

(8) For the purposes of this chapter, a "phantom vehicle" shall mean a motor vehicle which causes bodily injury, death, or property damage to an insured and has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident if:

(a) The facts of the accident can be corroborated by competent evidence other than the testimony of the insured or any person having an underinsured motorist claim resulting from the accident; and

(b) The accident has been reported to the appropriate law enforcement agency within seventy-two hours of the accident.

Passed the House April 22, 1985.

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CHAPTER 329

[Substitute House Bill No. 1169]

**BANKS—SUPERVISOR OF BANKING TO INVESTIGATE BANKS RECORD IN MEETING COMMUNITY CREDIT NEEDS**

AN ACT Relating to financial institutions; amending RCW 30.04.210; adding new sections to chapter 30.04 RCW; creating a new chapter in Title 30 RCW; creating a new chapter in Title 32 RCW; creating a new section; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The legislature believes that commercial banks and savings banks doing business in Washington state have a responsibility to meet the credit needs of the businesses and communities of Washington state, consistent with safe and sound business practices and the free exercise of management discretion.

This act is intended to provide the supervisor of banking and the supervisor of savings and loan associations with the information necessary to enable the supervisors to better determine whether commercial banks, savings banks, and savings and loan associations are meeting the convenience and needs of the public.

This act is further intended to condition the approval of any application by a commercial bank, savings bank, or savings and loan association for a new branch or satellite facility, for an acquisition, merger, conversion, or purchase of assets of another institution not required for solvency reasons, or for the exercise of any new power upon proof that the applicant is satisfactorily meeting the convenience and needs of its community or communities.

**NEW SECTION.** Sec. 2. (1) In conducting an examination of a bank chartered under Title 30 RCW, the supervisor of banking, deputy supervisor, or examiner shall investigate and assess the record of performance of

the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The supervisor shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the supervisor in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the supervisor shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(1) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The supervisor shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

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|-------------------------------|---|
| (a) Excellent performance:    | 1 |
| (b) Good performance:         | 2 |
| (c) Satisfactory performance: | 3 |
| (d) Inadequate performance:   | 4 |
| (e) Poor performance:         | 5 |

**NEW SECTION.** Sec. 3. Whenever the supervisor of banking must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the supervisor shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

Sec. 4. Section 30.04.210, chapter 33, Laws of 1955 as last amended by section 1, chapter 142, Laws of 1979 and RCW 30.04.210 are each amended to read as follows:

A bank or trust company may purchase, hold, and convey real estate for the following purposes and no other:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other apartments in the same building to rent as a source of income: **PROVIDED**, That any bank or trust company shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the supervisor.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, against securities held by it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with section 5 of this act granting banks the power to invest directly or indirectly in unimproved or improved real estate.

No real estate specified in subdivision (4) shall be considered an asset of the bank or trust company holding the same in trust nor shall any real estate except that specified in subdivision (1) be carried as an asset on the bank's or trust company's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor.

**NEW SECTION.** Sec. 5. (1) In addition to the powers granted under RCW 30.04.210 and subject to the limitations and restrictions contained in this section and in sections 2 and 3 of this act, a bank:

- (a) May acquire any interest in unimproved or improved real property;
- (b) May construct, alter, and manage improvements of any description on real estate in which it holds a substantial equity interest.

(2) The powers granted under subsection (1) of this section do not include, and a bank may not:

(a) Manage any real property in which the bank does not own a substantial equity interest;

(b) Engage in activities of selling, leasing, or otherwise dealing in real property as an agent or broker; or

(c) Acquire any equity interest in any one to four-family dwelling that is used as a principal residence by the owner of the dwelling; however, this shall not prohibit a bank from making loans secured by such dwelling where all or part of the bank's anticipated compensation results from the appreciation and sale of such dwelling.

(3) The aggregate amount of funds invested under this section shall not exceed two percent of a bank's capital, surplus, and undivided profits. Such percentage amount shall be increased based upon the most recent community reinvestment rating assigned to a bank by the supervisor in accordance with section 2 of this act, as follows:

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| (a) Excellent performance:    | Increase to 10% |
| (b) Good performance:         | Increase to 8%  |
| (c) Satisfactory performance: | Increase to 6%  |
| (d) Inadequate performance:   | Increase to 3%  |
| (e) Poor performance:         | No increase     |

(4) For purposes of this section only, each bank will be deemed to have been assigned a community reinvestment rating of "1" for the period beginning with the effective date of this act, and ending December 31, 1986. Thereafter, each bank will be assigned an annual rating in accordance with section 2 of this act, which rating shall remain in effect for the next succeeding year and until the supervisor has conducted a new investigation and assigned a new rating for the next succeeding year, the process repeating on an annual basis.

(5) No bank may at any time be required to dispose of any investment made in accordance with this section due to the fact that the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

(6) The supervisor shall limit the amount that may be invested in a single project or investment and may adopt any rule necessary to the safe and sound exercise of powers granted by this section.

**NEW SECTION.** Sec. 6. (1) An amount equal to ten percent of the aggregate amount invested in real estate in accordance with section 5 of this act shall be placed in qualifying community investments as defined in subsection (2) of this section.

(2) "Qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low or moderate incomes reside, designed to meet the credit needs of such low or moderate-income areas, or that primarily benefits low and moderate-income residents of such areas. The term includes, but is not limited to, any of the following within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that address the needs of the low and moderate-income areas.

(b) Investments in residential mortgage loans, home improvements loans, housing rehabilitation loans, and small business or small farm loans originated in low and moderate-income areas, or the purchase of such loans originated in low and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low and moderate-income areas.

The term does not include personal installment loans, loans made to purchase, or loans secured by an automobile.

(3) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank is deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

**NEW SECTION.** Sec. 7. The supervisor of banking shall adopt all rules necessary to implement sections 2 through 6 of this act by January 1, 1986.

**NEW SECTION.** Sec. 8. (1) In conducting an examination of a savings bank chartered under Title 32 RCW, the supervisor of banking, deputy supervisor, or examiner shall investigate and assess the record of performance of the savings bank in meeting the credit needs of the savings bank's entire community, including low and moderate-income neighborhoods. The supervisor shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the savings bank is

required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the supervisor in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the supervisor shall consider, independent of any federal determination, the following factors in assessing the savings bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors or board of trustees in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The supervisor shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each savings bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

- (a) Excellent performance: 1
- (b) Good performance: 2
- (c) Satisfactory performance: 3
- (d) Inadequate performance: 4
- (e) Poor performance: 5

NEW SECTION. Sec. 9. Whenever the supervisor of banking must approve or disapprove of an application for a new branch or satellite facility; for a purchase of assets, a merger, an acquisition or a conversion not required for solvency reasons; or for authority to engage in a business activity, the supervisor shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low and moderate-income neighborhoods. Assessment of an applicant's record of performance may be the basis for denying an application.

NEW SECTION. Sec. 10. The supervisor of banking shall adopt all rules necessary to implement sections 8 and 9 of this act by January 1, 1986.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 12. (1) Sections 2, 3, and 7 of this act shall constitute a new chapter in Title 30 RCW. Sections 5 and 6 of this act shall be added to chapter 30.04 RCW.

(2) Sections 8 through 10 of this act shall constitute a new chapter in Title 32 RCW.

NEW SECTION. Sec. 13. This act shall take effect on January 1, 1986, but the supervisor of banking and the supervisor of savings and loans may immediately take such steps as are necessary to ensure that this act is implemented on its effective date.

Passed the House April 23, 1985.

Passed the Senate April 19, 1985.

Approved by the Governor May 16, 1985.

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