



Sen. Terry Link

Filed: 5/8/2007

09500HB0497sam002

LRB095 05354 MJR 36048 a

1 AMENDMENT TO HOUSE BILL 497

2 AMENDMENT NO. _____. Amend House Bill 497 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Banking Act is amended by adding
5 Section 21.5 as follows:

6 (205 ILCS 5/21.5 new)

7 Sec. 21.5. Prohibition against establishment of branches
8 on or near the premises of certain affiliates.

9 (a) For purposes of this Section:

10 "Affiliate" includes (i) any company that controls the
11 bank; (ii) any company that is controlled by the company
12 that controls the bank; and (iii) any company controlled
13 directly or indirectly, by trust or otherwise, by or for
14 the benefit of shareholders who beneficially or otherwise
15 control, directly or indirectly, by trust or otherwise, the
16 bank or any company that controls the bank.

1 "Bank" has the meaning ascribed to that term in the
2 Federal Deposit Insurance Act and includes any
3 out-of-state bank.

4 "Bank holding company" and "financial holding company"
5 have the meanings ascribed to those terms in the federal
6 Bank Holding Company Act of 1956.

7 "Control" by a company shall mean (i) ownership or
8 power to vote 25% or more of any class of voting securities
9 of the other company, whether such ownership or power to
10 vote is exercised directly or indirectly, or through one or
11 more other persons or companies; (ii) the ability, directly
12 or indirectly, or through one or more other persons or
13 companies, to elect the majority of the directors or
14 trustees of the other company; or (iii) as determined by
15 the Commissioner, after notice and an opportunity for
16 hearing, the exercise by the company, directly or
17 indirectly, or through one or more other persons or
18 companies, of a controlling influence over the management
19 or policies of the other company.

20 A location is considered "adjacent to" the premises of an
21 affiliate if the location is not separated from the boundary of
22 the premises of the affiliate by real property that is owned by
23 a person or entity having no business relationship with the
24 bank or with the affiliate and that is not leased to or used by
25 the bank or affiliate.

26 (b) Notwithstanding any other provision of this Act, after

1 the effective date of this amendatory Act of the 95th General
2 Assembly, no bank may establish a bank office or branch on or
3 adjacent to the premises of an affiliate of the bank if the
4 affiliate engages in any commercial activity that could not
5 lawfully be conducted by a bank holding company, a financial
6 holding company, or a subsidiary of the bank holding company or
7 financial holding company pursuant to federal law unless: (i)
8 the bank had received its charter and was accepting consumer
9 deposits in this State prior to May 1, 2007; or (ii) the bank
10 does not accept any deposits at the bank office or branch on or
11 adjacent to the premises of the affiliate at any time after the
12 effective date of this amendatory Act of the 95th General
13 Assembly. The prohibition against establishing a bank office or
14 branch on or adjacent to the premises of an affiliate shall not
15 be applicable if the affiliate operates solely for the purpose
16 of owning or leasing the real estate on which the bank office
17 or branch is located.

18 (c) No bank that was not chartered and accepting consumer
19 deposits in this State prior to May 1, 2007 may acquire the
20 right or authority to establish a bank office or branch on or
21 adjacent to the premises of an affiliate of that bank by
22 acquiring through purchase, change in control, merger, or any
23 other means the charter, bank office, or branch of another
24 bank.

25 (d) It is the intent of this Section that no entity be
26 permitted to circumvent the prohibition stated in this Section

1 by first establishing a bank office or branch and then
2 subsequently locating an office of an affiliate on or adjacent
3 to the premises of the bank office or branch. If any entity
4 attempts to locate an office of an affiliate on or adjacent to
5 the premises of the bank office or branch, the entity must
6 cease to operate its bank office or branch at a location that
7 would violate the intent of this Section.

8 (e) If a federal agency with authority to approve or
9 disapprove an application for the establishment of a branch in
10 this State or a court of competent jurisdiction determines that
11 any provision of this Section is inconsistent with the
12 provisions of the federal Riegle-Neal Interstate Banking and
13 Branching Efficiency Act of 1994 and would have the effect of
14 nullifying the laws of this State that permit interstate
15 branching on a reciprocal basis, this Section shall be deemed
16 to be null and void without further review or action being
17 necessary. It is the intent of this Section, and specifically
18 of this subsection (e), to ensure the continuity of this
19 State's interstate branch banking laws and to ensure that
20 nothing contained in this Section shall be given effect in a
21 manner that disqualifies Illinois banks from establishing
22 branches in other states as permitted by the laws of this State
23 and other states and by federal law.

24 Section 10. The Savings Bank Act is amended by adding
25 Section 1006.10 as follows:

1 (205 ILCS 205/1006.10 new)

2 Sec. 1006.10. Prohibition against establishment of offices
3 or branches on or adjacent to the premises of certain
4 affiliates.

5 (a) For purposes of this Section:

6 "Affiliate" has the meaning defined in this Act.

7 "Savings bank" means a savings bank operating under
8 this Act, an out-of-State savings bank as defined under
9 this Act, or a savings association defined in the Federal
10 Deposit Insurance Act.

11 "Savings bank holding company" has the meaning
12 ascribed in this Act.

13 A location is considered "adjacent to" the premises of an
14 affiliate if the location is not separated from the boundary of
15 the premises of the affiliate by real property that is owned by
16 a person or entity having no business relationship with the
17 savings bank, savings bank holding company, or with the
18 affiliate and that is not leased to or used by the savings bank
19 or affiliate.

20 (b) Notwithstanding any other provision of this Act, after
21 the effective date of this amendatory Act of the 95th General
22 Assembly, no savings bank may establish an office or branch on
23 or adjacent to the premises of an affiliate of the savings bank
24 if the affiliate engages in any commercial activity that could
25 not lawfully be conducted by a savings bank holding company or

1 a subsidiary of the savings bank holding company pursuant to
2 federal law unless: (i) the savings bank had received its
3 charter and was accepting consumer deposits in this State prior
4 to May 1, 2007; or (ii) the savings bank does not accept any
5 deposits at the office or branch on or adjacent to the premises
6 of the affiliate at any time after the effective date of this
7 amendatory Act of the 95th General Assembly. The prohibition
8 against establishing an office or branch on or adjacent to the
9 premises of an affiliate shall not be applicable if the
10 affiliate operates solely for the purpose of owning or leasing
11 the real estate on which the savings bank's office or branch is
12 located.

13 (c) No savings bank that was not chartered and accepting
14 consumer deposits in this State prior to May 1, 2007 may
15 acquire the right or authority to establish an office or branch
16 on or adjacent to the premises of an affiliate of that savings
17 bank by acquiring through purchase, change in control, merger
18 or any other means the charter, office, or branch of another
19 depository institution.

20 (d) It is the intent of this Section that no entity be
21 permitted to circumvent the prohibition stated in this Section
22 by first establishing a savings bank office or branch and then
23 subsequently locating an office of an affiliate on or adjacent
24 to the premises of the savings bank office or branch. If any
25 entity attempts to locate an office of an affiliate on or
26 adjacent to the premises of the savings bank office or branch,

1 the entity must cease to operate its savings bank office or
2 branch at a location that would violate the intent of this
3 Section.

4 (e) If a federal agency with authority to approve or
5 disapprove an application for the establishment of a branch in
6 this State or a court of competent jurisdiction determines that
7 any provision of this Section is inconsistent with the
8 provisions of the federal Riegle-Neal Interstate Banking and
9 Branching Efficiency Act of 1994 and would have the effect of
10 nullifying the laws of this State that permit interstate
11 branching on a reciprocal basis, this Section shall be deemed
12 to be null and void without further review or action being
13 necessary. It is the intent of this Section, and specifically
14 of this subsection (e), to ensure the continuity of this
15 State's interstate branch banking laws and to ensure that
16 nothing contained in this Section shall be given effect in a
17 manner that disqualifies Illinois savings banks from
18 establishing branches in other states as permitted by the laws
19 of this State and other states and by federal law.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."