ENGROSSED HOUSE
BILL NO. 1748

By: Weaver of the House

and

Haney of the Senate

An Act relating to banks and trust companies; amending 6 O.S. 1991, Sections 501.1, as last amended by Section 2, Chapter 310, O.S.L. 1996 and 502, as last amended by Section 3, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, Sections 501.1 and 502), which relate to branch banking and bank holding companies; increasing total amount of deposits permitted to be controlled by bank or bank holding company; and providing an effective date.

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

SECTION 1. AMENDATORY 6 O.S. 1991, Section 501.1, as last amended by Section 2, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, Section 501.1), is amended to read as follows:

Section 501.1 A. Authorization to establish branches.

1. Any bank may establish and perform any banking function at no more than two branch banks on property owned or leased by the bank as follows:

a. located within the corporate city limits where the main bank is located, or

b. located within twenty-five (25) miles of the main bank if located in a city or town which has no state or national bank located in said city or town; provided however, if an application for a bank charter has been filed, the State Banking Board shall give priority to the charter application.

2. Neither the Banking Board nor the Comptroller of the Currency shall grant a certificate for any branch bank unless it is more than three hundred thirty (330) feet from any main bank or branch bank in counties with a population of five hundred thousand (500,000) or more according to the 1980 Federal Decennial Census unless the branch bank is established with the irrevocable consent of such other bank. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main bank building or branch bank building and the nearest exterior wall of the branch bank or facility.

3. If at the time of acquisition of a bank pursuant to subsection C of this section no other state or national bank was located in the same city or town as the acquired bank, the Board or the Comptroller of the Currency shall not grant any other bank a certificate to establish a branch bank within such city or town for a period of five (5) years after the acquisition and operation of the branch bank.

B. Authorization to accept deposits at institutions of higher education. Any main bank, branch bank or savings association located in a county where an institution of higher education is located may open accounts and accept deposits for not to exceed three (3) days per year on the campus of the institution of higher education at an institution-sponsored event if permission is granted by the institution. A bank or savings association may use a mobile facility for the purpose of opening accounts and accepting deposits as described in this subsection. Except as provided in this

subsection, a mobile facility shall not be used for any other purpose.

C. Authorization to branch by acquisition.

1. Subject to the limitations in subsection D of this section, any bank may acquire and operate as branch banks at which any banking function may be performed an unlimited number of banks or savings associations or branch banks or savings association branches without restriction on location. Any such acquisition of a bank or savings association may include all of the assets and liabilities of the bank or savings association and all branches and facilities thereof which have been established prior to the date of the acquisition as determined by the Board or the Comptroller of the Currency.

2. If a bank or savings association acquired pursuant to this subsection had not established any or all of the outside-attached facilities or detached facilities permitted under Section 415 of this title or Section 381.24b of Title 18 of the Oklahoma Statutes at the time of acquisition, the acquiring bank may establish such facilities after the acquisition.

D. Deposit limitation.

1. It shall be unlawful for any bank or out-of-state bank which has direct or indirect control of more than ~~twelve and twenty-five one-hundredths percent (12.25%)~~ fifteen percent (15%) of the total amount of deposits of insured depository institutions located in Oklahoma as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities to acquire any other bank or savings association in this state.

2. The deposit limitation provided for in this subsection shall not apply to disallow an acquisition of a bank or savings association if control results only by reason of ownership or control of shares of a bank or savings association acquired directly or indirectly:

a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring bank's shareholders, or

b. by a bank in the regular course of securing or collecting a debt previously contracted in good faith, or

c. at the request of or in connection with the exercise of regulatory authority for the purpose of preventing imminent failure of the bank or savings association or to protect the depositors thereof as determined by the principal supervisory agency in its sole discretion.

Provided, however, at the end of a period of five (5) years from the date of acquisition, for the circumstances set forth in subparagraphs b and c of this paragraph, the deposits of the acquired bank or savings association shall be included in computing the deposit limitation and if deposits are in excess, appropriate reductions and disposition shall be made within six (6) months to meet such limitations. Further, in the circumstances set forth in subparagraph c of this paragraph, the Commissioner and the Federal Deposit Insurance Corporation shall give priority in authorizing any such acquisition to any acquiring bank whose total deposits do not exceed the deposit limitation.

E. Authorized acquisitions. Subject to the limitations in subsection D of this section, a bank or savings association shall not be acquired by a bank and operated as a branch bank until the bank or savings association to be acquired has been in existence and continuous operation for a period of five (5) years. Subject to the limitations in subsection D of this section, after January 1, 1997, a branch bank or savings association branch shall not be acquired by a bank and operated as a branch bank until the branch bank or savings association branch to be acquired has been in existence and continuous operation for a period of five (5) years. The provisions

of this subsection shall not prevent a bank from acquiring a bank to be operated as a branch bank whose charter was granted for the purpose of:

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. Acquiring or merging with an existing bank with an interim bank charter in accordance with the laws of this state or of the United States.

F. Certificate to establish and operate a branch bank.

1. No bank shall be permitted to establish or operate a branch bank except upon certificate issued by the Board or Comptroller of the Currency.

2. The application for a certificate to establish or operate a branch bank of a state bank shall comply with the regulations of the Board. Within thirty (30) days after receipt of the application, the Commissioner shall report the results of the investigation of the Commissioner to the Board. Notice of hearing on the application shall be given as required by any rule by the Board. Within twenty (20) days after the conclusion of the hearing, the Board, in its sole discretion, shall approve or deny the application and shall notify the applicant of its decision. An application fee may be assessed in an amount set by rule of the Board.

G. Right to operate and maintain facilities. The provisions of this section shall not be construed in derogation or denial of the right to operate and maintain facilities as provided for in Sections 421 and 422 of this title.

H. Branch relocations. It is the policy of the Legislature of Oklahoma that branches, whether de novo or by acquisition, or main offices of banks state or national, not be permitted to be relocated in such a manner which would result in one or more branches in locations which could not have been lawfully established there to

begin with, except as specifically permitted herein. A branch may be relocated:

1. De novo. For a branch which was established as a de novo branch and not a branch by acquisition, on property owned or leased by the bank:

a. within the corporate city limits where the main bank is located, or

b. within twenty-five (25) miles of the main bank if the branch will be located in a city or town which has no state or national bank located in said city or town. However, if an application for a bank charter has been filed, the State Banking Board or the Office of the Comptroller of the Currency shall give priority to the charter application if filed prior to the filing of the branch application;

2. By acquisition. A branch which resulted from the acquisition of a branch from another bank or savings and loan or of a main office or branch thereof, which was converted to a branch, hereinafter referred to as the "acquired branch". Application may be made to relocate the acquired branch to a location on property owned or leased by the bank:

a. within the corporate city limits where the acquired branch is located, or

b. to a location within twenty-five (25) miles of the acquired branch if the relocation is to be in a city or town in which no state or national bank is located. However, if an application for a bank charter has been filed, the State Banking Board or the Office of the Comptroller of the Currency shall give priority to the charter application if filed prior to the branch application; or

3. By relocation of a main office.

a. De novo branches of a main office may not remain or be established in locations or numbers which are not within the requirements of subsection A of this section by reason of relocation of the main office.

b. Relocation of a main office which would result in one or more de novo branches no longer being within the requirements of subsection A of this section, will require with regard to any such branch:

(1) relocation of any such branch to a location within the requirements of subsection A of this section for the newly relocated main office,

(2) divestiture of any such branch, or

(3) closing of any such branch.

The preceding requirements must be accomplished before the date the relocated main office opens for business.

I. The Board may by rule establish a procedure whereby the Commissioner may grant approval and issue the certificate to establish and operate or relocate a branch without a hearing before the Board. The procedure shall include criteria set by the Board to be applied by the Commissioner in the consideration of the application.

J. Sanctions. A violation of any portion of this section, upon conviction, shall be a misdemeanor punishable by a fine not exceeding Five Hundred Dollars ($500.00). Each day's violation shall constitute a separate offense.

K. No out-of-state bank shall be permitted to establish a de novo branch in this state.

L. Beginning May 31, 1997, a bank, branch bank, savings association or savings association branch which has been in existence for five (5) years or more may be acquired by and engage in an interstate merger transaction with any out-of-state bank in accordance with applicable laws and rules of the Department and the

state in which the main office of the out-of-state bank is located. If the out-of-state bank does not have a branch bank or savings association branch in this state at the time the interstate merger application is filed with the appropriate regulatory authority, then the out-of-state bank must acquire the bank or the savings association, and may not acquire just a branch thereof. An interstate merger transaction will not be permitted if it will result in a violation of the ~~twelve and twenty-five one-hundredths percent (12.25%)~~ fifteen percent (15%) deposit limitation contained in subsection D of this section. If the result of an interstate merger transaction is that the bank or savings association which is acquired is converted to a branch bank of an out-of-state bank, it shall have all the powers and be subject to the same limitations as any other branch bank located in this state. All branch banks of an out-of-state bank shall be regulated by the Commissioner as if the branch banks comprised an Oklahoma bank and the branch banks shall comply with applicable Oklahoma laws and rules in the conduct of their business in this state to the maximum extent authorized under federal law. No branch bank of an out-of-state bank shall be permitted to establish separate branch banks or limited service facilities, or to engage in any activity not permissible for a bank in this state.

M. Beginning May 31, 1997, a bank may establish a branch bank in any other state, or may acquire branch banks of an out-of-state bank which are located in any other state in accordance with the laws of the other state. The bank shall be required to follow all procedures and to obtain all approvals necessary to establish or acquire a branch bank under applicable Oklahoma law and any applicable rules as may be established by the Board. The bank shall file with the Department a copy of each application or notice filed with federal or other state regulatory authorities relating to the transaction at the same time the application or notice is filed with

the federal or other state regulatory authorities. Upon consummation of the transaction, the bank shall have all of the powers under the applicable laws and regulations of the state in which each branch bank is located, subject to the duties and restrictions thereof. In addition to any regulation by bank and regulatory authorities in the state where a branch bank is located, each branch bank located outside of this state shall be subject to regulation by the Department as if the branch bank were located in this state and shall comply with the law of this state in the conduct of its banking business in such other state.

N. The provisions of this act shall not be construed as permitting branches established pursuant to this act through an interstate merger transaction to be taxed at a rate which is different from or discriminates in any way against a bank, savings association, or branch of either, which is chartered in this state. The Oklahoma Tax Commission is hereby authorized to adopt policies and procedures consistent with the provisions of this subsection.

SECTION 2. AMENDATORY 6 O.S. 1991, Section 502, as last amended by Section 3, Chapter 310, O.S.L. 1996 (6 O.S. Supp. 1996, 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 and to that end that the independence of unit banks be preserved. Further, it shall be the policy of the State of Oklahoma 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. Multi-bank holding companies authorized. 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 C 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 out-of-state bank or out-of-state bank holding company shall be prohibited.

C. Limitation. It shall be unlawful for a multi-bank holding company or an out-of-state bank or bank holding company to acquire direct or indirect ownership or control of any insured depository institution located in this state if the acquisition results in any such holding company or bank having direct or indirect ownership or control of insured depository institutions located in this state, the total deposits of which at the time of the acquisition exceed ~~twelve and twenty-five one-hundredths percent (12.25%)~~ fifteen percent (15%) of the total amount of deposits of insured depository institutions located in this state as determined by the Commissioner on the basis of the most recent reports of such institutions to their supervisory authorities which are available at the time of the proposed acquisition or to acquire direct or indirect control of any insured depository institution in this state after such multi-bank holding company or an out-of-state bank or bank holding company has reached or exceeded the ~~twelve and twenty-five one-hundredths percent (12.25%)~~ fifteen percent (15%) threshold as provided in this subsection. Acquisitions of other multi-bank holding companies shall not be exempt from this limitation.

D. 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.

E. Exceptions to deposit limitation. The deposit limitation provided for in subsection C 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.

F. Limitation on acquisitions. A bank, branch bank, savings association or savings association branch shall not be acquired by a bank holding company or a multi-bank holding company for a period of five (5) years after the bank, branch bank, savings association or savings association branch was granted its charter by the appropriate authorizing agency. However, the provisions of this subsection shall not prevent a bank holding company or a multi-bank holding company from directly or indirectly acquiring a bank whose charter was granted for the purpose of:

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. Acquiring or merging an existing bank with an interim bank charter in accordance with the laws of this state or of the United States.

Nothing in this subsection shall be construed to preclude the acquisition of a bank that has been chartered for less than five (5) years by a newly formed bank holding company which does not own or control, directly or indirectly, another bank.

G. 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 subsection C of this section and paragraph 1 of subsection D of 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 A 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.

H. 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.

I. 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.

J. 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.

K. Reports and examinations. Each bank holding company, multi-bank holding company and out-of-state 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 holding company which is submitted to the Federal Reserve Bank for each fiscal year to the Commissioner.

L. 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, 1997.

Passed the House of Representatives the 25th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate