

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 508

An Act to amend and reenact § 6.1-58.1 of the Code of Virginia, relating to banks; investments in controlled subsidiary corporations.

[H 2655]

Approved March 22, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-58.1 of the Code of Virginia is amended and reenacted as follows:

§ 6.1-58.1. Investment in stock or securities of controlled subsidiary corporations.

A. A bank may acquire, own and hold the stock, securities or obligations of one or more controlled subsidiary corporations. Such investment in stock, securities or obligations together with any investment of the bank in stock, securities or obligations of a bank service corporation, shall not exceed in the aggregate fifty percent of the bank's capital stock and permanent surplus, without the permission of the State Corporation Commission, except that the foregoing limit shall not include, but shall be in addition to, investment in a real estate subsidiary as provided in § 6.1-59.1, investment in the stock, securities or obligations of a building corporation under § 6.1-57 and investment in controlled subsidiary corporations that are wholly owned by the bank.

B. 1. A controlled subsidiary corporation is defined as a ~~domestic or foreign~~ corporation in which a majority of the voting stock is owned that is controlled by a bank or banks organized under the laws of this Commonwealth, or the United States and authorized to do a banking business in this Commonwealth, or in which a majority of the voting stock is owned by banks which are subsidiary banks of the same registered bank holding company, or by such subsidiary banks and such registered bank holding company by more than one bank, at least one of which is organized under the laws of this Commonwealth. For purposes of this section, "control" shall have the same meaning given that term by section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.).

2. Such controlled subsidiary corporation shall not be authorized (i) to receive deposits (except as hereafter provided); (ii) to engage in the trust business; or (iii) to conduct any business which is required under § 13.1-620 to be specifically stated in the articles of incorporation, except as may be authorized by subdivision 3.

3. Such controlled subsidiary corporation may engage in the business of credit card operations, leasing, safe deposit, factoring, credit bureaus, mortgage brokerage or servicing, data processing, international banking and finance, and any other function or business activity in which a bank might engage, except the receipt of deposits, or the trust business. *Subject to the provisions of subdivision 2, and with the prior approval of the Commission and subject to such conditions as the Commission may impose, such controlled subsidiary corporation may also engage in any business that is authorized by statute, regulation or official interpretation for a subsidiary of (i) a national bank or (ii) an out-of-state state bank as defined in § 6.1-44.2.* Such controlled subsidiary corporation may charge and collect such finance charges and fees or interest rates as are authorized to banks by the laws of this Commonwealth or as otherwise authorized by Chapter 7.3 (§ 6.1-330.49 et seq.) of this title.

C. A controlled subsidiary corporation engaged solely in the business of international banking and finance, and subject to the regulation and supervision by the Board of Governors of the Federal Reserve System, shall not be prohibited from receiving deposits or from taking any other action which any such regulated international banking and finance institution is permitted to take.

D. The provisions of § 6.1-60.1, relating to investment of funds in shares of stock of another corporation shall be applicable to controlled subsidiary corporations, except that a controlled subsidiary corporation may acquire, own and hold stock in a subsidiary corporation if a bank would be permitted to directly acquire, own or hold the stock hereunder. The provisions of § 6.1-62 relating to loans to officers, directors or employees of the bank shall be applicable both to loans by the subsidiary to officers, directors or employees of the bank and to loans by the bank to officers, directors or employees of the subsidiary, with the approval of the board of directors of the bank only being required for purposes of § 6.1-62. The limitations of §§ 6.1-63, 6.1-64, 6.1-65, 6.1-65.1 and 6.1-66 as they relate to appraisal value, maximum term and amortization on loans secured by real estate shall be applicable to controlled subsidiary corporations. This subsection and subsection E of this section are subject to the proviso that the restrictions of §§ 6.1-60.1 through 6.1-66 are not intended to be imposed upon any controlled subsidiary which has no state banks as shareholders.

E. 1. The provisions of § 6.1-61 relating to limitation upon obligations of any one borrower shall apply to the total obligations of any borrower in the aggregate to the subsidiary corporation and to any bank or bank holding company owning stock securities or obligations of such subsidiary corporation. The loan limit of the subsidiary shall be computed by attributing to the subsidiary a pro rata share of

the lending limit of each bank stockholder prorated in accordance with the percentage of stock owned by such bank or in the case of a subsidiary, any of the stock, securities or other obligations of which are owned by a bank holding company, the loan limits of the subsidiary shall be computed by attributing to the subsidiary a pro rata share of the lending limits of all bank subsidiaries of such holding company prorated in accordance with the percentage of stock owned by such holding company and all subsidiary banks thereof. In computing whether a bank or subsidiary (which is not wholly owned) is complying with its lending limit, the loans of the bank and the subsidiary to any common borrower shall be aggregated on a basis pro rata to the percentage of stock of the subsidiary owned by the bank.

2. Such controlled subsidiary corporation shall not otherwise be subject to the provisions of the Virginia Banking Act (§ 6.1-3 et seq.) except where it is expressly so provided.

F. A controlled subsidiary corporation shall be subject to audit and examination by the Commission whether or not it is an affiliate as defined in § 6.1-85. It shall pay such examination fees as shall be imposed under § 6.1-94 for the examination of trust departments. If upon examination, the Commission shall ascertain that the corporation is created or operated in violation of this section or that the manner of operation is detrimental to the business of the parent bank and its depositors, it may order the bank to dispose of all or part of its investment in such corporation upon such terms as the Commission may deem proper.

G. A controlled subsidiary may not merge or consolidate unless the surviving corporation is itself a controlled subsidiary corporation as defined herein, or unless as a result of such merger or consolidation the bank divests itself of all stock or other securities which are held pursuant to the authority herein granted.

H. The Commission shall have the same powers over controlled subsidiary corporations as it has over banks under §§ 6.1-100, 6.1-101, 6.1-103, 6.1-104 and 6.1-105, excepting those controlled subsidiary corporations which have no state banks as stockholders.