

HOUSE BILL 617

Introduced by Kadas

2/08	Introduced
2/09	Referred to Business & Economic Development
2/16	Hearing
2/17	Tabled in Committee

1 House BILL NO. 617
2 INTRODUCED BY Kados

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE BANKING
5 LAWS BY CREATING A COMMUNITY REINVESTMENT RATING SYSTEM ON
6 WHICH TO BASE A BANK'S ELIGIBILITY FOR STATE-FUNDED PROGRAMS
7 AND FOR AUTHORIZATION TO RELOCATE, MERGE, CONSOLIDATE, OR
8 EXPAND; TO PLACE A REPRESENTATIVE OF A LOW-INCOME
9 ORGANIZATION ON THE STATE BANKING BOARD; AMENDING SECTIONS
10 2-15-1803, 32-1-102, 32-1-109, 32-1-202, AND 32-1-213, MCA;
11 AND PROVIDING EFFECTIVE DATES."

12
13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because
15 it authorizes the state banking board to adopt rules to
16 determine the basic service area for a bank, the form of
17 annual community reinvestment reports, and compliance for
18 purposes of participating in business programs supported by
19 state funds or to receive deposits of public funds. The
20 legislature intends that in adopting rules, the board look
21 to the rules and regulations adopted by Iowa and New York in
22 order to implement similar laws in Montana.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 **Section 1.** Section 2-15-1803, MCA, is amended to read:

1 "2-15-1803. State banking board -- composition --
2 allocation. (1) There is a state banking board.

3 (2) The board is composed of seven members, including
4 the director of commerce, or his designee, who is the
5 chairman of the board. The remaining six members of the
6 board shall be appointed with consideration given banks of
7 small, medium, and large size and to geographical
8 distribution. At least one banker member and one public
9 member shall be appointed from each congressional district
10 of the state. Two of the six members shall be active
11 officers in state banks of Montana, one shall be an active
12 officer of a national bank doing business in Montana, and
13 three shall be members of the public, none of whom shall be
14 an officer, director, or shareholder of any state or
15 national bank. One of the public members must be a
16 representative of a low-income organization.

17 (3) The members shall be appointed by the governor
18 with the consent of the senate for terms of 3 years.
19 Vacancies shall be filled by appointment for the unexpired
20 term. No member other than the director of commerce may
21 serve more than two consecutive terms.

22 (4) The board is allocated to the department for
23 administrative purposes only as provided in 2-15-121."

24 **Section 2.** Section 32-1-102, MCA, is amended to read:

25 "32-1-102. Institutions to which chapter is

1 applicable. (1) The word "bank" as used in this chapter
 2 means any corporation, wherever incorporated, which has been
 3 incorporated to conduct the business of receiving money on
 4 deposit or transacting a trust or investment business, as
 5 defined in this chapter.

6 (2) The soliciting, receiving, or accepting of money
 7 or its equivalent on deposit as a regular business is doing
 8 a commercial or savings bank business, whether such the
 9 deposit is made subject to check or is evidenced by a
 10 certificate of deposit, a passbook, a note, or other
 11 receipt, provided that nothing herein in this chapter
 12 applies to or includes money or its equivalent left in
 13 escrow or left with an agent pending investment in real
 14 estate or securities for or on account of his principal.

15 (3) It is unlawful for any corporation, partnership,
 16 firm, or individual to engage in or transact a banking
 17 business within this state except by means of a corporation
 18 duly organized for such-purpose banking purposes.

19 (4) Banks are divided into the following classes:

- 20 (a) commercial banks;
- 21 (b) savings banks;
- 22 (c) trust companies;
- 23 (d) investment companies.

24 (5) This chapter does not apply to any investment
 25 company or corporation established prior to March 8, 1927,

1 under authority of the law of Montana not accepting,
 2 receiving, or holding money on deposit."

3 **Section 3.** Section 32-1-109, MCA, is amended to read:

4 **"32-1-109. Definitions.** Unless the context requires
 5 otherwise the following definitions apply:

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

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

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

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

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

17 (6) "Net earnings" means the excess of the gross
 18 earnings of a bank over expenses and losses chargeable
 19 against those earnings during any one year.

20 (7) "Profit and loss account" or "profit and loss"
 21 means that account carried on the books of the bank into
 22 which all earnings accounts and recoveries are closed, thus
 23 exhibiting "gross earnings", and against which all loss and
 24 other disbursement items are charged, revealing "net
 25 earnings", which are then properly closed to "undivided

profits accounts" or "undivided profits", out of which dividends are paid and reserves set aside.

(8) "Small business" means a small business as defined in 33-27-103.

~~(8)~~(9) "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)~~(10) "Time deposits" means all deposits, the payment of which cannot legally be required within 7 days.

~~(10)~~(11) "Undivided profits" means the credit balance of the profit and loss account of a bank.

(12) "Very small business" means a small business that regularly employs 10 or fewer persons."

Section 4. Section 32-1-202, MCA, is amended to read:

"32-1-202. Powers and duties of board. The state banking board shall:

(1) make final determinations upon applications for certificates of authorization for new banks, mergers, consolidations, and relocations of banks, and any transaction devices as prescribed in 32-1-372;

(2) act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the

director of the department of commerce as the duties and powers relate to banking."

Section 5. Section 32-1-213, MCA, is amended to read:

"32-1-213. Payments to be made by banks, investment companies, and trust companies. (1) On or before January 31 and July 31 of each year, each bank, trust company, or investment company under the supervision of the department shall pay to the department a semiannual assessment fee. The fees shall be set to recover all of the costs of administering the program for the supervision of banks, trust companies, and investment companies. The department shall establish such assessment fee by rule on or before June 1 of each year. The funds so collected shall be deposited in the state special revenue fund for the use of the department in its examination function.

(2) In addition to the above assessment, trust companies shall pay to the department an examination fee of \$200 per day for each examiner involved in examining the trust assets under the control, safekeeping, or fiduciary responsibility of the trust company. ~~Such~~ The fees shall be deposited by the department in the state special revenue fund for the use of the department in its examination function.

(3) In addition to the above assessments, a bank, trust company, or investment company that applies for a

certificate of authorization pursuant to 32-1-202 shall pay the costs for processing the application. Payment of the costs shall be made to the state treasurer to the credit of the state special revenue fund for the use of the department in its examination function."

NEW SECTION. Section 6. Community reinvestment responsibility of banks. (1) A bank shall meet the credit needs of the community or communities in which it is located, including lower-income neighborhoods and rural areas within the bank's basic service area, consistent with safe and sound operations of the financial institution.

(2) For purposes of this section:

(a) "lower-income neighborhoods" means areas in which lower-income families comprise at least 50% of the area's population; and

(b) "lower-income families" means families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use. The term includes families whose income does not exceed 80% of the median income for the area, with adjustments for size of family and other adjustments for prevailing conditions in the area.

NEW SECTION. Section 7. Annual disclosure report -- determination of service areas -- public notice. (1) A bank shall submit an annual community reinvestment disclosure

report to the board, in a form determined by the board. The report must describe:

(a) the credit needs of the community served by the bank and the method by which this determination was made;

(b) the methods used to market to the community the credit services offered by the bank;

(c) a description of how services actually provided by the bank satisfied the credit needs provided for in subsection (1)(a); and

(d) the bank's participation in local, state, and federal business and economic development programs, small business assistance programs, programs addressing the financial needs of minorities, and programs that meet the specific credit needs of rural communities.

(2) The board shall adopt rules for the determination of a basic service area based on a bank's facilities, its business practices, and the location, distribution, and concentration of its borrowers and depositors.

(3) A bank shall delineate the local community or communities that comprise its basic service area. The claimed basic service area is subject to approval by the board. The board may order an expansion or contraction of the basic service area if it finds that the claimed area does not correspond to the area actually served by the bank, according to the standards set forth in the rules adopted

1 under subsection (2).

2 (4) A bank shall provide a public notice in the lobby
3 of each of its facilities that requests the public to submit
4 comments to the bank regarding its community lending
5 activities. Each bank shall maintain a file open to public
6 inspection that contains the five most recent annual
7 community reinvestment disclosure reports, public comments
8 received on its community investment activities, and the
9 bank's response to those comments.

10 NEW SECTION. Section 8. Community reinvestment
11 disclosures. (1) A bank with more than \$5 million of assets
12 shall disclose the following for each type of loan as part
13 of the annual community reinvestment disclosure report
14 provided for in [section 7]:

15 (a) the number and aggregate dollar amount of housing,
16 commercial, very small business, small business,
17 agricultural, and consumer loans originating in the state in
18 which the bank's principal place of business is located;

19 (b) the number and aggregate dollar amount of housing,
20 commercial, very small business, small business,
21 agricultural, and consumer loans originating in this state;
22 and

23 (c) the number and aggregate dollar amount of housing,
24 commercial, very small business, small business,
25 agricultural, and consumer loans originating within

1 lower-income neighborhoods within the bank's basic service
2 area.

3 (2) The board shall by rule determine the geographic
4 boundaries of lower-income neighborhoods within the state
5 and criteria for designating lower-income neighborhoods
6 within a bank's basic service area.

7 NEW SECTION. Section 9. Community reinvestment
8 rating. Not later than January 1, 1990, the board shall
9 adopt rules for a community reinvestment rating system for
10 banks, to be based upon a review of the information provided
11 in a bank's annual community reinvestment disclosure report
12 and other information that the board considers relevant.
13 The system must at least provide for a minimum acceptable
14 community reinvestment rating and a top rating for exemplary
15 community reinvestment. The rating system may contain more
16 steps than an unacceptable rating, a minimum acceptable
17 rating, and an exemplary rating. The ratings and annual
18 community reinvestment disclosure reports are public
19 information.

20 NEW SECTION. Section 10. Eligibility to participate
21 in state-funded programs. Except as provided in [section
22 11], banks shall achieve a minimum acceptable community
23 reinvestment rating under [section 9]:

24 (1) to be eligible to participate in business programs
25 supported by state funds or for deposit of public funds

including statements and the funds of political subdivisions, with highest preferences given to banks with higher ratings; and

(2) for approval of an application for a certificate of authorization submitted pursuant to 32-1-202.

NEW SECTION. Section 11. Conditions for banks with unacceptable community reinvestment ratings. A bank that does not receive a minimum acceptable community reinvestment rating may receive conditional eligibility:

(1) for participation in business programs supported by state funds or for deposit of public funds including state funds and the funds of political subdivisions, if the bank submits to the board (and follows) a proposal for improving its community reinvestment rating to an acceptable level within a period of no more than 2 years and the proposal is approved by the board; or

(2) for approval of an application for a certificate of authorization submitted under 32-1-202 if it can show the board that the action, if authorized, will enable the bank to improve its community reinvestment rating to an acceptable level within a period of no more than 2 years.

NEW SECTION. Section 12. Codification instruction. [Sections 6 through 11] are intended to be codified as an integral part of Title 32, chapter 1, and the provisions of Title 32, chapter 1, apply to [sections 6 through 11].

NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 15. Effective dates. (1) Except as provided in (2), [this act] is effective July 1, 1990.

(2) [Section 9] and this section are effective on passage and approval.

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