

SB 163 INTRODUCED BY BOYLAN, LYBECK, MERCER, ET AL.  
LIMITING ASSETS OF MERGED BANKS

1/21	INTRODUCED		
1/21	REFERRED TO BUSINESS & INDUSTRY		
2/03	HEARING		
2/13	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/18	2ND READING PASS MOTION FAILED	14	34
2/18	2ND READING INDEFINITELY POSTPONED	35	13

1 Senate BILL NO. 163  
 2 INTRODUCED BY Boylan Lybeck Mercer  
 3 Bill

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE STATEWIDE  
 5 SHARE OF TOTAL RESOURCES OF BANKS THAT CONSOLIDATE OR MERGE;  
 6 AND AMENDING SECTION 32-1-371, MCA."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 32-1-371, MCA, is amended to read:

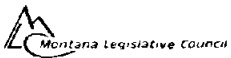
10 "32-1-371. Consolidation or merger of banks. (1) The  
 11 words "bank" or "banks" as used in this section include  
 12 commercial banks, savings banks, trust companies, investment  
 13 companies, and other such corporations carrying on the  
 14 business of banking, trust company, or investment company  
 15 under the laws of this state or doing business in this state  
 16 under the national banking laws of the United States.

17 (2) Any two or more banks doing business in this state  
 18 may, with the approval of the state banking board in the  
 19 case of state banks, consolidate or merge into one bank, on  
 20 such terms and conditions as may be lawfully agreed upon by  
 21 a majority of the board of directors of each bank proposing  
 22 to consolidate or merge. Such consolidation or merger,  
 23 before it becomes effective, must be ratified by the consent  
 24 in writing of the shareholders of each such bank owning at  
 25 least two-thirds of its capital stock outstanding, provided

1 that the capital stock of such consolidated or merged bank  
 2 may not be less than that required under existing law for  
 3 the organization of a bank of the class of the largest of  
 4 the banks so consolidating.

5 (3) Upon such consolidation or merger, the corporate  
 6 franchise, corporate life, being, and existence and the  
 7 corporate rights, powers, duties, privileges, franchises,  
 8 and obligations, including the rights, powers, duties,  
 9 privileges, and obligations as trustee, executor,  
 10 administrator, guardian, and all and every right, power,  
 11 duty, privilege, and obligation as fiduciary, together with  
 12 title to every species of property, real, personal, and  
 13 mixed of such consolidating or merging bank and banks shall,  
 14 without the necessity of any instrument of transfer, become  
 15 consolidated or merged and continued in and held, enjoyed,  
 16 and assumed by the consolidated or merged bank, and such  
 17 bank shall have and enjoy the right equal as to priorities  
 18 with any other applicant to appointment by the courts to the  
 19 offices of executor, administrator, guardian, or trustee  
 20 under any will or other instrument made prior to such  
 21 consolidation or merger and by which will or instrument such  
 22 consolidating or merging bank was nominated by the maker to  
 23 such office.

24 (4) A merged bank or bank holding company may not  
 25 control or possess deposits and other assets which at or



1 after the merger exceed 11% of the total resources of all  
2 banks in Montana as determined by reports filed with the  
3 appropriate federal or state regulatory authority. The  
4 department shall determine the aggregate total resources of  
5 all banks on the basis of the most recent reports of such  
6 institutions to their supervisory authorities that are  
7 available at the time of the proposed acquisition. Multibank  
8 holding company acquisitions of any financial institution or  
9 other bank holding company are specifically subject to this  
10 limitation. A bank holding company may comply with this  
11 limitation by divestiture of financial institutions prior to  
12 a proposed merger or within 6 months of such time as the  
13 total deposits and other assets under its control exceed 11%  
14 of the aggregate level of such resources determined under  
15 this subsection."

16 NEW SECTION. Section 2. Extension of authority. Any  
17 existing authority of the state banking board or of the  
18 department of commerce to make rules on the subject of the  
19 provisions of this act is extended to the provisions of this  
20 act.

-End-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

SENATE BILL NO. 163

INTRODUCED BY BOYLAN, LYBECK, MERCER, HARDING

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE STATEWIDE SHARE OF TOTAL RESOURCES OF BANKS THAT CONSOLIDATE OR MERGE; TO AUTHORIZE THE STATE BANKING BOARD TO ISSUE A CERTIFICATE OF AUTHORIZATION WITHOUT NOTICE AND HEARING IN CERTAIN CIRCUMSTANCES; AND AMENDING ~~SECTION~~ SECTIONS 32-1-204 AND 32-1-371, MCA."

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

Section 1. Section 32-1-371, MCA, is amended to read:

"32-1-371. Consolidation or merger of banks. (1) The words "bank" or "banks" as used in this section include commercial banks, savings banks, trust companies, investment companies, and other such corporations carrying on the business of banking, trust company, or investment company under the laws of this state or doing business in this state under the national banking laws of the United States.

(2) Any two or more banks doing business in this state may, with the approval of the state banking board in the case of state banks, consolidate or merge into one bank, on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each bank proposing to consolidate or merge. Such consolidation or merger,

before it becomes effective, must be ratified by the consent in writing of the shareholders of each such bank owning at least two-thirds of its capital stock outstanding, provided that the capital stock of such consolidated or merged bank may not be less than that required under existing law for the organization of a bank of the class of the largest of the banks so consolidating.

(3) Upon such consolidation or merger, the corporate franchise, corporate life, being, and existence and the corporate rights, powers, duties, privileges, franchises, and obligations, including the rights, powers, duties, privileges, and obligations as trustee, executor, administrator, guardian, and all and every right, power, duty, privilege, and obligation as fiduciary, together with title to every species of property, real, personal, and mixed of such consolidating or merging bank and banks shall, without the necessity of any instrument of transfer, become consolidated or merged and continued in and held, enjoyed, and assumed by the consolidated or merged bank, and such bank shall have and enjoy the right equal as to priorities with any other applicant to appointment by the courts to the offices of executor, administrator, guardian, or trustee under any will or other instrument made prior to such consolidation or merger and by which will or instrument such consolidating or merging bank was nominated by the maker to

1 such office.

2 (4) A merged bank or bank holding company may not  
 3 control or possess deposits and other assets which at or  
 4 after the merger exceed 11% of the total resources of all  
 5 banks in Montana as determined by reports filed with the  
 6 appropriate federal or state regulatory authority. The  
 7 department shall determine the aggregate total resources of  
 8 all banks on the basis of the most recent reports of such  
 9 institutions to their supervisory authorities that are  
 10 available at the time of the proposed acquisition. Multibank  
 11 holding company acquisitions of any financial institution or  
 12 other bank holding company are specifically subject to this  
 13 limitation. A bank holding company may comply with this  
 14 limitation by divestiture of financial institutions prior to  
 15 a proposed merger or within 6 months of such time as the  
 16 total deposits and other assets under its control exceed 11%  
 17 of the aggregate level of such resources determined under  
 18 this subsection."

19 SECTION 2. SECTION 32-1-204, MCA, IS AMENDED TO READ:

20 "32-1-204. Hearings -- notice. (1) A hearing shall be  
 21 conducted upon all applications for new bank certificates of  
 22 authorization, in accordance with the Montana Administrative  
 23 Procedure Act relating to a contested case, whether or not  
 24 any protest to the application is filed.

25 (2) A notice of the filing of an application for a new

1 bank certificate of authorization shall be mailed to all  
 2 banks within 100 miles of the proposed location, measured in  
 3 a straight line.

4 (3) A hearing shall be conducted no sooner than 30  
 5 days and not later than 90 days following the mailing of  
 6 such notice.

7 (4) Any bank filing a written protest with the board  
 8 prior to the date of the hearing shall be admitted as a  
 9 "party", as defined in the Montana Administrative Procedure  
 10 Act, with full rights of a party, including the right of  
 11 subpoena of witnesses and written materials, the right of  
 12 cross-examination, the right to have a transcript, and the  
 13 right to receive all notices, copy of the application, all  
 14 orders, and the right of judicial review and appeal.

15 (5) All applications for mergers, consolidations, or  
 16 relocations of banks shall likewise require a hearing, and  
 17 all of the rights and procedures stated herein shall apply  
 18 to these matters.

19 (6) Notwithstanding the requirements of subsections  
 20 (1) through (5), when the deposit liability of any closed  
 21 bank is to be transferred to or assumed by a state bank  
 22 being organized for that purpose, the board is empowered to  
 23 issue a certificate of authorization without notice or  
 24 hearing, according to rules adopted by the board."

25 NEW SECTION. Section 3. Extension of authority. Any

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1 existing authority of the state banking board or of the  
2 department of commerce to make rules on the subject of the  
3 provisions of this act is extended to the provisions of this  
4 act.

-End-