

LEGISLATIVE ASSEMBLY

Read 1° 18 April 1984

(Brought in by Mr Jolly and Mr Fordham)

A BILL

To amend the *State Bank Act 1958* with respect to the capital of The Commissioners of the State Bank of Victoria and the promotion and formation by the Commissioners of corporations and other bodies and for other purposes.

5 BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Short title.

1. This Act may be cited as the *State Bank (Amendment) Act 1984*.

Commencement.

10 2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act.

3. In this Act the *State Bank Act 1958* is referred to as the Principal Act.

Principal Act No.
6379.
Reprinted to No.
8519.
Subsequently
amended by Nos.
9019, 9099,
9458, 9549,
9574, 9576,
9699, 9857 and
10005.

Amendment of table of Parts and Divisions.

4. In section 1 in the table of Parts and Divisions in the entry relating to Part I.—

(a) for the expression “3-27” there shall be substituted the expression “3-27C”; and 5

(b) after the entry relating to Division 2 of Part I. there shall be inserted the following entry:

“Division 3—Capital ss. 27B-27C.”.

Bank may enter into certain contracts.

5. Section 26A of the Principal Act shall be amended as follows: 10

(a) In sub-section (1)—

(i) for the word “company” there shall be substituted the expression “corporation, trust, partnership or other body”; and

(ii) after the expression “26B” there shall be inserted the words “or a subsidiary of a corporation promoted and formed by the Commissioners under that section”; and 15

(b) In sub-section (2) for the word “company” (where three times occurring) there shall be substituted the word “corporation”. 20

New section 26B substituted.

6. For section 26B of the Principal Act there shall be substituted the following section:

Power of Commissioners to form corporations, etc.

“26B. (1) The Commissioners may, after consultation with the Treasurer, within or outside Australia— 25

(a) promote and form or participate in the promotion or formation of a corporation, trust, partnership or other body;

(b) subscribe for or otherwise acquire, and hold and dispose of, shares in a corporation; 30

(c) become a member of a company limited by guarantee;

(d) subscribe for or otherwise acquire, and hold and dispose of, units in a trust;

(e) acquire, and hold and dispose of, an interest in a partnership or other body; or 35

(f) enter into partnership or into any arrangement for sharing of profits, union of interest, co-operation, joint venture, reciprocal concession or otherwise, with any person or corporation carrying on or engaged in, or about to carry on or engage in, any business or transaction capable of being 40

conducted so as directly or indirectly to benefit the business of the State Bank of Victoria.

(2) The Commissioners of the State Bank of Victoria, a Commissioner of the State Bank of Victoria or an officer of the
5 Commissioners nominated by the Commissioners may, notwithstanding anything to the contrary in this Act—

(a) be a director of, manage the affairs of or hold an office in or under a corporation, trust, partnership or other body referred to in sub-section (1);

10 (b) exercise all the powers of such a director, manager or office holder; and

(c) by power of attorney, appoint any person or persons to be the attorney or attorneys of The Commissioners, a Commissioner or an officer of the Commissioners for such
15 purposes, with such powers, authorities and discretions (being powers, authorities and discretions vested in or exercisable by The Commissioners, a Commissioner or an officer of the Commissioners, as the case requires, as such a director, manager or office holder) for such period and
20 subject to such conditions as the donor of the power thinks fit.

(3) A power of attorney referred to in sub-section (2) may contain such provisions for the protection and convenience of persons dealing with the attorney as the donor of the power thinks fit and may also
25 authorize the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.”.

New Division 3 inserted in Part I.

7. After Division 2 of Part I. of the Principal Act there shall be inserted the following Division:

30 “DIVISION 3—CAPITAL”

Payments to capital.

“27B. (1) For the purpose of providing capital for the Commissioners—

35 (a) the Treasurer may from time to time pay to the Commissioners for payment to the capital of the Commissioners—

(i) such sums as are appropriated by Parliament for that purpose; or

40 (ii) notwithstanding anything in the *Public Account Act* 1958, sums standing to the credit of the Public Account; and

- (b) the Commissioners may from time to time transfer from the funds of the Commissioners to the capital of the Commissioners such sums as are determined by the Commissioners.

(2) Subject to section 27C (1) (a), no part of the capital of the Commissioners is repayable.” 5

Provisions applicable to sums paid by the Treasurer to capital.

“27C. (1) Any sums paid to the Commissioners by the Treasurer pursuant to section 27B (1) (a)—

- (a) subject to sub-section (2), shall be repayable to the Treasurer when demanded by the Treasurer; and 10

- (b) shall bear such rate of return accruing at such intervals and payable at such time or times and in such manner as is determined by the Treasurer after consultation with the Commissioners. 15

(2) Before any sums paid to the Commissioners by the Treasurer pursuant to section 27B (1) (a) are repaid to the Treasurer the Commissioners shall transfer from the funds of the Commissioners to the capital of the Commissioners sums equal in amount to the sums to be so repaid. 20

(3) All sums repaid to the Treasurer pursuant to sub-section (1) (a) shall be paid by the Treasurer back into the Public Account.

(4) Any money payable to the Treasurer pursuant to sub-section (1) (b)—

- (a) shall be paid by the Commissioners to the Treasurer out of profits or accumulated profits; and 25

- (b) shall be paid by the Treasurer into the Consolidated Fund.

(5) Notwithstanding any other Act or law, on the dissolution of the Commissioners all other debts of the Commissioners shall be paid in priority to all sums payable to the Treasurer pursuant to sub-section (1) (a).” 30

Guarantees.

8. Section 28 of the Principal Act shall be amended as follows:

- (a) After sub-section (2) there shall be inserted the following sub-section: 35

“(2A) The Treasurer may execute a guarantee in favour of any institution, person or body guaranteeing—

- (a) the due repayment of any sum deposited by that institution, person or body with any corporation, trust, partnership or other body promoted and formed by the Commissioners under section 26B or any subsidiary of a corporation promoted and formed by the 40

Commissioners under that section with all interest thereon;

5 (b) the due repayment of money borrowed or re-borrowed by any such corporation, trust, partnership, body or subsidiary as is referred to in paragraph (a) from that institution, person or body and the payment of any interest charges and expenses chargeable by the creditor against that corporation, trust, partnership, body or subsidiary and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment of the debt and those interest charges and expenses; or

10 (c) the due repayment or satisfaction of any advances or other financial accommodation obtained by any such corporation, trust, partnership, body or subsidiary as is referred to in paragraph (a) from that institution, person or body and the payment of any interest charges and expenses chargeable by the creditor against that corporation, trust, partnership, body or subsidiary and the expenses of enforcing or obtaining or endeavouring to enforce or obtain payment or satisfaction of the advances or other financial accommodation and those interest charges and expenses.”;

15 (b) In sub-section (3) after the expression “(2)” there shall be inserted the expression “or (3)”; and

20 (c) In sub-section (4) after the word “Commissioners” there shall be inserted the expression “or any such corporation, trust, partnership, body or subsidiary as is referred to in sub-section (2A) (a)”.

Mode of investing or holding funds.

30 9. Section 50 (ea) of the Principal Act shall be amended as follows:

(a) In sub-paragraph (i) for the words “company or partnership” there shall be substituted the expression “person, firm or body”; and

35 (b) In sub-paragraph (ii) for the words “company or partnership” there shall be substituted the expression “corporation, trust, partnership or other body”.

Certain loans prohibited.

10. Section 53 of the Principal Act shall be amended as follows:

40 (a) In sub-section (1) for the words “company partnership or society” there shall be substituted the words “body corporate or unincorporate”;

(b) In sub-section (1A) (a) for the word “company” there shall be substituted the expression “person, firm or body”;

- (c) In sub-section (1A) (b) for the words “company or partnership” there shall be substituted the expression “corporation, trust, partnership or other body”;
- (d) After sub-section (1A) (d) there shall be inserted the following paragraph: 5
 - “(da) to a Commissioner on terms and conditions no different from the terms and conditions generally applicable to such a loan where the applicant for the loan is not a Commissioner or an officer or employé of the Commissioners;”;
- (e) In sub-section (1A) (e)— 10
 - (i) for the words “company in which the Commissioner” there shall be substituted the words “body corporate in which the Commissioner or the officer or employé of the Commissioners”; and
 - (ii) in sub-paragraph (ii) for the word “company” there shall be substituted the words “body corporate”; and 15
- (f) In sub-section (1A) (f)—
 - (i) after the word “Commissioner” there shall be inserted the words “or the officer or employé of the Commissioners”; and 20
 - (ii) for the word “partner” there shall be substituted the word “member”; and
- (g) Sub-sections (2) and (3) shall be repealed.