

[PUBLIC—No. 1—73^D CONGRESS]

[H. R. 1491]

AN ACT

To provide relief in the existing national emergency in banking, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby declares that a serious emergency exists and that it is imperatively necessary speedily to put into effect remedies of uniform national application.

TITLE I

SECTION 1. The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by subdivision (b) of section 5 of the Act of October 6, 1917, as amended, are hereby approved and confirmed.

SEC. 2. Subdivision (b) of section 5 of the Act of October 6, 1917 (40 Stat. L. 411), as amended, is hereby amended to read as follows:

“(b) During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person engaged in any transaction referred to in this subdivision to furnish under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term ‘person’ means an individual, partnership, association, or corporation.”

SEC. 3. Section 11 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

“(n) Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require

any or all individuals, partnerships, associations and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise."

SEC. 4. In order to provide for the safer and more effective operation of the National Banking System and the Federal Reserve System, to preserve for the people the full benefits of the currency provided for by the Congress through the National Banking System and the Federal Reserve System, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal Reserve System shall transact any banking business except to such extent and subject to such regulations, limitations and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

TITLE II

SEC. 201. This title may be cited as the "Bank Conservation Act."

SEC. 202. As used in this title, the term "bank" means (1) any national banking association, and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency; and the term "State" means any State, Territory, or possession of the United States, and the Canal Zone.

SEC. 203. Whenever he shall deem it necessary in order to conserve the assets of any bank for the benefit of the depositors and other creditors thereof, the Comptroller of the Currency may appoint a conservator for such bank and require of him such bond and security as the Comptroller of the Currency deems proper. The conservator, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such bank,

and take such action as may be necessary to conserve the assets of such bank pending further disposition of its business as provided by law. Such conservator shall have all the rights, powers, and privileges now possessed by or hereafter given receivers of insolvent national banks and shall be subject to the obligations and penalties, not inconsistent with the provisions of this title, to which receivers are now or may hereafter become subject. During the time that such conservator remains in possession of such bank, the rights of all parties with respect thereto shall, subject to the other provisions of this title, be the same as if a receiver had been appointed therefor. All expenses of any such conservatorship shall be paid out of the assets of such bank and shall be a lien thereon which shall be prior to any other lien provided by this Act or otherwise. The conservator shall receive as salary an amount no greater than that paid to employees of the Federal Government for similar services.

Sec. 204. The Comptroller of the Currency shall cause to be made such examinations of the affairs of such bank as shall be necessary to inform him as to the financial condition of such bank, and the examiner shall make a report thereon to the Comptroller of the Currency at the earliest practicable date.

Sec. 205. If the Comptroller of the Currency becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe.

Sec. 206. While such bank is in the hands of the conservator appointed by the Comptroller of the Currency, the Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose; and the Comptroller may, in his discretion, permit the conservator to receive deposits, but deposits received while the bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be segregated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited with a Federal reserve bank. The Federal reserve banks are hereby authorized to open and maintain separate deposit accounts for such purpose, or for the purpose of receiving deposits from State officials in charge of State banks under similar circumstances.

Sec. 207. In any reorganization of any national banking association under a plan of a kind which, under existing law, requires the consent, as the case may be, (a) of depositors and other creditors or (b) of stockholders or (c) of both depositors and other creditors and stockholders, such reorganization shall become effective only (1) when the Comptroller of the Currency shall be satisfied that the plan of reorganization is fair and equitable as to all depositors, other cred-

itors and stockholders and is in the public interest and shall have approved the plan subject to such conditions, restrictions and limitations as he may prescribe and (2) when, after reasonable notice of such reorganization, as the case may require, (A) depositors and other creditors of such bank representing at least 75 per cent in amount of its total deposits and other liabilities as shown by the books of the national banking association or (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the national banking association or (C) both depositors and other creditors representing at least 75 per cent in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the national banking association, shall have consented in writing to the plan of reorganization: *Provided, however,* That claims of depositors or other creditors which will be satisfied in full under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the national banking association in determining the 75 per cent thereof as above provided. When such reorganization becomes effective, all books, records, and assets of the national banking association shall be disposed of in accordance with the provisions of the plan and the affairs of the national banking association shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions and limitations which may have been prescribed by the Comptroller of the Currency. In any reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such national banking association, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented to such plan of reorganization.

Sec. 208. After fifteen days after the affairs of a bank shall have been turned back to its board of directors by the conservator, either with or without a reorganization as provided in section 207 hereof, the provisions of section 206 of this title with respect to the segregation of deposits received while it is in the hands of the conservator and with respect to the use of such deposits to liquidate the indebtedness of such bank shall no longer be effective: *Provided,* That before the conservator shall turn back the affairs of the bank to its board of directors he shall cause to be published in a newspaper published in the city, town or county in which such bank is located, and if no newspaper is published in such city, town or county, in a newspaper to be selected by the Comptroller of the Currency published in the State in which the bank is located, a notice in form approved by the Comptroller, stating the date on which the affairs of the bank will be returned to its board of directors and that the said provisions of section 206 will not be effective after fifteen days after such date; and on the date of the publication of such notice the conservator shall immediately send to every person who is a depositor in such bank under section 206 a copy of such notice by registered mail addressed to the last known address of such person as shown by the records of the bank, and the conservator shall send similar notice in

like manner to every person making deposit in such bank under section 206 after the date of such newspaper publication and before the time when the affairs of the bank are returned to its directors.

Sec. 209. Conservators appointed pursuant to the provisions of this title shall be subject to the provisions of and to the penalties prescribed by section 5209 of the Revised Statutes (U. S. C., Title 12, sec. 592); and sections 112, 113, 114, 115, 116 and 117 of the Criminal Code of the United States (U. S. C., Title 18, secs. 202, 203, 204, 205, 206 and 207), in so far as applicable, are extended to apply to contracts, agreements, proceedings, dealings, claims and controversies by or with any such conservator or the Comptroller of the Currency under the provisions of this title.

Sec. 210. Nothing in this title shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Comptroller of the Currency, or the Federal Reserve Board.

Sec. 211. The Comptroller of the Currency is hereby authorized and empowered, with the approval of the Secretary of the Treasury, to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this title. Whoever violates any rule or regulation made pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

TITLE III

Sec. 301. Notwithstanding any other provision of law, any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized national banking association which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in.

Sec. 302. (a) The holders of such preferred stock shall be entitled to cumulative dividends at a rate not exceeding 6 per centum per annum, but shall not be held individually responsible as such holders for any debts, contracts, or engagements of such association and shall not be liable for assessments to restore impairments in the capital of such association as now provided by law with reference to holders of common stock. Notwithstanding any other provision of law, the holders of such preferred stock shall have such voting rights, and such stock shall be subject to retirement in such manner and on such terms and conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the association is placed in voluntary liquidation or a conservator or a receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the

preferred stock shall have been paid in full the par value of such stock plus all accumulated dividends.

Sec. 303. The term "common stock" as used in this title means stock of national banking associations other than preferred stock issued under the provisions of this title. The term "capital" as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired; and the term "capital stock", as used in section 12 of the Act of March 14, 1900, shall mean only the amount of common stock outstanding.

Sec. 304. If in the opinion of the Secretary of the Treasury any national banking association or any State bank or trust company is in need of funds for capital purposes either in connection with the organization or reorganization of such association, State bank or trust company or otherwise, he may, with the approval of the President, request the Reconstruction Finance Corporation to subscribe for preferred stock in such association, State bank or trust company, or to make loans secured by such stock as collateral, and the Reconstruction Finance Corporation may comply with such request. The Reconstruction Finance Corporation may, with the approval of the Secretary of the Treasury, and under such rules and regulations as he may prescribe, sell in the open market or otherwise the whole or any part of the preferred stock of any national banking association, State bank or trust company acquired by the Corporation pursuant to this section. The amount of notes, bonds, debentures, and other such obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section.

TITLE IV

Sec. 401. The sixth paragraph of Section 18 of the Federal Reserve Act is amended to read as follows:

"Upon the deposit with the Treasurer of the United States, (a) of any direct obligations of the United States or (b) of any notes, drafts, bills of exchange, or bankers' acceptances acquired under the provisions of this Act, any Federal reserve bank making such deposit in the manner prescribed by the Secretary of the Treasury shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, duly registered and countersigned. When such circulating notes are issued against the security of obligations of the United States, the amount of such circulating notes shall be equal to the face value of the direct obligations of the United States so deposited as security; and, when issued against the security of notes, drafts, bills of exchange and bankers' acceptances acquired under the provisions of this Act, the amount thereof shall be equal to not more than 90 per cent of the estimated value of such notes, drafts, bills of exchange and bankers' acceptances so deposited as security. Such notes shall be the obligations of the Federal reserve bank procuring the same, shall be in form prescribed by the Secretary of the Treasury, shall be receivable at par in all parts of the United States for the same purposes as are national bank notes,

and shall be redeemable in lawful money of the United States on presentation at the United States Treasury or at the bank of issue. The Secretary of the Treasury is authorized and empowered to prescribe regulations governing the issuance, redemption, replacement, retirement and destruction of such circulating notes and the release and substitution of security therefor. Such circulating notes shall be subject to the same tax as is provided by law for the circulating notes of national banks secured by 2 per cent bonds of the United States. No such circulating notes shall be issued under this paragraph after the President has declared by proclamation that the emergency recognized by the President by proclamation of March 6, 1933, has terminated, unless such circulating notes are secured by deposits of bonds of the United States bearing the circulation privilege. When required to do so by the Secretary of the Treasury, each Federal reserve agent shall act as agent of the Treasurer of the United States or of the Comptroller of the Currency, or both, for the performance of any of the functions which the Treasurer or the Comptroller may be called upon to perform in carrying out the provisions of this paragraph. Appropriations available for distinctive paper and printing United States currency or national bank currency are hereby made available for the production of the circulating notes of Federal reserve banks herein provided; but the United States shall be reimbursed by the Federal reserve bank to which such notes are issued for all expenses necessarily incurred in connection with the procuring of such notes and all other expenses incidental to their issue, redemption, replacement, retirement and destruction."

Sec. 402. Section 10(b) of the Federal Reserve Act, as amended, is further amended to read as follows:

"Sec. 10(b). In exceptional and exigent circumstances, and when any member bank has no further eligible and acceptable assets available to enable it to obtain adequate credit accommodations through rediscounting at the Federal reserve bank or any other method provided by this Act other than that provided by section 10 (a), any Federal reserve bank, under rules and regulations prescribed by the Federal Reserve Board, may make advances to such member bank on its time or demand notes secured to the satisfaction of such Federal reserve bank. Each such note shall bear interest at a rate not less than 1 per centum per annum higher than the highest discount rate in effect at such Federal reserve bank on the date of such note. No advance shall be made under this section after March 3, 1934, or after the expiration of such additional period not exceeding one year as the President may prescribe."

Sec. 403. Section 13 of the Federal Reserve Act, as amended, is amended by adding at the end thereof the following new paragraph:

"Subject to such limitations, restrictions and regulations as the Federal Reserve Board may prescribe, any Federal reserve bank may make advances to any individual, partnership or corporation on the promissory notes of such individual, partnership or corporation secured by direct obligations of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Federal Reserve Board."

TITLE V

SEC. 501. There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,000,000, which shall be available for expenditure, under the direction of the President and in his discretion, for any purpose in connection with the carrying out of this Act.

SEC. 502. The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Approved March 9th 1933 8.30 p. m.