

IN THE SENATE

SENATE BILL NO. 1049

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO BANKS; AMENDING SECTION 26-208, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING MEETINGS OF A BANK BOARD OF DIRECTORS; AMENDING SECTION
3 26-213, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE MEMBERSHIP AND
4 MEETINGS OF A BANK BOARD OF DIRECTORS AND TO MAKE TECHNICAL CORRECTIONS;
5 AMENDING SECTION 26-707, IDAHO CODE, TO REMOVE PROVISIONS REGARDING THE
6 REAL ESTATE HOLDINGS OF A BANK AND TO MAKE TECHNICAL CORRECTIONS; AND
7 AMENDING SECTION 26-1104, IDAHO CODE, TO REVISE PROVISIONS REGARDING
8 FEES ON CERTAIN BANKS AND TO MAKE TECHNICAL CORRECTIONS.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 26-208, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 26-208. PLACE OF MEETINGS. ~~All meetings of stockholders of a bank~~
14 ~~shall be held in the community of its principal place of business within this~~
15 ~~state. When so provided in the articles of incorporation or bylaws, or by~~
16 ~~resolution of the board of directors, rRegular or special meetings of the~~
17 ~~board of directors or the executive committee may be held for the transac-~~
18 ~~tion of any business of the bank at any other place within the state of Idaho~~
19 ~~provided that the director may approve meetings of the board of directors or~~
20 ~~outside of the state of Idaho. Unless restricted by the articles of incor-~~
21 ~~poration or bylaws of the bank, any or all directors may participate in any~~
22 ~~meeting of the board of directors through the use of any means of communica-~~
23 ~~tion by which all directors participating may simultaneously communicate~~
24 ~~with each other during the meeting. A director participating in a meeting by~~
25 ~~this means is deemed to be present as though in person at the meeting.~~

26 SECTION 2. That Section 26-213, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 26-213. BOARD OF DIRECTORS -- ELECTION, MEETINGS, DUTIES, LIABIL-
29 ITIES, OATH, REMOVAL -- OFFICERS -- ELECTION AND BOND. (1) The affairs,
30 business and property of a bank shall be managed and controlled by a board of
31 not less than five (5) directors, who shall be elected by the stockholders at
32 their regular stated annual meetings. ~~A majority of said directors shall be~~
33 ~~residents of the state of Idaho.~~

34 (2) No person shall be eligible to serve as a director of any bank orga-
35 nized or existing under the laws of this state, unless he shall be the owner
36 in his own right of unhyponothecated common stock of the bank in the amount of
37 at least five hundred dollars (\$500) par value. One (1) or more of the direc-
38 tors of a bank, the majority of the common stock of which is owned by a bank
39 holding company, may satisfy the requirement of this subsection by owning in

1 his own right at least five hundred dollars (\$500) of the unhypothecated com-
2 mon stock of the bank holding company, either the par value or the book value.

3 (3) Any vacancy in the board of directors shall be filled by the board,
4 and any directors so appointed shall hold office until the next annual
5 meeting of stockholders. The board of directors shall, immediately follow-
6 ing each annual meeting of stockholders, organize and elect a president,
7 ~~vice-president~~ vice president, and cashier, who may also be the secretary
8 and treasurer of the bank, and such other officers as shall be provided for
9 in the bylaws, and shall fix the salary of all officers and employees or
10 delegate such authority to its managing officer or officers. Directors of
11 every bank shall hold at least ~~ten six~~ (106) meetings per year; provided, no
12 more than ~~sixty-five~~ ninety (6590) days may elapse between board of direc-
13 tors meetings, and complete records of such meetings shall be entered in the
14 minute book and signed by both the chairman and the secretary. ~~The director~~
15 ~~may approve, upon written application, a reduction in the number and fre-~~
16 ~~quency of directors' meetings.~~

17 (4) Whenever a vote is taken upon any matter, a record shall be kept
18 and entered in the minutes of those voting in the affirmative and those vot-
19 ing in the negative. At every meeting it shall be the duty of the directors
20 to familiarize themselves with loans and investments made since the previ-
21 ous regular meeting, and any director may request a listing of all loans made
22 since the previous regular meeting. It shall be the duty of the president and
23 cashier to furnish such information to the directors. The directors shall
24 familiarize themselves with the existing liabilities to the bank of every
25 officer and director of their bank at least once during each calendar year.
26 The minutes of the meeting shall record the approval or disapproval of loans,
27 investments and liabilities of officers.

28 (5) Any director, officer or person who shall participate in any viola-
29 tion of the laws of this state relative to banks or banking, shall be liable
30 for all damages which said bank, its stockholders, depositors, or creditors
31 shall sustain in consequence of such violation. It shall be the duty of every
32 director of a bank personally to attend all meetings of the board of direc-
33 tors unless unavoidably detained therefrom. Any director who shall habitu-
34 ally absent himself from such meeting shall be deemed to have participated in
35 any violation of law that may have occurred in his absence, and he shall not
36 be permitted to set up such absence as a defense thereto.

37 (6) Every director shall take and subscribe an oath that he will dili-
38 gently and honestly perform his duty in such office and will not knowingly
39 violate or permit a violation of any provisions of the bank act, and such oath
40 of office shall be transmitted to and filed with the department of finance. A
41 director may be removed from office at any time for violation of his oath of
42 office by the affirmative vote of two-thirds (2/3) of the entire board, ex-
43 clusive of the director to be removed.

44 (7) Every active officer and employee of any bank in this state shall
45 furnish a surety bond in the penal sum of fifty thousand dollars (\$50,000) to
46 the bank by which he is employed for the faithful performance of his duties,
47 executed by a surety company authorized to do business in the state of Idaho
48 as a surety. In lieu of the individual surety bonds required by this sec-
49 tion, a bank may provide a bankers blanket or financial institution bond in
50 a minimum amount of two hundred fifty thousand dollars (\$250,000). The con-

1 ditions of such bond, whether the instrument so describes the conditions or
 2 not, shall be that the principal shall protect the obligee against any loss
 3 or liability that the obligee may suffer or incur by reason of the acts of
 4 dishonesty of the principal.

5 (8) In lieu of the bonds required in subsection (7) of this section,
 6 a bank may, with the approval of the director of the department of finance,
 7 provide to the director a certificate of deposit issued by any other bank in
 8 the state of Idaho. The principal amount of the certificate of deposit shall
 9 be payable to the director and shall be in an amount to be determined by the
 10 director, but not less than two hundred fifty thousand dollars (\$250,000).
 11 The interest on the certificate of deposit shall be payable to the bank pro-
 12 viding the certificate of deposit to the director. The certificate of de-
 13 posit shall be maintained at all times the bank is authorized to do business
 14 under this chapter, and for a period of time thereafter to be determined by
 15 the director, but not to exceed three (3) years.

16 (9) Every bank shall provide adequate insurance protection or indem-
 17 nity against robbery and burglary and other similar insurable losses.

18 (10) All surety bonds shall be approved by and filed with the directors.
 19 The directors or the director may require an increase of the amount of any
 20 such bond whenever either the directors or the director deem necessary for
 21 the better protection of the bank.

22 SECTION 3. That Section 26-707, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 26-707. REAL ESTATE HOLDINGS. A bank may purchase, acquire, hold and
 25 convey real estate for the following purposes only:

26 (1) Such as shall be necessary for the convenient transaction of its
 27 business, including at the same location as its banking offices' other prop-
 28 erty to rent as a source of income; provided however, that no bank shall
 29 invest in buildings ~~and~~, lots ~~and~~, furniture, fixtures and equipment in an
 30 amount greater than fifty percent (50%) of the capital structure of such
 31 bank.

32 (2) Such as shall be conveyed to it in satisfaction of debts previously
 33 contracted in the course of business.

34 (3) Such as it shall purchase at sale on judgments, decrees, mortgage
 35 foreclosures or trustee's sale for debts previously contracted, but a bank
 36 shall not bid at such sale a larger amount than is necessary to satisfy all
 37 debts and costs necessary to obtain clear title. Real estate acquired for
 38 debts previously contracted shall be carried on the books of the bank at the
 39 lower of cost or market value. Market value shall be determined by:

40 (a) An appraisal prepared by a state-certified or state-licensed ap-
 41 praiser; or

42 (b) An appropriate evaluation when the recorded investment is equal to
 43 or less than two hundred fifty thousand dollars (\$250,000).

44 If a bank has a valid appraisal or an appropriate evaluation that was pre-
 45 viously obtained in connection with a real estate loan, a new appraisal or
 46 evaluation is not required at the time the bank acquires the property to de-
 47 termine the market value of real estate acquired for debts previously con-
 48 tracted. A bank may defer obtaining an appraisal or evaluation for a pe-
 49 riod not to exceed three (3) months following acquisition of the real es-

1 tate if the bank documents a reasonable expectation that a sale of the real
2 estate, other than in a transaction involving an affiliated party, will be
3 consummated during a period of three (3) months following the acquisition
4 of the property. If the property is not sold during the expected three (3)
5 month period, a new appraisal or appropriate evaluation as set forth in para-
6 graphs (a) and (b) of this subsection must be obtained. Thereafter, the di-
7 rector may in his discretion require an appraisal or evaluation if the di-
8 rector believes it is necessary to address safety and soundness concerns. A
9 bank shall develop and maintain prudent real estate appraisal and evaluation
10 policies and procedures to monitor the market value of real estate acquired
11 for debts previously contracted, in accordance with applicable real estate
12 appraisal and evaluation guidelines.

13 (4) No real estate acquired under subsections (2) and (3) of this sec-
14 tion may be held for a longer period than five (5) years, provided however,
15 that upon application by the bank, the director shall approve the contin-
16 ued holding of any such real estate by the bank for an additional period of
17 five (5) years upon the bank's showing of its good faith attempt to dispose of
18 the real estate within the first five (5) year period, or showing that dispo-
19 sposal within the first five (5) year period would be detrimental to the bank,
20 and provided further that the bank shall, during the second five (5) year pe-
21 riod, at the end of each year beginning at the end of the sixth year in which
22 the property is held, write down the value of such real estate by twenty per-
23 cent (20%) of the value at which such real estate is carried on its books at
24 the beginning of the second five (5) year period. Value at the beginning of
25 the second five (5) year period shall be the lower of cost or market value as
26 determined pursuant to appraisal as provided in subsection (3) of this sec-
27 tion. Nothing in this section shall be construed to prevent a bank from mak-
28 ing loans secured by real estate as provided in this act, or a trust depart-
29 ment holding and conveying real estate in trust.

30 (5) A bank may, with the approval of the director and the board of gov-
31 ernors of the federal reserve system or the federal deposit insurance corpo-
32 ration, invest in bank premises or in the stock, bonds, debentures, or other
33 obligations of any corporation holding the banking buildings, lots and, fur-
34 niture, fixtures and equipment of such bank in an amount not to exceed the
35 capital and surplus of the bank.

36 SECTION 4. That Section 26-1104, Idaho Code, be, and the same is hereby
37 amended to read as follows:

38 26-1104. FEES. (1) On January 15 of each year, the director shall fix
39 and collect from each state bank a fee based upon the amount of the total as-
40 sets of the bank as of December 31 of the preceding calendar year, which fees
41 shall not exceed the amounts set forth in the following schedule:

TOTAL ASSETS	MAXIMUM FEE
\$0 to \$1 million	\$1,500 Flat Fee
\$1 million to \$10 million	\$2,000 + \$.25 per thousand dollars of assets in excess of \$1 million
\$10 million to \$50 million	\$4,250 + \$.19 per thousand dollars of assets in excess of \$10 million
\$50 million to \$100 million	\$11,850 + \$.12 per thousand dollars of assets in excess of \$50 million
\$100 million to \$500 million	\$17,850 + \$.10 per thousand dollars of assets in excess of \$100 million
\$500 million to \$1 billion	\$57,850 + \$.09 per thousand dollars of assets in excess of \$500 million
\$1 billion to \$3 billion	\$102,850 + \$.08 per thousand dollars of assets in excess of \$1 billion
\$3 billion to \$10 billion	\$262,850 + \$.07 per thousand dollars of assets in excess of \$3 billion
\$10 billion to \$20 billion	\$369,425 752,850 + \$.03 per thousand dollars of assets in excess of \$10 billion
\$20 billion and over	\$689,425 1,052,850 + \$.02 per thousand dollars of assets in excess of \$20 billion

(2) In addition to the foregoing, each state bank shall pay to the director an additional sum not to exceed one hundred dollars (\$100) for each office and branch office maintained by said bank. The director shall collect from each bank for each special examination of its condition an amount sufficient to reimburse the director for the actual expenses incurred in connection therewith.

(3) The director may, in his discretion, assess state banks and state bank holding companies for the review, analysis and investigation of an application to:

- (a) Charter or incorporate a bank or bank holding company;
- (b) Establish a branch or office;
- (c) Merge with, acquire, or be acquired by another bank or bank holding company located in or outside of Idaho; and
- (d) Convert to an entity other than a state bank or bank holding company.

(4) For banks operating in Idaho with a home state other than Idaho, the director may, in his discretion, enter into a cooperative agreement with the home state supervisor of the bank to assess supervisory fees on the bank. The fees may include assessments, examination fees, branch fees, license fees and all other fees that are levied by the director on state banks. If such agreement has been entered, the director may, in his discretion, assess supervisory fees on banks operating in Idaho with home states other than Idaho.

(5) All fees, fines, examination and miscellaneous charges collected by the director pursuant to the Idaho bank act shall be deposited into the finance administrative account pursuant to section 67-2702, Idaho Code.