

SB 291 INTRODUCED BY KEATING  
ALLOW OUT-OF-STATE BANK TO ACQUIRE OR BE ACQUIRED BY  
IN-STATE BANK

2/05 INTRODUCED  
2/05 REFERRED TO BUSINESS & INDUSTRY  
2/18 HEARING  
2/20 COMMITTEE REPORT--BILL PASSED  
2/23 2ND READING PASSED 50 0  
2/25 3RD READING PASSED 45 5

TRANSMITTED TO HOUSE  
3/03 REFERRED TO BUSINESS & LABOR  
3/17 HEARING  
3/26 TABLED IN COMMITTEE

1 Senate BILL NO. 291  
 2 INTRODUCED BY Seaton  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW AN  
 5 OUT-OF-STATE FINANCIAL INSTITUTION TO ACQUIRE OR BE ACQUIRED  
 6 BY AN IN-STATE FINANCIAL INSTITUTION UPON APPROVAL OF THE  
 7 DEPARTMENT OF COMMERCE; AND AMENDING SECTION 32-1-109, MCA."

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

10 Section 1. Section 32-1-109, MCA, is amended to read:

11 "32-1-109. Definitions. Unless the context requires  
 12 otherwise the following definitions apply:

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

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

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

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

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

24 (6) "In-state financial institution" means:

25 (a) a state or national bank that has its home office

1 in this state; or  
 2 (b) a bank holding company that has its home office in  
 3 this state.

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

7 (8) "Out-of-state financial institution" means:

8 (a) a state or national bank that has its home office  
 9 in a state other than this state; or

10 (b) a bank holding company that has its home office in  
 11 a state other than this state.

12 ~~(7)~~(9) "Profit and loss account" or "profit and loss"  
 13 means that account carried on the books of the bank into  
 14 which all earnings accounts and recoveries are closed, thus  
 15 exhibiting "gross earnings", and against which all loss and  
 16 other disbursement items are charged, revealing "net  
 17 earnings", which are then properly closed to "undivided  
 18 profits accounts" or "undivided profits", out of which  
 19 dividends are paid and reserves set aside.

20 (10) "Reciprocal state" means the state of Arizona,  
 21 Colorado, Idaho, Nevada, North Dakota, Oregon, South Dakota,  
 22 Utah, Washington, or Wyoming.

23 ~~(8)~~(11) "Surplus" means a fund paid in or created under  
 24 this chapter by a bank from its net earnings or undivided  
 25 profits which, when set apart and designated as such, is not



1 available for the payment of dividends and cannot be used  
2 for the payment of expenses or losses so long as such bank  
3 has undivided profits.

4 ~~(9)~~(12) "Time deposits" means all deposits, the payment  
5 of which cannot legally be required within 7 days.

6 ~~(10)~~(13) "Undivided profits" means the credit balance  
7 of the profit and loss account of a bank."

8 NEW SECTION. Section 2. Acquisition of in-state  
9 financial institution by out-of-state financial institution  
10 -- approval of department. (1) An out-of-state financial  
11 institution located in a reciprocal state may directly or  
12 indirectly acquire or acquire control of:

13 (a) an in-state financial institution; or

14 (b) a bank holding company owning or controlling,  
15 directly or indirectly, a state bank or national bank  
16 located within this state.

17 (2) (a) The department may approve the acquisition if,  
18 after notice and opportunity for hearing, it determines that  
19 the laws of the reciprocal state in which the acquiring  
20 institution is located provide for acquisition on  
21 substantially the same conditions as the conditions in this  
22 state.

23 (b) The department shall approve the acquisition if it  
24 determines that the acquiring institution is financially  
25 sound according to commonly accepted standards of financial

1 institutions examination.

2 NEW SECTION. Section 3. Acquisition of out-of-state  
3 financial institution by in-state financial institution --  
4 approval of department. (1) An in-state financial  
5 institution may directly or indirectly acquire or acquire  
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16 state. If the conditions are substantially the same as the  
17 conditions in this state, the department shall approve the  
18 acquisition if it determines that the acquiring institution  
19 is financially sound according to commonly accepted  
20 standards of financial institutions examination.

21 NEW SECTION. Section 4. Department examination. The  
22 department may examine any out-of-state financial  
23 institution that is acquired by or acquires an in-state  
24 financial institution as a result of [section 2] or [section  
25 3] and may supervise those institutions. The institution

1 shall pay the same examination fees as other supervised  
2 financial institutions.

3 NEW SECTION. Section 5. Extension of authority. Any  
4 existing authority of the department of commerce and the  
5 state banking board to make rules on the subject of the  
6 provisions of this act is extended to the provisions of this  
7 act.

8 NEW SECTION. Section 6. Codification instruction.  
9 Sections 2 through 4 are intended to be codified as an  
10 integral part of Title 35, chapter 1, part 3, and the  
11 provisions of Title 35, chapter 1, part 3, apply to sections  
12 2 through 4.

-End-

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