

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1833

By: Langmacher

AS INTRODUCED

An Act relating to banks and trust companies;

amending 6 O.S. 1991, Section 502, as amended by Section 9, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 502), which relates to bank holding companies; modifying certain language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 6 O.S. 1991, Section 502, as amended by Section 9, Chapter 183, O.S.L. 1993 (6 O.S. Supp. 1994, Section 502), is amended to read as follows:

Section 502. A. Citation - Purpose. This section may be cited as the "Bank Holding Company Section" and shall have for its purpose the maintenance of competitive services between banks by limiting the expansion of bank holding companies and similar organizations. It is deemed to be in the public interest that competition prevail in the banking system in ~~the State of Oklahoma~~ this state and to that end that the independence of unit banks be preserved. Further, it shall be the policy of ~~the State of Oklahoma~~ this state to oppose any attempt by any bank holding company to acquire control of any bank located in this state if such acquisition would result in a

monopoly or in an attempt to monopolize the business of banking in this state.

B. Definitions. As used in this section the following terms shall have the following meanings:

1. "Bank" means any national banking association or any state bank or banking association, whether organized under the laws of Oklahoma, the laws of another state, or the laws of the United States, authorized to engage in the banking business and located in ~~the State of Oklahoma~~ this state;

2. "Company" means any corporation, association, partnership, business trust or similar organization, but shall not include any corporation, the majority of the shares of which are owned by the United States or by any state;

3. "Banking company" means any bank;

4. "Bank holding company" means any company which directly or indirectly owns or controls at least one bank;

5. "Multi-bank holding company" means a company which directly or indirectly owns or controls two or more banks, two or more bank holding companies, or one or more of each;

6. "Subsidiary" with respect to a specified bank holding company or multi-bank holding company means:

- a. any bank or company, twenty-five percent (25%) or more of whose voting shares is owned or controlled by such bank holding company or multi-bank holding company, or
- b. any bank or company, the election of a majority of whose directors is controlled in any manner by such bank holding company or multi-bank holding company, or
- c. any bank or company, twenty-five percent (25%) or more of whose voting shares is held by trustees for the benefit of the shareholders or members of such bank holding company or multi-bank holding company, or

- d. any nonbanking company which a bank holding company or multi-bank holding company is allowed to acquire control or ownership of pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated;

7. For purposes of this section, a company has "direct or indirect ownership or control" of a bank or of another company if the company directly or indirectly, or acting through one or more persons, owns, controls, or has power to vote twenty-five percent (25%) or more of any class of voting securities of the bank or other company. For this purpose:

- a. voting shares owned or controlled by any subsidiary of a company shall be deemed to be indirectly owned or controlled by ~~said~~ the company, and
- b. voting shares held or controlled directly or indirectly by trustees for the benefit of a company, the shareholders or members of a company, or employees of a company shall be deemed to be controlled by ~~said~~ the company;

8. If the company controls in any manner the election of a majority of the directors or trustees of the bank or another company, such bank or other company shall be deemed to be directly or indirectly owned or controlled by ~~said~~ the company; and

9. For purposes of this section, the company has control if the company has control under the provisions of the federal "Bank Holding Company Act of 1956" (Public Law 84-511) as amended or in accordance with the provisions of the regulations promulgated thereto by the Board of Governors of the Federal Reserve System; the procedures for determining the rebuttable presumption of control, under the terms of either ~~said~~ the Act or the regulations promulgated thereto, shall be the same as provided in ~~said~~ the Act or regulations.

C. Multi-bank holding companies authorized. From and after October 1, 1983, a company may be a multi-bank holding company and have direct or indirect ownership or control of two or more banks or bank holding companies, subject to the deposit limitation provided for in subsection D of this section; provided that except as specifically permitted in this Code, all forms of direct or indirect ownership or control of banks, bank holding companies, and multi-bank holding companies by any foreign bank or foreign bank holding company shall be prohibited.

D. Limitation. From and after October 1, 1983, it shall be unlawful for a multi-bank holding company to acquire direct or indirect ownership or control of any financial institution insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) and located in this state if such acquisition results in the multi-bank holding company having direct or indirect ownership or control of banks located in this state, the total deposits of which at the time of such acquisition exceed eleven percent (11%) of the aggregate deposits of all financial institutions insured by the Federal Deposit Insurance Corporation (FDIC), Federal Savings and Loan Insurance Corporation (FSLIC), and National Credit Union Administration (NCUA) as determined by the Commissioner on the basis of the most recent reports of such institutions in Oklahoma to their supervisory authorities which are available at the time of the proposed acquisition. Multi-bank holding company acquisitions of other multi-bank holding companies shall not be exempt from this limitation.

E. Board of Directors requirements. The Board of Directors of each bank acquired by a multi-bank holding company shall have no less than a majority of the total membership of the Board of Directors of the bank from the local area in which the bank is located.

F. Exceptions to deposit limitation. The deposit limitation provided for in subsection D of this section shall not apply in the following circumstances:

1. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in good faith in a fiduciary capacity, except where such shares are held for the benefit of the shareholders of such bank or such bank holding company; or

2. Control of a bank by reason of ownership or control of shares acquired by a bank or by a bank holding company in the regular course of securing or collecting a debt previously contracted in good faith. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation set forth in subsection D of this section for a period of five (5) years from the date of acquisition; or

3. The acquisition of direct or indirect ownership or control of a bank or bank holding company at the request of or in connection with the exercise of regulatory authority by the Commissioner, the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System for the purpose of preventing imminent failure of the bank or to protect the depositors thereof as determined by such authority in its sole discretion. The deposits of the acquired bank shall not be included in computing the appropriate deposit limitation as set forth in subsection D of this section for a period of five (5) years from the date of acquisition. The regulatory authority shall give acquisition priority to qualified purchasers or bidders whose total deposit control at the time of acquisition does not exceed the appropriate deposit limitation as set forth in subsection D of this section.

G. Limitation on acquisitions. A bank for which the application for charter was filed, received, or granted by the

appropriate authorizing agency after July 1, 1983, shall not be acquired by a multi-bank holding company for a period of five (5) years. Provided however, the provisions of this subsection shall not prevent a multi-bank holding company from directly or indirectly acquiring a bank whose charter was granted for the purpose of purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital.

H. De novo charter prohibition. A bank holding company or a multi-bank holding company shall not apply for or obtain a de novo charter except for the following purposes:

1. Purchasing the assets and assuming the liabilities of a bank closed by the Commissioner or the Comptroller of the Currency due to insolvency or impairment of capital; or

2. In the case of a bank holding company, merging with an existing bank subsidiary or subsidiaries of ~~said~~ the bank holding company in accordance with the laws of this state or of the United States and subject to the following provisions:

- a. a bank holding company may apply for and obtain only one de novo charter for the purpose of merging with an existing bank subsidiary or subsidiaries pursuant to this subsection, and
- b. the de novo chartered bank shall be the survivor of any such merger, and
- c. the de novo chartered bank shall be the main banking office of the merged banks, and
- d. the deposit limitations provided for in subsections D of this section and Section 501.1 of this title shall be applicable to any such merger, and
- e. the de novo chartered bank shall have branching authority under subsections B and C of Section 501.1 of this title.

A company shall not be deemed to be a bank holding company for purposes of this section until it owns or controls a bank which has received a charter from the Banking Board of this state, the Comptroller of the Currency or a foreign country.

I. Interim charters. A bank holding company or a multi-bank holding company may apply for and obtain an interim charter to organize an interim state bank for the purpose of facilitating the creation of a bank holding company, or acquiring or merging with an existing bank in accordance with the provisions of Section 502.1 of this title or the laws of the United States.

J. Acquisition approval - Reports. A national bank in this state, bank holding company, or multi-bank holding company seeking to acquire a state bank or national bank in this state, or a nonbanking company that submits an application for approval of such acquisition to the Board of Governors of the Federal Reserve System pursuant to the provisions of Sections 1841 et seq. of Title 12 of the United States Code Annotated shall also submit a copy of such application to the Board.

K. Jurisdiction - Appeals. The district court shall have jurisdiction to determine all questions of compliance with the provisions of this section, except such jurisdiction shall not apply to actions of the Board or proceedings before the Board conducted pursuant to the Banking Code. The decision of the district court shall be appealable to the Supreme Court in the same manner as in other civil cases.

L. Reports and examinations. Each bank holding company and multi-bank holding company which directly or indirectly owns, controls, or has power to vote twenty-five percent (25%) or more of the voting shares of one or more banks shall furnish a copy of the annual report of the operations of the bank holding company or multi-bank holding company which is submitted to the Federal Reserve Bank for each fiscal year to the Commissioner.

M. Penalties. Any company which intentionally and willfully violates any provision of this section, upon conviction, shall be fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each day during which the violation continues. Any individual who intentionally and willfully participates in a violation of any provision of this section, upon conviction, shall be fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned not more than one (1) year, or both such fine and imprisonment.

SECTION 2. This act shall become effective November 1, 1995.

45-1-5249

JAF