

CHAPTER 13

S.B. No. 10

AN ACT

relating to the banking industry, to authorization of limited branch banking, and to certain bank holidays; amending Articles 3 and 10a, Chapter IX, The Texas Banking Code of 1943, as amended (Articles 342-903 and 342-910a, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 3, Chapter IX, The Texas Banking Code of 1943, as amended (Article 342-903, Vernon's Texas Civil Statutes), is amended to read as follows:

"Article 3. *LIMITED BRANCH BANKING* [~~PROHIBITED~~]

"Section 1. (a) A state [~~No State~~], national, or private bank *may* [~~shall~~] engage in the business of accepting demand deposits and making commercial loans only in its principal banking building and in the locations authorized by this article and Article 3a.

"(b) A state, national, or private bank may engage in business at:

"(1) any facility the nearest boundary of which is located within five thousand (5,000) feet of the nearest wall of the principal banking building and within the same county or city as the principal banking building;

"(2) not more than three (3) branch office facilities the nearest wall of which is located more than five thousand (5,000) feet from the nearest wall of the principal banking building, but within the same county or city as the principal banking building;

"(3) with respect to each branch office facility described in Subdivision (2), not more than two drive-in facilities whose nearest boundary is located within one thousand (1,000) feet of the nearest wall of the branch office facility and within the same county or city as the principal banking building; and

"(4) any facility in operation or under construction on July 15, 1986, and any facility provided for in an application or notice on file on July 15, 1986, with the regulatory authority having jurisdiction over the application or notice.

"(c) A bank holding company owning more than one bank in a county or city may convert the bank or banks into branches of a bank within the same county or city.

*The branches, for the purposes of Subdivision (3) of Subsection (b) of this section, shall be treated as branch office facilities described in Subdivision (2) of Subsection (b) of this section, but these branches and the facilities of each branch described in Subdivision (4) of Subsection (b) of this section are not included in determining the maximum number of branches or facilities permitted under Subdivision (2) or (3) of Subsection (b) of this section. If a bank or bank holding company by consolidation, merger, or other means acquires or acquires control of an independent bank that on July 15, 1986, was operated as an independent bank, the independent bank may be converted into a branch of the acquiring bank or of a bank owned or controlled by the bank holding company if both the bank and the acquired independent bank are in the same county or city. The facilities of the independent bank converted into a new branch which are described in Subdivision (4) of Subsection (b) of this section are not counted in determining the maximum number of branches or facilities permitted under Subdivision (2) or (3) of Subsection (b) of this section.*

*"(d) For the purposes of this article:*

*"(1) 'independent bank' means a state bank or national bank domiciled in this state that is not owned or controlled, directly or indirectly, by any bank holding company that owns or controls, or is under common control with, two or more banks; and*

*"(2) 'drive-in facility' means [in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house or through unmanned teller machines as authorized in Article 3a. For purposes of this article 'banking house' means the building in whose offices the business of the bank is conducted and which is functionally one place of business, including (a) office facilities whose nearest wall is located within five hundred (500) feet of the nearest wall of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by closed circuit television or pneumatic tube or other physically connected delivery device, and (b) not more than two (2) office facilities whose nearest wall is located within three thousand five hundred (3,500) feet of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by closed circuit television or pneumatic tube or other physically connected delivery device, and (c) in addition, not more than one (1) drive-in/walk-up facility whose nearest boundary is located within ten thousand five hundred (10,500) feet of the nearest wall of the central building but more than five hundred (500) feet therefrom, is within the same county as the central building, and is connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected drive-in/walk-up facility or by closed circuit television, pneumatic tube or other physically connected delivery device, and (d) in addition not more than one (1) drive-in/walk-up facility whose nearest boundary is located within twenty thousand (20,000) feet of the nearest wall of the central building but more than five hundred (500) feet therefrom, is within the same county or city as the central building, and is connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected drive-in/walk-up facility or by closed circuit television, pneumatic tube or other physically connected delivery device; provided no such facility shall be located within the boundary lines of any city or town which according to the 1980 census has a population of less than five thousand (5,000) and in which a bank is already located. The entire banking house shall for all purposes under the law be considered one integral banking house. The term 'drive-in/walk-up facility' as herein used shall mean] a facility offering banking services solely to persons who remain outside of the facility [or in a building having a secured teller lobby during the transaction of business with the bank].*

*"Section 2. (a) If a state bank or national bank acquires certain assets and assumes certain liabilities of a failed state bank or national bank whose principal banking building is located in a different county in this state, the bank may establish one or more branches in the locations, if any, where the failed bank owned or operated facilities authorized by this article at any time during the six months before the date of the failure, if the commissioner determines that:*

*"(1) the bank proposed to be acquired is a failed bank;*

*"(2) the acquisition is necessary to protect the financial interests of the acquired bank's depositors and creditors; and*

*"(3) the terms of the acquisition are acceptable to each federal agency having jurisdiction over the transaction.*

*"(b) After the acquisition the acquiring bank shall not engage in business, maintain a branch office, or cash checks or receive deposits in the different county except in the locations provided by this section.*

*"Section 3. (a) In this section, 'bank' means an entity:*

*"(1) that accepts demand deposits and makes commercial loans;*

*"(2) that is chartered and supervised under this code or by the Bureau of the Comptroller of Currency of the United States; and*

*"(3) the deposits of which are eligible to be insured by the Federal Deposit Insurance Corporation.*

*"(b) A bank may engage in the business of accepting demand deposits and making commercial loans only at the locations specified by this article and Article 3a, and no financial institution other than a bank may conduct business, by virtue of this article, at locations specified by this article.*

*"Section 4. Any bank adversely affected by a violation of this article may, and the Attorney General, upon request of the Commissioner, shall bring suit in a court of competent jurisdiction to enjoin a violation of this article. The party who prevails in such proceeding shall recover costs of suit and reasonable attorney's fees."*

SECTION 2. Article 10a, Chapter IX, The Texas Banking Code of 1943, as amended (Article 342-910a, Vernon's Texas Civil Statutes), is amended to read as follows:

**ARTICLE 10a. LEGAL HOLIDAYS FOR BANKS OR TRUST COMPANIES—ALTERNATIVE LEGAL HOLIDAYS FOR BANKS OR TRUST COMPANIES—DISCRIMINATION PROHIBITED.**

**"Section 1. Legal Holidays For Banks Or Trust Companies.** Notwithstanding any existing provisions of law relative to negotiable or nonnegotiable instruments or commercial paper, but subject to the provisions of Section 2 of this article, only the following enumerated days are declared to be legal holidays for banking purposes on which each bank or trust company in Texas shall remain closed: Saturdays, Sundays, January 1, *the third Monday in January*, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25.

**"When the dates July 4, November 11, or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following such Sunday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed.**

**"All such legal holidays shall be neither business days nor banking days under the laws of this State or the United States, and any act authorized, required or permitted to be performed at or by any bank or trust company on such days may be performed on the next succeeding business day and no liability or loss of right of any kind shall result therefrom to any bank or trust company.**

**"Section 2. Alternative Legal Holidays For Banks Or Trust Companies.** Any bank or trust company may elect to designate days on which it may close for general banking purposes pursuant to the provisions of this section, instead of Section 1 of this article, provided that any bank or trust company which has elected to be governed by this section shall remain closed on the following enumerated days, which days are declared to be legal holidays for banking purposes: Sundays, January 1, *the third Monday in January*, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, the 11th day of November, the fourth Thursday in November, and December 25. When the dates July 4, November 11, or

December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also be a legal holiday for all banking purposes on which each bank or trust company shall remain closed. When the dates January 1, July 4, November 11, or December 25 fall on Sunday, then the Monday next following each Sunday shall also be a mandatory legal holiday for banking purposes on which each bank or trust company shall remain closed. Except as herein provided, any bank or trust company doing business in this state may, at its option, elect to be governed by this section and close for general banking purposes either on Saturday or on any other weekday of any week in the year in addition to mandatory legal holidays, provided:

“(a) such day is designated at least 15 days in advance by adoption of a resolution concurred in by a majority of the board of directors thereof (or, if an unincorporated bank or trust company, by its owner or a majority of its owners, if there be more than one owner); and

“(b) notice of the day or days designated in such resolution is posted in a conspicuous place in such bank or trust company for at least 15 days in advance of the day or days designated; and

“(c) a copy of such resolution certified by the president or cashier of such bank or trust company is filed with the Banking Department of Texas.

“The filing of such copy of resolution as aforesaid with the Banking Department of Texas shall be deemed to be proof in all courts in this state that such bank or trust company has duly complied with the provisions of this section. Any such election to so close shall remain in effect until a subsequent resolution shall be adopted and notice thereof posted and a copy thereof filed in the manner above provided.

“If any bank or trust company elects to close for general banking purposes on Saturday or any other weekday as herein provided, it may, at its option, remain open on such day for the purpose of performing limited banking services. Notice of election to perform limited banking services shall be contained in the resolution and notices, above provided, with respect to closing for general banking purposes. Limited banking services may include such of the ordinary and usual services provided by the bank as the board of directors may determine, except the following: making loans, renewing or extending loans, certifying checks, and issuing cashier’s checks.

“Such day upon which such bank or trust company may elect to close for general banking purposes shall with respect to such institution be treated as a legal holiday for all purposes and not a business day; provided that if such bank shall elect to perform limited banking services on such day, the same shall not be deemed a legal holiday for the performance of limited banking services. Any bank or trust company which elects to close for general banking purposes on Saturday or any other weekday but which elects to perform limited banking services shall not be subjected to any liability or loss of rights for performing limited banking services or refusing to perform any other banking services on such day.”

SECTION 3. This Act takes effect on the date on which the constitutional amendment proposed by S.J.R. No. 4, 69th Legislature, 2nd Called Session, takes effect. If that amendment is not approved by the voters, this Act has no effect.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on August 20, 1986, by a viva-voce vote; and that the Senate concurred in House amendment on August 28, 1986, by a viva-voce vote. Passed the House, with amendment, on August 27, 1986, by a non-record vote.

Approved Sept. 23, 1986.

Effective upon adoption of S.J.R. No. 4.