STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 374 By: Fisher

AS INTRODUCED

An Act relating to banking; 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; clarifying language; and declaring an emergency.

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

SECTION 1. 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~~ 1. Located within the corporate city limits where the main office is located~~,~~; or

~~b. located~~ 2. 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~~ the 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~~ this state 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%) of the aggregate deposits of all financial institutions located in ~~Oklahoma~~ this state 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 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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