

CHAPTER 10

FINANCIAL INSTITUTIONS

HOUSE BILL 04-1111

BY REPRESENTATIVE(S) White, Coleman, Harvey, Hodge, Hoppe, Larson, Marshall, McCluskey, Pacione, Rhodes, Wiens, Butcher, Cadman, Cloer, Decker, Hefley, McFadyen, Miller, Mitchell, Stafford, and Weddig;
also SENATOR(S) Teck, Isgar, Lamborn, and Taylor.

AN ACT**CONCERNING CONTINUATION OF THE BANKING BOARD.**

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

SECTION 1. 11-102-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

11-102-103. Banking board - repeal. (13) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 2. 24-34-104 (44), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (44) The following agencies, functions, or both, shall terminate on July 1, 2013:

(g) THE BANKING BOARD, CREATED BY ARTICLE 102 OF TITLE 11, C.R.S.

SECTION 3. 11-102-103 (1) (a), (2) (a), and (4), Colorado Revised Statutes, are amended to read:

11-102-103. Banking board. (1) (a) There is hereby established in the division a banking board, which shall consist of ~~eight~~ NINE members as further specified in this section.

(2) (a) There shall be ~~four~~ FIVE members who during their tenure are, and shall remain, executive officers of state banks, each of whom shall have not less than five

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

years' practical experience as an active executive officer of a bank. AT LEAST TWO OF SUCH MEMBERS SHALL REPRESENT BANKS HAVING LESS THAN ONE HUNDRED FIFTY MILLION DOLLARS IN TOTAL ASSETS AT THE TIME OF THEIR APPOINTMENT.

(4) Of the ~~eight~~ members appointed under subsection (2) of this section, ~~not more than four shall be of the same major political party~~; at all times at least one member shall reside west of the continental divide.

SECTION 4. Part 2 of article 102 of title 11, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

11-102-203.5. Independent administrative review of material supervisory determinations - rules. (1) THE BANKING BOARD SHALL ESTABLISH BY RULE AN INDEPENDENT ADMINISTRATIVE APPEALS PROCESS TO ADDRESS AN ADVERSE MATERIAL SUPERVISORY DETERMINATION THAT AFFECTS A STATE BANK. FOR PURPOSES OF THIS SECTION, A "MATERIAL SUPERVISORY DETERMINATION" MEANS:

(a) AN EXAMINATION RATING, INCLUDING COMPOSITE SCORES, INFORMATION TECHNOLOGY, AND TRUST DEPARTMENT RATINGS;

(b) A DETERMINATION RELATING TO THE ADEQUACY OF LOAN LOSS RESERVE PROVISIONS;

(c) A DISPUTED ASSET CLASSIFICATION EXCEEDING TEN PERCENT OF THE STATE BANK'S TOTAL CAPITAL;

(d) A DETERMINATION RELATING TO VIOLATIONS OF LAW OR REGULATION; AND

(e) ANY OTHER DETERMINATION THAT MAY HAVE AN EFFECT ON A STATE BANK'S CAPITAL, EARNINGS, OPERATING FLEXIBILITY, OR CAPITAL CATEGORY FOR PROMPT CORRECTIVE ACTION PURPOSES, OR MAY OTHERWISE AFFECT THE NATURE AND LEVEL OF SUPERVISORY OVERSIGHT ACCORDED THE STATE BANK.

(2) IN PROMULGATING THE RULE PROVIDED FOR IN THIS SECTION, THE BANKING BOARD SHALL APPLY THE FOLLOWING CRITERIA, CONSIDERATIONS, AND POLICIES:

(a) THE INITIAL APPEAL SHALL BE HEARD BY ONE OR MORE PEOPLE SELECTED BY THE BANKING BOARD WHO DID NOT PARTICIPATE IN AND DOES NOT REPORT TO ANYONE WHO MADE THE MATERIAL SUPERVISORY DETERMINATION UNDER REVIEW;

(b) THE BANKING BOARD SHALL ESTABLISH SAFEGUARDS TO PROTECT FROM RETALIATION A STATE BANK THAT FILES AN APPEAL;

(c) ALL APPEALS SHALL BE IN WRITING, ON FORMS APPROVED BY THE BANKING BOARD, AND APPROVED BY THE APPELLANT'S GOVERNING PRINCIPAL OR A MAJORITY OF PRINCIPALS;

(d) ALL APPEALS SHALL BE HEARD WITHIN NINETY DAYS AFTER FILING AND DECIDED WITHIN ONE HUNDRED EIGHTY DAYS AFTER FILING;

(e) THE BANKING BOARD SHALL CLASSIFY THE STATE BANKS THAT ARE ELIGIBLE

TO APPEAL;

(f) THE BANKING BOARD SHALL ENCOURAGE INFORMAL RESOLUTION PROCEDURES;

(g) THE BANKING BOARD SHALL ENCOURAGE COORDINATION WITH OTHER STATE AND FEDERAL REGULATORY AUTHORITIES; AND

(h) TO THE EXTENT THAT FEDERAL GUIDELINES ARE CONSISTENT WITH THIS SECTION, THE BANKING BOARD SHALL MODEL THE RULE PROVIDED FOR IN THIS SECTION ON RELEVANT FEDERAL GUIDELINES.

(3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN APPEAL OF AN ADVERSE MATERIAL SUPERVISORY DETERMINATION SHALL NOT AFFECT, DELAY, OR IMPEDE ANY FORMAL OR INFORMAL SUPERVISORY OR ENFORCEMENT ACTION IN PROGRESS.

SECTION 5. 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: March 3, 2004