

2005 Senate Bill 584

Date of enactment: **March 27, 2006**

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2005 WISCONSIN ACT 217

AN ACT *to renumber* 221.0903 (1) (a); *to amend* 221.0302 (3), 221.0302 (4) and 221.0901 (8) (a); and *to create* 221.0901 (2) (jm), 221.0901 (2) (Lm), 221.0901 (2) (mm), 221.0901 (8) (d) and (e), 221.0903 (1) (ag), 221.0904 and 227.01 (13) (zw) of the statutes; **relating to:** regulation of bank branches, mergers and acquisitions of banks, providing an exemption from rule-making procedures, and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 221.0302 (3) of the statutes is amended to read:

221.0302 (3) TRANSFER. A bank may transfer a branch bank to any other bank located in this state with the approval of the division. A bank may transfer a branch bank to a bank located in another state only if the division has determined under s. 221.0904 (3) (b) that the state's laws are reciprocal regarding establishing branches.

SECTION 2. 221.0302 (4) of the statutes is amended to read:

221.0302 (4) OUT-OF-STATE BRANCHES. A bank may establish a branch bank in another state with the approval of the division ~~and the appropriate bank regulator in the state where the branch is to be established.~~

SECTION 3. 221.0901 (2) (jm) of the statutes is created to read:

221.0901 (2) (jm) "Home state" means, with respect to an out-of-state bank, the state in which the bank is chartered and, with respect to an out-of-state bank holding company, the state in which the total deposits of all banking subsidiaries of the company are the largest.

SECTION 4. 221.0901 (2) (Lm) of the statutes is created to read:

221.0901 (2) (Lm) "Out-of-state bank" means a bank that is not an in-state bank.

SECTION 5. 221.0901 (2) (mm) of the statutes is created to read:

221.0901 (2) (mm) "Out-of-state banking organization" means an out-of-state bank or out-of-state bank holding company.

SECTION 6. 221.0901 (8) (a) of the statutes is amended to read:

221.0901 (8) (a) Except as provided in pars. (b) ~~and~~, (c), ~~and~~ (d), the division may not approve an application under sub. (3) (a), other than an application by an in-state bank holding company or in-state bank, unless the in-state bank to be acquired, or all in-state bank subsidiaries of the in-state bank holding company to be acquired, have as of the proposed date of acquisition been in existence and in continuous operation for at least 5 years.

SECTION 7. 221.0901 (8) (d) and (e) of the statutes are created to read:

221.0901 (8) (d) Paragraph (a) does not apply to the merger or acquisition by an out-of-state banking organization of all or substantially all of the assets of an in-state bank, or of an in-state bank holding company that

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

owns one or more in-state banks, if all of the following apply:

1. The laws of the home state of the out-of-state banking organization allow an in-state bank or in-state bank holding company to acquire an out-of-state banking organization in the home state.

2. The division determines under par. (e) that the laws of the home state of the out-of-state banking organization are reciprocal with respect to mergers and acquisitions.

(e) 1. The division shall periodically publish a list of states that the division has found have laws that are reciprocal for purposes of par. (d) 2. An out-of-state banking organization with a home state for which the division has made no such determination may request, on a form prescribed by the division, that the division make a determination regarding the home state.

2. The division shall make determinations under subd. 1. in writing. The division may not determine that the laws of a state are reciprocal under subd. 1. unless the division finds that the laws of that state allow an in-state bank or in-state bank holding company to merge with or acquire an out-of-state banking organization under terms and conditions that are substantially similar to the terms and conditions under this section. In making such a finding, the division shall consider, at a minimum, whether the laws of that state discriminate in any way against an in-state bank or in-state bank holding company and whether the laws of that state impose regulatory burdens that are substantially more restrictive than the requirements under this section that apply to an out-of-state banking organization seeking to merge or acquire an in-state bank or in-state bank holding company.

SECTION 8. 221.0903 (1) (a) of the statutes is renumbered 221.0903 (1) (ar).

SECTION 9. 221.0903 (1) (ag) of the statutes is created to read:

221.0903 (1) (ag) "Bank" has the meaning given in 12 USC 1841 (c).

SECTION 10. 221.0904 of the statutes is created to read:

221.0904 Out-of-state banks establishing branches. (1) DEFINITIONS. In this section:

(a) "Home state" has the meaning given in s. 221.0903 (1) (b).

(b) "Out-of-state bank" has the meaning given in s. 221.0903 (1) (d).

(c) "State bank" has the meaning given in s. 221.0903 (1) (e).

(2) **IN GENERAL.** No out-of-state bank may establish a branch in this state unless all of the following apply:

(a) The laws of the home state of the out-of-state bank allow the out-of-state bank to establish a branch in this state.

(b) The division determines under sub. (3) (b) that the laws of the home state of the out-of-state bank are reciprocal with respect to a state bank establishing a branch in that state.

(c) The out-of-state bank complies with the notice requirements under sub. (4).

(3) RECIPROCALITY. (a) The division shall periodically publish a list of states that the division has found have laws that are reciprocal for purposes of sub. (2) (b). An out-of-state bank with a home state for which the division has made no such determination may request, on a form prescribed by the division, that the division make a determination regarding the home state.

(b) The division shall make determinations under par. (a) in writing. The division may not determine that the laws of a state are reciprocal under par. (a) unless the division finds that the laws of that state allow a state bank to establish a branch in the state under terms and conditions that are substantially similar to the terms and conditions under this section. In making such a finding, the division shall consider, at a minimum, whether the laws of that state discriminate in any way against a state bank and whether the laws of that state impose regulatory burdens that are substantially more restrictive than the requirements under this section that apply to an out-of-state bank seeking to establish a branch in this state.

(4) NOTICE. (a) Except as provided in par. (b), an out-of-state bank may not establish a branch in this state without providing prior notice to the division. The division shall promulgate rules specifying the requirements and procedures for making such notice. The rules shall allow an out-of-state bank to provide notice by submitting to the division a copy of any notice or application regarding the proposed branch that the out-of-state bank submits to the regulatory authority of its home state or the appropriate federal regulatory authority.

(b) If an out-of-state bank establishes a branch in this state pursuant to this section, the out-of-state bank is not required to provide notice for any subsequent branches established in this state.

(5) ADDITIONAL BRANCHING AUTHORITY. An out-of-state bank that establishes a branch in this state pursuant to this section may establish additional branches in this state to the same extent as a state bank.

SECTION 11. 227.01 (13) (zw) of the statutes is created to read:

227.01 (13) (zw) Determines whether a state law is reciprocal under s. 221.0901 (8) (e) 2. or 221.0904 (3) (b).