

LEGISLATIVE BILL 454

Approved by the Governor April 18, 1983

Introduced by DeCamp, 40; Newell, 13

AN ACT relating to banks and banking; to amend section 8-820, Revised Statutes Supplement, 1982; to change provisions relating to interest rates and fees for credit and transaction cards as prescribed; to authorize certain acquisitions by bank holding companies as prescribed; to provide for the construction of certain provisions; and to repeal the original section.

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

Section 1. That section 8-820, Revised Statutes Supplement, 1982, 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, ~~except that, in the case of loans initiated by credit card or other type of transaction card, the rate may not exceed eighteen per cent simple interest per year~~ be any amount agreed to by the parties. Any registered bank or bank acquired pursuant to sections 2 and 3 of this act charging a rate of interest allowed under this section 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 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. 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, may acquire and hold all or substantially all of the voting stock of 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 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 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 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; 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 may be operated in a manner likely to attract and retain customers with whom that bank, the out-of-state holding company, or such holding company's bank or nonbanking subsidiary has or has had business relations.

Sec. 3. (1) Any out-of-state bank holding company or subsidiary thereof proposing any acquisition pursuant to section 2 of this act 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 2 of this act. 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 bank 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 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 bank 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 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 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 2 and 3 of this act, 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. 4. The provisions of sections 2 and 3 of this act shall not be construed to amend or repeal section 8-903, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 58, Eighty-eighth Legislature, First Session, 1983.

Sec. 5. That original section 8-820, Revised Statutes Supplement, 1982, is repealed.