

2007 SENATE BILL 378

January 8, 2008 – Introduced by Senators SULLIVAN, HANSEN, VINEHOUT, LASSA, KANAVAS, KAPANKE, HARSDORF, SCHULTZ and KREITLOW, cosponsored by Representatives ROTH, A. OTT, SHERIDAN, NEWCOMER, DAVIS, MOLEPSKE, HAHN, MONTGOMERY, MOULTON, MUSSER and HINES. Referred to Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions.

1 **AN ACT** *to renumber* 221.0302 (1) and 221.0904 (1) (a); *to renumber and*
2 *amend* 221.0302 (7) and 221.0302 (10); *to amend* 221.0904 (1) (b); *to repeal*
3 *and recreate* 221.0302 (10) (title); and *to create* 221.0302 (1g), 221.0302 (7)
4 (b), 221.0302 (8m), 221.0302 (10) (b), 221.0904 (1) (ac) and (ag) and 221.0904
5 (4m) of the statutes; **relating to:** the location of bank branches.

Analysis by the Legislative Reference Bureau

Under current law, state banks may, upon application and approval of the Division of Banking (division) in the Department of Financial Institutions and subject to certain limitations, establish and maintain branch banks. Branch banks are subject to all laws and rules applicable to banks generally. In addition, out-of-state banks may establish branches in this state, subject to certain limitations.

This bill prohibits state banks and out-of-state banks from directly or indirectly establishing or maintaining in this state branches that are located within a 1.5-mile radius of premises or property owned, leased, or otherwise controlled, directly or indirectly, by a bank affiliate that engages in commercial activities. The bill defines “affiliate” as any company that directly or indirectly controls, or is under common control with, another company. The bill defines “commercial activities” as those activities in which a bank holding company, financial holding company, national bank, state bank, or state universal bank are not authorized to engage under federal or state law. Each bank must certify to the division compliance with

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this prohibition. These provisions do not apply to branches approved by the division before the effective date of the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 221.0302 (1) of the statutes is renumbered 221.0302 (1m).

2 **SECTION 2.** 221.0302 (1g) of the statutes is created to read:

3 221.0302 **(1g)** DEFINITIONS. In this section:

4 (a) “Affiliate” means any company that directly or indirectly controls, or is
5 under common control with, another company.

6 (b) “Bank holding company” has the meaning given in 12 USC 1841 (a).

7 (c) “Commercial activities” means those activities in which a bank holding
8 company, financial holding company, national bank, state bank, as defined in s.
9 221.0903 (1) (e), or state bank certified under ch. 222 as a universal bank are not
10 authorized to engage under federal or state law.

11 (d) “Company” has the meaning given in s. 221.0901 (2) (f).

12 (e) “Financial holding company” has the meaning given in 12 USC 1841 (p).

13 **SECTION 3.** 221.0302 (7) of the statutes is renumbered 221.0302 (7) (a) and
14 amended to read:

15 221.0302 **(7)** (a) General. ~~The~~ Except as provided in par. (b), the division shall
16 approve the establishment of a branch bank under sub. ~~(1)~~ (1m) or the conversion of
17 a bank to a branch bank under sub. (2) if the financial and managerial resources and
18 future prospects of the bank establishing a branch bank, or the surviving bank of a
19 merger or consolidation, are satisfactory to the division.

20 **SECTION 4.** 221.0302 (7) (b) of the statutes is created to read:

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1 221.0302 (7) (b) *Location restrictions; certification of compliance.* The division
2 may not approve the establishment of a branch bank under sub. (1m), the conversion
3 of a bank to a branch bank under sub. (2), or the transfer of a branch bank under sub.
4 (3) if the establishment, conversion, or transfer would violate sub. (8m). Each bank
5 shall certify to the division that the location of a branch bank complies with sub. (8m).

6 **SECTION 5.** 221.0302 (8m) of the statutes is created to read:

7 221.0302 (8m) LOCATION RESTRICTIONS FOR BRANCH BANKS. Except as provided
8 in sub. (10) (b), no bank may directly or indirectly establish or maintain in this state
9 a branch bank that is located within a 1.5-mile radius of premises or property owned,
10 leased, or otherwise controlled, directly or indirectly, by an affiliate of the bank that
11 engages in commercial activities. No bank may circumvent the prohibition in this
12 subsection by first establishing a branch bank and then locating, or attempting to
13 influence or facilitate the location of, an office of the bank's affiliate engaged in
14 commercial activities within a 1.5-mile radius of the location of the branch bank.

15 **SECTION 6.** 221.0302 (10) (title) of the statutes is repealed and recreated to
16 read:

17 221.0302 (10) (title) EXEMPTIONS.

18 **SECTION 7.** 221.0302 (10) of the statutes is renumbered 221.0302 (10) (a) and
19 amended to read:

20 221.0302 (10) (a) *Grandfathered branch banks.* Every branch bank, branch
21 office, or bank station existing on August 1, 1989, is considered to be a branch bank
22 approved by the division under this paragraph.

23 **SECTION 8.** 221.0302 (10) (b) of the statutes is created to read:

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1 221.0302 **(10)** (b) *Exemption from location restrictions.* Subsections (7) (b) and
2 (8m) do not apply to any bank branch approved by the division on or before the
3 effective date of this paragraph [revisor inserts date].

4 **SECTION 9.** 221.0904 (1) (a) of the statutes is renumbered 221.0904 (1) (am).

5 **SECTION 10.** 221.0904 (1) (ac) and (ag) of the statutes are created to read:

6 221.0904 **(1)** (ac) “Affiliate” has the meaning given in s. 221.0302 (1g) (a).

7 (ag) “Commercial activities” has the meaning given in s. 221.0302 (1g) (c).

8 **SECTION 11.** 221.0904 (1) (b) of the statutes is amended to read:

9 221.0904 **(1)** (b) “Out-of-state bank” ~~has the meaning given in s. 221.0903 (1)~~
10 ~~(d) means any bank, as defined in 12 USC 1813 (a) (1), with a home state other than~~
11 this state.

12 **SECTION 12.** 221.0904 (4m) of the statutes is created to read:

13 221.0904 **(4m)** LOCATION RESTRICTIONS FOR BRANCHES OF OUT-OF-STATE BANKS. (a)
14 *General.* Except as provided in par. (c), no out-of-state bank may directly or
15 indirectly establish or maintain in this state a branch that is located within a
16 1.5-mile radius of premises or property owned, leased, or otherwise controlled,
17 directly or indirectly, by an affiliate of the out-of-state bank that engages in
18 commercial activities. No out-of-state bank may circumvent the prohibition in this
19 paragraph by first establishing a branch and then locating, or attempting to
20 influence or facilitate the location of, an office of the out-of-state bank’s affiliate
21 engaged in commercial activities within a 1.5-mile radius of the branch location.

22 (b) *Certification of compliance.* Each out-of-state bank that establishes or
23 maintains a branch in this state shall certify to the division that the location of any
24 such branch complies with par. (a).

