
**Financial Institutions &
Insurance Committee**

HB 2757

Brief Description: Allowing banks and savings banks to organize as limited liability companies.

Sponsors: Representatives Kirby and Roach.

Brief Summary of Bill

- Allows a bank, savings bank, the holding company of a bank, or a savings bank to form or convert to a limited liability company (LLC).
- Requires a bank, savings bank, the holding company of a bank, or a savings bank to receive the approval of the Director of the Department of Financial Institutions to organize as a LLC or convert to a LLC.

Hearing Date: 1/19/06

Staff: Jon Hedegard (786-7127).

Background:

The Department of Financial Institutions (DFI) regulates state chartered banks and state chartered savings banks. The DFI charters new entities, authorizes new branches, branch closures, and approves mergers and acquisitions. The DFI uses examination and supervisory activity to ensure solvency and compliance with applicable laws.

A limited liability company (LLC) is formed by one or more individuals or entities through a special written agreement. The agreement details the organization of the LLC including:

- provisions for management;
- assignability of interests; and
- distribution of profits or losses.

A LCC is permitted to engage in any lawful business or activity other than banking or insurance.

Summary of Bill:

The bill allows a bank, savings bank, the holding companies of a bank, or a savings bank to form or convert to a LLC.

The bill provides definition of numerous terms for the purpose of a bank, savings bank, the holding companies of a bank, or a savings bank to form or convert to a LLC.

The Director of the DFI (Director) must approve of the formation as a LLC or conversion to a LLC. The request is considered approved unless the Director disapproves within ninety days.

To approve a request for approval, the Director must find that the bank or holding company:

- will operate in a safe and sound manner;
- is perpetual in duration;
- is not otherwise subject to automatic termination, dissolution, or suspension upon the happening of some event;
- does not hold an owner liable for the debts, liabilities, and obligations of the bank or holding company in excess of the amount of the owner's investment;
- does not require to need the consent of any other owner of the bank or holding company in order to transfer an ownership interest; and
- is able to comply with all applicable legal and regulatory requirements; and
- is able to obtain new investment funding if needed to maintain adequate capital.

Board of Managers or Directors.

The Board of Managers or Directors:

- must have exclusive authority to manage the bank or holding company;
- must be elected or appointed by the owners;
- is not required to included owners of the bank or holding company on the board;
- must possess adequate independence and authority to supervise the operation of the bank or holding company; and
- operate with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;

General Applicability of Chapter 25.15 RCW.

All rights, privileges, powers, duties, and obligations of a bank or holding company organized as a LLC, and its members and managers are governed by the Washington limited liability company act, chapter 25.15 RCW, except as stated in the bill.

Exemptions from Chapter 25.15 RCW.

Federal law or regulation preempts any conflicting provisions contained in chapter 25.15 RCW respecting the organization of a federally insured depository institution as a LLC.

A bank or holding company organized as a limited liability company may not permit automatic dissolution or suspension of a LLC.

Transfer of member's interest.

A member's interest in the bank or holding company may be transferred as if it were a share of stock in a corporation. If a member's interest in the bank or holding company is transferred, the person who receives the member's interest obtains the member's entire rights associated with the member's interest in the bank or holding company.

Miscellaneous.

All voting members are liable and responsible as fiduciaries of the LLC to the same extent that directors of a bank or holding company organized as a corporation are liable or responsible to the DFI and applicable federal banking regulators.

If death, incapacity, or disqualification results in a complete dissociation of all members of the LLC, the LLC is deemed to remain in existence for the purpose of the DFI or a federal agency exercising the powers and authorities of a receiver.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.