

LEGISLATIVE BILL 1076

Approved by the Governor April 3, 1984

Introduced by DeCamp, 40

AN ACT relating to banks and banking; to amend sections 8-820, 8-905, and 8-906, Revised Statutes Supplement, 1983, and section 8-903, Revised Statutes Supplement, 1983, as amended by section 2, Legislative Bill 1026, Eighty-eighth Legislature, Second Session, 1984; to change provisions relating to fees for certain transaction cards; to change provisions relating to certain acquisitions; to define terms; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 8-820, Revised Statutes Supplement, 1983, be amended to read as follows:

8-820. Subject to the provisions of sections 8-815 to 8-829, any registered bank may contract for and receive, on any personal loan, charges at a rate not exceeding nineteen per cent simple interest per year. In the case of loans initiated by credit card or other type of transaction card, the rate may be any amount agreed to by the parties. Any registered bank or bank acquired pursuant to sections 8-905 and 8-906 may also charge a reasonable fee for service and use of a credit card or other type of transaction card in an amount not to exceed twenty dollars per year, except that for a premium card as determined by the Director of Banking and Finance which has at least a one thousand five hundred dollar credit limit and provides an additional service, that for a credit card or other type of transaction card that has a credit limit of five thousand dollars or more; any reasonable fee for service and use of such card may be charged. Such charges shall not be construed as interest. Notwithstanding the provisions of this section, a bank may charge a minimum fee of up to seven dollars and fifty cents in lieu of interest on small loans.

Sec. 2. That section 8-903, Revised Statutes Supplement, 1983, as amended by section 2, Legislative Bill 1026, Eighty-eighth Legislature, Second Session, 1984, be amended to read as follows:

8-903. It shall be unlawful for any action to be taken after March 12, 1963, which results in a company becoming a bank holding company as defined in section 8-902. Nothing in sections 8-901 to 8-904 shall prohibit (1) a bank holding company or a company which owns only one bank which is not a bank holding company as defined in

section 8-902, (2) a bank holding company as defined in section 8-1202, or (3) an out-of-state bank holding company as defined in 12 U.S.C. 1842(d) as it exists on August 26, 1983, and which on March 12, 1963, owned at least two banks in this state from directly or indirectly owning or controlling more than twenty-five per cent of the voting shares of any bank or the power to control in any manner the election of a majority of the directors of any bank unless upon such acquisition the banks so owned or controlled would have deposits greater than an amount equal to nine per cent of the total deposits of all banks in this state plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in this state as determined by the Director of Banking and Finance on the basis of the most recent calendar year-end reports. If any person, association, partnership, or corporation owns twenty-five per cent or more of the voting stock of any bank holding company acquiring a bank and any such person, association, partnership, or corporation owns twenty-five per cent or more of the voting stock of any other bank or bank holding company in Nebraska, then the total deposits of such other bank or banks and of all banks owned or controlled by such bank holding company shall be included in the computation of the total deposits of a bank holding company acquiring a bank. No bank holding company shall be allowed to own or control more than nine banks located in the State of Nebraska at any time after August 26, 1983. A bank holding company, including an out-of-state bank holding company, may not acquire any bank which has been chartered by this state or the Comptroller of the Currency of the United States of America for less than five years. Acquisition right or rights provided in this section to any bank holding company, including any out-of-state bank holding company, if not exercised at the time permitted in this section, may be carried forward to one or more subsequent years to be exercised on a cumulative basis. A bank which acquires and holds all or substantially all of the voting stock of one newly established bank under sections 8-905 and 8-906 shall not have such acquisition count against the total deposit limitation or bank acquisition limitation imposed by this section, nor shall such acquisition be limited, restricted, or disallowed by any other prohibition imposed by this section. A bank holding company which acquires an institution or which forms a bank which acquires an institution under sections 8-1506 to 8-1510 shall not have such acquisition or formation count against the total deposits limitation or bank acquisition limitation imposed by this section, nor shall such acquisition or formation be limited, restricted, or disallowed by any other prohibition imposed by this section, except that any such acquisition which occurs under sections 8-1506 to 8-1510

after July 1, 1987, shall count against the total deposits limitation and the total bank acquisition limitation imposed by this section.

Sec. 3. That section 8-905, Revised Statutes Supplement, 1983, be amended to read as follows:

8-905. Notwithstanding any other provisions of law and subject to the provisions of this section, and to the approval of the Director of Banking and Finance, a bank holding company, as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841, et seq. or a subsidiary thereof, with bank subsidiaries whose operations are principally conducted in a state other than Nebraska any bank, as defined in section 5 of this act, may acquire and hold all or substantially all of the voting stock of one a single newly established bank located in this state when and so long as the following conditions are satisfied:

(1) The bank whose stock is to be acquired is a newly established bank that shall be limited to a single one banking office and the bank may not acquire, establish, share, or maintain any additional banking office or remote service unit in this state whether by merger, consolidation, or otherwise, and the services of the bank shall be limited to the solicitation, processing, and matters relating to the making of loans instituted by credit card or other type of transaction card;

(2) The bank whose stock is to be acquired is limited to accepting deposits only from affiliated banks not domiciled in the State of Nebraska and has or will have on the date of commencement of banking business in this state a minimum capital stock and paid-in surplus of two million five hundred thousand dollars;

(3) The bank whose stock is to be acquired (a) employs on the date of commencement of its banking business in this state or will employ within one year of such date not less than fifty persons in this state in its business or (b) has contracted with a qualifying association to provide for the processing of its credit card operations; and

(4) The bank whose stock is to be acquired is operating in a manner and at a location that is not likely to attract customers from the general public in this state to the substantial detriment of existing banking institutions located in this state, except that the bank to be acquired may be operated in a manner likely to attract and retain customers with whom that such bank, the acquiring bank, the out-of-state holding company, or such holding company's bank or nonbanking subsidiary of the acquiring bank has or has had business relations.

Sec. 4. That section 8-906, Revised Statutes Supplement, 1983, be amended to read as follows:

8-906. (1) Any out-of-state bank, as defined in section 5 of this act, holding company or subsidiary

~~thereof~~ proposing any acquisition pursuant to section 8-905 shall file an application with the Director of Banking and Finance for approval to make the acquisition. The application shall contain such information as the director may by regulation require, and shall specifically acknowledge the applicant's agreement to be bound by the conditions set forth in section 8-905. In addition, the application shall designate a resident of this state as the applicant's agent for the service of any paper, notice, or legal process, upon the applicant in connection with the matters arising out of the laws of this state and shall be accompanied by a filing fee in the amount of five thousand dollars for the use of this state.

(2) In determining whether to approve an acquisition by ~~an out-of-state~~ a bank, ~~as defined in section 5 of this act, holding company or subsidiary thereof~~ of any voting stock of a newly established bank located in this state, the director shall consider: (a) The financial and managerial resources of the ~~out-of-state~~ such bank; ~~holding company or its subsidiary~~; (b) whether the acquisition may result in undue concentration of resources or substantial lessening of competition; and (c) whether the convenience and benefit to the public outweigh any adverse competitive effects.

(3) Any approval granted to ~~an out-of-state~~ a bank, as defined in section 5 of this act, ~~holding company~~ by the director is subject to such reasonable conditions as the director deems necessary, and to the director's continuing authority to ascertain ~~such bank's~~ the ~~out-of-state~~ bank ~~holding company's~~ compliance with the provisions of the laws of this state and the conditions of approval.

(4) Whenever the director determines, after notice and hearing, that any ~~out-of-state~~ bank, as defined in section 5 of this act, ~~holding company~~ is not in compliance with the laws of this state or the conditions of approval, the director shall order such bank ~~holding company~~ to divest itself of all stock of the bank acquired pursuant to sections 8-905 and 8-906, and such bank ~~holding company~~ shall be liable for a penalty of ten thousand dollars per day from the date such divestiture is ordered until it is completed.

Sec. 5. As used in sections 8-905 and 8-906 and this section, unless the context otherwise requires:

(1) Affiliated bank shall mean (a) if the bank is a subsidiary of a state bank or national banking association, the parent bank and (b) if the bank is a subsidiary of a bank holding company, the principal banking subsidiary of the holding company;

(2) Association of banks shall mean two or more banks formed for the purpose of acquiring and holding all or substantially all of the voting stock of one newly established bank pursuant to sections 8-905 and 8-906;

(3) Bank or banking corporation shall mean the principal office of (a) any national bank doing business in this state, (b) any corporation which is chartered to conduct a bank in this state as provided in Chapter 8, article 1, (c) any association of banks, (d) a bank holding company as defined in section 8-902, or (e) a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841, et seq. or a subsidiary thereof, with bank subsidiaries whose operations are principally conducted in a state other than Nebraska; and

(4) Qualifying association shall mean an association, corporation, partnership, or other entity which at all times maintains an office in this state at which it employs at least fifty persons in this state and which pursuant to contract or otherwise offers at least the following services to banks: (a) The distribution, as agent for a bank, of credit cards or other devices designed and effective to access a prearranged revolving credit plan account with such bank; (b) the preparation of periodic statements of amounts due under such account; (c) the receipt from credit card holders of amounts paid on or with respect to such accounts; and (d) the maintenance of financial records reflecting the status of such accounts from time to time.

Sec. 6. That original sections 8-820, 8-905, and 8-906, Revised Statutes Supplement, 1983, and section 8-903, Revised Statutes Supplement, 1983, as amended by section 2, Legislative Bill 1026, Eighty-eighth Legislature, Second Session, 1984, are repealed.