

FINAL BILL REPORT

SHB 1759

C 24 L 03

Synopsis as Enacted

Brief Description: Providing financial institution law parity.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke and Benson).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background:

Banking Regulation Generally. Banks and mutual savings banks (thrifts) are chartered either by the state in which they are located or by the federal government. The institution chooses the type of charter under which it will operate. If the institution is state-chartered, both the state banking regulatory authority and the Federal Deposit Insurance Corporation (FDIC) are authorized to regulate and examine the institution. In this state, the Department of Financial Institutions (DFI) is the regulator of state-chartered banks and thrifts. National banks are regulated and examined by the Office of the Comptroller of the Currency (OCC) as well as the FDIC. Federally chartered thrifts are regulated by the Office of Thrift Supervision (OTS) and the FDIC regarding federally insured deposits.

Under both state and federal laws, the various types of financial institutions are subject to different regulations regarding organization, governance, and business activities. The regulations governing financial institutions include grants of powers and authorities, that may be exercised by an institution with respect to corporate governance and operational matters. Generally, the types of powers and authorities held by banks and thrifts chartered in Washington are defined by reference to federal regulations promulgated by the OCC and the FDIC.

Banks and Thrifts Contrasted. State regulations pertaining to banks and thrifts are somewhat different with respect to corporate organization, investments, mergers, as well as the powers and authorities conferred upon each type of financial institution. Unlike a bank, a thrift is operated for the benefit of its members and may be mutually owned by its members, though many are not. Additionally, the powers and authorities of thrifts are slightly more extensive than those of banks. For example, there is no maximum limit on the amount of any single loan that may be issued by a thrift, whereas banks do have a maximum limit. Also, a state chartered thrift is granted parity with the powers and authorities granted to state banks, but not vice versa.

Parity with Federal Financial Institutions. Under state law, both state-chartered banks and thrifts are explicitly granted parity with federally chartered banks regarding the powers and authorities they may exercise in the course of doing business. Specifically, state banks and thrifts are granted the same powers and authorities conferred “ as of August 31, 1994 “ upon federal banks doing business in this state. State banks and thrifts may also exercise the same powers and authorities granted to federal banks after that date, but only if the DFI determines that the exercise of such powers is in the interests of the public and maintains fair competition between the respective types of institutions.

Interest Rate Regulation/Federal Preemption. Washington has relatively straightforward usury statutes that generally limit interest rates to a maximum of either 12 percent or an amount determined by a formula tied to the Federal Reserve System. However, federal law preempts state usury statutes with respect to most transactions involving state and federally- chartered financial institutions. Under federal law, financial institutions are allowed to charge the highest interest rate allowed for any lender in that state for a similar transaction, and allows out-of-state financial institutions may charge the highest rate allowed in their home state. In other words, out-of-state institutions can export the highest allowable rate in their home states to other states, which has the effect of raising the interest rate limits for other institutions as well. Therefore, state usury statutes are not applicable to most transactions involving either state or federal financial institutions.

Summary:

Parity Between State Banks and Thrifts. State banks and thrifts are explicitly given equivalent powers and authorities. However, in order for a bank to exercise the powers and authorities of a thrift, the bank must provide 30 days notice to the DFI, which must then make the following findings regarding the exercise of such powers and authorities:

- that the exercise is in the best interests of consumers and the general public; and
- that the exercise maintains the fairness of competition as well as parity between banks and thrifts.

Parity Between State and Federal Banks. A state bank may exercise all powers and authorities conferred to federal banks doing business in this state as of the effective date of the act. In order for a state bank to exercise the powers and authorities conferred to federal banks, notice must be given to the DFI, which must make the following findings regarding the exercise of such powers and authorities:

- that the exercise is in the best interests of the public; and
- that the exercise maintains the fairness of competition as well as parity between banks and thrifts.

Parity Between State Thrifts and Federal Banks. The parity provision regarding state thrifts and federal banks is identical to the parallel state bank provision, except that state thrifts are granted parity with all federal banks, not just those doing business in this state.

Parity Between State Thrifts and Federal Thrifts. A state thrift may exercise all powers and authorities conferred upon federal thrifts as of the effective date of the act. A state thrift may exercise the powers and authorities conferred upon federal thrifts, provided notice is given to the DFI and specified findings are made.

Interest Rates. State financial institutions are explicitly allowed to charge the maximum interest rate allowable for federally chartered financial institutions.

Merger of Thrifts with Financial Holding Companies. State thrifts are granted the authority to merge with a financial holding company.

Votes on Final Passage:

House 91 1
Senate 47 0

Effective: July 27, 2003