951, the Corporation shall pay out of its capital account to the Secretary of the Treasury an amount equal to

2 per centum simple interest per annum on amounts advanced to the Corporation on stock subscriptions by the Secretary of the Treasury and the Federal Reserve banks, from the time of such advances until the amounts thereof were repaid. The amount payable hereunder shall be paid in two equal installments, the first installment to be paid prior to December 31, 1950.

Funds required for insurance.

"SEC. 14. The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury is authorized and directed to loan to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes, not exceeding in the aggregate $3,000,000,000 outstanding at any one time: *Provided*, That the rate of interest to be charged in connection with any loan made pursuant to this section shall not be less than the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan. For such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include such loans. Any such loan shall be used by the Corporation solely in carrying out its functions with respect to such insurance. All loans and repayments under this section shall be treated as public-debt transactions of the United States.

Interest rate.

40 Stat. 288.
31 U. S. C. § 774 (2); Sup. III, § 760 *et seq.*

Tax exemption.

"SEC. 15. All notes, debentures, bonds, or other such obligations issued by the Corporation shall be exempt, both as to principal and interest, from all taxation (except estate and inheritance taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority: *Provided*, That interest upon or any income from any such obligations and gain from the sale or other disposition of such obligations shall not have any exemption, as such, and loss from the sale or other disposition of such obligations shall not have any special treatment, as such, under the Internal Revenue Code, or laws amendatory or supplementary thereto. The Corporation, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

Exceptions.

Forms of notes, etc.

"SEC. 16. In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the Treasury subject to delivery, upon order of the Corporation. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other such obligations.

Custody of plates, etc.

Report to Congress.

"SEC. 17. (a) The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year.

Audit by General Accounting Office.

"(b) The financial transactions of the Corporation shall be audited by the General Accounting Office in accordance with the principles

and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation. The audit shall begin with financial transactions occurring on and after August 31, 1948.

Audit report to Congress, etc.

"(c) A report of the audit for each fiscal year ending on June 30 shall be made by the Comptroller General to the Congress not later than January 15 following the close of such fiscal year. On or before December 15 following such fiscal year the Comptroller General shall furnish the Corporation a short form report showing the financial position of the Corporation at the close of the fiscal year. The report to the Congress shall set forth the scope of the audit and shall include a statement of assets and liabilities and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary of the Treasury, and to the Corporation at the time submitted to the Congress.

Short form report.

Contracts for professional services.

"(d) For the purpose of conducting such audit the Comptroller General is authorized in his discretion to employ by contract, without regard to section 3709 of the Revised Statutes, professional services of firms and organizations of certified public accountants, with the concurrence of the Corporation, for temporary periods or for special purposes. The Corporation shall reimburse the General Accounting Office for the cost of any such audit as billed therefor by the Comptroller General, and the General Accounting Office shall deposit the sums so reimbursed into the Treasury as miscellaneous receipts.

41 U. S. C., Sup. III, § 5.

Reimbursement for cost of audit.

Display of sign by insured banks.

"SEC. 18. (a) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include a statement to the effect that its deposits are insured by the Corporation in all of its advertisements: *Provided*, That the Board of Directors may exempt from this requirement advertisements which do not relate to deposits or when it is impractical to include such statement therein. The Board of Directors shall prescribe by regulation the forms of such signs and the manner of display and the substance of such statements and the manner of use. For each day an insured bank continues to violate any provisions of this subsection or any lawful provisions of said regulations, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.

Penalty.

Payment of dividends while in default, etc.

"(b) No insured bank shall pay any dividends on its capital stock or interest on its capital notes or debentures (if such interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Corporation; and any director or officer of any

insured bank who participates in the declaration or payment of any such dividend or interest or in any such distribution shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both: *Provided*, That, if such default is due to a dispute between the insured bank and the Corporation over the amount of such assessment, this subsection shall not apply, if such bank shall deposit security satisfactory to the Corporation for payment upon final determination of the issue.

Nonapplicability.

Restrictions.

"(c) Without prior written consent by the Corporation, no insured bank shall (1) merge or consolidate with any noninsured bank or institution or convert into a noninsured bank or institution or (2) assume liability to pay any deposits made in, or similar liabilities of, any noninsured bank or institution or (3) transfer assets to any noninsured bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in such insured bank. No insured bank shall convert into an insured State bank if its capital stock, or its surplus will be less than the capital stock or surplus, respectively, of the converting bank at the time of the shareholders' meeting approving such conversion, without prior written consent by the Comptroller of the Currency if the resulting bank is to be a District bank, or by the Board of Governors of the Federal Reserve System if the resulting bank is to be a State member bank (except a District bank), or by the Corporation if the resulting bank is to be a State nonmember insured bank (except a District bank). No insured bank shall (i) merge or consolidate with an insured State bank under the charter of a State bank or (ii) assume liability to pay any deposits made in another insured bank, if the capital stock or surplus of the resulting or assuming bank will be less than the aggregate capital stock or aggregate surplus, respectively, of all the merging or consolidating banks or of all the parties to the assumption of liabilities, at the time of the shareholders' meetings which authorized the merger or consolidation or at the time of the assumption of liabilities, unless the Comptroller of the Currency shall give prior written consent if the assuming bank is to be a national bank or the assuming or resulting bank is to be a District bank; or unless the Board of Governors of the Federal Reserve System gives prior written consent if the assuming or resulting bank is to be a State member bank (except a District bank); or unless the Corporation gives prior written consent if the assuming or resulting bank is to be a nonmember insured bank (except a District bank). No insured State nonmember bank (except a District bank) shall, without the prior consent of the Corporation, reduce the amount or retire any part of its common or preferred capital stock, or retire any part of its capital notes or debentures.

"(d) No State nonmember insured bank (except a District bank) shall establish and operate any new branch unless it shall have the prior written consent of the Corporation, and no State nonmember insured bank (except a District bank) shall move its main office or any branch from one location to another without such consent. The factors to be considered in granting or withholding the consent of the Corporation under this subsection shall be those enumerated in section 6 of this Act.

Ante, p. 876.

Indemnity against burglary, etc.

"(e) The Corporation may require any insured bank to provide protection and indemnity against burglary, defalcation, and other similar insurable losses. Whenever any insured bank refuses to comply with any such requirement the Corporation may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

Failure to comply with recommendations.

"(f) Whenever any insured bank (except a national bank or a District bank), after written notice of the recommendations of the Corpo-

ration based on a report of examination of such bank by an examiner of the Corporation, shall fail to comply with such recommendations within one hundred and twenty days after such notice, the Corporation shall have the power, and is hereby authorized, to publish only such part of such report of examination as relates to any recommendation not complied with: *Provided*, That notice of intention to make such publication shall be given to the bank at least ninety days before such publication is made.

Notice of intention to make publication.

"(g) The Board of Directors shall by regulation prohibit the payment of interest on demand deposits in insured nonmember banks and for such purpose it may define the term 'demand deposits'; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors shall from time to time limit by regulation the rates of interest or dividends which may be paid by insured nonmember banks on time and savings deposits, but such regulations shall be consistent with the contractual obligations of such banks to their depositors. For the purpose of fixing such rates of interest or dividends, the Board of Directors shall by regulation prescribe different rates for such payment on time and savings deposits having different maturities, or subject to different conditions respecting withdrawal or repayment, or subject to different conditions by reason of different locations, or according to the varying discount rates of member banks in the several Federal Reserve districts. The Board of Directors shall by regulation define what constitutes time and savings deposits in an insured nonmember bank. Such regulations shall prohibit any insured nonmember bank from paying any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board of Directors, and from waiving any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement. For each violation of any provision of this subsection or any lawful provision of such regulations relating to the payment of interest or dividends on deposits or to withdrawal of deposits, the offending bank shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.

Certain interest and dividend payments. Regulations.

38 Stat. 270. 12 U. S. C. §§ 371a, 461.

Time and savings deposits; regulations.

Regulation defining time and savings deposits.

Penalty.

"(h) Any insured bank which willfully fails or refuses to file any certified statement or pay any assessment required under this Act shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use: *Provided*, That this subsection shall not be applicable under the circumstances stated in the proviso of subsection (b) of this section.

Failure to file certified statement, etc.

"SEC. 19. Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover for its use.

Restriction on personnel.

"SEC. 20. It is not the purpose of this Act to discriminate in any manner against State nonmember banks and in favor of national or member banks; but the purpose is to provide all banks with the same opportunity to obtain and enjoy the benefits of this Act. No bank shall be discriminated against because its capital stock is less than the amount required for eligibility for admission into the Federal Reserve System.

Nondiscrimination.

Separability provision.

"SEC. 21. The provisions of this Act limiting the insurance of the deposits of any depositor to a maximum less than the full amount shall be independent and separable from each and all of the provisions of this Act."

62 Stat. 733.
18 U. S. C., Sup. III, § 709.
False advertising, etc.

SEC. 3. (a) The third paragraph of section 709, title 18, United States Code, is amended to read as follows:

"Whoever, except as expressly authorized by Federal law, uses the words 'Federal Deposit', 'Federal Deposit Insurance', or 'Federal Deposit Insurance Corporation' or a combination of any three of these words, as the name or a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States or by any instrumentality thereof, or whoever advertises that his or its deposits, shares, or accounts are federally insured, or falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which the deposit liabilities of an insured bank or banks are insured by the Federal Deposit Insurance Corporation; or".

Effective date of provision.

(b) The amendment made by subsection (a) of this section shall become effective on January 1, 1951.

62 Stat. 695.
18 U. S. C., Sup. III, § 220.
Gifts for procuring loans, etc.

SEC. 4. Section 220, title 18, United States Code, is amended to read as follows:

"Whoever, being an officer, director, employee, agent, or attorney of any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, of a Federal intermediate credit bank, or of a National Agricultural Credit Corporation, except as provided by law, stipulates for or receives or consents or agrees to receive any fee, commission, gift, or thing of value, from any person, firm, or corporation, for procuring or endeavoring to procure for such person, firm, or corporation, or for any other person, firm, or corporation, from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check, or bill of exchange by any such bank or corporation, shall be fined not more than $5,000 or imprisoned not more than one year or both."

48 Stat. 1259.
12 U. S. C. § 1728(b).
Payment of insured account in event of default.

SEC. 5. Subsection (b) of section 405 of Title IV of the National Housing Act, as amended, is amended to read as follows:

"(b) In the event of a default by any insured institution, payment of each insured account in such insured institution which is surrendered and transferred to the Corporation shall be made by the Corporation as soon as possible either (1) by cash or (2) by making available to each insured member a transferred account in a new insured institution in the same community or in another insured institution in an amount equal to the insured account of such insured member: *Provided*, That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured accounts, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured account, it may require the final determination of a court of competent jurisdiction before paying such claim."

Approved September 21, 1950.

[CHAPTER 968]

AN ACT

September 21, 1950
[S. 3768]
[Public Law 798]

To authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes.

Certain disabled veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby