

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0261

HOUSE BILL NO. 1045

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to provide for the licensing of loan production offices.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 51A-1-2 be amended to read as follows:

4 51A-1-2. Terms used in this title mean:

- 5 (1) "Bank," any corporation authorized under this title to engage in the business of
6 banking or in the combined business of a bank and trust company or in the combined
7 business of a bank with trust powers;
- 8 (2) "Bank holding company," a bank holding company as defined in 12 U.S.C. 1841, as
9 amended as of January 1, 1988;
- 10 (3) "Banking," the business of receiving deposits, discounting commercial paper, or
11 buying and selling exchange, and any other activity authorized by this title;
- 12 (4) "Banking day," that part of any day on which a bank is open to the public for carrying
13 on substantially all of its banking functions;
- 14 (5) "Branch bank," a branch place of business maintained by a bank to conduct its
15 banking business;

- 1 (6) "Commission," the State Banking Commission;
- 2 (7) "Deputy director," the deputy director of the Division of Banking;
- 3 (8) "Director," the director of the Division of Banking;
- 4 (9) "Division," the Division of Banking of the Department of Commerce and Regulation;
- 5 (10) "Executive officer," every officer who participates or has authority to participate,
- 6 otherwise than in the capacity of a director, in major policy-making functions of the
- 7 bank, regardless of whether ~~he~~ the officer has an official title or whether ~~his~~ the
- 8 officer's title contains a designation of assistant and regardless of whether ~~he~~ the
- 9 officer is serving without salary or other compensation. The chairman of the board,
- 10 the president, every vice-president, the cashier, secretary, and treasurer of a bank are
- 11 assumed to be executive officers, unless, by resolution of the board of directors or by
- 12 the bank's bylaws, any such officer is excluded from participation in major
- 13 policy-making functions, otherwise than in the capacity of a director of the bank, and
- 14 ~~he~~ the officer does not actually participate therein;
- 15 (11) "Fully defeased bonds or notes," obligations issued by any state, or municipal or
- 16 school district subdivision the repayment of which has been irrevocably guaranteed
- 17 by other securities which securities are issued by or are fully guaranteed by the United
- 18 States Government;
- 19 (12) "National bank," any corporation organized pursuant to 12 U.S.C. § 21, as amended
- 20 as of January 1, 1990;
- 21 (13) "Loan production office," an office in this state which is apart from its main bank or
- 22 branch which is staffed or controlled by a state or national bank and is where loans are
- 23 solicited but are not approved or disbursed.

24 Section 2. That § 51A-2-16 be amended to read as follows:

25 51A-2-16. The commission shall pass upon every application to organize or change the

1 control of a bank under the laws of this state, every application for merger, and every application
2 to establish or close a branch bank, every application to establish a loan production office, or
3 change of location. However, if an applicant requests a change of location within a community
4 in which it is the sole bank, the director of banking may approve the application without notice
5 or hearing before the commission. All proceedings before the commission on every such
6 application shall be held in conformance with chapter 1-26. If the application involves
7 establishment of any kind of competitive banking service in the trade territory of a bank in which
8 any banking commissioner is interested, ~~he~~ the commissioner shall be deemed disqualified; and
9 the commission shall be recomposed as provided in § 51A-2-11.