

1 **INTERSTATE BRANCHING OF DEPOSITORY**
2 **INSTITUTION**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Kevin S. Garn**

6 **This act modifies the Financial Institutions Code to permit de novo branching in Utah under**
7 **limited circumstances and to make technical changes.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **7-1-702**, as repealed and reenacted by Chapter 49, Laws of Utah 1995

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section **7-1-702** is amended to read:

13 **7-1-702. Interstate acquisition, merger, and branching.**

14 (1) A Utah depository institution or its holding company may acquire control of, acquire
15 all or substantially all the assets of, or merge with:

16 (a) an out-of-state depository institution; or [its]

17 (b) a holding company of an out-of-state depository institution.

18 (2) An out-of-state depository institution or its holding company may acquire control of,
19 acquire all or substantially all the assets of, or merge with:

20 (a) a Utah depository institution; or [its]

21 (b) a holding company of a Utah depository institution.

22 (3) A Utah depository institution may acquire, through merger or otherwise, a branch of
23 a depository institution in another state without acquiring:

24 (a) the depository institution [itself] in the other state; or [its]

25 (b) the charter of the depository institution described in Subsection (3)(a).

26 (4) An out-of-state depository institution may acquire, through merger or otherwise, a
27 branch of a depository institution in Utah without acquiring:

28 (a) the Utah depository institution [~~itself~~]; or [~~its~~]

29 (b) the charter of the Utah depository institution.

30 (5) (a) A Utah depository institution may establish a de novo branch in any state that
31 allows de novo interstate branching as described in 12 U.S.C. Secs. 36(g) and 1828(d)(4), as
32 amended.

33 (b) [~~De~~] Except as provided in Subsection (5)(c), de novo interstate branching [~~into~~] in
34 Utah is prohibited.

35 (c) An out-of-state depository institution may establish a de novo branch in Utah if the
36 home state of that out-of-state depository institution permits a Utah state chartered depository
37 institution to establish and maintain a de novo branch in that home state under substantially the
38 same terms and conditions as that out-of-state depository institution establishes its de novo branch
39 in Utah.

40 (6) [~~A~~] (a) Any of the following may do anything described in Subsection (6)(b):

41 (i) a Utah depository institution or holding company that acquires an out-of-state
42 depository institution[~~;~~];

43 (ii) a Utah depository institution that is the resulting depository institution after merging
44 with an out-of-state depository institution[~~;~~]; or

45 (iii) a Utah depository institution that otherwise establishes or acquires a branch in a host
46 state[~~;~~].

47 (b) A depository institution or holding company described in Subsection (6)(a) may do any
48 of the following in accordance with applicable state and federal law, including the law of the host
49 state:

50 [~~(a)~~] (i) continue to operate the out-of-state depository institution or branch;

51 [~~(b)~~] (ii) convert any existing main office or branch in the host state into a branch of the
52 Utah depository institution;

53 [~~(c)~~] (iii) establish or acquire additional branches of the Utah depository institution in any
54 state where the out-of-state depository institution could have done so if [~~it~~] the out-of-state
55 depository institution had not been acquired or merged; and

56 [~~(d)~~] (iv) exercise any power and engage in any activity in a host state to the same extent
57 as a depository institution of the same class whose home state is that state.

58 (7) [~~An~~] (a) Any of the following may do anything described in Subsection (7)(b):

59 (i) an out-of-state depository institution or holding company that acquires a Utah
60 depository institution~~[-or]~~;

61 (ii) an out-of-state depository institution that is the resulting depository institution after
62 merging with a Utah depository institution~~[-]~~; or

63 (iii) an out-of-state depository institution that otherwise establishes or acquires a branch
64 in Utah~~[-]~~.

65 (b) A depository institution or holding company described in Subsection (7)(a) may do any
66 of the following in accordance with applicable state and federal law, including the law of this state:

67 ~~[(a)]~~ (i) continue to operate the Utah depository institution or branch;

68 ~~[(b)]~~ (ii) convert any existing main office or branch in Utah into a branch of the
69 out-of-state depository institution;

70 ~~[(c)]~~ (iii) establish or acquire additional branches of the out-of-state depository institution
71 in any state where the Utah depository institution could have done so if ~~[(it)]~~ the Utah depository
72 institution had not been acquired or merged; and

73 ~~[(d)]~~ (iv) exercise any power and engage in any activity in this state to the same extent as
74 a depository institution of the same class whose home state is Utah.

75 (8) (a) A Utah branch of an out-of-state depository institution shall comply with:

76 (i) the law of the institution's home state~~[-]~~; or ~~[comply with]~~

77 (ii) the federal law in the case of a federally chartered institution.

78 (b) If the laws of this state as a host state conflict with the laws of another state as a home
79 state, the laws of the home state prevail except as provided in this section.

80 ~~[(b)]~~ (c) The commissioner may order that Utah law prevails over home state law if the
81 application of Utah law is necessary to:

82 (i) preserve the safe and sound operation of the Utah branch;

83 (ii) prevent significant competitive disadvantage to Utah depository institutions in local
84 financial markets; or

85 (iii) otherwise protect the citizens of this state.

86 ~~[(c)]~~ (d) The laws of this state regarding community reinvestment, consumer protection,
87 fair lending, and intrastate branching apply to a Utah branch of an out-of-state depository
88 institution to the same extent as those laws apply to a Utah branch of a depository institution
89 chartered by this state.

90 ~~[(d)]~~ (e) An out-of-state depository institution authorized to operate a branch in Utah may
91 underwrite or sell insurance, engage in the direct marketing of securities, or engage in the
92 brokerage of real estate only to the extent permissible for a Utah depository institution of the same
93 class.

94 (9) Subsection (8) does not affect the jurisdiction or authority of the commissioner to:

95 (a) examine, supervise, and regulate an out-of-state depository institution operating or
96 seeking to operate a branch in this state; or ~~[to]~~

97 (b) take any action or issue any order with regard to ~~[that]~~ a branch described in Subsection
98 (9)(a).

99 (10) The acquisition of a charter entitles the acquiring institution to engage in any activity
100 the acquired institution could have engaged in if ~~[it]~~ the acquired institution had not been acquired,
101 so long as the acquiring institution does not convert the acquired institution into, or operate it as,
102 an institution of a different class.

103 (11) (a) The activities authorized in this section are subject to:

104 (i) the limitations for mergers and acquisitions set forth in Sections 7-1-703 and
105 7-1-705~~[-]~~; and

106 (ii) the limitations for branching set forth in Section 7-1-708.

107 (b) An institution shall file all required applications and receive all appropriate approvals
108 before engaging in any of the activities authorized in this section.

109 (12) An out-of-state depository institution that operates a branch in this state shall:

110 (a) maintain a certificate of authority to transact business in this state ~~[and]~~;

111 (b) comply with all ~~[other]~~ applicable corporate filing requirements under Title 16, Chapter
112 10a, Utah Revised Business Corporation Act, to the same extent as any nondepository corporation
113 transacting business in this state; and

114 ~~[(b)]~~ (c) provide written notification to the department of ~~[its]~~ the out-of-state depository
115 certificate of authority to transact business in this state.

Legislative Review Note
as of 1-19-01 4:11 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel