

SENATE BILL REPORT

SB 6370

As of January 21, 2010

Title: An act relating to state-chartered commercial banks, trust companies, savings banks, and their holding companies.

Brief Description: Regulating state-chartered commercial banks, trust companies, savings banks, and their holding companies.

Sponsors: Senators Berkey, Benton, Hobbs and Shin; by request of Department of Financial Institutions.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/20/10.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: Banks and mutual savings banks (thrifts) are chartered either by the state in which they are located or by the federal government. The institution chooses the type of charter under which it will operate. If the institution is state-chartered, both the state banking regulatory authority and the Federal Deposit Insurance Corporation (FDIC) are authorized to regulate and examine the institution. In this state, the Department of Financial Institutions (DFI) is the regulator of state-chartered banks and thrifts.

DFI, as the primary state regulator, is responsible for oversight of the safety and soundness of a broad range of state-chartered financial institutions. These include banks, thrifts, savings and loans, and credit unions.

Bank holding companies are companies that own one or more banks. DFI has authority to examine bank holding companies, however, it has no enforcement authority over the bank holding company itself.

While similar, the laws governing thrifts lack some of the enforcement tools of the laws governing banks and trust companies.

Bank examination reports and information obtained by DFI during an examination are confidential and privileged and not subject to public disclosure.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: DFI has enforcement authority over bank holding companies, including the authority to issue cease and desist orders and remove persons from the conduct of affairs of the bank holding company. Other enforcement tools that are already available for actions involving banks are also provided regarding bank holding companies. DFI is authorized to engage in rulemaking to facilitate the examination of bank holding companies and its engagement in enforcement actions. DFI's existing authority to collect examination fees from savings associations and bank holding companies is clarified.

DFI's enforcement authority over banks, thrifts, and trust companies is clarified. Banks and trust companies must comply with statutes, regulations, and lawful orders from DFI. Violations of statutes, regulations, and lawful orders from DFI may result in a \$10,000 fine for each offense.

The confidentiality of bank examination reports is clarified to include work papers, supervisory agreements or directives, orders, or other information obtained during an investigation or examination. Regulatory enforcement actions, including supervisory agreements, directions, consent orders, and other information related to regulatory enforcement action are similarly clarified to be confidential and privileged.

DFI's authority to regulate thrifts is brought into conformity with its regulatory authority over banks and trust companies. This regulatory authority includes, but is not limited to, the authority to enter into the supervisory direction of a thrift and the authority to appoint a conservator.

The existing restrictions on the use of terms like bank, banking, banker, and trust are applied to the use of the terms, bancorporation, Bancorp, banco and banque, as examples.

Technical changes are made as needed to align the law for regulation of thrifts with existing law regulating banking and trust company businesses.

Appropriation: None.

Fiscal Note: Requested on January 18, 2010.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: The country's financial system is in significant turmoil. This has not skipped Washington. Titles 30 and 32 are strong statutes, however they were mostly written before the FDIC improvement act of 1991. Some have not been revised since 1930 or 1950. Some attention is needed to these laws to be sure we can effectively respond to current and future banking events and to better complement the federal framework. Bank holding companies are more important now. They are corporations that own a bank, sometimes dozens of banks. This bill gives DFI enforcement authority over bank holding companies of state-chartered banks and savings banks located out of state. These holding companies can have an impact on the safety and soundness of our state-chartered banks. The statutes need to be modernized to give greater clarity and transparency

to the regulatory process. A number of stakeholder meetings have been held. The bill also clarifies the factors used for closing unsafe and unsound banks. There is no fiscal impact.

Persons Testifying: PRO: Brad Williamson, DFI.