
SUBSTITUTE SENATE BILL 5714

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Benton and Prentice)

READ FIRST TIME 02/24/03.

1 AN ACT Relating to financial institution law parity; amending RCW
2 32.08.142, 32.08.146, and 32.32.500; reenacting and amending RCW
3 30.04.215; adding new sections to chapter 30.04 RCW; and adding new
4 sections to chapter 32.08 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 30.04 RCW
7 to read as follows:

8 Notwithstanding any other provisions of law, in addition to all
9 powers, express or implied, that a bank or trust company has under the
10 laws of this state, a bank or trust company shall have the powers and
11 authorities conferred upon a mutual savings bank under Title 32 RCW,
12 only if:

13 (1) The bank or trust company notifies the director at least thirty
14 days prior to the exercise of such power or authority by the bank or
15 trust company, unless the director waives or modifies this requirement
16 for notice as to the exercise of a power, authority, or category of
17 powers or authorities by the bank or trust company;

18 (2) The director finds that the exercise of such powers and

1 authorities by the bank or by the trust company serves the convenience
2 and advantage of depositors, borrowers, or the general public; and

3 (3) The director finds that the exercise of such powers and
4 authorities by the bank or by the trust company maintains the fairness
5 of competition and parity between banks or trust companies and mutual
6 savings banks.

7 As used in this section, "powers and authorities" include without
8 limitation powers and authorities in corporate governance and
9 operational matters.

10 The restrictions, limitations, and requirements applicable to
11 specific powers or authorities of mutual savings banks shall apply to
12 banks or trust companies exercising those powers or authorities
13 permitted under this section but only insofar as the restrictions,
14 limitations, and requirements relate to exercising the powers or
15 authorities granted banks or trust companies solely under this section.

16 **Sec. 2.** RCW 30.04.215 and 1995 c 344 s 2 and 1995 c 134 s 2 are
17 each reenacted and amended to read as follows:

18 (1) Notwithstanding any other provisions of law, in addition to all
19 powers enumerated by this title, and those necessarily implied
20 therefrom, a bank or trust company may engage in other business
21 activities that have been determined by the board of governors of the
22 federal reserve system or by the United States Congress to be closely
23 related to the business of banking, as of (~~December 31, 1993~~) the
24 effective date of this act.

25 (2) A bank or trust company that desires to perform an activity
26 that is not expressly authorized by subsection (1) of this section
27 shall first apply to the director for authorization to conduct such
28 activity. Within thirty days of the receipt of this application, the
29 director shall determine whether the activity is closely related to the
30 business of banking, whether the public convenience and advantage will
31 be promoted, whether the activity is apt to create an unsafe or unsound
32 practice by the bank or trust company and whether the applicant is
33 capable of performing such an activity. If the director finds the
34 activity to be closely related to the business of banking and the bank
35 or trust company is otherwise qualified, he or she shall (~~forthwith~~)
36 immediately inform the applicant that the activity is authorized. If
37 the director determines that such activity is not closely related to

1 the business of banking or that the bank or trust company is not
2 otherwise qualified, he or she shall (~~forthwith~~) promptly inform the
3 applicant in writing. The applicant shall have the right to appeal
4 from an unfavorable determination in accordance with the procedures of
5 the Administrative Procedure Act, chapter 34.05 RCW. In determining
6 whether a particular activity is closely related to the business of
7 banking, the director shall be guided by the rulings of the board of
8 governors of the federal reserve system and the comptroller of the
9 currency in making determinations in connection with the powers
10 exercisable by bank holding companies, and the activities performed by
11 other commercial banks or their holding companies.

12 (3) Notwithstanding any restrictions, limitations, and requirements
13 of law, in addition to all powers, express or implied, that a bank or
14 trust company has under the laws of this state, a bank or trust company
15 shall have the powers and authorities conferred as of August 31, 1994,
16 or a subsequent date not later than the effective date of this act,
17 upon (~~the~~) a federally chartered bank doing business in this state.
18 A bank or trust company may exercise the powers and authorities
19 conferred on a federally chartered bank after (~~this date~~) the
20 effective date of this act, only if the director finds that the
21 exercise of such powers and authorities:

22 (a) Serves the convenience and advantage of depositors, borrowers,
23 or the general public; and

24 (b) Maintains the fairness of competition and parity between state-
25 chartered banks or trust companies and federally chartered banks.

26 As used in this section, "powers and authorities" include without
27 limitation powers and authorities in corporate governance and
28 operational matters.

29 The restrictions, limitations, and requirements applicable to
30 specific powers or authorities of federally chartered banks shall apply
31 to banks or trust companies exercising those powers or authorities
32 permitted under this subsection but only insofar as the restrictions,
33 limitations, and requirements relate to exercising the powers or
34 authorities granted banks or trust companies solely under this
35 subsection.

36 (4) Any activity which may be performed by a bank or trust company,
37 except the taking of deposits, may be performed by (a) a corporation or

1 (b) another entity approved by the director, which in either case is
2 owned in whole or in part by the bank or trust company.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 30.04 RCW
4 to read as follows:

5 Notwithstanding any restrictions, limitations, requirements, or
6 other provisions of law, a financial institution, as defined in RCW
7 30.22.040(12), may charge, take, receive, or reserve interest, discount
8 or other points, finance charges, or other similar charges on any loan
9 or other extension of credit, at a rate or amount that is equal to, or
10 less than, the maximum rate or amount of interest, discount or other
11 points, finance charges, or other similar charges that national banks
12 located in any other state or states may charge, take, receive, or
13 reserve, under 12 U.S.C. Sec. 85, on loans or other extensions of
14 credit to residents of this state. However, this section does not
15 authorize any subsidiary of a bank, of a trust company, of a mutual
16 savings bank, of a savings and loan association, or of a credit union
17 to charge, take, receive, or reserve interest, discount or other
18 points, finance charges, or other similar charges on any loan or other
19 extension of credit, unless the subsidiary is itself a bank, trust
20 company, mutual savings bank, savings and loan association, or credit
21 union.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 32.08 RCW
23 to read as follows:

24 Notwithstanding any restrictions, limitations, and requirements of
25 law, in addition to all powers, express or implied, that a mutual
26 savings bank has under the laws of this state, a mutual savings bank
27 shall have the powers and authorities that national banks had on the
28 effective date of this act.

29 The restrictions, limitations, and requirements applicable to
30 specific powers or authorities of national banks apply to mutual
31 savings banks exercising those powers or authorities permitted under
32 this section but only insofar as the restrictions, limitations, and
33 requirements relate to exercising the powers or authorities granted
34 mutual savings banks solely under this section.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 32.08 RCW
2 to read as follows:

3 Notwithstanding any restrictions, limitations, and requirements of
4 law, in addition to all powers, express or implied, that a mutual
5 savings bank has under the laws of this state, a mutual savings bank
6 shall have the powers and authorities conferred upon a national bank
7 after the effective date of this act, only if the director finds that
8 the exercise of such powers and authorities:

9 (1) Serves the convenience and advantage of depositors, borrowers,
10 or the general public; and

11 (2) Maintains the fairness of competition and parity between mutual
12 savings banks and national banks.

13 As used in this section, "powers and authorities" include without
14 limitation powers and authorities in corporate governance and
15 operational matters.

16 The restrictions, limitations, and requirements applicable to
17 specific powers or authorities of national banks apply to mutual
18 savings banks exercising those powers or authorities permitted under
19 this section but only insofar as the restrictions, limitations, and
20 requirements relate to exercising the powers or authorities granted
21 mutual savings banks solely under this section.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 32.08 RCW
23 to read as follows:

24 Notwithstanding any restrictions, limitations, and requirements of
25 law, in addition to all powers, express or implied, that a mutual
26 savings bank has under this title, a mutual savings bank has the powers
27 and authorities that a bank has under Title 30. As used in this
28 section, "powers and authorities" include without limitation powers and
29 authorities in corporate governance matters.

30 The restrictions, limitations, and requirements applicable to
31 specific powers or authorities of banks apply to mutual savings banks
32 exercising those powers or authorities permitted under this section but
33 only insofar as the restrictions, limitations, and requirements relate
34 to exercising the powers or authorities granted mutual savings banks
35 solely under this section.

1 **Sec. 7.** RCW 32.08.142 and 1999 c 14 s 18 are each amended to read
2 as follows:

3 Notwithstanding any restrictions, limitations, and requirements of
4 law, in addition to all powers, express or implied, that a mutual
5 savings bank has under the laws of this state, a mutual savings bank
6 shall have the powers and authorities that ((a)) any federal mutual
7 savings bank had on July 28, 1985, or a subsequent date not later than
8 ((~~July 25, 1999~~)) the effective date of this act. As used in this
9 section, "powers and authorities" include without limitation powers and
10 authorities in corporate governance matters.

11 The restrictions, limitations, and requirements applicable to
12 specific powers or authorities of federal mutual savings banks shall
13 apply to mutual savings banks exercising those powers or authorities
14 permitted under this section but only insofar as the restrictions,
15 limitations, and requirements relate to exercising the powers or
16 authorities granted mutual savings banks solely under this section.

17 **Sec. 8.** RCW 32.08.146 and 1999 c 14 s 19 are each amended to read
18 as follows:

19 A mutual savings bank may exercise the powers and authorities
20 granted, after ((~~July 25, 1999~~)) the effective date of this act, to
21 federal mutual savings banks or their successors under federal law,
22 only if the director finds that the exercise of such powers and
23 authorities:

24 (1) Serves the convenience and advantage of depositors and
25 borrowers; and

26 (2) Maintains the fairness of competition and parity between state-
27 chartered savings banks and federal savings banks or their successors
28 under federal law.

29 As used in this section, "powers and authorities" include without
30 limitation powers and authorities in corporate governance matters.

31 The restrictions, limitations, and requirements applicable to
32 specific powers or authorities of federal mutual savings banks or their
33 successors under federal law shall apply to mutual savings banks
34 exercising those powers or authorities permitted under this section but
35 only insofar as the restrictions, limitations, and requirements relate
36 to exercising the powers or authorities granted mutual savings banks
37 solely under this section.

1 **Sec. 9.** RCW 32.32.500 and 1999 c 14 s 30 are each amended to read
2 as follows:

3 (1) A savings bank may merge with, consolidate with, convert into,
4 acquire a branch or branches of, or sell its branch or branches to any
5 depository institution(~~s~~) as defined in 12 U.S.C. Sec. 461 (~~(e)~~),
6 any financial institution chartered or authorized to do business under
7 the laws of any state, territory, province, or other jurisdiction of
8 the United States or another nation, or (~~to a~~) any holding company or
9 subsidiary (~~thereof~~) of such an institution, subject to the approval
10 of (a) the director of financial institutions if the surviving
11 institution is one chartered under Title 30, 31, 32, or 33 RCW, or (b)
12 if the surviving institution is to be a bank, savings bank, savings and
13 loan association, or other depository institution that is federally
14 chartered under the laws of the United States, the federal regulatory
15 authority having jurisdiction over the transaction under the applicable
16 laws, or (c) if the surviving institution is to be a bank, savings
17 bank, savings and loan association, or other depository or financial
18 institution that is chartered under the laws of another state or
19 territory of the United States, the regulatory authority having
20 jurisdiction over that transaction under the applicable laws, or (d) if
21 the surviving institution is to be a bank, savings bank, savings and
22 loan association, or other depository or financial institution that is
23 chartered under the laws of a nation other than the United States or of
24 a state, territory, province, or other jurisdiction of such nation, the
25 director of financial institutions, or (e) if the surviving institution
26 is to be a bank holding company or financial holding company, the
27 Federal Reserve Board or its successor under 12 U.S.C. Sec. 1842 (a)
28 and (d).

29 (2) In the case of a liquidation, acquisition, merger,
30 consolidation, or conversion of a converted savings bank, chapter 32.34
31 RCW shall apply.

32 (3) The concentration limits applicable to these transactions,
33 pursuant to 12 U.S.C. Sec. 1831u(b)(2)(C) with respect to interstate
34 transactions, shall be those imposed pursuant to 12 U.S.C. Sec.
35 1828(c)(5), as applied by the federal regulatory authority having
36 jurisdiction over that transaction under the applicable law, in lieu of
37 the concentration limits of 12 U.S.C. Sec. 1831u(b)(2)(B).

1 NEW SECTION. **Sec. 10.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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