

Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor.

Passed the Senate March 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 8, 1981.

Filed in Office of Secretary of State May 8, 1981.

CHAPTER 89

[Senate Bill No. 3893]

BANKS AND TRUST COMPANIES—DIVIDENDS—PREFERRED STOCK— STOCK ACQUISITION

AN ACT Relating to banks and banking; amending section 30.04.180, chapter 33, Laws of 1955 as amended by section 2, chapter 136, Laws of 1969 and RCW 30.04.180; amending section 30.04.230, chapter 33, Laws of 1955 as last amended by section 1, chapter 92, Laws of 1973 1st ex. sess. and RCW 30.04.230; amending section 30.12.010, chapter 33, Laws of 1955 as last amended by section 1, chapter 35, Laws of 1975 and RCW 30.12.010; adding new sections to chapter 30.08 RCW; repealing section 30.04.090, chapter 33, Laws of 1955, section 1, chapter 356, Laws of 1955, section 2, chapter 106, Laws of 1959, section 1, chapter 194, Laws of 1963, section 1, chapter 133, Laws of 1967, section 1, chapter 54, Laws of 1967 ex. sess. and RCW 30.04.090; and declaring an emergency.

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

Section 1. Section 30.04.180, chapter 33, Laws of 1955 as amended by section 2, chapter 136, Laws of 1969 and RCW 30.04.180 are each amended to read as follows:

No bank or trust company shall declare or pay any dividend to an amount greater than its net profits then on hand, which net profits shall be determined only after deducting:

(1) All losses;

(2) All assets or depreciation that the supervisor or a duly appointed examiner may have required to be charged off; and no bank or trust company shall enter or at any time carry on its books any of its assets at a valuation exceeding the actual cost. However, amortizing the discount on municipal and United States government securities is permitted on a pro rata basis, over the life of the security, providing that the approval of the supervisor has been obtained and maintained by each individual bank;

(3) All expenses, interest and taxes due or accrued from said bank or trust company;

(4) Bad debts as defined by RCW 30.04.130 owing to such bank or trust company.

After providing for the above deductions the board of directors of any bank or trust company may at any regular meeting thereof declare a dividend out of so much of the undivided profits of such bank or trust company as they shall judge expedient: PROVIDED, HOWEVER, That before any such dividend is declared or the net profits in any way disposed of, not less

than ~~((one-fourth))~~ one-tenth of such net profits shall be carried to a surplus fund until the amount in such surplus fund shall be equal to twenty-five percent of the paid-in common capital of such bank or trust company: PROVIDED, FURTHER, That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such bank and trust company out of its net profits for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the bank and trust company shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired: PROVIDED FURTHER, That the supervisor shall in his discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the supervisor or any duly appointed examiner shall have been complied with; and upon notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has been rescinded in writing. As to banks or trust companies having segregated savings, sums carried to surplus shall be apportioned between or among departments as the capital is apportioned.

Sec. 2. Section 30.04.230, chapter 33, Laws of 1955 as last amended by section 1, chapter 92, Laws of 1973 1st ex. sess. and RCW 30.04.230 are each amended to read as follows:

A corporation or association organized under the laws of this state, or licensed to transact business in the state, ~~((shall not hereafter))~~ may acquire any or all shares of stock of any bank, trust company, or national banking association ~~((which, in the aggregate, enable it to own, hold, or control more than twenty-five percent of the capital stock of more than one such bank, trust company, or national banking association: PROVIDED, HOWEVER, That the foregoing restriction shall not apply as to any legal commitments existing on February 27, 1933: AND PROVIDED, FURTHER, That the foregoing restriction shall not apply to prevent any such corporation or association which has its principal place of business in this state from acquiring additional shares of stock in a bank, trust company, or national banking association in which such corporation or association owned twenty-five percent or more of the capital stock on January 1, 1961.~~

~~A person who does, or conspires with another or others in doing, an act in violation of this section shall be guilty of a gross misdemeanor. A corporation that violates this section, or a corporation whose stock is acquired in violation hereof, shall forfeit its charter if it be a domestic corporation, or its license to transact business if it be a foreign corporation, and the forfeiture shall be enforced in an action by the state brought by the attorney general)).~~

Nothing in this section shall be construed to permit a bank holding company the operations of which are principally conducted outside this state to acquire more than five percent of the shares of stock or the assets of a bank, trust company, or national banking association the principal operations of which are conducted within this state.

Sec. 3. Section 30.12.010, chapter 33, Laws of 1955 as last amended by section 1, chapter 35, Laws of 1975 and RCW 30.12.010 are each amended to read as follows:

Every bank and trust company shall be managed by not less than five directors, excepting that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws but not later than May 15th of each year. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each month and whenever required by the supervisor. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy. Every director must own in his own right shares of the capital stock of the bank or trust company of which he is a director the aggregate par value of which shall not be less than four hundred dollars, unless the capital of the bank or trust company shall not exceed fifty thousand dollars, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than two hundred dollars. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

Immediately upon election, each director shall take, subscribe, swear to, and file with the supervisor an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such corporation and will not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation and that he is the beneficial owner in good faith of the number of shares of stock required by this section, and that the same is fully paid, is not hypothecated or in any way pledged as security for any loan or debt. Vacancies in the board of directors shall be filled by the board.

NEW SECTION. Sec. 4. There is added to chapter 30.08 RCW a new section to read as follows:

Notwithstanding any other provisions of law, any bank and trust company may, pursuant to action taken by its board of directors with the approval of the supervisor, and in the manner provided in the case of a capital increase, issue preferred stock of one or more classes in such amount and with such par value as shall be approved by the supervisor, and make such amendments to its articles of incorporation as may be necessary for this purpose; but, in the case of any newly organized bank and trust company which has not yet issued common stock, the requirements of notice to and vote of shareholders shall not apply. No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in and a certificate of increase is received from the supervisor.

NEW SECTION. Sec. 5. There is added to chapter 30.08 RCW a new section to read as follows:

Notwithstanding any other provisions of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of preferred stock issued pursuant to section 5 of this act shall be entitled to receive such cumulative dividends on the purchase price received by the bank and trust company for such stock and shall have such voting and conversion rights and such control of management and in the event of the retirement of such stock shall receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided by the articles of incorporation with the approval of the supervisor.

The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank and trust company and shall not be liable for assessments to restore impairments in the capital of such bank and trust company as is now provided by law with reference to holders of common stock.

No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the supervisor takes possession of a bank or trust company for purposes of liquidation, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full such amount as may be provided in the articles of incorporation with the approval of the supervisor, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

NEW SECTION. Sec. 6. There is added to chapter 30.08 RCW a new section to read as follows:

If any part of the capital of a bank and trust company consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based on the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock.

NEW SECTION. Sec. 7. Section 30.04.090, chapter 33, Laws of 1955, section 1, chapter 356, Laws of 1955, section 2, chapter 106, Laws of 1959, section 1, chapter 194, Laws of 1963, section 1, chapter 133, Laws of 1967, section 1, chapter 54, Laws of 1967 ex. sess. and RCW 30.04.090 are each repealed.

NEW SECTION. Sec. 8. 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. 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 immediately.

Passed the Senate March 27, 1981.

Passed the House April 20, 1981.

Approved by the Governor May 8, 1981.

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CHAPTER 90

[Engrossed Senate Bill No. 3018]

CREDIT UNIONS—FEDERAL PARITY

AN ACT Relating to credit unions; adding new sections to chapter 31.12 RCW; repealing section 1, chapter 98, Laws of 1979 ex. sess. and RCW 31.12.375; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 31.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, a credit union may exercise any of the powers or authority conferred as of the effective date of this act upon a federal credit union doing business in this state.

NEW SECTION. Sec. 2. Section 1, chapter 98, Laws of 1979 ex. sess. and RCW 31.12.375 are each repealed.

NEW SECTION. Sec. 3. There is added to chapter 31.12 RCW a new section to read as follows:

Notwithstanding any other provision of law, the supervisor may make reasonable rules authorizing a credit union to exercise any of the powers conferred at the time of the adoption of the rules upon a federal credit union doing business in this state if the supervisor finds that the exercise of the power:

(1) Serves the convenience and advantage of depositors and borrowers; and