

HOUSE BILL NO. 605

Introduced: 02/01/83

Referred to Committee on Business & Industry: 02/01/83

Hearing: 2/9/83

Died In Committee

1 House BILL NO. 605
 2 INTRODUCED BY K. Selman
 3 Richard E. Manning Berg Hager Thurston J. Brown
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING BRANCH
 5 BANKS AND ACQUISITION OF BANKS BY OUT-OF-STATE BANK HOLDING
 6 COMPANIES; AMENDING SECTIONS 32-1-109, 32-1-362, 32-1-372,
 7 32-1-805, AND 32-1-806, MCA; AND PROVIDING A DELAYED
 8 EFFECTIVE DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 32-1-109, MCA, is amended to read:
 12 "32-1-109. Definitions. Unless the context requires
 13 otherwise the following definitions apply:

14 (1) "Board" means the state banking board provided for
 15 in 2-15-1803.

16 (2) "Capital", "capital stock", and "paid-in capital"
 17 mean that fund for which certificates of stock are issued to
 18 stockholders.

19 (3) "Consolidate" and "merge" mean the same thing and
 20 may be used interchangeably in this chapter.

21 (4) "Demand deposits" means all deposits, the payment
 22 of which can legally be required when demanded.

23 (5) "De novo branch bank" means a branch bank
 24 established in a location where none previously existed,
 25 with approval of the state banking board.

1 (5)(6) "Department" means the department of commerce
 2 provided for in Title 2, chapter 15, part 18.

3 (6)(7) "Net earnings" means the excess of the gross
 4 earnings of a bank over expenses and losses chargeable
 5 against those earnings during any one year.

6 (8) "Out-of-state bank holding company" means a bank
 7 holding company, as defined in the Bank Holding Company Act
 8 of 1956, as amended (12 U.S.C. 1841, et seq.), registered
 9 as a bank holding company with the board of governors of the
 10 federal reserve system, with the federal reserve bank of the
 11 federal reserve district in which the operations of the bank
 12 holding company are principally conducted, or with a federal
 13 reserve bank that the board of governors may designate and
 14 maintaining its principal office and place of business
 15 outside Montana.

16 (7)(9) "Profit and loss account" or "profit and loss"
 17 means that account carried on the books of the bank into
 18 which all earnings accounts and recoveries are closed, thus
 19 exhibiting "gross earnings", and against which all loss and
 20 other disbursement items are charged, revealing "net
 21 earnings", which are then properly closed to "undivided
 22 profits accounts" or "undivided profits", out of which
 23 dividends are paid and reserves set aside.

24 (10) "Recently formed bank" means a state bank or
 25 national bank that commenced banking business in the state

on or after January 1, 1983, and that has not been in existence and continuously operating in the state for 3 years or more. However, a recently formed bank does not include:

(a) a bank organized solely to facilitate acquisition of a bank that either has been in existence and continuously operating in the state as a bank for 3 years or was conducting a banking business in the state on or before December 31, 1982;

(b) a state bank that was not chartered directly or indirectly by an acquiring out-of-state bank holding company and that does not have the capacity to continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders;

(c) a national bank that the board of governors of the federal reserve system or their designee determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders;

(d) a state or national bank formed after January 1, 1983, and owned by a bank holding company that maintains its principal office and place of business within the state.

~~(8)~~(11) "Surplus" means a fund paid in or created under this chapter by a bank from its net earnings or undivided profits which, when set apart and designated as such, is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as such bank has undivided profits.

~~(9)~~(12) "Time deposits" means all deposits, the payment of which cannot legally be required within 30 days.

~~(10)~~(13) "Undivided profits" means the credit balance of the profit and loss account of a bank."

NEW SECTION. Section 2. Authorization of branch banks. (1) Any bank authorized to do business within this state may establish and operate branch banks for the transaction of its business as follows:

(a) one or more at any location within the state by acquisition of or merger with an existing bank, which may thereafter be operated as a branch bank of the acquiring or merging bank;

(b) a de novo branch bank in an incorporated municipality or unincorporated community within the county in which the bank maintains its principal place of business if such municipality or community does not have an existing bank and is farther than 15 miles from an existing bank;

(c) on and after January 1, 1987, at any location within the county in which the bank maintains its principal

1 place of business or any adjoining county, one or more de
2 novo branch banks;

3 (d) on and after January 1, 1988, at any location
4 within the state, one or more de novo branch banks.

5 (2) prior to establishing a de novo branch bank, a
6 bank shall secure the approval of the state banking board,
7 which may not approve the establishment of a branch bank
8 unless it determines that:

9 (a) there is a persuasive showing of reasonable public
10 necessity and demand for the establishment of a branch bank;

11 (b) the bank wishing to establish a branch bank is
12 owned and managed by persons of good moral character and
13 financial integrity and the branch will be safely and
14 soundly operated;

15 (c) there is a persuasive showing that the branch bank
16 will have a sufficient volume of business to assure solvency
17 and the establishment of the branch bank is in the public
18 interest; and

19 (d) the capital of the bank will not be impaired by
20 the establishment of the branch.

21 (3) The state banking board shall adopt rules
22 necessary for the administration of subsection (2),
23 including the form of application and the information to be
24 submitted with the application and providing for a
25 nonrefundable fee to be assessed against the applicant. In

1 particular, the board shall adopt standards under which an
2 application to establish a de novo branch bank may be
3 considered in conformance with those prerequisites contained
4 in subsection (2). Regulations adopted pursuant to this
5 section shall not be more restrictive than those applicable
6 to new banks adopted pursuant to 32-1-203.

7 Section 3. Section 32-1-372, MCA, is amended to read:

8 "32-1-372. Branch---bank---prohibited-----exceptions
9 Detached facilities -- satellite terminals. {1}--No--bank
10 may--maintain--any--branch--banks--receive--deposits--or--pay
11 checks--except--over--the--counter--of--and--in--its--own--banking
12 house--provided--that--nothing--in--this--section--prohibits
13 ordinary--clearinghouse--transactions--between--banks.

14 {2}{1} With the prior approval of the department, any
15 bank doing business in this state may establish and maintain
16 not more than one detached drive-in and walk-up facility
17 consisting of one or more teller windows. The distance of
18 the facility from the main banking house may not exceed
19 1,000 feet measured in a straight line from the closest
20 point of the main banking house to the farthest point of the
21 detached facility. The facility may not be closer than 200
22 feet to a facility operated by any other bank or closer than
23 300 feet to the main banking house of any other bank, the
24 measurement to be made in a straight line from the closest
25 points of the closest structures involved. The distances

herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved to not closer than 150 feet to a facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurement to be made in a straight line from the closest points of the closest structures involved. The service of the facility shall be limited to receiving deposits of every kind, cashing checks or orders to pay, receiving payments payable at the bank, and such other transactions as are normally and usually conducted or handled at teller windows in the main banking house.

(3)(2) (a) Any bank authorized to do banking business in this state may utilize a satellite terminal as defined in the Montana Electronic Funds Transfer Act and at any location permitted by the Montana Electronic Funds Transfer Act. The use of satellite terminals hereby authorized shall not be subject to the restrictions on location, transaction, or number applicable to detached drive-in, walk-up, or teller facilities.

(b) A satellite terminal other than a point-of-sale terminal may not be closer than 200 feet to a facility operated by any other bank or closer than 300 feet to the main banking house of any other bank, the measurement to be

made in a straight line between the closest points of the closest structures involved. The distances herein specified in relation to a facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved to not closer than 150 feet to a facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurement to be made in a straight line between the closest points of the closest structures involved.

~~(3) This section does not affect branch banks authorized as provided in [section 2].~~

NEW SECTION. Section 4. Acquisition by out-of-state holding company. An out-of-state bank holding company may acquire and own all or any portion of the voting securities or other capital stock of or all or substantially all of the assets of any state bank, domestic bank holding company, or national bank conducting a banking business in the state unless the state bank or national bank is a recently formed bank.

Section 5. Section 32-1-362, MCA, is amended to read: "32-1-362. National bank powers extended to state banks. (1) With the consent of the department, every bank organized under the laws of the state shall have power to and may engage in any activity or business in which such

1 bank could engage if it were operating as a national bank.
 2 The department may prescribe, amend, and repeal regulations
 3 affecting and controlling the exercise of the powers granted
 4 by this section, provided that, subject to subsection (2),
 5 such regulations and powers shall not apply to activities
 6 which are expressly prohibited or limited by the statutes of
 7 the state.

8 (2) If the United States congress allows national
 9 banks to establish branches without regard to state
 10 prohibitions, a bank organized under the laws of Montana
 11 may, with the consent of the department, establish a branch
 12 under the same conditions allowed national banks,--despite
 13 the-restrictions-imposed-by-32-1-372."

14 Section 6. Section 32-1-805, MCA, is amended to read:

15 "32-1-805. Trust offices of subsidiary trust
 16 companies. ~~Notwithstanding--the-provisions-of-32-1-372, a~~ A
 17 subsidiary trust company may have a trust office at any one
 18 or more locations in this state in the same building with
 19 the main office of any affiliated bank which on January 1,
 20 1975, was authorized to act in fiduciary capacities but not
 21 elsewhere."

22 Section 7. Section 32-1-806, MCA, is amended to read:

23 "32-1-806. Trust offices of affiliated banks.
 24 ~~Notwithstanding-the-provisions-of-32-1-372, a~~ A bank having
 25 trust powers may be authorized by the department or by the

1 comptroller of the currency, in the case of a national
 2 banking association, to maintain a trust office at any one
 3 or more locations in this state in the same building with
 4 the main office of any affiliated bank which on January 1,
 5 1975, was authorized to act in fiduciary capacities."

6 NEW SECTION. Section 8. Codification instruction.
 7 Sections 2 and 4 are intended to be codified as an integral
 8 part of Title 32, chapter 1, part 3, and the provisions of
 9 Title 32, chapter 1, apply to sections 2 and 4.

10 NEW SECTION. Section 9. Effective date. This act is
 11 effective January 1, 1985.

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