

HOUSE BILL REPORT

SHB 2286

As Passed Legislature

Title: An act relating to interstate branching.

Brief Description: Regulating interstate branching.

Sponsors: By House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Simpson, Kirby, Williams, Kelley and Hunt).

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 2/21/07, 2/27/07 [DPS].

Floor Activity:

Passed House: 3/14/07, 96-0.

Passed Senate: 4/10/07, 47-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Allows an out-of-state bank to acquire, establish, or maintain a branch within one mile of an affiliate commercial location only to the same extent permitted for a Washington bank under state and federal law.
- Adds definitions of "bank," "out-of-state bank," "Washington bank," and "home state."

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kirby, Chair; Kelley, Vice Chair; Strow, Assistant Ranking Minority Member; Hurst, Santos and Simpson.

Minority Report: Do not pass. Signed by 2 members: Representatives Roach, Ranking Minority Member and Rodne.

Staff: Jon Hedegard (786-7127).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Department of Financial Institutions (DFI) regulates Washington's state-chartered commercial banks, stock savings banks, mutual savings, alien banks, and savings and loans.

Federal law allows states to choose from several approaches in regulating interstate branches of out-of-state banks. A state may:

- allow an out-of-state entity to have in-state branches without imposing requirements;
- allow an out-of-state entity to have in-state branches only if the state where the entity is chartered or has its principal place of business has reciprocal requirements. This is called "de novo" branching;
- allow an out-of-state entity to have in-state branches if it acquires a domestic bank. There is often a requirement that the purchased bank must have been in business for a fixed period of time before the acquisition;
- impose strict barriers on out-of-state entities that seek in-state branches; or
- prohibit an out-of-state entity from having in-state branches.

In 2005, the Legislature permitted an out-of-state bank or savings bank to establish branches in Washington on the same or less favorable terms as are imposed on Washington-chartered banks or savings banks seeking to establish branches in the state where the institution is chartered or has its principal place of business. If the other state allows for a de novo branch for a Washington-chartered bank, then an out-of-state bank may have a de novo branch under the same terms. If another state imposes a requirement that a Washington bank must acquire existing branches, similar terms will apply to the banks from that other state.

For out-of-state banks, "branch" is defined as an office of a bank through which it receives deposits, other than its principal office. Any of the functions or services authorized to be engaged in by a bank may be carried out in an authorized branch office.

For savings banks, "branch" is defined as an established office or facility other than the principal office, at which employees of the savings bank take deposits. "Branch" does not refer to a machine permitting customers to leave funds in storage or communicate with savings bank employees who are not located at the site of that machine, unless employees of the savings bank at the site of that machine take deposits on a regular basis. An office of an entity other than the savings bank is not established by the savings bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the savings bank.

Summary of Substitute Bill:

An out-of-state bank may acquire, establish, or maintain a branch in Washington within one mile of an affiliate commercial location only to the same extent permitted for a Washington bank under applicable state and federal law.

"Bank" is defined as "any national bank, state bank, and district bank, as defined in 12 U.S.C. Sec. 1813(a)." "Out-of-state bank" is defined as "a bank whose home state is a state other than Washington." "Washington bank" is defined as "a bank whose home state is Washington." "Home state" is defined as having the same meaning as in RCW 30.38.005.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill isn't about the details of regulation. This bill is about preventing a predatory company from entering our community of financial institutions. A 1995 study looked at the impact of Wal-Mart in Iowa since Wal-Mart entered the state in 1983. The Wal-Mart business model is to lower prices in order to drive mom-and-pop stores out of business, and then raise rates. Between 1983 and when the 1995 study was done, 50 percent of the clothing stores had closed, 30 percent of the hardware stores closed, 42 percent of the variety stores closed, 26 percent of department stores, and 25 percent of the buildings closed. We don't want that to happen to our community banks here. It would be one thing if it were fair competition; if someone wanted to offer a product at a lower price and would continue to offer the product at a lower price. The trick is to continue to offer the product at a lower price. Wal-Mart doesn't do that. Wal-Mart drives out local businesses with low prices and then jacks up the prices after destroying the competition. They have a history of destabilizing their communities, mistreating their employees, subcontracting with sweatshops, and taking money out of, rather than reinvesting in, communities. I don't want to see what has happened in the retail industry across the United States and in Washington happen to our Washington financial institutions.

We have some suggested language that addresses the goals of the bill but avoids some of the auxiliary issues that may arise under the current bill. The goal is to keep commerce separate from banking. Banks and commerce should not be mixed. In the United States, they have been separated since the 1930s. This compartmentalization has been good for our economy. Financial regulators are simply not trained to oversee a monolithic, national corporation. There is also a concern that troubles with a parent company can lead to problems for the subsidiary. The firewalls are inadequate. This happened in the savings and loans crisis and the taxpayer had to pick up the tab. Banks are held to a higher service standard than other segments of the economy. Banks have Community Reinvestment Act (CRA) obligations. It may be hard to hold a bank that is owned by another entity to those CRA standards. The source of funds is another issue. Those large commercial entities get capital from stocks and bonds and other sources. This would add deposits to their supply of capital. Deposits are less costly but more risky. If their goal is to make business loans, it seems odd to use consumer deposits from retail locations to do it. Washington banks should be protected from unfair

competition. The goal of the bill is important. The draft language to amend the bill is something that is worthy of support but we want to review it in the next day or so. It looks like all the financial institutions will support it.

(Opposed) None.

Persons Testifying: Representative Simpson, prime sponsor; Brad Tower and Michael Edwards, Washington Independent Community Bankers; and Denny Eliason, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying: None.