

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1330

By: Weaver

AS INTRODUCED

An Act relating to savings and loan; amending 18 O.S. 1991, Section 381.2, as amended by Section 29, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1998, Section 381.2), which relates to definitions; adding definition; amending Section 32, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1998, Section 381.5a), which relates to the Savings and Loan Advisory Council; decreasing members of advisory council which must be actively engaged as officers; amending 18 O.S. 1991, Section 381.24a, as last amended by Section 1, Chapter 48, O.S.L. 1996 (18 O.S. Supp. 1998, Section 381.24a), which relates to branch banking and deposit limitations; increasing deposit limitation; and providing an effective date.

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

SECTION 1. AMENDATORY 18 O.S. 1991, Section 381.2, as amended by Section 29, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1998, Section 381.2), is amended to read as follows:

Section 381.2 As used in the Oklahoma Savings and Loan Code:

1. "Association" means a savings and loan association, referred to in prior laws as building and loan association, incorporated and now existing under the laws of this state or hereafter incorporated under this act or which is otherwise authorized to transact savings and loan association business under this act;

2. "Capital accounts" means permanent capital stock, undivided profits, surplus or reserves;

3. "Certificate of Authority" means a certificate issued by the Commissioner on approval of the Board, authorizing an association to transact savings and loan association business;

4. "Commissioner" means the State Banking Commissioner, and "Deputy Commissioner" means the State Deputy Banking Commissioner;

5. "Consumer banking electronic facility" means any electronic device owned, operated, leased by or on behalf of a savings association or savings bank other than a telephone or modem operated by a customer of a depository institution, through which a person may initiate an electronic fund transfer. The term includes, without limitations, a point-of-sale terminal, automatic teller machine, automated loan machines, video banking centers, or any other similar electronic devices;

6. "Deposit association" means a savings and loan association which is qualified to accept savings deposits or which becomes so qualified pursuant to this act;

~~6.~~ 7. "Earnings" means the money payable or to be credited to holders of savings accounts by an association as payment for the use of the funds which constitute such accounts. Earnings on savings accounts in a deposit association may be designated as interest, and earnings on other savings accounts may be designated as dividends;

~~7.~~ 8. "Existing mutual association" means a mutual association which was authorized to do business in Oklahoma on ~~the effective date of this act~~ July 1, 1979;

~~8.~~ 9. "Federal association" means a savings and loan association organized and existing under the laws of the United States;

~~9.~~ 10. "Foreign association" means any firm, company, association, partnership or corporation, by whatever name called, actually engaged in the business of a savings and loan association, which is not organized under the laws of this state or of the United States;

~~10.~~ 11. "Insured association" means an association the savings accounts of which are insured by the Federal Deposit Insurance Corporation to the extent provided by federal law;

~~11.~~ 12. "Member" means the holder of a savings account, savings deposit, or other withdrawable account of a mutual association, and

also includes the owner of real estate upon which the mutual association holds a mortgage or deed of trust;

~~12.~~ 13. "Mutual association" means a savings and loan association which derives its principal capital from the savings accounts, savings deposits or other withdrawable accounts of its members and whose members have the right to participate in the management of the association. The term includes any association organized or existing under prior laws of this state. A mutual association is not a deposit association unless and until it becomes qualified as such;

~~13.~~ 14. "Net worth" of a stock association shall mean the aggregate of the permanent capital stock account, paid-in surplus, earned surplus, legal and federal insurance reserves and undivided profits;

~~14.~~ 15. "Permanent capital stock" means that part of the capital or liabilities of an association representing ownership of the association and which is not subject to being withdrawn or the value paid to the holder thereof unless and until all other liabilities of the association have been fully liquidated and paid;

~~15.~~ 16. "Population" shall mean the population as shown and determined by the latest Federal Decennial Census of any city or town in which an association has its principal place of business. If the principal place of business of an association is outside the boundaries or corporate limits of any city or town, then the population within a radius of three (3) miles of its principal place of business and which is not included within the boundaries or corporate limits of any city or town, as such population is shown and determined by such Federal Decennial Census, shall be the basis for classification under this code;

~~16.~~ 17. "Savings account" means that part of the capital of a mutual association or that part of the liabilities of a stock association which is credited to the holder thereof and with respect

to which the association issues a certificate, passbook, or other evidence or holding;

~~17.~~ 18. "Savings deposit" means a savings account in an association qualified to accept deposits and on which the association pays interest, whether at a fixed or indeterminate rate;

~~18.~~ 19. "Shares" or "share accounts" means any savings account issued by a mutual association in the form of installment shares, optional installment shares, full paid shares, prepaid shares, savings shares, or other shares by whatever name called, evidenced by passbook, certificate, or other evidence or holding;

~~19.~~ 20. "Stock association" means a savings and loan association which issues permanent capital stock and which limits the right to participate in the management of the association to the holders of such permanent capital stock. Stock associations are also deposit associations;

~~20.~~ 21. "Stockholder" means the holder of permanent capital stock;

~~21.~~ 22. "Withdrawable account" means a savings account, savings deposit or other authorized account or deposit of an association which does not represent permanent capital stock; and

~~22.~~ 23. "Withdrawal value" means the amount paid to an association on a savings account or savings deposit plus earnings credited thereto, less lawful deductions therefrom.

SECTION 2. AMENDATORY Section 32, Chapter 183, O.S.L. 1993 (18 O.S. Supp. 1998, Section 381.5a), is amended to read as follows:

Section 381.5a A. There is hereby created the "Savings and Loan Advisory Council" which shall advise the State Banking Commissioner on matters relating to the regulation of savings and loan associations in this state. The Council shall consist of five (5) members, appointed by the Commissioner. At least ~~three~~ one of the members shall have been actively engaged as ~~officers~~ an officer

in the management of a state-chartered savings and loan association. Members shall serve at the pleasure of the Commissioner.

B. The Council shall meet at the call of the Commissioner. Members shall select a chairman at their first meeting and annually thereafter. A majority of the Council shall constitute a quorum for the transaction of business.

SECTION 3. AMENDATORY 18 O.S. 1991, Section 381.24a, as last amended by Section 1, Chapter 48, O.S.L. 1996 (18 O.S. Supp. 1998, Section 381.24a), is amended to read as follows:

Section 381.24a A. Definitions. As used in this section:

1. "Bank" means any bank chartered under the laws of this state or any national bank which is authorized to engage in the banking business and is located in this state;

2. "Branch" means any place of business separated from the main office of a savings association at which deposits are received, or checks paid, or money lent;

3. "Main bank" means the office location which has been designated by the State Banking Commissioner or Comptroller of the Currency as the main office of a bank;

4. "Main office" means the main office location of a savings association;

5. "Savings association" means any savings and loan association or savings bank chartered under the laws of this state or any federal savings and loan association or savings bank which is authorized to engage in the savings and loan business and is located in this state; and

6. "Bank branch" means any place of business separated from the main office of a bank at which deposits are received, checks paid, or money lent.

B. Authorization to establish branches. From and after May 3, 1990, and until July 1, 1999, new association branches may be established only under the guidelines set forth in this section.

From and after July 1, 1999, new association branches may be established with permission granted by order of the State Banking Commissioner without regard to the restrictions otherwise provided in this subsection. Association branches approved prior to May 3, 1990, shall be grandfathered and shall not be counted towards the two-branch limitation contained in this subsection. Association branches approved prior to May 3, 1990, may be relocated without regard to geographical restrictions contained in this subsection.

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

- a. located within the corporate city limits where the main office is located, or
- b. located within twenty-five (25) miles of the main office if located in a city or town which has no state or federal savings association and no state or national bank located in said city or town; provided however, if an application for a certificate of authority to transact savings and loan business has been filed the Commissioner shall give priority to the application for certificate of authority.

2. The Commissioner shall not grant a certificate for any branch unless it is more than three hundred thirty (330) feet from any main office or branch or another association or federal association in counties with a population of five hundred thousand (500,000) or more according to the last Federal Decennial Census unless the branch is established with the irrevocable consent of such other association or federal association. This distance limitation shall be determined by measuring along a straight line drawn between the nearest exterior wall of the appropriate main office building or branch building and the nearest exterior wall of the branch office building.

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

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

If a bank, association or federal association acquired pursuant to this subsection had no outside-attached facilities or detached facilities permitted under Section 415 of Title 6 of the Oklahoma Statutes or Section 381.24b of this title at the time of acquisition, the acquiring association may establish such facilities after the acquisition.

D. Deposit limitation.

1. It shall be unlawful for any association to acquire any other association, federal association or bank in Oklahoma or any portion of its assets if such acquisition would result in the association having direct or indirect ownership or control of more than ~~eleven percent (11%)~~ fifteen percent (15%) of the aggregate deposits of all financial institutions located in Oklahoma which

have deposits insured by the Federal Deposit Insurance Corporation and National Credit Union Administration 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.

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

- a. in a good faith fiduciary capacity, except when such shares are held for the benefit of the acquiring association's shareholders, or
- b. by an association 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, association or federal 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 association or federal 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

association whose total deposits do not exceed the deposit limitation.

E. Certificate to establish and operate a branch.

1. No association shall be permitted to establish or operate a branch except upon certificate issued by the Commissioner or Office of Thrift Supervision.

2. The application for a certificate to establish or operate a branch of an association shall comply with the regulations of the Commissioner.

F. 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 381.24b, 381.24c and 381.24d of this title.

G. 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.

H. Nothing contained in this section shall be construed to limit the authority of federal savings associations to branch in accordance with federal law and regulations.

SECTION 4. This act shall become effective November 1, 1999.

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