

installation and related work. The state or local authority having jurisdiction of such highway, street, or road shall pay the balance of the remaining cost of such installation and related work. The railroad whose road is crossed by the highway, street, or road shall thereafter pay the entire cost of maintaining the device(~~(: PROVIDED, That if such device is installed at the direction of the commission pursuant to RCW 81.53.271 and results in a reduction in the amount of the appropriation to the grade crossing protective fund pursuant to RCW 81.53.281, then the cost of maintaining the device shall be apportioned by the commission:~~

~~(1) Twenty-five percent to the grade crossing protective fund, created by RCW 81.53.281, and~~

~~(2) Seventy-five percent to the railroad)).~~

NEW SECTION. Sec. 5. The provisions of this act shall not apply to those petitions acted upon by the commission prior to the effective date of this 1982 amendatory act.

Passed the Senate March 8, 1982.

Passed the House March 5, 1982.

Approved by the Governor March 31, 1982.

Filed in Office of Secretary of State March 31, 1982.

CHAPTER 95

[Engrossed Substitute Senate Bill No. 4115]

ALIEN BANKS—POWERS—LOANS, DEPOSITS—AUDITS— INTERNATIONAL BANKING FACILITY TAX EXEMPTION

AN ACT Relating to international banking and commerce; amending section 7, chapter 53, Laws of 1973 1st ex. sess. as amended by section 6, chapter 106, Laws of 1979 and RCW 30.42.070; amending section 12, chapter 53, Laws of 1973 1st ex. sess. as amended by section 2, chapter 285, Laws of 1975 1st ex. sess. and RCW 30.42.120; amending section 14, chapter 53, Laws of 1973 1st ex. sess. and RCW 30.42.140; adding new sections to chapter 30.42 RCW; adding a new section to chapter 82.04 RCW; repealing section 11, chapter 53, Laws of 1973 1st ex. sess., section 1, chapter 285, Laws of 1975 1st ex. sess. and RCW 30.42.110; declaring an emergency; and providing an effective date.

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

Section 1. Section 7, chapter 53, Laws of 1973 1st ex. sess. as amended by section 6, chapter 106, Laws of 1979 and RCW 30.42.070 are each amended to read as follows:

The capital allocated as required in RCW 30.42.060(3) shall be maintained within this state at all times in cash or in supervisor approved interest bearing bonds, notes, debentures, or other obligations: (1) Of the United States or of any agency or instrumentality thereof, or guaranteed by the United States; or (2) of this state, or of a city, county, town, or other municipal corporation, or instrumentality of this state or guaranteed by this state, or such other assets as the supervisor may approve. Such capital shall be deposited with a bank qualified to do business in and having its principal

place of business within this state, or in a national bank qualified to engage in banking in this state. Such bank shall issue a written receipt addressed and delivered to the supervisor reciting that such deposit is being held for the sole benefit of the United States domiciled creditors of such alien bank's Washington office and that the same is subject to his order without offset for the payment of such creditors. For the purposes of this section, the term "creditor" shall not include any other offices, branches, subsidiaries, or affiliates of such alien bank. Subject to the approval of the supervisor, reasonable arrangements may be made for substitution of securities. So long as it shall continue business in this state in conformance with this chapter and shall remain solvent, such alien bank shall be permitted to collect all interest and/or income from the assets constituting such allocated capital.

Should any securities so depreciate in market value and/or quality as to reduce the deposit below the amount required, additional money or securities shall be deposited promptly in amounts sufficient to meet such requirements. The supervisor may make an investigation of the market value and of the quality of any security deposited at the time such security is presented for deposit or at any time thereafter. The supervisor may make such charge as may be reasonable and proper for such investigation.

Sec. 2. Section 12, chapter 53, Laws of 1973 1st ex. sess. as amended by section 2, chapter 285, Laws of 1975 1st ex. sess. and RCW 30.42.120 are each amended to read as follows:

A branch shall not commence to transact in this state the business of accepting deposits or transact such business thereafter unless it has met the following requirements:

(1) It has obtained federal deposit insurance corporation insurance covering its eligible deposit liabilities within this state, or in lieu thereof, made arrangements satisfactory to the supervisor for maintenance within this state of additional capital equal to not less than ~~((ten))~~ five percent of its deposit liabilities, computed on the basis of the average daily net deposit balances covering semimonthly periods as prescribed by the supervisor pursuant to RCW 30.04.090. Such additional capital shall be deposited in the manner provided in RCW 30.42.070.

(2) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange, or other evidences of indebtedness or other obligations payable in the United States or in United States^(t) funds or, with the approval of the supervisor, in funds freely convertible into United States^(t) funds or such other assets as are approved by the supervisor, in an amount not less than one hundred ~~((eight))~~ percent of the aggregate amount of liabilities of such alien bank payable at or through its office in this state. When calculating the value of the assets so held, credit shall be given for the amounts deposited pursuant to RCW 30.42.060(3) and 30.42.120(1), but there shall be excluded all amounts due from the head office and any other branch, agency, or other office or wholly-owned subsidiary of the bank, except those

amounts due from such offices or subsidiaries located within the United States and payable in United States dollars.

(3) If deposits are not insured by the federal deposit insurance corporation, then that fact shall be disclosed to all depositors pursuant to rules and regulations of the supervisor.

(4) If the branch conducts an international banking facility, the deposits of which are exempt from reserve requirements of the federal reserve banking system, the liabilities of that facility shall be excluded from the deposit and other liabilities of the branch for the purposes of subsection (1) of this section.

Sec. 3. Section 14, chapter 53, Laws of 1973 1st ex. sess. and RCW 30-42.140 are each amended to read as follows:

~~((1) Within ninety days after the end of each fiscal year, an accountant, approved by the supervisor, shall examine the books of account of the office of an alien bank and report to the supervisor his opinion of the financial condition of the office as of the last business day of the immediately previous fiscal year. In making such examination, the accountant shall follow the rules and regulations promulgated by the supervisor governing such examination:~~

~~(2))~~ The supervisor, deputy supervisor, or a bank examiner, without previous notice, shall visit the office of an alien bank doing business in this state pursuant to this chapter at least once in each year, and more often if necessary, for the purpose of making a full investigation into the condition of such office, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director or member of its governing body, officer, employee, or agent of such alien bank or office. The supervisor shall make such other full or partial examination as he deems necessary. The supervisor shall collect, from each alien bank for each examination of the conditions of its office in this state, the estimated actual cost of such examination.

NEW SECTION. Sec. 4. There is added to chapter 30.42 RCW a new section to read as follows:

An approved branch of an alien bank shall have the same power to make loans and guarantee obligations as a state bank chartered pursuant to Title 30 RCW: PROVIDED, HOWEVER, That the base for computing the applicable loan limitation shall be the entire capital and surplus of the alien bank. The supervisor may adopt rules and regulations limiting the amount of loans to full-time employees of the branch.

NEW SECTION. Sec. 5. There is added to chapter 30.42 RCW a new section to read as follows:

(1) In addition to the taking of deposits and making of loans as provided in this chapter, a branch of an alien bank shall have the power only to carry out these other activities:

- (a) Borrow funds from banks and other financial institutions;
- (b) Make investments to the same extent as a state bank chartered pursuant to Title 30 RCW;
- (c) Buy and sell foreign exchange;
- (d) Receive checks, bills, drafts, acceptances, notes, bonds, coupons, and other securities for collection abroad and collect such instruments in the United States for customers abroad;
- (e) Hold securities in safekeeping for, or buy and sell securities upon the order and for the risk of, customers abroad;
- (f) Act as paying agent for securities issued by foreign governments or other organizations organized under foreign law and not qualified under the laws of the United States, or of any state or the District of Columbia, to do business in the United States;
- (g) In order to prevent loss on debts previously contracted a branch may acquire shares in a corporation: PROVIDED, That the shares are disposed of as soon as practical but in no event later than two years from the date of acquisition;
- (h) Issue letters of credit and create acceptances;
- (i) Act as paying agent or trustee in connection with revenue bonds issued pursuant to chapter 39.84 RCW, in which the user is: (i) A corporation organized under the laws of a country other than the United States, or a subsidiary or affiliate owned or controlled by such a corporation; or (ii) a corporation, partnership, or other business organization, the majority of the beneficial ownership of which is owned by persons who are citizens of a country other than the United States and who are not residents of the United States, and any subsidiary or affiliate owned or controlled by such an organization; or in which the bank purchases twenty-five percent or more of the bond issue. For the purposes of chapter 39.84 RCW, such an alien bank shall be deemed to possess trust powers.

(2) In addition to the powers and activities expressly authorized by this section, a branch shall have the power to carry on such additional activities which are necessarily incidental to the activities expressly authorized by this section.

NEW SECTION. Sec. 6. There is added to chapter 30.42 RCW a new section to read as follows:

(1) Any branch of an alien bank that received approval of its branch application pursuant to RCW 30.42.090 on or before July 27, 1978, and any approved branch of an alien bank that has designated Washington as its home state pursuant to section 5 of the International Banking Act of 1978, shall have the same power to solicit and accept deposits as a state bank chartered pursuant to Title 30 RCW, except that acceptance of initial deposits of less than one hundred thousand dollars shall be limited to deposits of the following:

(a) Any business entity, including any corporation, partnership, association, or trust, that engages in commercial activity for profit: PROVIDED, That there shall be excluded from this category any such business entity that is organized under the laws of any state or the United States, is majority-owned by United States citizens or residents, and has total assets, including assets of majority owned subsidiaries, of less than one million five hundred thousand dollars as of the date of the initial deposit;

(b) Any governmental unit, including the United States government, any state government, any foreign government and any political subdivision or agency of the foregoing;

(c) Any international organization which is composed of two or more nations;

(d) Any draft, check, or similar instrument for the transmission of funds issued by the branch;

(e) Any depositor who is not a citizen of the United States and who is not a resident of the United States at the time of the initial deposit;

(f) Any depositor who established a deposit account on or before the effective date of this act, and who has continuously maintained the deposit account since that date: PROVIDED, That this subparagraph (f) of this subsection shall be effective only until July 1, 1985;

(g) Any other person: PROVIDED, That the amount of deposits under this subparagraph (g) of this subsection may not exceed four percent of the average of the branch's deposits for the last thirty days of the most recent calendar quarter, excluding deposits in the branch of other offices, branches, agencies, or wholly owned subsidiaries of the alien bank.

(2) As used in subsection (1) of this section, "initial deposit" means the first deposit transaction between a depositor and the branch. Different deposit accounts that are held by a depositor in the same right and capacity may be added together for purposes of determining the dollar amount of that depositor's initial deposit.

(3) Approved branches of alien banks, other than those described in subsection (1) of this section, may solicit and accept deposits only from foreign governments and their agencies and instrumentalities, persons, or entities conducting business principally at their offices or establishments abroad, and such other deposits that:

(a) Are to be transmitted abroad;

(b) Consist of collateral or funds to be used for payment of obligations to the branch;

(c) Consist of the proceeds of collections abroad that are to be used to pay for exported or imported goods or for other costs of exporting or importing or that are to be periodically transferred to the depositor's account at another financial institution;

(d) Consist of the proceeds of extensions of credit by the branch; or

(e) Represent compensation to the branch for extensions of credit or services to the customer.

(4) A branch may accept deposits, subject to the limitations set forth in subsections (1) and (3) of this section, only upon the same terms and conditions (including nature and extent of such deposits, withdrawal, and the payment of interest thereon) that banks organized under the laws of this state which are members of the Federal Reserve System may accept such deposits. Any branch that is not subject to reserve requirements under regulations of the Federal Reserve Board shall maintain deposit reserves in this state, pursuant to rules adopted by the supervisor, to the same extent they must be maintained by banks organized under the laws of this state which are members of the Federal Reserve System.

NEW SECTION. Sec. 7. There is added to chapter 82.04 RCW a new section to read as follows:

This chapter shall not apply to the gross receipts of an international banking facility.

As used in this section, an "international banking facility" means a facility represented by a set of asset and liability accounts segregated on the books and records of a commercial bank, the principal office of which is located in this state, and which is incorporated and doing business under the laws of the United States or of this state, a United States branch or agency of a foreign bank, an Edge corporation organized under Section 25(a) of the Federal Reserve Act, 12 United States Code 611-631, or an Agreement corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under Section 25 of the Federal Reserve Act, 12 United States Code 601-604(a), that includes only international banking facility time deposits (as defined in subsection (a)(2) of Section 204.8 of Regulation D (12 CFR Part 204), as promulgated by the Board of Governors of the Federal Reserve System), and international banking facility extensions of credit (as defined in subsection (a)(3) of Section 204.8 of Regulation D).

NEW SECTION. Sec. 8. Section 11, chapter 53, Laws of 1973 1st ex. sess., section 1, chapter 285, Laws of 1975 1st ex. sess. and RCW 30.42.110 are each repealed.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1982.

Passed the Senate March 9, 1982.

Passed the House March 8, 1982.

Approved by the Governor March 31, 1982.

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