

ENROLLMENT(S)



(5)

COUNCIL OF THE DISTRICT OF COLUMBIA


NOTICE

D.C. LAW 9-42

"District of Columbia Interstate Banking Act
of 1985 Amendment Act of 1991".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 9-37 on first and second readings, June 4, 1991, and July 2, 1991, respectively. Following the signature of the Mayor on July 24, 1991, this legislation was assigned Act No. 9-79, published in the August 9, 1991, edition of the D.C. Register, (Vol. 38 page 4981) and transmitted to Congress on July 25, 1991 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that this legislation became effective on the date that the President of the United States signed P. L. 102-105* on August 17, 1991, and therefore, cites this enactment as D.C. Law 9-42, effective August 17, 1991.


JOHN A. WILSON
Chairman of the Council

* Public Law 102-105 waived the 30-day Congressional Review Period for this Law.

AN ACT

Codification

D.C. ACT 9-79

District of Columbia Code

(1992 Supplement)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JULY 24, 1991

To amend the District of Columbia Regional Interstate Banking Act of 1985 to grant the Office of Banking and Financial Institutions the authority to conduct investigations, issue subpoenas and cease and desist orders, and freeze or seize the assets of violators of the District of Columbia Regional Interstate Banking Act of 1985 and An Act Regulating corporations doing a banking business.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Interstate Banking Act of 1985 Amendment Act of 1991".

Sec. 2. The District of Columbia Regional Interstate Banking Act of 1985, effective November 23, 1985 (D.C. Law 6-63; D.C. Code §26-801 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Code §26-801) is amended by adding a new paragraph (11A) to read as follows:

Section
26-801

"(11A) "Person" means an individual, corporation, trust, joint venture, company, association, firm, partnership, society, joint stock company, pool syndicate, sole proprietorship, unincorporated organization, fiduciary business, or any other entity not specifically listed in this act."

(b) Section 3a(b) (D.C. Code §26-802.1(b)) is amended as follows:

Section
26-802.1

(1) By amending subsection 3a(b)(13) (D.C. Code §26-802.1(b)(13)) by striking the phrase "; and" and inserting a ";" in its place;

(2) By amending subsection 3a(b)(14) (D.C. Code §26-802.1(b)(14)) by striking the "." and inserting a ";" in its place;

(3) By adding the following new paragraphs to read as follows:

"(15) Receive and investigate complaints or initiate an investigation in regard to a possible violation of this act or An Act Regulating corporations doing a banking business in the District of Columbia, approved April 26, 1922 (42 Stat. 500; D.C. Code §26-101 *et seq.*) ("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

Enrolled Original

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 act or the Banking Business Act;

"(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 act or the Banking Business Act;

"(20) Issue a cease and desist order related to any violation or possible violation of this act or the Banking Business Act pursuant to section 11; and

"(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 act or the Banking Business Act pursuant to section 11."; and

(4) By adding a new subsection (b-1) to read as follows:

"(b-1) The Superintendent shall, upon a finding of a violation of this act or the Banking Business Act, refer the matter to the Corporation Counsel or United States Attorney for civil or criminal enforcement, as the case may warrant."

(c) Section 5(a) (D.C. Code §26-804) is amended by amending the first sentence to read as follows:

Section
26-804

"Any person who conducts or seeks to conduct a class of business described in section 3a(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 subsection (a)(1) of the Banking Business Act (D.C. Code §26-103(a)(1))."

(d) The following new sections are added to read as follows:

"Sec. 10c. Administrative procedure; cease and desist orders.

New Section
26-811

"(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 act or the Banking Business Act 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 sections 91 and 92 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code §29-391 and 29-392) ("Business Corporation Act"). Notwithstanding the provisions of sections 91 and 92 of the Business Corporation Act, 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 section 89 of the Business Corporation Act if the corporation exceeded or abused the authority conferred upon the corporation by the Business Corporation Act.

"Sec. 10d. Hearings.

"Any administrative hearing held in accordance with this act shall be held pursuant to the District of Columbia Administrative Procedure

New
Section
26-812

Enrolled Original

Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §1-1501 *et seq.*), 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.

New
Section
26-813

"Sec. 10e. Enforcement.

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

Sec. 3. Section (g) of An Act Regulating corporations doing a banking business in the District of Columbia, approved March 4, 1933 (47 Stat. 1564; D.C. Code §26-103(g)), is amended to read as follows:

"(g) Any person or corporation or any director, officer, employee, agent, or other person who participates in the conduct of affairs of the person or corporation that violates any of the provisions of this section shall be punished by:

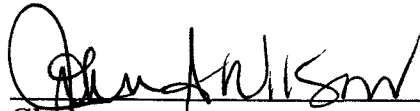
"(1) A fine not less than \$1,000;

"(2) Imprisonment not exceeding 1 year; or


"(3) Both a fine not less than \$1,000 and imprisonment not exceeding 1 year."

Sec. 4. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: July 24, 1991



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B9-37

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted First Reading, 6-4-91

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: All present

[] ROLL CALL VOTE: - RESULT (/ /)

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. WILSON, BRAZIL, CRAWFORD, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, ROLARK, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Date: July 11, 1991

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted Final Reading, 7-2-91

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: Rolark and Lightfoot

[] ROLL CALL VOTE: - RESULT (/ /)

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. WILSON, BRAZIL, CRAWFORD, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, ROLARK, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Date: July 11, 1991

[] Item on Consent Calendar

[] ACTION & DATE:

[] VOICE VOTE:

Recorded vote on request

Absent:

[] ROLL CALL VOTE: - RESULT (/ /)

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. (repeated 3 times). Rows include CHMN. WILSON, BRAZIL, CRAWFORD, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, ROLARK, SMITH, JR., THOMAS, SR.

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date