

## CHAPTER 112

## (SB 22)

AN ACT relating to banks.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 287.180 is amended to read as follows:

- (1) Banks authorized under the laws of this state may, except as provided in subsections (2) or (3) of this section, exercise, only at their principal office, powers necessary to carry on the business of banking by discounting and negotiating notes, drafts, bills of exchange, and other evidences of debt, and by purchasing bonds, receiving deposits and allowing interest on these items, buying and selling exchange, coin, and bullion, and lending money on personal or real security.
- (2) A bank may establish ***within any state, the District of Columbia, or a territory of the United States*** a branch~~[ in a county in which its principal office or an existing branch is located]~~ and may exercise all of the powers conferred in subsection (1) of this section at the branch. A bank, except for a bank that the commissioner may designate by the promulgation of administrative regulations, shall apply to the commissioner for permission to establish a branch. Before the commissioner shall approve or disapprove any application made under this subsection the commissioner shall ascertain and determine that the public convenience and advantage will be served and promoted and that there is reasonable probability of the successful operation of the branch based upon the financial and managerial impact of the branch on the bank establishing the branch. The following conditions shall apply to applications for branches:
  - (a) The permission to open a branch shall lapse one (1) year after the commissioner has rendered a final order as defined in KRS 13B.010, unless it shall have been opened and business actually begun in good faith. If, for reasons beyond the control of the applicant, the branch is not opened within this time period, permission to open the branch may, with the approval of the commissioner, be extended for any period of time the commissioner deems to be necessary; and
  - (b) An application to establish a branch office shall be approved or disapproved by the commissioner based upon the facts existing at the date of filing of the application, except for the financial condition of the bank proposing to establish a branch office, which condition shall be subject to review until an order ruling on the application is made.
- (3) Any corporation which on January 1, 1966, was engaged in operating an agency or branch bank may continue to retain and operate the agency or branch bank under the general banking laws, and the requirements set forth in this section in respect to capital shall not apply to any existing agency or branch bank but only as to those agencies or branch banks which may be established in the future in accordance with the terms of this section.
- (4) The provisions of this section shall not be construed to prohibit the merger of banks in the same county and the operation by the merged corporation of the banks, nor to prohibit the sale of any bank to, and the purchase by, any other bank in the same county and the operation of the bank by the purchasing bank as a branch, provided the commissioner shall determine that the public convenience and necessity will be served by the operation. The bank which does not survive the merger shall surrender its charter.

- (5) Any national banking association or any state bank member of the Federal Reserve system whose principal office is located in this state may do all things and perform all acts which state banks are permitted to do or perform under this section, subject to the conditions and restrictions provided for banks as to exercise of these powers.
- (6) When a branch or agency bank has once been established any operation of the branch or agency bank shall not be discontinued, and the branch or agency bank shall not be closed until after ninety (90) days' notice in writing to the commissioner. In the discretion of the commissioner the branch or agency bank proposing to discontinue operation may be required to give notice of the date when its operation will cease.

Section 2. KRS 287.900 is amended to read as follows:

- (1) For purposes of this section and KRS 287.905:
- (a) "Bank" means any institution organized under this chapter, the banking laws of another state, or the National Bank Act, as amended, to do a banking business;
  - (b) "Bank holding company," "company," and "control" have the meanings accorded them in the Federal Bank Holding Company Act of 1956, as amended (12 U.S.C. secs. 1841 et seq.). "Control" may be acquired by acquisition of voting securities, by purchase of assets, by merger or consolidation, by contract, or otherwise;
  - (c) "Individual" means a natural person, partnership, association, business trust, voting trust, or similar organization. "Individual" does not include a corporation; and
  - (d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act, as amended, and regulations promulgated thereunder; excluded, however, from deposits are all interbank deposits and all deposits in foreign branches and international banking facilities, as shown in the reports made by all federally insured depository institutions to their respective supervisory authorities.
- ~~(2) Any individual, or any bank holding company having its principal place of business in this state, may acquire control of one (1) or more banks or bank holding companies wherever located, except that no individual, who on July 13, 1984, controls a bank or bank holding company wherever located, and no bank holding company wherever located, may acquire, directly or indirectly, control of greater than fifty percent (50%) of the voting securities of a bank having its principal place of business in this state if the bank was chartered after July 13, 1984, and if, at the time of the acquisition, the bank has been in existence less than five (5) years. The provisions of this subsection shall not prohibit the organization of a one (1) bank holding company for the purpose of acquiring control of a bank even if the bank was chartered after July 13, 1984, and has been in existence less than five (5) years at the time of the acquisition.~~
- ~~(3)~~ No individual or bank holding company wherever located may acquire control of any bank or bank holding company if, upon the acquisition, the individual or bank holding company would control banks in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally insured depository institutions in this state as reported in the most recent June 30 quarterly report made by the institutions to their respective supervisory authorities which are available at the time of the acquisition.
- ~~(3)~~~~(4)~~ The limitations set forth in this section or any other provision of this chapter or any administrative regulation promulgated thereunder, as now in effect or amended after July 13, 1984, shall not apply to the acquisition of a bank if, in his or her discretion, the

commissioner, if the bank is organized under the laws of this state, or the comptroller of the currency, if the bank is a national bank, determines that an emergency exists and the acquisition is appropriate in order to prevent the probable failure of the bank which is closed or is in danger of closing.

- ~~(4)~~~~(5)~~ The provisions of this section shall not be construed to prohibit or restrict the merger or consolidation of banks or bank holding companies having their principal places of business in the same county and the operation by the merged or consolidated corporation of the banks, nor to prohibit the sale of any bank or bank holding company to, and the purchase thereof by, any other bank or bank holding company with its principal place of business in the same county and the operation of the bank as a branch so long as the provisions of KRS 287.180(4) have been satisfied.

Section 3. KRS 41.240 is amended to read as follows:

- (1) (a) Before any bank shall be named as a state depository to receive public funds, it shall either pledge or provide to the State Treasurer, as collateral, securities or other obligations having an aggregate current face value or current quoted market value at least equal to the deposits or provide to the State Treasurer a surety bond or surety bonds in favor of the State Treasurer in an amount at least equal to the deposits, provided, however, that amounts insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation need not be so collateralized. The president or cashier of each depository bank shall submit to the Treasurer and the State Investment Commission a statement subscribed and sworn to by him showing:
1. The face value or current quoted market value of the securities or other obligations pledged or provided as of the time the securities or other obligations are offered as collateral; and
  2. The value of surety bonds provided as of the time such surety bonds are provided as collateral.

The valuation of all pledged or provided collateral and the face amount of all surety bonds provided as collateral shall be reported to the State Treasurer and State Investment Commission upon receipt of deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31. Such value with respect to pledged collateral other than surety bonds shall be as of the end of the quarter or the preceding business day and, as to market values, shall be obtained from a reputable bond pricing service. The State Treasurer and Governor may from time to time call for additional collateral to adequately secure the deposits as aggregate face or current market values may require.

- (b) No deposit of state collected demand and time funds shall collectively exceed at any time the depository's sum of capital, reserves, undivided profits and surplus or ten percent (10%) of the total deposits of any particular depository, whichever is less. Deposits will be valued at the end of each business day.
- (2) (a) As an alternative to paragraph (1)(a) of this section, a Kentucky depository insured by the Federal Deposit Insurance Corporation may either pledge to the State Treasurer, as collateral, securities or other obligations having an aggregate face value or a current quoted market value or provide to the State Treasurer a surety bond or surety bonds in an amount equal to eighty percent (80%) of the value of the state deposit including demand and time accounts, if the depository is determined by the State Investment

Commission to have very strong credit with little or no credit risk at any maturity level and the likelihood of short-term unexpected problems of significance is minimal or not of a serious or long-term nature. The value of the state deposit will be determined at the end of the business day of deposit and as of the end of business on the last day of each quarter that funds are so deposited.

- (b) Valuation of all pledged or provided collateral and the face amount of surety bonds provided shall be reported to the State Treasurer and the State Investment Commission upon receipt of the state deposit and within ten (10) days of the close of each quarter after the quarter beginning December 31.
  - (c) Depositories designated as qualified for reduced pledging shall be so recorded in the executive journal.
  - (d) The State Investment Commission shall determine eligibility for the reduced pledging option based on totally objective and quantifiable measures of financial intermediary performance. The information for such eligibility shall be obtained from publicly available documents. The State Investment Commission shall promulgate the particular criteria of eligibility by regulations issued pursuant to KRS Chapter 13A.
- (3) Depositories which do not qualify or do not choose to qualify under subsection (1) or (2) of this section shall not receive state deposits in excess of amounts that are insured by an instrumentality of the United States.
- (4) Only the following securities and other obligations may be accepted by the State Treasurer as collateral under this section:
- (a) Bonds, notes, letters of credit or other obligations of or issued or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, letters of credit, or any other obligations issued or guaranteed by any federal governmental agency or instrumentality, presently or in the future established by an Act of Congress, as amended or supplemented from time to time, including, without limitation, the United States government corporations listed in KRS 66.480(1)(c);
  - (b) Obligations of the Commonwealth of Kentucky including revenue bonds issued by its statutory authorities, commissions or agencies;
  - (c) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;
  - (d) Obligations of any city of the first, second, and third classes of the Commonwealth of Kentucky, or any county, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;
  - (e) School improvement bonds issued in accordance with the authority granted under KRS 162.080 to 162.100;
  - (f) School building revenue bonds issued in accordance with the authority granted under KRS 162.120 to 162.300, provided that the issuance of such bonds is approved by the Kentucky Board of Education; and
  - (g) Surety bonds issued by sureties rated in one (1) of the three (3) highest categories by a nationally recognized rating agency.

- (5) *The State Treasurer shall accept letters of credit issued by federal home loan banks as collateral under this section.*

**Approved March 15, 2001**