

110TH CONGRESS
1ST SESSION

H. R. 698

To amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2007

Mr. GILLMOR (for himself, Mr. FRANK of Massachusetts, Mrs. MALONEY of New York, Mr. SCHIFF, Mrs. JONES of Ohio, Mr. DOYLE, Mr. GUTIERREZ, Ms. WATSON, Mr. SMITH of New Jersey, Mrs. MUSGRAVE, Mr. GEORGE MILLER of California, Mr. GOODE, Mr. ALEXANDER, Mr. FARR, Mr. GRIJALVA, Mr. HOLDEN, Mr. FORTENBERRY, Mr. LAHOOD, Mr. SALAZAR, Mr. MCGOVERN, Mr. AL GREEN of Texas, Mr. PRICE of North Carolina, Mr. PETERSON of Minnesota, Ms. FALLIN, Ms. CASTOR, Mr. UDALL of Colorado, Mr. CHANDLER, Mr. LAMBORN, Ms. CARSON, Mr. HODES, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Industrial Bank Hold-
5 ing Company Act of 2007”.

1 **SEC. 2. INDUSTRIAL BANK HOLDING COMPANY REGULA-**
2 **TION.**

3 (a) DEFINITIONS.—

4 (1) INDUSTRIAL BANK.—Section 3(a) of the
5 Federal Deposit Insurance Act (12 U.S.C. 1813(a))
6 is amended by adding at the end the following new
7 paragraph:

8 “(4) INDUSTRIAL BANK.—The term ‘industrial
9 bank’ means any insured State bank that is an in-
10 dustrial bank, industrial loan company, or other in-
11 stitution described in section 2(c)(2)(H) of the Bank
12 Holding Company Act of 1956.”.

13 (2) INDUSTRIAL BANK HOLDING COMPANY.—
14 Section 3(w) of the Federal Deposit Insurance Act
15 (12 U.S.C. 1813(w)) is amended by adding at the
16 end the following new paragraph:

17 “(8) INDUSTRIAL BANK HOLDING COMPANY.—
18 The term ‘industrial bank holding company’ means
19 any company that—

20 “(A) controls (as determined by the Cor-
21 poration), directly or indirectly, any industrial
22 bank; and

23 “(B) is not a bank holding company, a
24 savings and loan holding company, or a com-
25 pany that is subject to the Bank Holding Com-

1 pany Act of 1956 pursuant to section 8(a) of
2 the International Banking Act of 1978.”.

3 (3) TECHNICAL AND CONFORMING AMEND-
4 MENTS TO OTHER DEFINITIONS.—

5 (A) APPROPRIATE FEDERAL BANKING
6 AGENCY.—Section 3(q)(3) of the Federal De-
7 posit Insurance Act (12 U.S.C. 1813(q)(3)) is
8 amended—

9 (i) by striking “or a foreign” and in-
10 serting “, any foreign”; and

11 (ii) by inserting “, and any industrial
12 bank holding company” after “insured
13 branch”.

14 (B) DEPOSITORY INSTITUTION HOLDING
15 COMPANY.—Section 3(w)(1) of the Federal De-
16 posit Insurance Act (12 U.S.C. 1813(w)(1)) is
17 amended—

18 (i) by striking “or a savings” and in-
19 serting “, any savings”; and

20 (ii) by inserting “, and any industrial
21 bank holding company” before the period
22 at the end.

23 (b) INDUSTRIAL BANK HOLDING COMPANY REG-
24 ISTRATION AND OWNERSHIP.—The Federal Deposit In-

1 surance Act (12 U.S.C. 1811 et seq.) is amended by add-
2 ing at the end the following new section:

3 **“SEC. 51. INDUSTRIAL BANK HOLDING COMPANY REGULA-**
4 **TION.**

5 “(a) REGISTRATION.—

6 “(1) IN GENERAL.—Within 90 days after be-
7 coming an industrial bank holding company, each in-
8 dustrial bank holding company shall register with
9 the Corporation on forms prescribed by the Corpora-
10 tion.

11 “(2) INFORMATION TO BE INCLUDED.—Each
12 registration submitted under paragraph (1) shall in-
13 clude such information, under oath, with respect to
14 the financial condition, ownership, operations, man-
15 agement, and intercompany relationships of the in-
16 dustrial bank holding company and subsidiaries of
17 such holding company, and other factors (including
18 information described in subsection (b)(1)(C)), as
19 the Corporation may determine to be appropriate to
20 carry out the purposes of this section.

21 “(3) EXTENSION OF TIME FOR SUBMITTING
22 COMPLETE INFORMATION.—Upon application by an
23 industrial bank holding company and subject to such
24 requirements, factors, and evidence as the Corpora-
25 tion may require, the Corporation may extend the

1 period described in paragraph (1) within which such
2 company shall register and file the requisite infor-
3 mation.

4 “(4) APPLICATION TO PRIOR HOLDING COMPA-
5 NIES.—In the case of any company that becomes an
6 industrial bank holding company by virtue of the en-
7 actment of the Industrial Bank Holding Company
8 Act of 2007, the 90-day period referred to in para-
9 graph (1) shall begin on the date of the enactment
10 of such Act.

11 “(b) REPORTS AND EXAMINATIONS.—

12 “(1) REPORTS.—

13 “(A) REPORTS REQUIRED.—Each indus-
14 trial bank holding company and each subsidiary
15 of an industrial bank holding company, other
16 than an industrial bank, shall file with the Cor-
17 poration such reports as may be required by the
18 Corporation.

19 “(B) FORM AND MANNER.—Reports filed
20 under subparagraph (A) shall be made under
21 oath and shall be in such form and for such pe-
22 riods, as the Corporation may prescribe.

23 “(C) INFORMATION.—Each report filed
24 under subparagraph (A) shall contain such in-

1 formation as the Corporation may require con-
2 cerning—

3 “(i) the operations of the industrial
4 bank holding company and its subsidiaries;

5 “(ii) the financial condition of the in-
6 dustrial bank holding company and such
7 subsidiaries, together with information on
8 systems maintained within the holding
9 company for monitoring and controlling fi-
10 nancial and operating risks, and trans-
11 actions with industrial bank subsidiaries of
12 the holding company;

13 “(iii) compliance by the industrial
14 bank holding company and its subsidiaries
15 with all applicable Federal and State law;
16 and

17 “(iv) such other information as the
18 Corporation may require.

19 “(D) ACCEPTANCE OF EXISTING RE-
20 PORTS.—For purposes of this paragraph, the
21 Corporation may accept reports that an indus-
22 trial bank holding company or any subsidiary of
23 such company has provided or has been re-
24 quired to provide to any other Federal or State

1 supervisor or to any appropriate self-regulatory
2 organization.

3 “(2) EXAMINATIONS.—

4 “(A) IN GENERAL.—Each industrial bank
5 holding company and each subsidiary of each
6 such holding company (other than an industrial
7 bank) shall be subject to such examinations by
8 the Corporation as the Corporation may pre-
9 scribe for purposes of this section.

10 “(B) FURNISHING REPORTS TO OTHER
11 AGENCIES.—Examination and other reports
12 made or received under this section may be fur-
13 nished by the Corporation to any other Federal
14 agency or any appropriate State bank super-
15 visor.

16 “(C) USE OF REPORTS FROM OTHER
17 AGENCIES.—The Corporation may use, for the
18 purposes of this subsection, reports of examina-
19 tion made by any other Federal agency or any
20 appropriate State bank supervisor with respect
21 to any industrial bank holding company or sub-
22 sidiary of any such holding company, to the ex-
23 tent the Corporation may determine such use to
24 be feasible for such purposes.

25 “(c) LIMITATION ON CONTROL.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3) or (4), no industrial bank may be con-
3 trolled, directly or indirectly, by a commercial firm.

4 “(2) COMMERCIAL FIRM DEFINED.—For pur-
5 poses of this section, the term ‘commercial firm’
6 means any entity at least 15 percent of the annual
7 gross revenues of which on a consolidated basis, in-
8 cluding all affiliates of the entity, were derived from
9 engaging, on an on-going basis, in activities that are
10 not financial in nature or incidental to a financial
11 activity during at least 3 of the prior 4 calendar
12 quarters, as determined by the Corporation in ac-
13 cordance with regulations which the Corporation
14 shall prescribe.

15 “(3) PRE-2003 EXCLUSIONS.—

16 “(A) GRANDFATHERED INSTITUTIONS.—
17 Paragraph (1) shall not apply with respect to
18 any industrial bank—

19 “(i) which became an insured depository
20 institution before October 1, 2003, or
21 pursuant to an application for deposit in-
22 surance which was approved by the Cor-
23 poration before such date; and

24 “(ii) with respect to which there is no
25 change in control, directly or indirectly, of

1 the bank after September 30, 2003, that
2 requires a registration under this section
3 or an application under section 7(j) or
4 18(c), section 3 of the Bank Holding Com-
5 pany Act of 1956, or section 10 of the
6 Home Owners' Loan Act.

7 “(B) CORPORATE REORGANIZATIONS PER-
8 MITTED.—The acquisition of direct or indirect
9 control of the industrial bank referred to in
10 subparagraph (A)(ii) shall not be treated as a
11 ‘change in control’ for purposes of such sub-
12 paragraph if the company acquiring control is
13 itself directly or indirectly controlled by a com-
14 pany that was an affiliate of such bank on the
15 date referred to in such paragraph, and re-
16 mains an affiliate at all times after such date.

17 “(4) PRE-2007 EXCLUSIONS.—

18 “(A) GRANDFATHERED COMMERCIAL
19 FIRMS.—Paragraph (1) shall not apply to any
20 commercial firm—

21 “(i) which became an industrial bank
22 holding company by virtue of acquiring
23 control of an industrial bank on or after
24 October 1, 2003, and before January 29,
25 2007;

1 “(ii) which does not acquire control of
2 any other depository institution after Jan-
3 uary 28, 2007;

4 “(iii) with respect to which there is no
5 change in control, directly or indirectly, of
6 any depository institution subsidiary after
7 January 28, 2007, that requires a registra-
8 tion under this section or an application
9 under section 7(j) or 18(c), section 3 of
10 the Bank Holding Company Act of 1956,
11 or section 10 of the Home Owners’ Loan
12 Act; and

13 “(iv) each industrial bank subsidiary
14 of which remains in compliance with the
15 limitations contained in subparagraph (B).

16 “(B) ACTIVITY AND BRANCHING LIMITA-
17 TIONS.—An industrial bank subsidiary of a
18 commercial firm described in clauses (i), (ii)
19 and (iii) of subparagraph (A) is in compliance
20 with the requirements of this subparagraph for
21 purposes of subparagraph (A)(iv) so long as the
22 industrial bank—

23 “(i) engages only in activities in which
24 the industrial bank was engaged on Janu-
25 ary 28, 2007; and

1 “(ii) does not acquire, establish, or
2 operate any branch, deposit production of-
3 fice, loan production office, automated tell-
4 er machine, or remote service unit in any
5 State other than the home State of the
6 bank or any host State in which such bank
7 operated branches on January 28, 2007.

8 “(C) CORPORATE REORGANIZATIONS PER-
9 MITTED.—The acquisition of direct or indirect
10 control of a depository institution subsidiary re-
11 ferred to in subparagraph (A)(iii) shall not be
12 treated as a ‘change in control’ for purposes of
13 such subparagraph if the company acquiring
14 control is itself directly or indirectly controlled
15 by a company that was an affiliate of such sub-
16 sidiary on the date referred to in such para-
17 graph, and remains an affiliate at all times
18 after such date.

19 “(5) TRANSITION PROVISION.—Any divestiture
20 of any industrial bank by an industrial bank holding
21 company that is required by operation of this section
22 shall be completed as quickly as is reasonably pos-
23 sible and not later than the end of the 2-year period
24 beginning on the earliest of, as appropriate—

1 “(A) the date on which control of the in-
2 dustrial bank is acquired by a commercial firm;

3 “(B) the date on which the industrial bank
4 holding company that controls such bank be-
5 comes a commercial firm; or

6 “(C) the date on which an industrial bank
7 subsidiary of the industrial bank holding com-
8 pany ceases to comply with any limitation appli-
9 cable to such bank under paragraph (4)(B).

10 “(d) ADMINISTRATIVE PROVISIONS.—

11 “(1) AGENT FOR SERVICE OF PROCESS.—The
12 Corporation may require any industrial bank holding
13 company, or persons connected with such holding
14 company if it is not a corporation, to execute and
15 file a prescribed form of irrevocable appointment of
16 agent for service of process.

17 “(2) RELEASE FROM REGISTRATION.—The Cor-
18 poration may at any time, upon the Corporation’s
19 own motion or upon application, release a registered
20 industrial bank holding company from any registra-
21 tion previously made by such company, if the Cor-
22 poration determines that such company no longer
23 controls any industrial bank.”.

1 (c) ENFORCEMENT.—Section 8(b) of the Federal De-
2 posit Insurance Act (12 U.S.C. 1818(b)) is amended by
3 adding at the end the following new paragraph:

4 “(11) INDUSTRIAL BANK HOLDING COMPA-
5 NIES.—This subsection and subsections (c) through
6 (s) and subsection (u) of this section shall apply to
7 any industrial bank holding company, and to any
8 subsidiary (other than an industrial bank) of an in-
9 dustrial bank holding company in the same manner
10 as such subsections apply to State nonmember
11 banks.”.

12 (d) TECHNICAL AND CONFORMING AMENDMENT.—
13 Section 10(e)(2) of the Federal Deposit Insurance Act (12
14 U.S.C. 1820(e)(2)) is amended by inserting “or section
15 50(b)(2)” after “subsection (b)(4)”.

○