

CHAPTER 183

FINANCIAL INSTITUTIONS

HOUSE BILL 95-1355

BY REPRESENTATIVES Martin, May, and Schwarz;
also SENATORS Wattenberg, Alexander, Casey, Johnson, Meiklejohn, Norton, and Schroeder.

AN ACT

CONCERNING CONFORMANCE OF COLORADO BANKING STATUTES WITH FEDERAL STATUTES, AND, IN CONNECTION THEREWITH, REPEALING CONFLICTING OR OUTMODED PROVISIONS OF COLORADO LAW RELATED THERETO AND AMENDING REQUIREMENTS FOR REPORTING DEPOSIT AND LOAN ACTIVITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 11-2-103 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-2-103. Powers of banking board. (5) The banking board has the power to authorize such banks to engage in any banking activity in which state banks could engage were they operating as national banks at the time such authority is granted, so long as such activity is not prohibited elsewhere in this code and to the extent permissible under rules and regulations of the banking board promulgated pursuant to subsection (1) of this section consistent with the policies set forth in section 11-1-101.5, or under any other provision of this code. STATE BANKS MAY ENGAGE IN INTERSTATE BRANCHING TO THE SAME EXTENT AS IF THEY WERE OPERATING AS NATIONAL BANKS SO LONG AS SUCH ACTIVITY IS IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BANKING BOARD.

SECTION 2. 11-2-109 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-2-109. Bank reports to banking board - requirements for acquiring control. (2) Said reports shall be transmitted to the banking board within thirty days after its request therefor. ~~and the substance thereof shall be published within ten days by the state bank, in such form as may be prescribed by the banking board, in a~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~newspaper of general circulation printed in the city or town where such bank is located. If there is no newspaper of general circulation printed in said city or town, then publication shall be in the newspaper of general circulation published nearest thereto. Proof of such publication shall be filed with the banking board within ten days after the date of such publication, in such forms as it may prescribe.~~

SECTION 3. 11-2-114.1 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-2-114.1. Administrative fees. (2) The banking board shall assess filing fees to banks and bank holding companies outside of Colorado which are seeking to acquire a bank or bank holding company in Colorado in such amount as determined to be sufficient to reimburse the state for the cost of administration of sections 11-6.4-103 ~~(1)(b), (10), and (12)~~ (8) AND (9) and 11-6.4-104, and the requirements thereof.

SECTION 4. 11-6.4-101, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-6.4-101. Legislative declaration. (1) The general assembly finds, determines, and declares that, in authorizing expansion of interstate banking to this state, primary consideration should be given to providing positive benefits for the people of this state; to affording protection to bank depositors in this state; to enhancing the opportunity of the people of this state to receive services provided by banks and bank holding companies; and to setting forth the standards under which out-of-state bank holding companies may acquire or control Colorado banks and bank holding companies.

(2) IN ORDER TO COMPLY WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION (1) OF THIS SECTION WITH RESPECT TO INTERSTATE BRANCH BANKING, THE GENERAL ASSEMBLY FINDS THAT IT IS IN THE BEST INTERESTS OF THE CITIZENS OF THIS STATE TO DECLARE THAT INTERSTATE BRANCHING IN COLORADO IS PROHIBITED PRIOR TO JUNE 1997. THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT DE NOVO INTERSTATE BRANCHING IN THIS STATE IS EXPRESSLY PROHIBITED AND THAT INTERSTATE BRANCHING THROUGH THE ACQUISITION OF A BRANCH OF AN INSURED FINANCIAL INSTITUTION WITHOUT THE ACQUISITION OF SUCH FINANCIAL INSTITUTION WHICH HAS BEEN IN OPERATION FOR AT LEAST FIVE YEARS AT THE TIME OF ACQUISITION IS EXPRESSLY PROHIBITED.

SECTION 5. 11-6.4-102 (9), (11), (12), and (13), Colorado Revised Statutes, 1987 Repl. Vol., as amended, are amended, and the said 11-6.4-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

11-6.4-102. Definitions. As used in this article, unless the context otherwise requires:

(4.5) "COLORADO FINANCIAL INSTITUTION" MEANS A FINANCIAL INSTITUTION HAVING ITS PRINCIPAL PLACE OF BUSINESS IN COLORADO.

(6.5) "DE NOVO BRANCH" MEANS A BRANCH OF A FINANCIAL INSTITUTION WHICH:

(a) IS ORIGINALLY ESTABLISHED BY THE FINANCIAL INSTITUTION AS A BRANCH; AND

(b) DOES NOT BECOME A BRANCH OF SUCH FINANCIAL INSTITUTION AS A RESULT OF:

(I) THE ACQUISITION BY THE FINANCIAL INSTITUTION OF A DEPOSITORY INSTITUTION OR A BRANCH OF A DEPOSITORY INSTITUTION; OR

(II) THE CONVERSION, MERGER, OR CONSOLIDATION OF ANY SUCH INSTITUTION OR BRANCH.

(6.7) "DEPOSIT PRODUCTION OFFICE" MEANS AN OFFICE OR BRANCH USED PRIMARILY FOR THE PURPOSE OF DEPOSIT PRODUCTION.

(7.1) "FINANCIAL INSTITUTION" MEANS ANY BANK, BANK HOLDING COMPANY, INDUSTRIAL BANK, INDUSTRIAL BANK HOLDING COMPANY, SAVINGS AND LOAN ASSOCIATION, FEDERAL SAVINGS BANK, OR THRIFT HOLDING COMPANY.

(7.3) (a) "FOREIGN BANK" MEANS ANY BANK, INCLUDING ANY COMMERCIAL BANK, MERCHANT BANK, OR OTHER INSTITUTION THAT ENGAGES IN BANKING ACTIVITIES WHICH ARE USUAL IN CONNECTION WITH THE BUSINESS OF BANKING IN THE NATIONS WHERE SUCH INSTITUTION IS ORGANIZED OR OPERATING, OTHER THAN A BANK WHICH IS ORGANIZED UNDER THE LAWS OF A STATE OF THE UNITED STATES OR A NATIONAL BANK WHICH MAINTAINS ITS HEAD OFFICE IN A STATE OF THE UNITED STATES.

(b) AS USED IN THIS SUBSECTION (7.3), "FOREIGN NATION" MEANS ANY NATION OTHER THAN THE UNITED STATES, INCLUDING ANY SUBDIVISION, TERRITORY, TRUST TERRITORY, DEPENDENCY, OR POSSESSION OF ANY SUCH NATION. "FOREIGN NATION" INCLUDES PUERTO RICO, GUAM, AMERICAN SAMOA, THE VIRGIN ISLANDS, AND ANY TERRITORY, TRUST TERRITORY, DEPENDENCY, OR INSULAR POSSESSION OF THE UNITED STATES.

(7.5) "HOME STATE" MEANS:

(a) IN THE CASE OF A NATIONAL BANK, THE STATE IN WHICH THE MAIN OFFICE OF THE BANK IS LOCATED; AND

(b) IN THE CASE OF A STATE BANK, THE STATE IN WHICH THE BANK IS CHARTERED.

(9) "Out-of-state bank" means a bank ~~having its principal place of business outside of Colorado~~ THE HOME STATE OF WHICH IS ANOTHER STATE. THE TERM "OUT-OF-STATE BANK" INCLUDES A FOREIGN BANK.

(11) "~~Reciprocal state~~" means ~~the state of Arizona, Kansas, New Mexico, Nebraska, Oklahoma, Utah or Wyoming.~~

(12) "~~Reciprocal state bank~~" means ~~a bank having its principal place of business in a reciprocal state.~~

(13) "Reciprocal state bank holding company" means:

~~(a) A registered bank holding company the operations of which are principally conducted in a reciprocal state and which is not controlled by a bank holding company the operations of which are principally conducted outside of such reciprocal state; or~~

~~(b) An out-of-state bank holding company which controlled at least three Colorado banks as of May 9, 1956, or which, as of January 1, 1985, was the beneficial owner, directly or indirectly, of seventy-five percent or more of the equity interest (including, without limitation, any nonvoting equity interest) in a Colorado bank holding company or Colorado bank, but the operations of which are principally conducted outside of Colorado or a reciprocal state, however, except as expressly provided in section 11-22-615, if on or after January 1, 1988, and prior to January 1, 1991, control of an out-of-state bank holding company described in this paragraph (b) or its Colorado banks or Colorado bank holding companies, is acquired by an out-of-state bank holding company the operations of which are principally conducted outside of a reciprocal state, neither out-of-state bank holding company shall at the time of acquisition of control or thereafter be deemed a reciprocal state bank holding company;~~

~~(c) An out-of-state bank holding company that is a successful bidder under section 11-22-615.~~

SECTION 6. 11-6.4-103, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-6.4-103. Acquisition of control of bank holding companies and banks by bank holding companies in different states - interstate banking and branching.

~~(1) Prior to January 1, 1991:~~

~~(a) A Colorado bank holding company may acquire control of a reciprocal state bank holding company or reciprocal state bank, and, subject to the limitations of subsections (3) to (8) of this section, a reciprocal state bank holding company may acquire control of a Colorado bank holding company or Colorado bank;~~

~~(b) If the banking board finds, upon application of any interested party or upon the board's own initiative, that the laws of a particular reciprocal state expressly authorize Colorado bank holding companies to acquire control of reciprocal state bank holding companies and reciprocal state banks in that state, a reciprocal state bank holding company the operations of which are principally conducted in that state may acquire control of a Colorado bank or Colorado bank holding company;~~

~~(c) A reciprocal state bank holding company, as defined in section 11-6.4-102(13)(b), shall have the same powers and be subject to the same conditions as any other reciprocal state bank holding company; except that the laws of the state where its operations are principally conducted need not be reciprocal with the law of this state, and the finding by the banking board under paragraph (b) of this subsection (1) shall not be required.~~

~~(2) (1) On and after January 1, 1991, a Colorado bank holding company may~~

acquire control of out-of-state bank holding companies and out-of-state banks; and, on and after January 1, 1991, subject to the limitations of subsections ~~(3)~~ (2) to ~~(8)~~ (6) of this section, an out-of-state bank holding company may acquire control of Colorado ~~bank holding companies and Colorado banks~~ FINANCIAL INSTITUTIONS.

~~(3) (2) Except as provided in subsections (4) and (5) of this section, an out-of-state bank holding company, until July 1, 1993, may not acquire control of any Colorado bank under subsection (1) or (2) of this section unless such Colorado bank has been either in operation since January 1, 1988, or in operation for at least five years at the time of the acquisition of control. AN OUT-OF-STATE BANK HOLDING COMPANY MAY NOT ACQUIRE CONTROL OF, OR ACQUIRE ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF, A COLORADO DEPOSITORY INSTITUTION HAVING ITS PRINCIPAL PLACE OF BUSINESS IN COLORADO UNLESS SUCH DEPOSITORY INSTITUTION HAS BEEN IN OPERATION FOR AT LEAST FIVE YEARS AT THE TIME OF THE ACQUISITION OF CONTROL. AN OUT-OF-STATE BANK HOLDING COMPANY ACQUIRING CONTROL OF A COLORADO BANK HOLDING COMPANY, INDUSTRIAL BANK HOLDING COMPANY, OR THRIFT HOLDING COMPANY MAY ACQUIRE CONTROL OF ANY COLORADO DEPOSITORY INSTITUTION HAVING ITS PRINCIPAL PLACE OF BUSINESS IN COLORADO CONTROLLED BY THE COLORADO BANK HOLDING COMPANY, INDUSTRIAL BANK HOLDING COMPANY, OR THRIFT HOLDING COMPANY EVEN THOUGH SUCH DEPOSITORY INSTITUTION HAS BEEN IN OPERATION FOR LESS THAN FIVE YEARS.~~

~~(4) Until July 1, 1993, an out-of-state bank holding company may not acquire control of any Colorado bank holding company under subsection (1) or (2) of this section unless such Colorado bank holding company has been in operation since July 1, 1988, or has been in operation for at least five years at the time of the acquisition of control. An out-of-state bank holding company acquiring control of a Colorado bank holding company under this subsection (4) may thereby acquire control of any Colorado bank controlled by that Colorado bank holding company regardless of the limitations of subsection (3) of this section.~~

~~(5) (3) An out-of-state bank holding company may not acquire control of any Colorado bank by organizing or seeking to charter de novo such Colorado bank; however, on and after July 1, 1993, A Colorado bank holding company which is controlled by an out-of-state bank holding company may acquire control of any Colorado bank by organizing or seeking to charter de novo a Colorado bank.~~

~~(6) (4) An out-of-state A bank holding company may not acquire control of any Colorado bank holding company or Colorado bank FINANCIAL INSTITUTION if such acquisition of control will result, at the time of such acquisition, in the out-of-state bank holding company controlling more than twenty-five percent of the aggregate of all deposits in all banks, savings and loan associations, federal savings banks, and other financial institutions located in Colorado, which are federally insured. For the purpose of this subsection ~~(6)~~ (4), deposits shall be determined based upon the public reports most recently filed with the appropriate federal regulatory agency.~~

~~(7) (5) An out-of-state A bank holding company may not acquire control of a Colorado bank holding company or Colorado bank FINANCIAL INSTITUTION unless immediately before such acquisition such out-of-state bank holding company has such capital as the banking board may require by rule and regulation.~~

~~(8) (6) This section does not modify existing Colorado law to otherwise authorize the establishment of a branch bank in this state by any bank holding company or bank.~~ ON AND AFTER JUNE 1, 1997, INTERSTATE BRANCHING THROUGH THE ACQUISITION OF A BRANCH OF AN INSURED FINANCIAL INSTITUTION WITHOUT THE ACQUISITION OF SUCH FINANCIAL INSTITUTION IS EXPRESSLY PROHIBITED. DE NOVO INTERSTATE BRANCHING IS EXPRESSLY PROHIBITED. DEPOSIT PRODUCTION OFFICES ARE EXPRESSLY PROHIBITED.

~~(9) (7) No out-of-state bank holding company may acquire control of any Colorado bank or Colorado bank holding company or any reciprocal state bank holding company~~ FINANCIAL INSTITUTION which controls a Colorado bank or which controls a Colorado bank holding company FINANCIAL INSTITUTION except in accordance with the provisions of this section or as permitted without AND WITH prior approval of the federal reserve board under section 3(a) of the federal "Bank Holding Company Act", 12 U.S.C. sec. 1842(a).

~~(10) (8) An out-of-state~~ A BANK OR bank holding company that intends to acquire control of any Colorado bank or Colorado bank holding company FINANCIAL INSTITUTION OR TO CONDUCT INTERSTATE BRANCHING IN COLORADO ON OR AFTER JUNE 1, 1997, shall provide the banking board with the name or names under which it proposes to conduct the business of such bank, or BANK holding company, OR BRANCH. The out-of-state BANK OR bank holding company shall not be eligible to CONDUCT INTERSTATE BRANCHING OR make any such acquisition if the proposed name is either:

(a) Identical to or deceptively similar to the name of any existing Colorado bank or Colorado bank holding company FINANCIAL INSTITUTION; except that this paragraph (a) shall not apply if the out-of-state BANK OR bank holding company obtains express written consent of the affected existing Colorado bank or Colorado bank holding company FINANCIAL INSTITUTION; or

(b) Likely to cause the public to be confused, deceived, or mistaken.

~~(11) Nothing in this section shall limit the right of a Colorado bank holding company to acquire control of a Colorado bank or a Colorado bank holding company as permitted under any other applicable law.~~

~~(12) (9) Concurrently with the filing of its application OR NOTICE with the APPROPRIATE federal reserve board REGULATORY AGENCY concerning the acquisition or control of a Colorado bank or Colorado bank holding company, an out-of-state~~ FINANCIAL INSTITUTION, OR CONCERNING AN INTERSTATE BRANCH ON OR AFTER JUNE 1, 1997, A BANK OR bank holding company shall file a copy of said application OR NOTICE with the banking board, which may submit advisory comments to the federal reserve board REGULATORY AGENCY.

~~(13) On and after July 1, 1988, and until January 1, 1991, an out-of-state bank holding company may not acquire control of any savings and loan association, federal savings bank, or any other financial institution other than a bank, located in Colorado, or any holding company controlling any such entity. On and after July 1, 1988, and until January 1, 1991, a savings and loan association, a federal savings bank, or any other financial institution other than a bank, the principal place of business of which~~

is located outside of Colorado, or any holding company controlling any such entity may not acquire control of any Colorado bank or Colorado bank holding company.

~~(14)~~ (10) No ~~out-of-state~~ BANK OR bank holding company may CONDUCT INTERSTATE BRANCHING IN COLORADO OR acquire control, DIRECTLY OR INDIRECTLY of any Colorado bank or Colorado bank holding company or any reciprocal state bank holding company which controls a Colorado bank or which controls a Colorado bank holding company FINANCIAL INSTITUTION without first obtaining a certificate from the ~~bank~~ BANKING board certifying that such BRANCH OR acquisition complies with the provisions of this article. Such certificate shall accompany any advisory comments submitted by the banking board to the APPROPRIATE federal ~~reserve board~~ REGULATORY AGENCY pursuant to subsection ~~(12)~~ (9) of this section. If the banking board refuses to issue a certificate pursuant to this subsection ~~(14)~~ (10), such refusal and the reasons therefor shall be submitted pursuant to subsection ~~(12)~~ (9) of this section to the APPROPRIATE federal ~~reserve board~~ REGULATORY AGENCY with advisory comments. The banking board shall act on any application OR NOTICE filed pursuant to subsection ~~(12)~~ (9) of this section and shall issue or refuse to issue the certificate required by this subsection ~~(14)~~ (10) within ninety days of the filing of any such application.

SECTION 7. 11-22-109.6 (2), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-22-109.6. Industrial banks reports on condition and income to commissioner. (2) Said reports shall be transmitted to the commissioner within thirty days after his THE request therefor. ~~and the substance thereof shall be published within ten days by the industrial bank, in such form as may be prescribed by the commissioner, in a newspaper of general circulation printed in the city or town where such industrial bank is located. If there is no newspaper of general circulation printed in said city or town, then publication shall be in the newspaper of general circulation published nearest thereto. Proof of such publication shall be filed with the commissioner within ten days after the date of such publication, in such form as he may prescribe.~~

SECTION 8. 11-22-615 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-22-615. Procedure for relief of depositors in troubled industrial banks. (5) If a successful bidder is an out-of-state bank holding company and, on or after April 29, 1988, and prior to January 1, 1991, control of said out-of-state bank holding company or its Colorado banks or Colorado bank holding companies is acquired by an out-of-state bank holding company the operations of which are principally conducted outside of a reciprocal state, neither out-of-state bank holding company shall at the time of acquisition of control or thereafter be deemed a reciprocal state bank holding company. If a successful bidder is an out-of-state bank holding company and acquires control of a reciprocal state bank holding company ~~as defined in section 11-6.4-102 (13)(b);~~ or such reciprocal state bank holding company's Colorado banks or Colorado bank holding companies, then such reciprocal state bank holding company shall no longer qualify as a reciprocal state bank holding company under article 6.4 of this title.

SECTION 9. 11-23-118 (3.5) (b), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-23-118. Reports to the banking board and to the commissioner. (3.5) (b) Said reports shall be transmitted to the commissioner within thirty days after his THE request therefor. ~~and the substance thereof shall be published within ten days by the trust company, in such form as may be prescribed by the commissioner, in a newspaper of general circulation printed in the city or town where such trust company is located. If there is no newspaper of general circulation printed in said city or town, then publication shall be in the newspaper of general circulation published nearest thereto. Proof of such publication shall be filed with the commissioner within ten days after the date of such publication, in such form as he may prescribe.~~

SECTION 10. 11-25-101, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-25-101. Legislative declaration. (1) The general assembly finds, determines and declares that distinctions in function and services of various types of financial institutions have become so narrow that organizational and operational equality should be encouraged and facilitated in this state. It is the intent of the general assembly to enact legislation which will promote the safety and soundness of financial institutions for the benefit of the public, which will improve efficiency for the economic operation of those financial institutions and will ensure that the state of Colorado, by its appropriate action, will continue its control of those financial institutions within its jurisdiction.

(2) IN ORDER TO PROVIDE EQUALITY AMONG FINANCIAL INSTITUTIONS, THE BANKING BOARD AND THE FINANCIAL SERVICES BOARD SHALL MONITOR AND REQUIRE REPORTS ON THE ACTIVITIES OF EACH FINANCIAL INSTITUTION CONDUCTING BUSINESS AT A LOCATION IN COLORADO.

SECTION 11. 11-25-102 (3), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-25-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Financial institution" means any bank, bank holding company, industrial bank, industrial bank holding company, savings and loan associations, FEDERAL SAVINGS BANK, or thrift holding company.

SECTION 12. 11-25-103 (7) (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-25-103. Financial institutions - branches allowed - conversion of financial institutions to branches - acquisitions. (7) (1) Nothing in this article or any other article of this title shall authorize interstate branching PRIOR TO JUNE 1, 1997.

SECTION 13. 11-25-104 (2), (3), and (5), Colorado Revised Statutes, 1987 Repl.

Vol., as amended, are amended to read:

11-25-104. Financial institutions - common powers and limitations. (2) ~~No~~ ANY acquisition of a branch from another financial institution shall be subject to ~~any~~ THE percentage limitation set forth in ~~this article~~ SUBSECTION (7) OF THIS SECTION. Such an acquisition by a financial institution which has its principal place of business in Colorado is expressly authorized, and the location ~~thereof~~ OF SUCH BRANCH may be changed pursuant to law.

(3) ~~No~~ ANY acquisition of a branch from another financial institution in connection with the acquisition of such financial institution shall be subject to any percentage limitation set forth in ~~this article~~ SUBSECTION (7) OF THIS SECTION. Such an acquisition by a financial institution which has its principal place of business in Colorado is expressly authorized, and the location ~~thereof~~ OF SUCH BRANCH may be changed pursuant to law.

(5) Nothing in this article or in article 6.4 of this title shall be construed to prevent the acquisition of any financial institution in this state by any other financial institution ~~whether its~~ THE principal operations OF WHICH are located in this state; ~~or in any other state~~; however, any conversion of all or any part thereof to a branch shall be in accordance with the provisions of ~~section 11-25-103~~ THIS ARTICLE.

SECTION 14. 11-25-105, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-25-105. Subsidiary depository institutions as agent. (1) ~~Any Colorado financial institution (the "contracting financial institution") may contract with any other Colorado financial institution (the "accepting financial institution") to grant the accepting financial institution the authority to accept and receive deposits and to honor and pay out withdrawals on behalf of the contracting financial institution and depositors therein.~~ ANY BANK SUBSIDIARY OF A BANK HOLDING COMPANY MAY RECEIVE DEPOSITS, RENEW TIME DEPOSITS, CLOSE LOANS, SERVICE LOANS, AND RECEIVE PAYMENTS ON LOANS AND OTHER OBLIGATIONS AS AN AGENT FOR AN AFFILIATE FINANCIAL INSTITUTION, AS SUCH AUTHORITY IS SET FORTH IN SECTION 101(d) OF THE FEDERAL "RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING EFFICIENCY ACT OF 1994". NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A BANK ACTING AS AN AGENT IN ACCORDANCE WITH THIS SUBSECTION (1) FOR AN AFFILIATE FINANCIAL INSTITUTION SHALL NOT BE CONSIDERED TO BE A BRANCH OF THE AFFILIATE.

(2) ~~As used in this section, the terms "deposits" and "withdrawals" include issuing money orders, cashiers' checks, and travelers' checks or similar instruments, cashing checks or drafts, receiving note payments receiving or delivering cash and instruments and securities, and disbursing loan proceeds by machine.~~ ANY CONTRACT ENTERED INTO PURSUANT TO THIS SECTION AS IT EXISTED PRIOR TO JULY 1, 1995, SHALL REMAIN VALID AND IN EFFECT ACCORDING TO THE TERMS OF THE CONTRACT AND ANY SUBSEQUENT AGREEMENT OF THE CONTRACTING FINANCIAL INSTITUTIONS.

~~(3) Any contract entered into pursuant to this section includes accepting and~~

~~receiving deposits and honoring and paying withdrawals at or through a branch of either financial institution which is a party to the contract.~~

SECTION 15. 11-25-107, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

11-25-107. Reports on deposits and Colorado loan activities. ~~Any financial institution in this state which is regulated by the banking board or the state commissioner of financial services and which is controlled by a financial institution the principal place of business of which is in another state shall report each year as required by the banking board or the commissioner of financial services on the dollar amount of loans made in the service area or areas of any such financial institution in the state of Colorado or in states adjacent to this state, in other states of the United States, and to persons or entities controlled by interest in countries outside the United States. Such financial institutions shall also separately report on the dollar amount of money flowing from any such financial institution to the out-of-state financial institution controlling the Colorado financial institution.~~ (1) A REPORT SHALL BE FILED EACH YEAR AS REQUIRED BY THE BANKING BOARD OR THE FINANCIAL SERVICES BOARD BY A:

(a) FINANCIAL INSTITUTION ACCEPTING DEPOSITS IN THIS STATE OR BRANCH OF A FINANCIAL INSTITUTION ACCEPTING DEPOSITS IN THIS STATE; OR

(b) BANK HOLDING COMPANY CONDUCTING BUSINESS IN THIS STATE, INDUSTRIAL BANK HOLDING COMPANY CONDUCTING BUSINESS IN THIS STATE, OR THRIFT HOLDING COMPANY CONDUCTING BUSINESS IN THIS STATE.

(2) (a) THE BANKING BOARD AND THE FINANCIAL SERVICES BOARD SHALL PRESCRIBE BY REGULATION THE INFORMATION TO BE REPORTED EACH YEAR, INCLUDING:

(I) THE INFORMATION REQUIRED IN REPORTS OF CONDITION AND INCOME IN THE FORM REQUIRED BY THE FINANCIAL INSTITUTION'S PRIMARY REGULATOR; AND

(II) SUCH COMPREHENSIVE INFORMATION AS THE BANKING BOARD AND THE FINANCIAL SERVICES BOARD FIND NECESSARY TO MONITOR DEPOSITS AND COLORADO LOAN ACTIVITY.

(b) SUCH REPORTS SHALL INCLUDE A COPY OF ANY PUBLIC WRITTEN EVALUATION PREPARED BY THE APPROPRIATE FEDERAL FINANCIAL SUPERVISORY AGENCY PURSUANT TO SECTION 807 OF THE FEDERAL "COMMUNITY REINVESTMENT ACT OF 1977".

(c) AS USED IN THIS SUBSECTION (2):

(I) "COLORADO LOAN" MEANS A LOAN TO A BORROWER WHO RESIDES IN COLORADO OR WHOSE PRINCIPAL PLACE OF BUSINESS IS IN COLORADO. FEDERAL FUNDS AND AMOUNTS OUTSTANDING ON BANK CREDIT OR DEBIT CARDS SHALL NOT BE CONSIDERED A COLORADO LOAN.

(II) "DEPOSIT" MEANS ANY DEPOSIT RECEIVED BY ANY FINANCIAL INSTITUTION OR BRANCH OF A FINANCIAL INSTITUTION CONDUCTING BUSINESS IN COLORADO.

(d) (I) A FINANCIAL INSTITUTION ACCEPTING DEPOSITS AND WHICH HAS NO BRANCHES MAY SATISFY THE REPORTING REQUIREMENTS OF THIS SECTION BY FILING ONE REPORT.

(II) A FINANCIAL INSTITUTION ACCEPTING DEPOSITS AND WHICH HAS BRANCHES, A BRANCH WHICH ACCEPTS DEPOSITS, OR A BANK HOLDING COMPANY, INDUSTRIAL BANK HOLDING COMPANY, OR THRIFT HOLDING COMPANY CONDUCTING BUSINESS IN THIS STATE MAY SATISFY THE REPORTING REQUIREMENTS OF THIS SECTION BY FILING:

(A) A SEPARATE REPORT FOR EACH METROPOLITAN STATISTICAL AREA IN THIS STATE IN WHICH THE FINANCIAL INSTITUTION MAINTAINS ONE OR MORE BRANCHES AND A SEPARATE REPORT FOR THE REMAINDER OF THE NON-METROPOLITAN STATISTICAL AREA IN THIS STATE IF THE FINANCIAL INSTITUTION MAINTAINS ONE OR MORE BRANCHES IN SUCH NON-METROPOLITAN STATISTICAL AREA; OR

(B) A SEPARATE REPORT FOR EACH BRANCH IN THIS STATE.

(3) NO LATER THAN NINETY DAYS PRIOR TO THE PROPOSED DATE OF ANY BRANCH CLOSING, THE "NOTICE OF BRANCH CLOSING" REQUIRED TO BE FILED WITH THE APPROPRIATE FEDERAL REGULATORY AGENCY SHALL BE FILED WITH THE BANKING BOARD OR THE FINANCIAL SERVICES BOARD. THE NOTICE OF BRANCH CLOSING SHALL INCLUDE A DETAILED STATEMENT OF THE REASONS FOR THE DECISION TO CLOSE THE BRANCH AND STATISTICAL OR OTHER INFORMATION IN SUPPORT OF SUCH REASONS.

(4) (a) IN THE CASE OF A STATE CHARTERED FINANCIAL INSTITUTION OR BRANCH OF A STATE CHARTERED FINANCIAL INSTITUTION ACCEPTING DEPOSITS, OR IN THE CASE OF A BANK HOLDING COMPANY, INDUSTRIAL BANK HOLDING COMPANY, OR THRIFT HOLDING COMPANY CONDUCTING BUSINESS IN THIS STATE, ALL RECORDS PERTAINING TO SUCH REPORT SHALL BE SUBJECT TO EXAMINATION BY THE BANKING BOARD AND FINANCIAL SERVICES BOARD TO CONFIRM THE ACCURACY OF THE REPORT.

(b) IN THE CASE OF A FEDERALLY CHARTERED FINANCIAL INSTITUTION OR BRANCH OF A FEDERALLY CHARTERED FINANCIAL INSTITUTION ACCEPTING DEPOSITS, SUCH FINANCIAL INSTITUTION OR BRANCH SHALL FILE WITH THE REPORT EITHER A SPECIAL REPORT OR A CERTIFICATION, AS FOLLOWS:

(I) A SPECIAL REPORT TO CONFIRM THE ACCURACY OF THE REPORT REQUIRED BY THIS SECTION. THE SPECIAL REPORT SHALL BE PREPARED BY AN INDEPENDENT PUBLIC ACCOUNTANT ENGAGED BY THE FINANCIAL INSTITUTION OR BRANCH. THE REPORT REQUIRED BY THIS SECTION, CERTIFIED BY MANAGEMENT, TOGETHER WITH THE SPECIAL REPORT PREPARED BY THE INDEPENDENT PUBLIC ACCOUNTANT, SHALL BE FILED ANNUALLY WITH THE BANKING BOARD AND THE FINANCIAL SERVICES BOARD. THE BANKING BOARD AND THE FINANCIAL SERVICES BOARD SHALL BY RULE ESTABLISH PROCEDURES TO BE PERFORMED TO PREPARE THE SPECIAL REPORT.

(II) A CERTIFICATION BY THE PRIMARY FEDERAL BANKING REGULATOR OF SUCH FINANCIAL INSTITUTION OR BRANCH WHICH CONFIRMS THE ACCURACY OF THE REPORT.

(5) ANY REPORT, SPECIAL REPORT, OR OTHER INFORMATION REQUIRED TO BE FILED WITH THE BANKING BOARD OR THE FINANCIAL SERVICES BOARD PURSUANT TO THIS SECTION, EXCEPT FOR THE "NOTICE OF BRANCH CLOSING" REQUIRED TO BE FILED PURSUANT TO SUBSECTION (3) OF THIS SECTION, SHALL BE FILED NO LATER THAN APRIL 30 OF THE YEAR FOLLOWING THE CALENDAR YEAR TO WHICH SUCH REPORT, SPECIAL REPORT, OR OTHER INFORMATION IS APPLICABLE.

(6) ANY FINANCIAL INSTITUTION WHICH FAILS TO REPORT INFORMATION REQUIRED PURSUANT TO THIS SECTION MAY BE SUBJECT TO A LEVY BY THE BANKING BOARD OR THE FINANCIAL SERVICES BOARD OF A PENALTY OF UP TO TWO THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY THE REPORT IS NOT FILED.

SECTION 16. Part 3 of article 22 of title 39, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

39-22-303.1. Interstate banking or branching - nondiscriminatory tax treatment. (1) ON OR BEFORE JUNE 1, 1997, THE EXECUTIVE DIRECTOR SHALL PROMULGATE REGULATIONS TO ENSURE NONDISCRIMINATORY TAX TREATMENT OF FINANCIAL ORGANIZATIONS ENGAGED IN INTERSTATE BANKING OR INTERSTATE BRANCHING AND, IN CONNECTION THEREWITH, SHALL CONSIDER:

(a) ANY RECOMMENDATIONS OF THE MULTISTATE TAX COMMISSION ESTABLISHED UNDER THE PROVISIONS OF SECTION 24-60-1301, C.R.S., REGARDING THE TAXATION AND ALLOCATION OF INCOME AND EXPENSES OF FINANCIAL ORGANIZATIONS; AND

(b) APPLYING THE MULTISTATE TAX COMPACT, AS SET FORTH IN PART 13 OF ARTICLE 60 OF TITLE 24, C.R.S., TO FINANCIAL ORGANIZATIONS.

SECTION 17. Effective date. This act shall take effect July 1, 1995.

SECTION 18. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1995