

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 26.
BANKS AND OTHER FINANCIAL
INSTITUTIONS.

CHAPTER 7.
INTERSTATE BANKING AND BRANCHING.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 7. INTERSTATE BANKING AND BRANCHING.

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CHAPTER 7. INTERSTATE BANKING AND BRANCHING.

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Editor's Notes

Because of the enactment by D.C. Law 11-142 of subchapter II of Chapter 8 of Title 26 [subchapter II of Chapter 7 of Title 26, 2001 Ed.], the preexisting text was designated as subchapter I.

SUBCHAPTER I. REGIONAL INTERSTATE BANKING.

§ 26-701. DEFINITIONS.[REPEALED]

(Nov. 23, 1985, D.C. Law 6-63, § 2, 32 DCR 5954; Apr. 11, 1986, D.C. Law 6-107, § 2(a), 33 DCR 1168; Apr. 30, 1988, D.C. Law 7-104, § 27(a), 35 DCR 147; Mar. 16, 1989, D.C. Law 7-187, § 2(a), 35 DCR 8648; Aug. 17, 1991, D.C. Law 9-42, § 2(a), 38 DCR 4981; June 9, 2001, D.C. Law 13-308, § 124, 48 DCR 3244.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-801.

Legislative History of Laws

Law 6-63, the "District of Columbia Regional Interstate Banking Act of 1985," was introduced in Council and assigned Bill No. 6-126, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on June 25, 1985, and September 10, 1985, respectively. Disapproved by the Mayor and reenacted by Council on October 8, 1985, it was assigned Act No. 6-86 and transmitted to both Houses of Congress for its review.

Law 6-107, the "District of Columbia Regional Interstate Banking Act of 1985 Amendments Act of 1985," was introduced in Council and assigned Bill No. 6-276, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on January 14, 1986, and January 28, 1986, respectively. Signed by the Mayor on February 14, 1986, it was assigned Act No. 6-136 and transmitted to both Houses of Congress for its review.

Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

Law 7-187, the "District of Columbia Minority Bank Encouragement Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-471, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on October 25, 1988, and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-249 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 9-42, see Historical and Statutory Notes following § 26-712.

For D.C. Law 13-308, see notes following § 26-551.03.

Transfer of Functions

Pursuant to Reorganization Plan No. 3 of 1992, effective January 20, 1993, unless another date was designated by the Mayor under seC. V of the Plan, the D.C. Office of Banking and Financial Institutions ("OBFI") is hereby transferred from the Deputy Mayor for Economic Development ("DMED") control center to a separate OBFI control center/responsibility center. OBFI will continue to be administered by the

Superintendent and will remain a part of the economic development cluster reporting to the Mayor.

§ 26-702. REGIONAL BANK HOLDING COMPANY ACQUISITIONS.

(a) A regional bank holding company may acquire a District of Columbia bank holding company or a District of Columbia bank (other than a District of Columbia bank holding company or a District of Columbia bank which is acquired either pursuant to section 13 of the Federal Deposit Insurance Act (12 U.S.C. § 1823(f)), or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1842(a)), if each of the following requirements is met:

(1) The laws of the state in which the regional bank holding company making the acquisition has its principal place of business permit the regional bank holding company to be acquired by the District of Columbia bank holding company or the District of Columbia bank sought to be acquired.

(2) Either the District of Columbia bank sought to be acquired has been in existence and continuously operating for more than 2 years or all of the bank subsidiaries of the District of Columbia bank holding company sought to be acquired have been in existence and continuously operating for more than 2 years. A regional bank holding company may acquire all or substantially all of the shares of a bank organized solely for the purpose of facilitating the acquisition of a bank that has been in existence and continuously operating as a bank for more than 2 years.

(3) The acquisition complies with any conditions, restrictions, requirements, or other limitations that would apply to the acquisition by the District of Columbia bank holding company or the District of Columbia bank sought to be acquired of a bank or bank holding company located in the state where the regional bank holding company making the acquisition has its principal place of business, but that would not apply to the acquisition of a bank or bank holding company in the state by a bank holding company, all the bank subsidiaries of which are located in that state.

(b) For the purpose of subsection (a)(1) and (3) of this section, a District of Columbia bank shall be treated as if it were a District of Columbia bank holding company.

(Nov. 23, 1985, D.C. Law 6-63, § 3, 32 DCR 5954; Mar. 27, 1993, D.C. Law 9-261, § 2, 40 DCR 1030; Sept. 30, 1993, D.C. Law 10-16, § 2, 40 DCR 5448; May 16, D.C. Law 10-255, § 20, 41 DCR 5193.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-802.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

Law 9-261, the "Regional Interstate Banking Act of 1985 Temporary Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-732. The Bill was adopted on first and second readings on December 15, 1992, and January 5, 1993, respectively. Signed by the Mayor on January 25, 1993, it was assigned Act No. 9-409 and transmitted to both Houses of Congress for its review. D.C. Law 9-261 became effective on March 27, 1993.

Law 10-16, the "Regional Interstate Banking Act of 1985 Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-64, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-47 and transmitted to both Houses of Congress for its review. D.C. Law 10-16 became effective on September 30, 1993.

Law 10-27, the "D.C. Regional Interstate Banking Act of 1985 Clarification Temporary Amendment Act of 1993," was introduced in Council and assigned Bill No. 10-304. The Bill was adopted on first and second readings on June 15, 1993, and July 29, 1993, respectively. Signed by the Mayor on July 20, 1993, it was assigned Act No. 10-59 and transmitted to both Houses of Congress for its review. D.C. Law 10-27 became effective on October 5, 1993.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

§ 26-702.01. DUTIES; COUNCIL REVIEW OF RULES.

(a) Repealed;

(b) The Superintendent shall:

- (1) Administer this subchapter;
- (2) Promote a climate in which financial institutions will organize to do business in the District and contribute to the economic development of the District through the increased availability of capital and credit;
- (3) Expand advantageous financial services to the public in a nondiscriminatory manner;
- (4) Charter and regulate banks, savings banks, savings companies, trust companies, or other financial institutions seeking to establish, in accordance with § 26-101, an office or banking house located within the District where deposits or savings are received;
- (5) Regulate, to the extent provided in § 26-1301, companies which are formed for the purpose of carrying on any 1 of the following 3 classes of business in the District:
 - (A) A safe deposit, trust, loan, and mortgage business;
 - (B) A title insurance, loan, and mortgage business; or
 - (C) A security, guarantee, indemnity, loan, and mortgage business;
- (6) Charter and regulate building associations, building and loan associations, and savings and loan associations which are formed within the District for the purpose of carrying on the activities described in § 26-204;
- (7) Regulate the branching or opening of additional offices by financial institutions under the supervision of the Superintendent;
- (8) Regulate the institutions described in paragraphs (4), (5), and (6) of this subsection to the same extent that these financial institutions were regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Home Loan Bank Board prior to April 11, 1986, and in a manner that promotes safe and sound financial practices;
- (9) Promote and maintain, to the extent possible, an economic climate and regulatory framework that will encourage financial institutions to organize to do business in the District of Columbia;
- (10) Upon confirmation, administer, to the extent provided in this subchapter, the provisions of this subchapter concerning interstate banking;
- (11) Assure that all financial institutions under the supervision or control of the Office of Banking and Financial Institutions and all banks and bank holding companies seeking entry into the District of Columbia under the interstate banking provisions in this subchapter provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in underserved neighborhoods in the District, helps meet the credit and deposit service needs of lower income and minority residents of the District, and expands financial and technical support for small, minority, and women-owned businesses;
- (12) In all respects permitted by law, act as the District government's regulatory authority for financial institutions operating in the District;
- (13) Establish fees not otherwise established by act, and, from time to time, increase the fees established by act;
- (14) Issue rules necessary to carry out the purposes of this subchapter;
- (15) Receive and investigate complaints or initiate an investigation in regard to a possible violation of this subchapter or § 26-103 ("Banking Business Act");
- (16) If an investigation warrants, examine, which may include an audit, a person who may act as a bank to assure that the person acts in compliance with the law or examine, which may include an audit, a District of Columbia ("District") banking corporation chartered by the Superintendent and the banking corporation's affiliate or subsidiary to assure that the bank, affiliate, or subsidiary operates in compliance with the law and in a manner that preserves the safety and soundness of the bank, affiliate, or subsidiary;
- (17) Inform any other District or federal agency with an interest that an investigation is ongoing;
- (18) If an investigation warrants, hold a hearing, issue a subpoena to compel the attendance of a witness, administer an oath, and take the testimony of any person under oath in regard to any violation or possible violation of this subchapter or § 26-103;
- (19) If an investigation warrants, issue a subpoena to compel the production of any document, paper, book, record, or other evidence in regard to any violation or possible violation of this subchapter or § 26-103;
- (20) Issue a cease and desist order related to any violation or possible violation of this subchapter or § 26-103 pursuant to § 26-712;
- (21) Pursue, through the Office of the Corporation Counsel, the obtaining of a restraining order, the

appointment of a receiver, the involuntary dissolution of a corporation, or the freezing or seizure of assets of a corporation or person related to a violation or possible violation of this subchapter or § 26-103 pursuant to § 26-712; and

(22) Submit an annual report to the Council of all actions that the Commissioner takes pursuant to this section.

(b-1) The Superintendent shall, upon a finding of a violation of this subchapter or § 26-103, refer the matter to the Corporation Counsel or United States Attorney for civil or criminal enforcement, as the case may warrant.

(c) All rules which the Superintendent issues pursuant to this subchapter shall be transmitted to the Council for a 45-day review period, excluding Saturdays, Sundays, holidays, and days when Council is in recess. The Council may adopt a resolution disapproving the rules, in whole or in part, within the 45-day review period. If the Council, by resolution, does not approve or disapprove the rules before the expiration of the 45-day review period, the rules shall become effective at the expiration of the 45-day review period.

(d)(1) Until a Superintendent is appointed and confirmed pursuant to this section, all duties and responsibilities of the Superintendent concerning the chartering of new financial institutions under § 26-704(a) shall be performed by the Mayor, or his or her designee.

(2) During any period the Mayor, or his or her designee, is performing the duties and responsibilities of the Superintendent, the Mayor, or his or her designee, may enter into contracts with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or any other entities, for those services necessary to carry out the duties and responsibilities of the Superintendent.

(Nov. 23, 1985, D.C. Law 6-63, § 3a, as added Apr. 11, 1986, D.C. Law 6-107, § 2(b), 33 DCR 1168; Aug. 17, 1991, D.C. Law 9-42, § 2(b), 38 DCR 4981; Feb. 5, 1994, D.C. Law 10-68, § 25(a), 40 DCR 6311; Apr. 13, 2005, D.C. Law 15-354, § 37, 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 48(b), 53 DCR 6794; Dec. 11, 2007, D.C. Law 17-59, § 3(a), 54 DCR 10718; Mar. 25, 2009, D.C. Law 17-353, § 220, 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-802.1.

Effect of Amendments

D.C. Law 15-354, in the section heading, substituted "duties" for "Establishment of the Office of Banking and Financial Institutions; Superintendent"; and repealed subsec. (a) which had read as follows:

"(a)(1) The Office of Banking and Financial Institutions is established and shall be under the direction of the Superintendent of Banking and Financial Institutions.

"(2) The Mayor shall appoint the Superintendent, with the advice and consent of the Council, for a term of 4 years, except that the first term of the Superintendent shall terminate on January 1, 1987.

"(3) No person shall exercise the duties of the Superintendent in an acting capacity for more than 120 days."

D.C. Law 16-191, in the section heading, validated a previously made technical correction.

D.C. Law 17-59, in subsec. (b), deleted "; and" from the end of par. (20), substituted "; and" for a period at the end of par. (21), and added par. (22).

D.C. Law 17-353 validated a previously made technical correction in subsec. (b).

Temporary Amendments of Section

Section 3(a) of D.C. Law 17-31, in subsec. (b)(20), substituted a semicolon for "; and" at the end of the paragraph; in subsec. (b)(21), substituted "; and" for a period at the end of the paragraph; and added subsec. (b)(22) to read as follows:

"(22) Submit an annual report to the Council of all actions that the Commissioner takes pursuant to this section."

Section 5(b) of D.C. Law 17-31 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(a) of Bank Charter Modernization Emergency Amendment Act of 2007 (D.C. Act 17-66, July 9, 2007, 54 DCR 6819).

Legislative History of Laws

Law 6-107, the "District of Columbia Regional Interstate Banking Act of 1985 Amendments Act of 1985," was introduced in Council and assigned Bill No. 6-276, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on January 14, 1986 and January

28, 1986, respectively. Signed by the Mayor on February 14, 1986, it was assigned Act No. 6-136 and transmitted to both Houses of Congress for its review.

Law 8-260, the "District of Columbia Interstate Banking Act of 1985 Amendment Temporary Act of 1990," was introduced in Council and assigned Bill No. 8-735. The Bill was adopted on first and second readings on December 18, 1990, and February 5, 1991, respectively. Signed by the Mayor on February 22, 1991, it was assigned Act No. 8-345 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 9-42, see Historical and Statutory Notes following § 26-712.

Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

For Law 15-354, see notes following § 26-551.05.

Law 16-191, the "Technical Amendments Act of 2006", was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

For Law 17-59, see notes following § 26-636.

Law 17-353, the "Technical Amendments Act of 2008", was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

References in Text

The "Federal Home Loan Bank Board", referred to in subsections (b)(8) and (d)(2), has been abolished. For provisions relating to the abolition of the Federal Home Loan Bank Board and the transfer of functions, personnel and property of that agency, see §§ 401 to 406 of Pub.L. 101-73, set out as a note under 12 U.S.C. § 1437.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (b)(1), (10), (11), (14), (15), and (18) through (21), (b-1) and (c).

Transfer of Functions

Pursuant to Reorganization Plan No. 3 of 1992, effective January 20, 1993, unless another date was designated by the Mayor under seC. V of the Plan, the D.C. Office of Banking and Financial Institutions ("OBF") is hereby transferred from the Deputy Mayor for Economic Development ("DMED") control center to a separate OBF control center/responsibility center. OBF will continue to be administered by the Superintendent and will remain a part of the economic development cluster reporting to the Mayor.

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(2) of D.C. Law 12-60 provided that all fees received pursuant to § 26-802.1(b)(13) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

§ 26-703. EXCEPTIONS.

A District of Columbia bank holding company, a District of Columbia bank, a regional bank holding company, or a regional bank may acquire or control, and shall not cease to be a District of Columbia bank holding company, a District of Columbia bank, a regional bank holding company, or a regional bank, as the case may be, by virtue of its acquisition or control of:

- (1) A bank having banking offices in a state not within the region, if the bank has been acquired pursuant to the provisions of 12 U.S.C. § 1730a(m) or 12 U.S.C. § 1823(f);
- (2) A bank having banking offices in a state not within the region, if the bank has been acquired in the regular course of securing or collecting a debt previously contracted in good faith, as provided in 12 U.S.C. § 1842(a), and if the bank or bank holding company divests the securities or assets acquired within 2 years of the date of acquisition; or
- (3) A bank or corporation organized under the laws of the United States or of any state and operating under 12 U.S.C. § 601 or 12 U.S.C. §§ 611-632, or a bank or bank holding company organized under

the laws of a foreign country that is principally engaged in business outside the United States and that either has no banking office in the United States or has banking offices in the United States that are engaged only in business activities permissible for a corporation operating under 12 U.S.C. § 601 or §§ 611-632.

(Nov. 23, 1985, D.C. Law 6-63, § 4, 32 DCR 5954; Feb. 5, 1994, D.C. Law 10-68, § 25(b), 40 DCR 6311.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-803.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

For legislative history of D.C. Law 10-68, see Historical and Statutory Notes following § 26-702.01.

References in Text

"12 U.S.C. § 1730a," referred to in (1), was repealed by Pub. L. 101-73, title IV, § 407, August 9, 1989, 103 Stat. 363.

§ 26-704. REVIEW OF APPLICATIONS.

(a) Any person who conducts or seeks to conduct a class of business described in § 26-702.01(b)(4), (5), or (6) in the District shall file an application with the Superintendent for approval to do business in the District, unless the person is already chartered by the appropriate federal or District agency or organized by virtue of the laws of any of the states of this Union and doing business pursuant to § 26-103(a)(1).

Consistent with applicable federal law, all the applications, including any supporting documents, and any other information required to be submitted to the Superintendent shall be made available to the public. An application filed with the appropriate federal agency for approval to conduct a class of business described in § 26-702.01(b)(4), (5), or (6) and still pending approval or approved prior to April 11, 1986, shall not be subject to this section or the provisions of this subchapter. The Council shall file comments regarding the applications pending April 11, 1986. Any Council comments regarding a pending application filed prior to April 11, 1986, shall meet the requirements of the preceding sentence.

(b) Upon the filing of a complete application pursuant to subsection (a) of this section, the following procedures shall apply:

(1)(A) The Superintendent shall prepare a periodic bulletin listing all pending applications. The bulletin shall be published in the District of Columbia Register and shall be mailed without charge to any person upon request.

(B) Prior to deciding whether to grant approval of the application, the Superintendent shall accept public comment on the application and shall hold a public hearing on the application, according to procedures established by the rules issued by the Superintendent.

(2) The Commissioner shall either approve or disapprove the application and explain the reasons for the decision. An application required by this section shall not be complete unless it is accompanied by an application fee in an amount to be established by the Commissioner and made payable to District of Columbia Treasurer. An entity for which deposit insurance is required shall not commence operations until the applicant has submitted evidence that the deposit insurance has been acquired.

(3) Repealed.

(4) Repealed.

(5) Repealed.

(6) No applicant shall commence business until its application is considered approved.

(c) Any authority granted to acquire any District bank holding company or District bank shall be contingent on the review and approval of the Commissioner as provided in this subsection. Upon the filing of a complete application, the following procedures shall apply:

(1)(A) A regional bank holding company that seeks to acquire a District bank holding company or a District bank, or a nonregional bank holding company that seeks to acquire a District bank holding company or a District bank pursuant to § 26-706.01, shall file a copy of the complete draft of the application required to be filed with the Federal Reserve Board for approval of an acquisition in accordance with 12 U.S.C. § 1842. An applicant may file an application with the Federal Reserve Board at any time subsequent to filing the draft application with the Superintendent. No application required by this section shall be complete unless it is accompanied by an application fee in the amount of \$4,000.

(B) Repealed.

(2) The Commissioner shall either approve or disapprove the application and explain the reasons for the decision. The Commissioner shall consider:

- (A) The financial and managerial resources of the bank holding company;
- (B) The future prospects and stability of the subsidiaries of the bank holding company and the bank whose assets or shares the bank holding company seeks to acquire;
- (C) The financial history of the bank holding company or its subsidiary;
- (D) The adequacy of the bank holding company's community development program; and
- (E) Whether the acquisition may result in undue concentration of resources or substantial decrease of competition in the District.

(3) Repealed.

(4) Repealed.

(5) Repealed.

(6) The Commissioner shall submit a copy of the approval or disapproval to the Federal Reserve Board.

(7) Repealed.

(8) The Commissioner shall submit to the Council:

- (A) A quarterly report of any applications filed or decisions reached by the Commissioner pursuant to this section; and
- (B) An annual report of all actions that the Commissioner takes pursuant to this section.

(d) Where not inconsistent with federal law:

(1) Each application filed pursuant to this section shall, where appropriate, include information applicable to the nature of the application, the applicant's general plan of business, the applicant's proposed capital investment in the District, and a community development program.

(2) The community development program shall set forth the applicant's plan to:

- (A) Assist in the development of economically disadvantaged and underserved neighborhoods in the District;
- (B) Assist in meeting the credit and deposit service needs of low- and moderate-income and minority District residents;
- (C) Assist in expanding support for small, minority, and women-owned businesses; and
- (D) Market the community development program and publicize the community development program to the applicant's employees and to individuals and businesses located in areas which the applicant will serve.

(3) To the extent considered appropriate, the Superintendent shall require that an applicant provide the following information:

- (A) A description of the local community, including low- and moderate-income neighborhoods where the applicant intends to provide credit and services and from which the applicant intends to draw deposits or customers, business services which the applicant will offer to low- and moderate-income persons throughout the District, a description of these low- and moderate-income persons, and a description of the banking services which the applicant will offer at a minimum cost to these persons. The applicant shall state its agreement to cash checks issued by the District and the United States governments at bank offices within target banking development areas, even though the bearer of the check does not maintain an account at the bank. According to normal and prudent banking practices, the bank may verify that the individual who presents the check at the bank office is legally entitled to payment;
- (B) A description of the applicant's intended dividend policies;
- (C) A description of the applicant's intended underwriting policies;
- (D) A description of the applicant's loan policy, including the loan rates and the percentage of the total loans which will be made in low- and moderate-income areas. For the purposes of determining compliance with the requirements of this subsection, loans may include permanent mortgage financing for the purchase and rehabilitation of 1 to 4 unit owner-occupied buildings, or multi-family residential buildings, home improvement loans for single-family homes, and interim loans for construction or rehabilitation, or projects qualifying for permanent financing. For the purposes of determining compliance with the requirements of this subsection, the applicant may also offer FHA insured and VA guaranteed mortgage financing, including FHA Title 1 home improvement loans, blanket and share loans for the purchase and rehabilitation of cooperatively owned residential properties, loans made pursuant to programs established under § 47-848, or a

similar homesteading program established by the District of Columbia government, participation with nonprofit developers of housing, term loans for small, minority or women-owned businesses for building construction, building improvement, inventory and fixed asset financing, and working capital;

(E) A description of any technical assistance that the applicant will offer to individuals and businesses in low- and moderate-income areas;

(F) A description of the applicant's plans to use District-based minority firms to meet the applicant's procurement needs, including goods and professional services;

(G) A description of the applicant's plans to cooperate with the District of Columbia's Department of Employment Services to identify potential District resident employees for the applicant's District offices, and a description of applicant's plans to assure the retention of existing jobs held by District residents;

(H) A description of the applicant's plans to designate a senior lending officer to review specifically the needs of small, minority, or women-owned businesses and community development organizations;

(I) A description of the applicant's plans to use its best efforts to increase the number of minority and female representatives on the applicant's board of directors and on the board of any of the applicant's District-based subsidiaries, and a description of applicant's plans to establish a training program for employees at all levels of the bank's and bank holding company's operations;

(J) A description of the applicant's plans for branching or opening new offices, and, where appropriate, a description of how those plans will aid the applicant in achieving the objectives of the community development program;

(K) A description of the applicant's plans to sell food coupons, pursuant to 7 U.S.C. § 2011 et seq., in bank offices located in the District;

(L) Any other information that the Superintendent considers appropriate; and

(M) The applicant's agreement to submit an annual report to the Commissioner and the Council updating any information submitted to the Commissioner with regard to the community development program.

(e)(1) If a bank holding company filing an application for review pursuant to this section has made in connection with that application any express written commitments to the Superintendent with respect to subjects set forth in subsection (d) of this section, the Superintendent may, at any time, review the activities of the bank holding company and of its District bank subsidiaries to determine whether the bank holding company has fulfilled the express written commitments. The Superintendent may require a bank holding company that has made the express written commitments and its District bank subsidiaries to supply the information and to submit the reports the Superintendent considers necessary in order to make a determination under this subsection.

(2) Upon the determination of the Superintendent that a bank holding company has failed to fulfill express written commitments that the bank holding company made with respect to subjects set forth in subsection (d) of this section, the Superintendent may order the bank holding company to take steps to comply with all the commitments within a reasonable period of time.

(3) If the Superintendent believes at any time that a bank holding company subject to an order issued under paragraph (2) of this subsection has failed to comply with the order within the period specified in the order, the Superintendent may conduct a hearing in accordance with § 2-509, on the issue of whether the bank holding company has fulfilled any express written commitments that the bank holding company made with respect to subjects set forth in subsection (d) of this section.

(4) If, after a hearing as specified in paragraph (3) of this subsection, the Superintendent determines that a bank holding company has failed to fulfill express written commitments that the bank holding company made with respect to subjects set forth in subsection (d) of this section, the Superintendent may order the bank holding company to divest itself of control of all District banks and District bank holding companies within a reasonable period of time. If the Superintendent orders a bank holding company to divest itself of control of all District banks and bank holding companies pursuant to this subsection, the divestiture shall, in all events, be completed within 1 year after the date on which the Superintendent's order becomes final and not pending further review.

(5) The Superintendent's decision in a case initiated under paragraph (3) of this subsection shall be subject to judicial review by the District of Columbia Court of Appeals pursuant to § 2-510.

(6) The Superintendent shall initiate any case under paragraph (3) of this subsection on the issue of whether a bank holding company has failed to fulfill express written commitments that the bank holding company made with respect to subjects set forth in subsection (d) of this section within 4 years of the date of acquisition of the District bank or District bank holding company in connection with which the bank holding company made the express written commitments.

(f) Repealed.

(g) Repealed.

(h) Repealed.

(i) Repealed.

(Nov. 23, 1985, D.C. Law 6-63, § 5, 32 DCR 5954; Apr. 11, 1986, D.C. Law 6-107, § 2(c), 33 DCR 1168; Feb. 24, 1987, D.C. Law 6-192, § 10, 33 DCR 7836; Apr. 30, 1988, D.C. Law 7-104, § 27(b), 35 DCR 147; Mar. 15, 1990, D.C. Law 8-84, § 2, 37 DCR 44; Mar. 15, 1990, D.C. Law 8-91, § 2, 37 DCR 776; Aug. 17, 1991, D.C. Law 9-42, § 2(c), 38 DCR 4981; Dec. 11, 2007, D.C. Law 17-59, § 3(b), 54 DCR 10718.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-804.

Effect of Amendments

D.C. Law 17-59, in subsec. (b), rewrote par. (2) and repealed pars. (3) to (5); in subsec. (c), rewrote the lead-in language, par. (2), and par. (6), and repealed par. (1)(B) and (3) to (5), and added par. (8); rewrote subsec. (d)(3)(M); in subsec. (e)(1), deleted "or the Council" following "Superintendent"; and repealed subsecs. (f) to (i). Prior to amendment, subsecs. (b)(2) to (5), lead-in language of subsec. (c), subsecs. (c)(1)(B), (2) to (7), (d)(3)(M), (f) to (i), read as follows:

"(2) The Superintendent shall make either a favorable or unfavorable recommendation on the application and explain the reasons for the Superintendent's recommendation, and shall transmit to the Council the Superintendent's recommendation, a copy of the application, and any other relevant information or submissions within 90 days after receipt of the application. The Superintendent may extend this 90-day period for up to an additional 60 days. No application required by this section shall be complete unless it is accompanied by an application fee in an amount to be established by the Superintendent and made payable to the D.C. Treasurer. No entity for which insurance is required shall commence operations until the applicant has submitted evidence that the insurance has been acquired.

"(3) The Council may adopt a resolution disapproving the Superintendent's recommendation within 45 days, excluding Saturdays, Sundays, holidays, and days when the Council is in recess, after receipt of the Superintendent's recommendation.

"(4) If the Council fails to adopt a resolution disapproving the Superintendent's recommendation within the 45-day period, the Superintendent's recommendation shall be considered approved.

"(5) If the Council adopts a resolution rejecting the recommendation of the Superintendent, the Council shall transmit the resolution to the Superintendent within 10 days after its adoption and the following procedures shall apply:

"(A) If the Superintendent has made an unfavorable recommendation on the application, the application is considered approved.

"(B) If the Superintendent has made a favorable recommendation on the application, the application is considered disapproved.

"(c) Any authority granted to acquire any District bank holding company or District bank shall be contingent on the review of the Superintendent and Council as provided in this subsection. Upon the filing of a complete application, the following procedures shall apply:"

"(B) Until the Superintendent is appointed and confirmed in accordance with § 26-702.01, applications for acquisitions by regional and nonregional bank holding companies shall be reviewed in accordance with the standards set forth in both this subchapter and the procedures set forth in this section, and in the District of Columbia Regional Interstate Banking Act of 1985 Amendments Act of 1985, except that the period for submission and review of applications shall commence 45 days, excluding Saturdays, Sundays, holidays, and days of Council recess, before filing with the Federal Reserve Board.

"(2) The Superintendent shall make either a favorable or unfavorable recommendation on the application and explain the reasons for the recommendation, and shall transmit to the Council the recommendation, a copy of the application, and any other relevant information or submissions within 60 days from the date of receipt of the application. The Superintendent shall consider the financial and managerial resources of the bank holding company, the future prospects and stability of the subsidiaries of the bank holding company and the bank whose assets or shares the bank holding company seeks to acquire, the financial history of the bank holding company or its subsidiary, the adequacy of the community development program, and whether the acquisition may result in undue concentration of resources or substantial decrease of competition in the District.

"(3) The Council may adopt a resolution disapproving the Superintendent's recommendation within 45 days, excluding Saturdays, Sundays, holidays, and days when the Council is in recess, after receipt of the Superintendent's recommendation.

"(4) If the Council fails to adopt a resolution disapproving the Superintendent's recommendation within the 45-day period, the Superintendent's recommendation shall be considered approved.

"(5) If the Council adopts a resolution disapproving the recommendation of the Superintendent, the Council shall transmit the resolution to the Superintendent within 10 days after adoption of the resolution and the following procedures shall apply:

"(A) If the Superintendent has made a favorable recommendation on the application, the application is considered disapproved.

"(B) If the Superintendent has made an unfavorable recommendation on the application, the application is considered approved.

"(6) The Superintendent shall submit a copy of the final recommendation to the Federal Reserve Board.

"(7) The applicant shall include a copy of the Superintendent's final recommendation with its application to the Federal Reserve Board."

"(M) The applicant's agreement to submit an annual report to the Superintendent and the Council updating any information submitted to the Superintendent and the Council with regard to the community development program."

"(f) Any applicant which files an application with the Superintendent pursuant to this section shall also file, on the same day, a notification copy of the application with the Council.

"(g) Nothing in this section shall prohibit the applicant from resubmitting to the Superintendent a disapproved application. Any resubmitted application shall be considered in accordance with the procedures set forth in this section.

"(h) The Council shall hold a public hearing or public roundtable on each application transmitted to the Council by the Superintendent pursuant to this section or § 26-706.01.

"(i) The Superintendent may issue rules providing for emergency circumstances under which applications may be exempted from the Council review requirement of this subchapter, if the Council has not disapproved the rules pursuant to § 26- 702.01."

Temporary Amendments of Section

Section 3(b) of D.C. Law 17-31, in subsec. (b), repealed pars. (3) to (5) and amended par. (2) to read as follows:

"(2) The Commissioner shall either approve or disapprove the application and explain the reasons for the decision. No application required by this section shall be complete unless it is accompanied by an application fee in an amount to be established by the Commissioner and made payable to the District of Columbia Treasurer. No entity for which deposit insurance is required shall commence operations until the applicant has submitted evidence that the deposit insurance has been acquired."

; in subsec. (c), amended the lead-in text to read as follows: "Any authority granted to acquire any District bank holding company or District bank shall be contingent on the review and approval of the Commissioner as provided in this subsection. Upon the filing of a complete application, the following procedures shall apply:", repealed pars. (1)(B), (3) to (5), and (7), and amended pars. (2) and (6) and added par. (8) to read as follows:

"(2) The Commissioner shall either approve or disapprove the application and explain the reasons for the decision. The Commissioner shall consider:

"(A) The financial and managerial resources of the bank holding company;

"(B) The future prospects and stability of the subsidiaries of the bank holding company and the bank whose assets or shares the bank holding company seeks to acquire;

"(C) The financial history of the bank holding company or its subsidiary;

"(D) The adequacy of the bank holding company's community development program; and

"(E) Whether the acquisition may result in undue concentration of resources or substantial decrease of competition in the District."

"(6) The Commissioner shall submit a copy of the approval or disapproval to the Federal Reserve Board."

"(8) The Commissioner shall submit to the Council:

"(A) A quarterly report of any applications filed or decisions reached by the Commissioner pursuant to this section; and

"(B) An annual report of all actions that the Commissioner takes pursuant to this section."

; amended subsec. (d)(3)(M) to read as follows:

"(M) The applicant's agreement to submit an annual report to the Commissioner and the Council updating any information submitted to the Commissioner with regard to the community development program."

; and, in subsec. (e)(1), deleted "or the Council"; and repealed subsecs. (f) to (i).

Section 5(b) of D.C. Law 17-31 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(b) of Bank Charter Modernization Emergency Amendment Act of 2007 (D.C. Act 17-66, July 9, 2007, 54 DCR 6819).

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

Law 6-192, the "Technical Amendments Act of 1986," was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986, and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 26-701.

Law 8-84, the "District of Columbia Regional Interstate Banking Act of 1985 Amendment Temporary Act of 1989," was introduced in Council and assigned Bill No. 8-473. The Bill was adopted on first and second readings on November 21, 1989, and December 5, 1989, respectively. Signed by the Mayor on December 21, 1989, it was assigned Act No. 8-134 and transmitted to both Houses of Congress for its review.

Law 8-91, the "District of Columbia Regional Interstate Banking Act of 1985 Amendment Act of 1989," was introduced in Council and assigned Bill No. 8-456, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on December 19, 1989, and January 20, 1990, respectively. Signed by the Mayor on January 11, 1990, it was assigned Act No. 8-142 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-260, see Historical and Statutory Notes following § 26-702.01.

For legislative history of D.C. Law 9-42, see Historical and Statutory Notes following § 26-712.

For legislative history of D.C. Law 10-27, see Historical and Statutory Notes following § 26-702.

For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 26-702.

For Law 17-59, see notes following § 26-636.

References in Text

The District of Columbia Regional Interstate Banking Act of 1985 Amendments Act of 1985, referred to in subparagraph (c)(1)(B), is D.C. Law 6-107.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (a), (c)(1)(B), and (i).

Resolutions

Resolution 16-114, the "Bank of Georgetown Approval Resolution of 2005", was approved effective April 5, 2005.

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(1) of D.C. Law 12-60 provided that all fees received pursuant to §§ 26-804(b)(2) and 26-804(c)(1)(A) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

BB&T Corporation Acquisition of Franklin Bancorporation, Inc., Approval Resolution of 1998: Pursuant to Resolution 12-519, effective June 2, 1998, the Council approved the recommendation of the Superintendent of the Office of Banking and Financial Institutions that the acquisition of Franklin Bancorporation, a District bank holding company, by BB&T Corporation, a regional bank holding company be approved.

§ 26-705. PROHIBITED ACTS.

(a) Except as otherwise expressly permitted by applicable federal or District law, a bank holding company that is neither a District bank holding company nor a regional bank holding company shall not acquire a District bank holding company or a District bank.

(b) Except as otherwise required by applicable federal law, a District bank holding company or a regional bank holding company that ceases to be a District bank holding company or a regional bank holding company shall, as soon as practicable, and, in all events, within 1 year after the event, divest itself of control of all District bank holding companies and all District banks. Divestiture shall not be required if (1) the District bank holding company or the regional bank holding company ceases to be a District bank holding company or a regional bank holding company, as the case may be, because of an increase in the deposits held by bank subsidiaries not located within the region and if the increase is not the result of an

acquisition of a bank holding company or bank, or (2) a District bank or District bank holding company ceases to be a District bank or District bank holding company because of an acquisition authorized by this subchapter.

(Nov. 23, 1985, D.C. Law 6-63, § 6, 32 DCR 5954; Apr. 11, 1986, D.C. Law 6-107, § 2(d), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-805.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (b).

§ 26-706. APPLICABLE LAWS, RULES, AND REGULATIONS.

Any District of Columbia bank that is controlled by a bank holding company that is not a District of Columbia bank holding company shall be subject to all laws of the District of Columbia and all rules and regulations under those laws that are applicable to District of Columbia banks that are controlled by bank holding companies all the bank subsidiaries of which are District of Columbia banks.

(Nov. 23, 1985, D.C. Law 6-63, § 7, 32 DCR 5954.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-806.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

§ 26-706.01. ALTERNATIVE ENTRY BY ACQUISITION.

(a) Notwithstanding any other provisions of this subchapter, 90 days after April 11, 1986, any nonregional bank holding company may make application to the Superintendent for approval to acquire:

(1) Any District bank that was in existence on December 18, 1985, and continuously operating for at least 2 years prior to that date; or

(2) Any District bank holding company all of the District bank subsidiaries of which were in existence on December 18, 1985, and that had been in existence and continuously operating for at least 2 years prior to that date. The Superintendent shall list applications for acquisition among the pending applications in the Superintendent's periodic bulletin, published in the District of Columbia Register, and mailed without charge to any person upon request. Prior to deciding whether to grant approval of the application, the Superintendent shall accept public comment on the application and shall hold a public hearing on the application, according to procedures established by the rules issued by the Superintendent. The Superintendent shall not approve the acquisitions unless it is found that the application satisfies the requirements of § 26-704, including the \$4,000 application fee, and subsection (b) of this section.

(b) An applicant under this section shall be required to demonstrate to the Superintendent that:

(1) The applicant will make loans and extend credit in a target economic development project in the District for an amount equal to or greater than .0625% of the applicant's total assets 3 years following the date of acquisition of a District bank holding company or District bank. In no event shall the amount of loans and extension of credit be less than \$50,000,000 or required to be made more than \$100,000,000, though an applicant may agree to make loans and extend credit in target economic development projects in excess of \$100,000,000, and the loans shall not include temporary financing, general obligation bonds issued by the District government, or the purchase of an interest in a pool of mortgage loans, such as mortgage participation certificates issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Farmers Home Administration;

(2) The applicant will establish at least 2 bank offices in target banking development areas, in addition to any acquired bank offices, within 3 years following the date of acquisition of a District bank or District bank holding company;

(3) The applicant will cash checks issued by the District and the United States governments at bank offices within target banking development areas, even though the bearer of the check does not maintain an account at the bank. According to normal and prudent banking practices, the bank may verify that the individual who presents the check at the bank office is legally entitled to payment;

(4) The applicant will sell food coupons pursuant to 7 U.S.C. § 2011 et seq.;

(5) The applicant will employ at least 200 District residents, or a lesser number according to a sliding scale based upon total assets to be developed by the Superintendent, but in no event less than 50, in positions located in the District that were not located in the District prior to approval of the application, within 3 years following the date of acquisition of a District bank holding company or District bank; and

(6) The applicant will promote international trade and finance within the District.

(c)(1) With its application, an applicant shall submit an irrevocable and confirmed letter of credit for \$10,000,000 from an acceptable bank, as determined by the Superintendent. The letter of credit shall name the District of Columbia as the beneficiary and shall provide that the District of Columbia Treasurer shall receive up to \$10,000,000 upon presentation to the issuer by the Superintendent of a decision and order which is reached pursuant to the procedures in subsection (f) of this section and which is a final order because all administrative and judicial appeals of the decision and order are exhausted or untimely. The letter of credit shall be established as of the date when the applicant submits its application to the Superintendent.

(2) In place of an irrevocable and confirmed letter of credit, the Superintendent may authorize the use of any other financial instrument which would assure payment of fines assessed pursuant to subsection (f) of this section.

(d) The Superintendent may reduce or extend the time within which a bank holding company shall satisfy any commitment made in connection with an application filed pursuant to this section, if the Superintendent finds that the commitment was contingent upon certain action to be taken by the District and the District does not take the action, or, upon good cause shown, the economic or financial conditions of the bank holding company justifies the action.

(e) Any District bank holding company or District bank may choose not to be acquired pursuant to this section by having a resolution to that effect passed by its board of directors and shareholders. The resolution shall be forwarded to the Superintendent within 60 days after its adoption. No acquisition of a bank or bank holding company which has timely filed such a resolution shall be allowed by the Superintendent unless notice is given to the Superintendent, at the time an application is filed, that the resolution has been withdrawn or reversed by vote of the board of directors and shareholders.

(f)(1) The Superintendent may, at any time, review the activities of a nonregional bank holding company making an acquisition under this section and of its District bank subsidiaries to determine whether the nonregional bank holding company is fulfilling the commitments set forth in subsection (b) of this section. In all events, at the end of 3 years following the acquisition of a District bank or a District bank holding company under this section, the Superintendent shall review the activities of the nonregional bank holding company making the acquisition, and of its District bank subsidiaries, and shall determine whether the nonregional bank holding company has fulfilled, and is continuing to fulfill, the commitments set forth in subsection (b) of this section. The Superintendent shall complete the review and make the determination no later than 3 years and 3 months after the acquisition of a District bank or bank holding company by the nonregional bank holding company. The Superintendent may require a nonregional bank holding company making an acquisition under this section, and its District bank subsidiaries, to supply the information and to submit the reports the Superintendent considers necessary in order to make a determination under this subsection.

(2) Upon the determination of the Superintendent that a bank holding company has failed to comply with any commitment made in connection with an application filed pursuant to this section, the Superintendent shall order the company to take steps to comply with the commitment within a specified reasonable period of time. The Superintendent may extend this specified reasonable period of time.

(3) If, 30 days after the date specified for compliance by an order issued pursuant to this subsection, including any extension, the Superintendent believes that the bank holding company has not complied with the order, the Superintendent shall hold a hearing pursuant to § 2-509, to determine whether the bank holding company has failed to comply with the order. The hearing shall be subject to judicial review by the District of Columbia Court of Appeals pursuant to § 2-510.

(4) If, after the hearing and final order issued upon the completion of all appeals, the Superintendent concludes that the bank holding company has not complied with the Superintendent's order within the specified period of time, including any extension, the bank holding company has not undertaken a good faith effort to comply with the Superintendent's order, and the applicant has not substantially

completed its commitment pursuant to this section, the Superintendent shall either:

(A) Order the bank holding company to divest itself of control of all District banks and bank holding companies within a reasonable period of time. If, the Superintendent orders a bank holding company to divest itself of control of all District banks and bank holding companies pursuant to this paragraph, the divestiture shall, in all events, be completed within 1 year after the date on which the Superintendent's order becomes final and not pending further judicial review; or

(B) Fine the bank holding company \$10,000,000 and present the decision and order, including a showing that all administrative and judicial appeals of that decision and order are exhausted or untimely, to the issuer of the \$10,000,000 letter of credit or other financial assurance required in subsection (c) of this section, and shall call upon the issuer to honor the letter of credit or other financial assurance for the full amount of \$10,000,000.

(5) If, after the hearing and final order issued upon the completion of all appeals, the Superintendent concludes that the bank holding company has not complied with the Superintendent's order within the specified period of time, including any extension, the bank holding company has not undertaken a good faith effort to comply with the Superintendent's order, and the bank holding company has substantially completed its commitment pursuant to this section, the Superintendent may fine the bank holding company up to \$10,000,000, and, if the Superintendent does fine the bank holding company, the Superintendent shall present the decision and order, including a showing that all administrative and judicial appeals of that decision and order are exhausted or untimely, to the issuer of the \$10,000,000 letter of credit or other financial assurance required in subsection (c) of this section, and shall call upon the issuer to honor the letter of credit or other financial assurance for payments equal to the amount of the fines assessed pursuant to this paragraph.

(6) If, after the hearing and final order issued upon the completion of all appeals, the Superintendent concludes that the bank holding company has not complied with the Superintendent's order within the specified period of time, including any extension, the bank holding company has undertaken a good faith effort to comply with the Superintendent's order, and the bank holding company has not substantially completed its commitment pursuant to this section, the Superintendent may fine the bank holding company up to \$10,000,000, and, if the Superintendent does fine the bank holding company, the Superintendent shall present the decision and order, including a showing that all administrative and judicial appeals of that decision and order are exhausted or untimely, to the issuer of the \$10,000,000 letter of credit or other financial assurance required in subsection (c) of this section, and shall call upon the issuer to honor the letter of credit or other financial assurance for payment equal to the amount of the fines assessed pursuant to this paragraph.

(7) If, after the hearing and final order issued upon the completion of all appeals, the Superintendent concludes that the bank holding company has not complied with the Superintendent's order within the specified period of time, including any extension, the bank holding company has undertaken a good faith effort to comply with the Superintendent's order and the bank holding company has substantially completed its commitment pursuant to this section, the Superintendent may fine the bank holding company up to \$5,000,000, and, if the Superintendent does fine the bank holding company, the Superintendent shall present the decision and order, including a showing that all administrative and judicial appeals of that decision and order are exhausted or untimely to the issuer of the \$10,000,000 letter of credit or other financial assurance required in subsection (c) of this section, and shall call upon the issuer to honor the letter of credit or other financial assurance for payment equal to the amount of the fines assessed pursuant to this paragraph, but the payment shall not be greater than \$5,000,000.

(8) The Superintendent shall exercise the Superintendent's authority under paragraphs (3), (4), (5), and (6) of this subsection within 4 years of the date of the acquisition of a District bank holding company or District bank, plus any extensions and any period during which a hearing and its appeals, if any, are pending pursuant to this subsection.

(9) The Superintendent shall submit a written report of any actions that the Superintendent takes pursuant to this subsection to the Council and to the Federal Reserve Board.

(Nov. 23, 1985, D.C. Law 6-63, § 7a, as added Apr. 11, 1986, D.C. Law 6-107, § 2(e), 33 DCR 1168; Dec. 11, 2007, D.C. Law 17-59, § 3(c), 54 DCR 10718.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-806.1.

Effect of Amendments

D.C. Law 17-59, in subsec. (d), deleted "and the Council approves, by resolution, the reduction or extension" following "justifies the action".

Temporary Amendments of Section

Section 3(c) of D.C. Law 17-31, in subsec. (d), deleted "and the Council approves, by resolution, the reduction

or extension".

Section 5(b) of D.C. Law 17-31 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(c) of Bank Charter Modernization Emergency Amendment Act of 2007 (D.C. Act 17-66, July 9, 2007, 54 DCR 6819).

Legislative History of Laws

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

For Law 17-59, see notes following § 26-636.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in the introductory language of (a).

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(2) of D.C. Law 12-60 provided that all fees received pursuant to § 26-806.1(a)(2) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

§ 26-707. ENFORCEMENT.

(a) An action for equitable or any other appropriate relief to enforce the provisions of this subchapter may be brought in any court of competent jurisdiction by:

- (1) Any District of Columbia bank holding company or District of Columbia bank;
- (2) Any regional bank holding company that has a District of Columbia bank subsidiary (other than a District of Columbia bank subsidiary that was acquired either pursuant to 12 U.S.C. § 1730a(m) or 12 U.S.C. § 1823(f), or in the regular course of securing or collecting a debt previously contracted in good faith, as provided in 12 U.S.C. § 1842(a)); or
- (3) The Corporation Counsel of the District of Columbia in the name of the District of Columbia.

(b) Each bank holding company making the submission to the Superintendent required by § 26-704 or 26-706.01 shall include in that submission a statement identifying a registered agent and registered office for the bank holding company. The registered agent shall be an agent of the bank holding company upon whom process of law against the company may be served. All notices or demands required or permitted by law may be served upon the registered agent. The registered agent and office may be the same as that used by the District bank holding company or District bank sought to be acquired or established. The appointment of a registered agent for purposes of this section must meet the requirements imposed on a foreign corporation's appointment of a registered agent and office by § 29-101.106. If the bank holding company fails to properly appoint or maintain a registered agent and office in the District, the Mayor shall be an agent of the bank holding company upon whom any process of law, notice, or demand against the bank holding company may be served. All matters served upon the Mayor pursuant to this section shall be handled in the same manner as matters served upon the Mayor on behalf of foreign corporations pursuant to § 29-101.108(b) and (d). The appointment of a registered agent pursuant to this section may not be revoked or modified, except that a new registered agent may be substituted, so long as any liability for the fines imposed by this subchapter remains outstanding against the bank holding company. Upon satisfaction of any liability, the appointment may be revoked or otherwise modified, unless the bank holding company is otherwise required by law to maintain the registered agent and office.

(Nov. 23, 1985, D.C. Law 6-63, § 8, 32 DCR 5954; Apr. 11, 1986, D.C. Law 6-107, § 2(f), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-807.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

References in Text

"12 U.S.C. § 1730a," referred to in (a)(2), was repealed by Pub. L. 101-73, title IV, § 407, August 9, 1989, 103 Stat. 363.

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in the introductory language of (a) and in (b).

§ 26-707.01. INSURANCE.

(a) Any bank or trust company established or created pursuant to this subchapter shall be required to be insured with the Federal Deposit Insurance Corporation pursuant to 12 U.S.C. § 1811 et seq.

(b) Any savings and loan association established or created pursuant to this subchapter shall be required to be insured with the Federal Savings and Loan Insurance Corporation pursuant to 12 U.S.C. § 1724 et seq.

(Nov. 23, 1985, D.C. Law 6-63, § 8a, as added Apr. 11, 1986, D.C. Law 6- 107, § 2(g), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-807.1.

Legislative History of Laws

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

References in Text

"12 U.S.C. § 1724 et seq.," referred to in (b), was repealed by Pub. L. 101- 73, title IV, § 407, August 9, 1989, 103 Stat. 363.

The "Federal Savings and Loan Insurance Corporation", referred to in (b), has been abolished. For provisions relating to the abolition of the Federal Savings and Loan Insurance Corporation and the transfer of functions, personnel and property of that agency, see §§ 401 to 406 of Pub.L. 101-73, set out as a note under 12 U.S.C. § 1437.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (a) and (b).

§ 26-707.02. PENALTIES.

(a) Any company violating any provision of this subchapter or any rule issued pursuant to it shall be subject to a penalty of not more than \$100 per day for each day the violation continues unless a different penalty is specified in this subchapter for the violation, in which case the specified penalty shall apply. Any penalty imposed shall be recovered in a civil action in the name of the District of Columbia.

(b) Any company wilfully violating this subchapter or any rule or regulation issued pursuant to this subchapter shall be subject to a penalty of not more than \$1,000 a day for each day the violation continues unless a different penalty is specified in this subchapter for the violation, in which case the specified penalty shall apply.

(c) The Superintendent shall report violations to the Corporation Counsel who may institute a civil action therefor on behalf of the District of Columbia.

(d) Any applicant that fails to comply with requirements concerning filing with the Superintendent and the Council prior to filing with the Federal Reserve Board shall be fined \$500 per day for each day the violation continues, but in no event shall the fine imposed by this subsection exceed \$5,000, except that no fine or penalty under this subsection shall be assessed for failure to comply with this section if the application concerns an acquisition under circumstances constituting an emergency, pursuant to 12 U.S.C. § 1842(b), or where the applicant believes, in good faith, that the application concerns such an acquisition, so long as the applicant, as soon as practicable before or after filing with the Federal Reserve Board, files a copy of the application and any notice of approval or disapproval by the Federal Reserve Board with the Superintendent.

(Nov. 23, 1985, D.C. Law 6-63, § 8b, as added Apr. 11, 1986, D.C. Law 6- 107, § 2(h), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-807.2.

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" throughout (a) and (b).

§ 26-708. NONSEVERABILITY.[REPEALED]

(Apr. 11, 1986, D.C. Law 6-107, § 2(i), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-808.

Legislative History of Laws

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

§ 26-709. REVIEW OF IMPACT.

(a) Three years after November 23, 1985, the committee of the Council which has oversight of banking regulations shall convene a public hearing to receive testimony that will aid the committee in determining whether passage of this subchapter:

- (1) Has led to the creation of an increased number of jobs for District residents;
- (2) Has increased the availability of commercial banking services for District residents and businesses, including minority and women-owned businesses;
- (3) Has increased, or otherwise altered, local lending and investment by District of Columbia banks that have been acquired by District of Columbia or regional bank holding companies;
- (4) Has led to a strengthening of the local commercial banking market; or
- (5) Has otherwise benefited the residents of the District of Columbia.

(b) The committee shall use the information acquired at the hearing required by subsection (a) of this section to determine whether the District should continue to participate in the regional reciprocal interstate banking arrangement provided for in this subchapter and if so, for what period and to what extent. The committee may also determine whether a limit should be imposed on the number of banks or on the percentage of District deposits controlled by a single company; whether specific capitalization, employment, and location requirements should be imposed on out-of-state bank holding companies wishing to acquire District banks or bank holding companies; and whether specific plans detailing how the acquiror and acquiree intend to serve deposit and credit needs of District residents should be required. As soon as practicable after conclusion of the hearing, but no later than 6 months after the hearing, the committee shall file with the Office of the Secretary a recommendation or recommendations for Council action to alter the provisions of this subchapter, if necessary.

(Nov. 23, 1985, D.C. Law 6-63, § 10, 32 DCR 5954.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-809.

Legislative History of Laws

For legislative history of D.C. Law 6-63, see Historical and Statutory Notes following § 26-701.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in the introductory language of (a) and in (b).

§ 26-710. APPLICABILITY.

(a) Except as expressly provided, the following laws shall not apply to national banks organized pursuant to

12 U.S.C. §§ 21 to 95, members of Federal Home Loan Banks as defined in 12 U.S.C. §§ 1422 to 1424, and Federal Credit Unions as defined in 12 U.S.C. § 1752, but shall apply to all banks, savings companies, trust companies, related holding companies, or other banking institutions in the District of Columbia:

- (1) Sections 26-101, 26-102, 26-1301 through 26-1352, and 26-201 through 26-232;
- (2) Sections 26-901 through 26-912;
- (3) Section 26-103;
- (4) Sections 26-801 and 26-802;
- (5) Sections 26-104, 26-107, 26-108, and 26-109;
- (6) Sections 26-105 and 26-106;
- (7) Sections 26-110, 26-803, and 26-804;
- (8) Chapter 4 of this title;
- (9) Section 26-251; and
- (10) Sections 26-501 through 26-504.

(b) The Superintendent shall not have the power to regulate the authority or activities of a bank holding company or bank in a manner which, directly or indirectly, cause it to operate its national banking subsidiary in a manner which violates federal requirements.

(Nov. 23, 1985, D.C. Law 6-63, § 10a, as added Apr. 11, 1986, D.C. Law 6- 107, § 2(j), 33 DCR 1168.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-809.1.

Legislative History of Laws

For legislative history of D.C. Law 6-107, see Historical and Statutory Notes following § 26-702.01.

§ 26-711. USE OF WOMEN-OWNED BANKS.

(a) Recipients of District of Columbia government contracts are encouraged to use women-owned banks and federally or District chartered minority-owned banks certified by the Small and Local Business Opportunity Commission in accordance with subchapter IX-A of Chapter 2 of Title 2.

(b) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this section within 90 days of March 16, 1989. All rules issued pursuant to this subsection shall be transmitted to the Council for review.

(Nov. 23, 1985, D.C. Law 6-63, § 10b as added Mar. 16, 1989, D.C. Law 7- 187, § 2(b), 35 DCR 8648; October 4, 2000, D.C. Law 13-169, § 6, 47 DCR 5846; Oct. 20, 2005, D.C. Law 16-33, § 2381(a), 52 DCR 7503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-810.

Effect of Amendments

D.C. Law 13-169 in subsec. (a) substituted for "Minority Business Opportunity Commission in accordance with the District of Columbia Minority Contracting Act of 1976, § 1-1141 et seq." the phrase "District of Columbia Local Business Opportunity Commission in accordance with subchapter II-B of Chapter 11 of Title 1-1".

D.C. Law 16-33, in subsec. (a), substituted "Small and Local Business Opportunity Commission in accordance with subchapter IX-A of Chapter 2 of Title 2" for "District of Columbia Local Business Opportunity Commission in accordance with subchapter IX of Chapter 2 of Title 2".

Temporary Amendments of Section

Section 6 of D.C. Law 13-216, in subsec. (a), substituted "District of Columbia Local Business Opportunity Commission in accordance with the Equal Opportunity for Local, Small, and Disadvantaged Business Enterprises Act of 1998" for "Minority Business Opportunity Commission in accordance with the District of Columbia Minority Contracting Act of 1976".

Section 11(b) of D.C. Law 13-216 provides that the act shall expire after 225 days of its having taken effect.

For temporary (90-day) amendment of section, see § 6 of the Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Emergency Amendment Act of 2000 (D.C. Act 13-415, August 14, 2000, 47 DCR 7296).

For temporary (90 day) amendment of section, see § 2381(a) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative History of Laws

Law 7-187, the "District of Columbia Minority Bank Encouragement Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-471, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on October 25, 1988 and November 15, 1988, respectively. Signed by the Mayor on December 1, 1988, it was assigned Act No. 7-249 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 8-260, see Historical and Statutory Notes following § 26-702.01.

Law 13-169, the "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-241, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on April 4, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-373 and transmitted to both Houses of Congress for its review. D.C. Law 13-169 became effective on October 4, 2000.

Law 13-216, the "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Temporary Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-789. The Bill was adopted on first and second readings on July 11, 2000, and October 3, 2000, respectively. Signed by the Mayor on October 30, 2000, it was assigned Act No. 13-468 and transmitted to both Houses of Congress for its review. D.C. Law 13-216 became effective on April 3, 2001.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

§ 26-712. ADMINISTRATIVE PROCEDURE; CEASE AND DESIST ORDERS.

(a)(1) If, in the opinion of the Superintendent, a District banking corporation or a director, officer, employee, agent, or other person who participates in the conduct of the affairs of the banking corporation, engages in an unsafe or unsound practice in conducting the business of the bank or violates or is about to violate a law, rule, regulation, written condition imposed by the Superintendent in connection with the grant of any application or request, or any written agreement entered into with the Superintendent, the Superintendent may institute an administrative action against the bank or person by the issuance of a Notice of Charges.

(2) If, in the opinion of the Superintendent, a person or a director, officer, employee, agent, or other person who participates in the conduct of the affairs of the person violates or is about to violate a law, rule, regulation, written condition imposed by the Superintendent in connection with the grant of any application or request, or any written agreement entered into with the Superintendent, the Superintendent may institute an administrative action against the person by the issuance of a Notice of Charges.

(b) The Notice of Charges shall set forth the basis for the administrative action and shall set a time and place for a hearing to determine whether a cease and desist order shall issue based on the Notice of Charges. The hearing shall be held within 60 days after the service of the Notice of Charges unless another date is set by the hearing officer at the request of 1 of the parties.

(c) In the event of a consent or default or if, upon the record at the hearing, the Superintendent finds that any violation or practice alleged in the Notice of Charges is established by a preponderance of the evidence, the Superintendent may issue an order to cease and desist from the violation or practice. The order may require the bank or person or director, officer, employee, agent, or other person who participates in the conduct of the affairs of the bank or person to cease and desist from the violation or practice, and take affirmative action to correct the violation or practice or any condition that results from the violation or practice. The affirmative action may include indemnification, reimbursement, restitution, or any other relief that the Superintendent deems appropriate.

(d) The cease and desist order shall become effective 30 days after service or, in the case of consent, shall become effective immediately. The order shall remain effective and enforceable unless the order is stayed, modified, terminated, or set aside by the Superintendent or a reviewing court.

(e) If, in the opinion of the Superintendent, a violation or practice or threatened violation or practice of this subchapter or § 26-103 is likely to cause insolvency, substantial dissipation of the assets or earnings of

the bank or person, or serious prejudice to the interests of the depositors or customers of the bank or person, the Superintendent, through the Office of the Corporation Counsel, may:

- (1) Petition the court to issue a restraining order to prevent the continuance of the violation or practice or threatened violation or practice, pending completion of the Superintendent's administrative proceeding;
- (2) Petition the court to appoint a receiver with any power or duty that the court may direct to preserve the assets of the corporation or person in accordance with part B of subchapter XII of Chapter 3 of Title 29. Notwithstanding part B of subchapter XII of Chapter 3 of Title 29, a court may appoint a receiver to preserve the assets of a person and shall not be required to liquidate the assets of a corporation or person unless warranted;
- (3) Petition the court to freeze or seize the assets of the bank or person consistent with applicable law; or
- (4) Petition the court for an order for the involuntary dissolution of a corporation pursuant to part B of subchapter XII of Chapter 3 of Title 29 if the corporation exceeded or abused the authority conferred upon the corporation by Chapter 1, 2, or 3 of Title 29.

(Nov. 23, 1985, D.C. Law 6-63, § 10c, as added Aug. 17, 1991, D.C. Law 9-42, § 2(d), 38 DCR 4981; July 2, 2011, D.C. Law 18-378, § 3(g), 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-811.

Effect of Amendments

D.C. Law 18-378, in subsec. (e)(2), substituted "part B of subchapter XII of Chapter 3 of Title 29" for "§§ 29-391 and 29-392 ('Business Corporation Act') " and "the provisions of §§ 29-391 and 29-392" ; and, in subsec. (e)(4), substituted "part B of subchapter XII of Chapter 3 of Title 29 if the corporation exceeded or abused the authority conferred upon the corporation by Chapter 1, 2, or 3 of Title 29" for "§ 29-101.189 if the corporation exceeded or abused the authority conferred upon the corporation by Chapter 1 of Title 29".

Legislative History of Laws

Law 9-42, the "District of Columbia Interstate Banking Act of 1985 Amendment Act of 1991," was introduced in Council and assigned Bill No. 9-37, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on June 4, 1991, and July 2, 1991, respectively. Signed by the Mayor on July 24, 1991, it was assigned Act No. 9-79 and transmitted to both Houses of Congress for its review.

For history of Law 18-378, see notes under § 26-201.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in the introductory language of (e).

§ 26-713. HEARINGS.

Any administrative hearing held in accordance with this subchapter shall be held pursuant to Chapter 5 of Title 2, unless the Superintendent determines that a public proceeding would jeopardize or adversely affect the safety and soundness of the bank or the public interest. If the Superintendent makes the determination, the hearing may be held in private session.

(Nov. 23, 1985, D.C. Law 6-63, § 10d, as added Aug. 17, 1991, D.C. Law 9-42, § 2(d), 38 DCR 4981.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-812.

Legislative History of Laws

For legislative history of D.C. Law 9-42, see Historical and Statutory Notes following § 26-712.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in this section.

§ 26-714. ENFORCEMENT.

Any order issued pursuant to this subchapter may be enforced in the Superior Court of the District of Columbia.

(Nov. 23, 1985, D.C. Law 6-63, § 10e, as added Aug. 17, 1991, D.C. Law 9-42, § 2(d), 38 DCR 4981.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-813.

Legislative History of Laws

For legislative history of D.C. Law 9-42, see Historical and Statutory Notes following § 26-712.

Editor's Notes

Because of the codification of D.C. Law 11-142 as subchapter II of Chapter 8 [subchapter II of Chapter 7, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in this section.

SUBCHAPTER II. INTERSTATE BANKING AND BRANCHING.

§ 26-731. FINDINGS.

The Council of the District of Columbia hereby finds and declares that:

- (1) On September 29, 1994, the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 ("federal legislation") became law.
- (2) Sections 102 and 103 of the federal legislation permit states to enact early opt in legislation to enable a state to appropriately regulate interstate banking, branching, and bank mergers and acquisitions prior to June 1997 when all provisions of the federal legislation will become fully effective.
- (3) It is the intent of the District of Columbia to exercise its statutory option under the federal legislation by opting in to its interstate branching schemata thus permitting the District's Office of Banking and Financial Institutions to regulate, pursuant to the federal legislation, interstate branching, acquisition of branches, bank mergers, and consolidations of existing banking entities within the District of Columbia among other things.

(June 13, 1996, D.C. Law 11-142, § 2, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-851.

Legislative History of Laws

Law 11-142, the "Banking and Branching Act of 1996," was introduced in Council and assigned Bill No. 11-321, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on March 5, 1996, and April 2, 1996, respectively. Signed by the Mayor on April 16, 1996, it was assigned Act No. 11-258 and transmitted to both Houses of Congress for its review. D. C. Law 11-142 became effective on June 13, 1996.

§ 26-732. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Acquire" means:
 - (A) To merge or consolidate;
 - (B) To have direct or indirect ownership or control of voting shares, if, after the acquisition, the acquiror directly or indirectly owns or controls more than 5% of any class of voting shares of the acquired; or
 - (C) Any action that would result in direct or indirect control of the acquired, including a direct or indirect ownership of all or of substantially all of the assets of the acquired.

- (2) "Acquisition of a branch" means the acquisition of a branch located in a host state without acquiring the bank of such branch.
- (3) "Bank" means any insured bank as defined in 12 U.S.C. § 1813(h), or any institution eligible to become an insured bank as defined therein, which accepts demand deposits and makes commercial loans.
- (4) "Branch" means any branch bank or branch bank office or other bank facility where deposits are received, checks are paid, or money is lent.
- (5) "De novo branch" means a branch of a bank located in a host state which:
- (A) Is originally established by a bank as a branch; and
 - (B) Does not become a branch of a bank as the result of the acquisition of another bank or the acquisition of a branch of another bank.
- (6) "Depository institution affiliate" means any depository institution that controls, is controlled by, or is under common control of or with another depository institution.
- (7) "District" means the District of Columbia.
- (8) "District bank" means a bank whose home state is the District of Columbia and whose primary regulator is the District's Superintendent of Banking and Financial Institutions or the Comptroller of the Currency.
- (9) "District state bank" means a bank whose home state is the District and that is chartered under the laws of the District.
- (10) "Home state" means:
- (A) The state of the main office for a national bank; or
 - (B) The state of chartering for a state bank.
- (11) "Host state" means a state, other than the home state of a bank, in which a bank maintains or seeks to maintain a branch.
- (12) "Interstate merger transaction" means:
- (A) The merger or consolidation of banks with different home states pursuant to the authority of this subchapter, and the conversion of branches of any bank involved in such a merger or consolidation to branches of the resulting bank; or
 - (B) The purchase of all, or substantially all, of the assets of a bank whose home state is not the home state of the acquiring bank pursuant to the authority of this subchapter.
- (13) "Out-of-state bank" means a bank whose home state is not the District.
- (14) "Out-of-state national bank" means a nationally-chartered bank whose home state is not the District of Columbia.
- (15) "Out-of-state state bank" means a state chartered bank whose home state is not the District of Columbia.
- (16) "Resulting bank" means a bank that has resulted from an interstate merger transaction.
- (17) "State" means any state of the United States, the District of Columbia, or any territory of the United States, or any legally incorporated jurisdiction deemed to be a state by the District's Superintendent of Banking and Financial Institutions.
- (18) "Superintendent" means the District's Superintendent of Banking and Financial Institutions.

(June 13, 1996, D.C. Law 11-142, § 3, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-852.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

§ 26-733. DE NOVO BRANCHING OR ACQUISITION OF A BRANCH INTO A STATE OTHER THAN THE DISTRICT.

- (a) With the approval of the Superintendent, a District state bank may establish and maintain a de novo branch or acquire a branch in a state other than the District.
- (b) A District state bank ("applicant") desiring to branch into a state other than the District under this

section shall file an application on a form provided by the Superintendent and pay a branching fee of \$500 to the Superintendent. If, within 30 days after receipt of the application, the Superintendent determines that the applicant possesses sufficient resources to branch into a state other than the District, the Superintendent shall approve the application.

(c) In reviewing the application, the Superintendent shall consider the views of the state bank supervisor of the host state where the branch is proposed to be located.

(d) If the Superintendent fails to approve or disapprove an application within 30 days of receipt, the application shall be deemed approved. The Superintendent may extend this 30-day review period for an additional 30 days upon a showing of good cause.

(e) A District state bank that branches into a state other than the District may exercise, at that branch, all rights and powers permitted to banks chartered by that state unless the Superintendent determines that the exercise of such rights or powers would threaten the safety and soundness of the District bank.

(June 13, 1996, D.C. Law 11-142, § 4, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-853.

Temporary Amendments of Section

Section 2(a) of D.C. Law 11-257 amended (a) to read as follows.

"(a) No person shall engage in business as a mortgage lender or mortgage broker, or both, or hold himself or herself out to the public to be a mortgage lender or mortgage broker for 150 days after the effective date of this chapter, unless such person has first obtained a license under this chapter."

Section 4(b) of D.C. Law 11-257 provides that the act shall expire after 225 days of its having taken effect.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

Law 11-257, the "Mortgage Lender and Broker Act of 1996 Time Extension Temporary Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-922, which was retained by Council. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. It was assigned Act No. 11-507 and transmitted to both Houses of Congress for its review. D.C. Law 11-257 became effective on April 9, 1997.

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(3) of D.C. Law 12-60 provided that all fees received pursuant to § 26-853(b) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

§ 26-734. INTERSTATE BRANCHING BY DE NOVO ENTRY OR ACQUISITION INTO THE DISTRICT.

(a) An out-of-state bank ("applicant") that does not maintain a branch within the District may establish and maintain a de novo branch or may acquire a branch within the District provided the applicant meets the following requirements:

(1) Submits to the Superintendent a copy of the application it files with its home state supervisor or with the appropriate federal agency in order to establish such branch within the District;

(2) Pays a branching fee to be determined by the Superintendent; and

(3)(A) In the case of a de novo branch to be established prior to June 1, 1997, the laws of the home state of the applicant permit District banks to establish and maintain de novo branches in that state under terms similar to those set forth in this subchapter; or

(B) In the case of a branch to be established through acquisition of a branch prior to June 1, 1997, the laws of the home state of the applicant permit District banks to establish and maintain branches in that state through the acquisition of branches under terms similar to those set forth in this subchapter.

(b) An out-of-state state bank that establishes and maintains a branch in the District may exercise, at such branch, all rights and powers permitted to be exercised by District state banks unless the out-of-state state bank's home state determines that the exercise of such rights or powers would threaten the safety and soundness of the out-of-state state bank.

(June 13, 1996, D.C. Law 11-142, § 5, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-854.

Temporary Amendments of Section

Section 2(b) of D.C. Law 11-247 amends (b) to read as follows:

"(b) The Superintendent shall approve or deny each application for a license within 60 days after the date from when the application and bond are filed and the fees are paid. The Superintendent may issue a provisional license to an applicant who has filed the application and bond and paid all required fees if the Superintendent determines that he is unable to complete the application review process within 60 days."

Section 4(b) of D.C. Law 11-247 provides that the act shall expire after 225 days of its having taken effect.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

For legislative history of D.C. Law 11-247, see Historical and Statutory Notes following § 26-733.

§ 26-735. ADDITIONAL AUTHORITY OF SUPERINTENDENT REGARDING ESTABLISHMENT AND MAINTENANCE OF BRANCHES.

(a) The Superintendent may conduct examinations of any branch of an out-of-state state bank established or maintained within the District pursuant to § 26-734 to ensure that such branch is operating in a safe and sound manner and to ensure that such branch is in compliance with the laws of the District.

(b) The Superintendent may require periodic reports from any out-of-state bank that establishes or maintains a branch in the District pursuant to § 26-734, including reports regarding any agency agreements entered into between a branch and a depository institution affiliate as authorized and established by § 26-739, provided that the reports:

- (1) Are similar to reports required from District banks by the Superintendent; and
- (2) Are not preempted by federal law.

(c) The Superintendent may enter into cooperative agreements with any other state bank regulators for any legal purpose, including agreements for sharing of examination fees and other regulatory fees, in order to prevent duplication of regulatory functions and for the convenience and needs of the public.

(d) An out-of-state bank that has established and maintained a branch in the District may establish and maintain additional branches in the District to the same extent as a District state bank or to the extent otherwise permitted by federal law.

(June 13, 1996, D.C. Law 11-142, § 6, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-855.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

§ 26-736. INTERSTATE MERGER TRANSACTIONS BY A DISTRICT STATE BANK.

(a) With the permission of the Superintendent, a District state bank may maintain and operate a branch in a state other than the District pursuant to an interstate merger transaction with an out-of-state bank in which the District state bank is the resulting bank.

(b) A District state bank ("applicant") desiring to establish and maintain a branch in another state under this section shall file an application on a form provided by the Superintendent and pay a merger fee to be determined by the Superintendent. If, within 30 days of receipt of the application, the Superintendent determines that the applicant possesses sufficient financial resources, sufficient managerial and professional experience, and that the proposed merger is in the public interest, the Superintendent shall approve the application for an interstate merger transaction and for the operation of branches in a state other than the District by the District state bank.

(c) In reviewing the application, the Superintendent shall consider the views of the state bank supervisor of the host state where the interstate merger transaction is to be consummated.

(d) If the Superintendent fails to approve or disapprove an application within 30 days of receipt, the application shall be deemed approved. The Superintendent may extend this 30-day review period for an additional 30 days upon a showing of good cause.

(e) A District state bank that establishes and maintains a branch in a state other than the District pursuant to an interstate merger transaction may exercise, at such branch, all rights and powers permitted to banks chartered by that state unless the Superintendent determines that the exercise of such rights or powers would threaten the safety and soundness of the District state bank.

(June 13, 1996, D.C. Law 11-142, § 7, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-856.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(3) of D.C. Law 12-60 provided that all fees received pursuant to § 26-856(b) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

§ 26-737. INTERSTATE MERGER TRANSACTIONS BY AN OUT-OF-STATE BANK WITH A DISTRICT BANK; RETENTION OF BRANCHES BY RESULTING BANK.

(a) A District bank may engage with an out-of-state bank ("applicant") in an interstate merger transaction where the resulting bank is not a District state bank. The resulting bank from such an interstate merger transaction may maintain and operate the branches in the District of the merged District bank, provided the applicant meets the following requirements:

(1) Submits to the Superintendent a copy of the application it files with its home state regulator or with the federal banking agency in order to consummate such merger within the District;

(2) Pays a merger fee to be determined by the Superintendent. This fee may be waived by the Superintendent if the Superintendent determines that the fee paid by the applicant in its home state is sufficient;

(3) Prior to consummation of such merger, obtains a certificate of authority to transact business in the District in accordance with § 29-101.99. The applicant shall be entitled to do so notwithstanding the exclusion of the business of banking under the terms of § 29-101.99(a); and

(4) In the case of an interstate merger transaction to be consummated prior to June 1, 1997, the laws of the home state of the applicant permit District banks to consummate interstate merger transactions in the home state under terms similar to those set forth in this subchapter.

(b) An out-of-state state bank that engages in an interstate merger transaction with a District bank and is the resulting bank may exercise at its branches in the District all rights and powers to be exercised by District state banks, unless the out-of-state state bank's home state determines that the exercise of such rights or powers would threaten the safety and soundness of the out-of-state state bank.

(June 13, 1996, D.C. Law 11-142, § 8, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-857.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

Miscellaneous Notes

Fees credited to the Office of Banking and Financial Institutions Enterprise Fund: Section 1804(3) of D.C. Law 12-60 provided that all fees received pursuant to § 26-857(a)(2) [1981 Ed.] shall be credited to the Office of Banking and Financial Institutions Enterprise Fund.

§ 26-738. ADDITIONAL AUTHORITY OF SUPERINTENDENT REGARDING

INTERSTATE MERGER TRANSACTIONS.

(a) The Superintendent may conduct examinations of any branch of an out-of-state state bank established within the District pursuant to an interstate merger transaction to ensure that such branch is operating in a safe and sound manner and to ensure that such branch is in compliance with the laws of the District.

(b) The Superintendent may require periodic reports from any branch of an out-of-state bank established within the District pursuant to an interstate merger transaction, including reports regarding any agency agreements entered into between a branch and a depository institution affiliate authorized and established pursuant to § 26-739, provided that the reports:

(1) Are similar to reports required from District banks by the Superintendent; and

(2) Are not preempted by federal law.

(c) The Superintendent may enter into cooperative agreements with any other state bank regulators for any legal purpose, including agreements for sharing of examination fees and other regulatory fees, in order to prevent duplication of regulatory functions and for the convenience and needs of the public.

(d) An out-of-state bank that has acquired a branch in the District pursuant to an interstate merger transaction may establish and maintain additional branches in the District to the same extent as a District state bank or to the extent otherwise permitted by federal law.

(June 13, 1996, D.C. Law 11-142, § 9, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-858.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

§ 26-739. ESTABLISHMENT OF AGENCY AGREEMENTS BETWEEN AFFILIATED DEPOSITORY INSTITUTIONS.

A District state bank that is a subsidiary of a bank holding company may agree to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations, and perform such other services as the Superintendent may determine are appropriate, as an agent for a depository institution affiliate.

(June 13, 1996, D.C. Law 11-142, § 10, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-859.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

§ 26-740. ENFORCEMENT.

If the Superintendent determines that any law of the District has been violated in the operation of a branch in the District of an out-of-state state bank, or that such branch is being operated in an unsafe or unsound manner pursuant to this subchapter, the Superintendent shall have the authority to undertake such enforcement actions as it would be permitted to take if the branch were a District state bank.

(June 13, 1996, D.C. Law 11-142, § 11, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-860.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.

§ 26-741. RULES.

(a) The Superintendent, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this subchapter.

(b) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(June 13, 1996, D.C. Law 11-142, § 12, 43 DCR 2159.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 26-861.

Legislative History of Laws

For legislative history of D.C. Law 11-142, see Historical and Statutory Notes following § 26-731.