

30 7-3-10, as last amended by Chapter 91, Laws of Utah 1997

31 7-5-14, as last amended by Chapter 89, Laws of Utah 2004



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

34 Section 1. Section 7-1-103 is amended to read:

35 **7-1-103. Definitions.**

36 As used in this title:

37 (1) (a) "Bank" means a person authorized under the laws of this state, another state, or
38 the United States to accept deposits from the public.

39 (b) "Bank" does not include:

40 (i) a federal savings and loan association or federal savings bank;

41 (ii) a savings and loan association or savings bank subject to Chapter 7, Savings and
42 Loan ~~[Association]~~ Associations Act;

43 (iii) an industrial bank subject to Chapter 8, Industrial Banks;

44 (iv) a federally chartered credit union; or

45 (v) a credit union subject to Chapter 9, Utah Credit Union Act.

46 (2) "Banking business" means the offering of deposit accounts to the public and the
47 conduct of such other business activities as may be authorized by this title.

48 (3) (a) "Branch" means a place of business of a financial institution, other than its main
49 office, at which deposits are received and paid.

50 (b) "Branch" does not include:

51 (i) an automated teller machine, as defined in Section 7-16a-102;

52 (ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

53 (iii) a loan production office under Section 7-1-715.

54 (4) "Commissioner" means the Commissioner of Financial Institutions.

55 (5) "Control" means the power, directly or indirectly, to:

56 (a) direct or exercise a controlling influence over:

57 (i) the management or policies of a financial institution; or

- 58 (ii) the election of a majority of the directors or trustees of an institution;
- 59 (b) vote 20% or more of any class of voting securities of a financial institution by an
- 60 individual; or
- 61 (c) vote more than [~~5%~~] 10% of any class of voting securities of a financial institution
- 62 by a person other than an individual.
- 63 (6) "Credit union" means a cooperative, nonprofit association incorporated under:
- 64 (a) Chapter 9, Utah Credit Union Act; or
- 65 (b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.
- 66 (7) "Department" means the Department of Financial Institutions.
- 67 (8) "Depository institution" means a bank, savings and loan association, savings bank,
- 68 industrial bank, credit union, or other institution that:
- 69 (a) holds or receives deposits, savings, or share accounts;
- 70 (b) issues certificates of deposit; or
- 71 (c) provides to its customers other depository accounts that are subject to withdrawal
- 72 by checks, drafts, or other instruments or by electronic means to effect third party payments.
- 73 (9) (a) "Depository institution holding company" means:
- 74 (i) a person other than an individual that:
- 75 (A) has control over any depository institution; or
- 76 (B) becomes a holding company of a depository institution under Section 7-1-703; or
- 77 (ii) a person other than an individual that the commissioner finds, after considering the
- 78 specific circumstances, is exercising or is capable of exercising a controlling influence over a
- 79 depository institution by means other than those specifically described in this section.
- 80 (b) Except as provided in Section 7-1-703, a person is not a depository institution
- 81 holding company solely because it owns or controls shares acquired in securing or collecting a
- 82 debt previously contracted in good faith.
- 83 (10) "Financial institution" means any institution subject to the jurisdiction of the
- 84 department because of this title.
- 85 (11) (a) "Financial institution holding company" means a person, other than an

86 individual that has control over any financial institution or any person that becomes a financial
87 institution holding company under this chapter, including an out-of-state or foreign depository
88 institution holding company.

89 (b) Ownership of a service corporation or service organization by a depository
90 institution does not make that institution a financial institution holding company.

91 (c) A person holding [~~5%~~ 10% or less of the voting securities of a financial institution
92 is rebuttably presumed not to have control of the institution.

93 (d) A trust company is not a holding company solely because it owns or holds 20% or
94 more of the voting securities of a financial institution in a fiduciary capacity, unless the trust
95 company exercises a controlling influence over the management or policies of the financial
96 institution.

97 (12) "Foreign depository institution" means a depository institution chartered or
98 authorized to transact business by a foreign government.

99 (13) "Foreign depository institution holding company" means the holding company of a
100 foreign depository institution.

101 (14) "Home state" means:

102 (a) for a state chartered depository institution, the state that charters the institution;

103 (b) for a federally chartered depository institution, the state where the institution's main
104 office is located; and

105 (c) for a depository institution holding company, the state in which the total deposits of
106 all depository institution subsidiaries are the largest.

107 (15) "Host state" means:

108 (a) for a depository institution, a state, other than the institution's home state, where the
109 institution maintains or seeks to establish a branch; and

110 (b) for a depository institution holding company, a state, other than the depository
111 institution holding company's home state, where the depository institution holding company
112 controls or seeks to control a depository institution subsidiary.

113 (16) "Industrial bank" means a corporation or limited liability company conducting the

114 business of an industrial bank under Chapter 8, Industrial Banks.

115 (17) "Industrial loan company" is as defined in Section 7-8-21.

116 (18) "Insolvent" means the status of a financial institution that is unable to meet its
117 obligations as they mature.

118 (19) "Institution" means:

119 (a) a corporation;

120 (b) a limited liability company;

121 (c) a partnership;

122 (d) a trust;

123 (e) an association;

124 (f) a joint venture;

125 (g) a pool;

126 (h) a syndicate;

127 (i) an unincorporated organization; or

128 (j) any form of business entity.

129 (20) "Institution subject to the jurisdiction of the department" means an institution or
130 other person described in Section 7-1-501.

131 (21) "Liquidation" means the act or process of winding up the affairs of an institution
132 subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and
133 appropriating profit or loss, as provided in Chapters 2 and 19.

134 (22) "Liquidator" means a person, agency, or instrumentality of this state or the United
135 States appointed to conduct a liquidation.

136 (23) (a) "Member of a savings and loan association" means:

137 (i) a person holding a savings account of a mutual association;

138 (ii) a person borrowing from, assuming, or becoming obligated upon a loan or an
139 interest in a loan held by a mutual association; or

140 (iii) any person or class of persons granted membership rights by the articles of
141 incorporation or the bylaws of an association.

142 (b) A joint and survivorship or other multiple owner or borrower relationship
143 constitutes a single membership.

144 (24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

145 (25) (a) "NOW account" means a savings account from which the owner may make
146 withdrawals by negotiable or transferable instruments for the purpose of making transfers to
147 third parties.

148 (b) A "NOW account" is not a demand deposit.

149 (c) Neither the owner of a NOW account nor any third party holder of an instrument
150 requesting withdrawal from the account has a legal right to make withdrawal on demand.

151 (26) "Out-of-state" means, in reference to a depository institution or depository
152 institution holding company, an institution or company whose home state is not Utah.

153 (27) "Person" means:

154 (a) an individual;

155 (b) a corporation;

156 (c) a limited liability company;

157 (d) a partnership;

158 (e) a trust;

159 (f) an association;

160 (g) a joint venture;

161 (h) a pool;

162 (i) a syndicate;

163 (j) a sole proprietorship;

164 (k) an unincorporated organization; or

165 (l) any form of business entity.

166 (28) "Receiver" means a person, agency, or instrumentality of this state or the United
167 States appointed to administer and manage an institution subject to the jurisdiction of the
168 department in receivership, as provided in Chapters 2 and 19.

169 (29) "Receivership" means the administration and management of the affairs of an

170 institution subject to the jurisdiction of the department to conserve, preserve, and properly
171 dispose of the assets, liabilities, and revenues of an institution in possession, as provided in
172 Chapters 2 and 19.

173 (30) "Savings account" means any deposit or other account at a depository institution
174 that is not a transaction account.

175 (31) (a) "Savings and loan association" means any of the following subject to this title:

176 (i) a mutual or capital stock savings association;

177 (ii) a savings and loan association;

178 (iii) a mutual or capital stock savings bank; or

179 (iv) a building and loan association.

180 (b) "Savings and loan association" includes the following as defined in Section 7-7-2:

181 (i) all federal associations; and

182 (ii) all out-of-state associations.

183 (32) "Service corporation" or "service organization" means a corporation or other
184 business entity owned or controlled by one or more financial institutions that is engaged or
185 proposes to engage in business activities related to the business of financial institutions.

186 (33) "State" means, unless the context demands otherwise:

187 (a) a state;

188 (b) the District of Columbia; or

189 (c) the territories of the United States.

190 (34) "Subsidiary" means a business entity under the control of an institution.

191 (35) (a) "Transaction account" means a deposit, account, or other contractual
192 arrangement in which a depositor, account holder, or other customer is permitted, directly or
193 indirectly, to make withdrawals by:

194 (i) check or other negotiable or transferable instrument;

195 (ii) payment order of withdrawal;

196 (iii) telephone transfer;

197 (iv) other electronic means; or

198 (v) any other means or device for the purpose of making payments or transfers to third
199 persons.

200 (b) "Transaction account" includes:

201 (i) demand deposits;

202 (ii) NOW accounts;

203 (iii) savings deposits subject to automatic transfers; and

204 (iv) share draft accounts.

205 (36) "Trust company" means a person authorized to conduct a trust business, as
206 provided in Chapter 5, Trust Business.

207 (37) "Utah depository institution" means a depository institution whose home state is
208 Utah.

209 (38) "Utah depository institution holding company" means a depository institution
210 holding company whose home state is Utah.

211 Section 2. Section **7-1-401** is amended to read:

212 **7-1-401. Fees payable to commissioner.**

213 (1) Except for an out-of-state depository institution with a branch in Utah, a depository
214 institution under the jurisdiction of the department shall pay an annual fee:

215 (a) computed by averaging the total assets of the depository institution shown on each
216 quarterly report of condition for the depository institution for the calendar year immediately
217 proceeding the date on which the annual fee is due under Section 7-1-402; and

218 (b) at the following rates:

219 (i) on the first \$5,000,000 of these assets, the greater of:

220 (A) 65 cents per \$1,000; or

221 (B) \$500;

222 (ii) on the next \$10,000,000 of these assets, 36 cents per \$1,000;

223 (iii) on the next \$35,000,000 of these assets, 17 cents per \$1,000;

224 (iv) on the next \$50,000,000 of these assets, 14 cents per \$1,000;

225 (v) on the next \$200,000,000 of these assets, 11 cents per \$1,000;

- 226 (vi) on the next \$300,000,000 of these assets, 7 cents per \$1,000; and
227 (vii) on all amounts over \$600,000,000 of these assets, 2.625 cents per \$1,000.
- 228 (2) A financial institution with a trust department shall pay a fee determined in
229 accordance with Subsection (7) for each examination of the trust department by a state
230 examiner.
- 231 (3) Notwithstanding Subsection (1), a credit union in its first year of operation shall
232 pay a basic fee of \$25 instead of the fee required under Subsection (1).
- 233 (4) A trust company that is not a depository institution or a subsidiary of a depository
234 institution holding company shall pay:
- 235 (a) an annual fee of \$500; and
236 (b) an additional fee determined in accordance with Subsection (7) for each
237 examination by a state examiner.
- 238 (5) Any person or institution under the jurisdiction of the department that does not pay
239 a fee under Subsections (1) through (4) shall pay:
- 240 (a) an annual fee of \$200; and
241 (b) an additional fee determined in accordance with Subsection (7) for each
242 examination by a state examiner.
- 243 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,
244 7-1-704, 7-1-713, 7-5-3, or 7-18a-202 shall pay:
- 245 (a) (i) a filing fee of \$500 if on the day on which the application or request is filed the
246 person:
- 247 (A) is a person with authority to transact business as:
- 248 (I) a depository institution;
249 (II) a trust company; or
250 (III) any other person described in Section 7-1-501 as being subject to the jurisdiction
251 of the department; and
- 252 (B) has total assets in an amount less than \$5,000,000; or
253 [~~(a)~~] (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

254 (b) all reasonable expenses incurred in processing the application.

255 (7) (a) Per diem assessments for an examination shall be calculated at the rate of \$55
256 per hour:

257 (i) for each examiner; and

258 (ii) per hour worked.

259 (b) For an examination of a branch or office of a financial institution located outside of
260 this state, in addition to the per diem assessment under this Subsection (7), the institution shall
261 pay all reasonable travel, lodging, and other expenses incurred by each examiner while
262 conducting the examination.

263 (8) In addition to a fee under Subsection (5), a person registering under Section
264 7-23-103 or 7-24-201 shall pay an original registration fee of \$300.

265 Section 3. Section **7-1-701** is amended to read:

266 **7-1-701. Representation and transacting business as financial institution**
267 **restricted -- Restricted names -- Penalty.**

268 (1) As used in this section, "transact business" includes:

269 (a) advertising;

270 (b) representing oneself in any manner as being engaged in transacting business;

271 (c) registering an assumed name under which to transact business; or

272 (d) using an assumed business name, sign, letterhead, business card, promotion, or
273 other indication that one is transacting business.

274 (2) Unless authorized by the department or an agency of the federal government to do
275 so, it is unlawful for any person to:

276 (a) transact business as a:

277 (i) bank;

278 (ii) savings and loan association;

279 (iii) savings bank;

280 (iv) industrial bank;

281 (v) credit union;

282 (vi) trust company; or
283 (vii) other financial or depository institution; or
284 (b) engage in any other activity subject to the jurisdiction of the department.
285 (3) (a) Except as provided in Subsections (3)(b) through (d), only the following may
286 transact business in this state under a name that includes "bank," "banker," "banking,"
287 "banque," "banc," "banco," "bancorp," "bancorporation," any derivative of these words, or any
288 other word or combination of words reasonably identifying the business of a bank:
289 (i) a national bank;
290 (ii) a bank authorized to do business under Chapter 3, Banks;
291 (iii) a bank holding company; or
292 (iv) an industrial bank.
293 (b) A person authorized to operate in this state as a credit card bank, as [~~defined~~
294 described in Section 7-3-3:
295 (i) may transact business under the name "credit card bank"; and
296 (ii) may not transact business under the name of "bank" unless it is immediately
297 preceded by "credit card."
298 (c) A nonbank subsidiary of a bank holding company may transact business under a
299 name restricted in Subsection (3)(a) if the name:
300 (i) is also part of the name of its parent holding company; or
301 (ii) is used for a group of subsidiaries of the parent holding company.
302 (d) The Utah Bankers Association or other bona fide trade association of authorized
303 banks may transact its affairs in this state under a name restricted under Subsection (3)(a) if it
304 does not operate and does not hold itself out to the public as operating a depository or financial
305 institution.
306 (4) (a) Except as provided in Subsection (4)(b), only the following may transact
307 business in this state under a name that includes "savings association," "savings and loan
308 association," "building and loan association," "building association," any derivative of these
309 words, or any other word or combination of words reasonably identifying the business of a

310 savings and loan association:

311 (i) a federal savings and loan association;

312 (ii) a federal savings bank; or

313 (iii) a savings and loan association authorized to do business under Chapter 7, Savings
314 and Loan Associations Act.

315 (b) A national bank may transact business under a name restricted in Subsection (4)(a)
316 if the restricted words are part of the bank's corporate name.

317 (5) Only the following may transact business under the name "savings bank":

318 (a) a depository institution listed in Subsection (3)(a);

319 (b) a depository institution listed in Subsection (4)(a); or

320 (c) a depository institution authorized under state law to operate in this state as a
321 savings bank.

322 (6) (a) Only an industrial loan company authorized to do business under Chapter 8,
323 Industrial Banks, to the extent permitted by Section 7-8-21, may transact business in this state
324 under a name that includes "industrial loan company," "ILC," or any other word, combination
325 of words, or abbreviation reasonably identifying the business of an industrial loan company.

326 (b) Only an industrial bank authorized to do business under Chapter 8, Industrial
327 Banks, may transact business in this state under a name that includes "industrial bank," "thrift,"
328 or any other word, combination of words, or abbreviation reasonably identifying the business
329 of an industrial bank.

330 (7) (a) Except as provided in Subsection (7)(b), only a credit union authorized to do
331 business under the laws of the United States or Chapter 9, Utah Credit Union Act, may transact
332 business in this state under a name that includes "credit union" or any other word or
333 combination of words reasonably identifying the business of a credit union.

334 (b) The restriction in Subsection (7)(a) does not apply to the Utah League of Credit
335 Unions, any credit union chapter, or any other association affiliated with the Utah League of
336 Credit Unions that restricts its services primarily to credit unions.

337 (8) (a) Except as provided in Subsection (8)(b), only a person granted trust powers

338 under Chapter 5, Trust Business, may transact business in this state under a name that includes
339 "trust," "trustee," "trust company," or any other word or combination of words reasonably
340 identifying the business of a trust company.

341 (b) A business entity organized as a business trust, as defined in Section 7-5-1, may use
342 "business trust" in its name if it does not hold itself out as being a trust company.

343 (9) The restrictions of Subsections (3) through (8) do not apply to:

344 (a) the name under which an out-of-state depository institution operates a loan
345 production office in this state, if the commissioner approves the name as not being reasonably
346 likely to mislead the public;

347 (b) the name under which a service organization of a financial institution transacts
348 business, if the commissioner approves the name as not being reasonably likely to mislead the
349 public;

350 (c) the name under which a subsidiary of a depository or financial institution transacts
351 business, if the commissioner approves the name as not being reasonably likely to mislead the
352 public; or

353 (d) a trade association or other nonprofit organization composed of members of a
354 particular class of financial institutions using words applicable to that class.

355 (10) (a) Upon written request, the commissioner may grant an exemption to this
356 section if the commissioner finds that the use of an otherwise restricted name or word is not
357 reasonably likely to cause confusion or lead the public to believe that the person requesting the
358 exemption is a depository or financial institution or is conducting a business subject to the
359 jurisdiction of the department.

360 (b) In granting an exemption under Subsection (10)(a), the commissioner may restrict
361 or condition the use of the name or word or the activities of the person or business as the
362 commissioner considers necessary to protect the public.

363 (11) (a) Each person and each principal and officer of a business entity violating this
364 section is guilty of a class A misdemeanor. Each day of violation constitutes a separate
365 offense.

366 (b) In addition to a criminal penalty imposed under Subsection (11)(a), the
367 commissioner may issue a cease and desist order against a person violating this section. The
368 commissioner may impose a civil penalty of up to \$500 for each day the person fails to comply
369 with the cease and desist order.

370 Section 4. Section **7-1-810** is amended to read:

371 **7-1-810. Limited liability companies.**

372 (1) Notwithstanding any other provision of this title and subject to Subsection (8), if
373 the conditions of this section are met, the following may be organized as or convert to a limited
374 liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act:

375 (a) an industrial bank chartered under Chapter 8, Industrial Banks;

376 (b) an industrial loan company as defined in Section 7-8-21; or

377 (c) any of the following if the institution is an S Corporation, as defined in Section
378 1361, Internal Revenue Code, immediately before becoming a limited liability company:

379 (i) a bank chartered under Chapter 3, Banks;

380 (ii) a savings and loan association chartered under Chapter 7, Savings and Loan
381 Associations Act; or

382 (iii) a depository institution holding company.

383 (2) (a) Before an institution described in Subsection (1) may organize as or convert to a
384 limited liability company, the institution shall obtain approval of the commissioner.

385 (b) (i) To obtain the approval under this section from the commissioner, the institution
386 shall file a request for approval with the commissioner at least 30 days before the day on which
387 the institution becomes a limited liability company.

388 (ii) If the commissioner does not disapprove the request for approval within 30 days
389 from the day on which the commissioner receives the request, the request is considered
390 approved.

391 (iii) When taking action on a request for approval filed under this section, the
392 commissioner may:

393 (A) approve the request;

394 (B) approve the request subject to terms and conditions the commissioner considers
395 necessary; or

396 (C) disapprove the request.

397 (3) To approve a request for approval, the commissioner shall find:

398 (a) for an institution described in Subsection (1) that is required to be insured by a
399 federal deposit insurance agency, that the institution:

400 (i) will operate in a safe and sound manner;

401 (ii) has the following characteristics:

402 (A) the institution is not subject to automatic termination, dissolution, or suspension
403 upon the happening of some event other than the passage of time;

404 (B) the exclusive authority to manage the institution is vested in a board of managers
405 or directors that:

406 (I) is elected or appointed by the owners;

407 (II) is not required to have owners of the institution included on the board;

408 (III) possesses adequate independence and authority to supervise the operation of the
409 institution; and

410 (IV) operates with substantially the same rights, powers, privileges, duties, and
411 responsibilities as the board of directors of a corporation;

412 (C) neither state law, nor the institution's operating agreement, bylaws, or other
413 organizational documents provide that an owner of the institution is liable for the debts,
414 liabilities, and obligations of the institution in excess of the amount of the owner's investment;
415 and

416 (D) (I) neither state law, nor the institution's operating agreement, bylaws, or other
417 organizational documents require the consent of any other owner of the institution in order for
418 any owner to transfer an ownership interest in the institution, including voting rights; and

419 (II) the institution is able to obtain new investment funding if needed to maintain
420 adequate capital; and

421 (iii) is able to comply with all legal and regulatory requirements for an insured

422 depository institution under applicable federal and state law; and

423 (b) for an institution described in Subsection (1) that is not required to be insured by a
424 federal deposit insurance agency, that the institution will operate in a safe and sound manner.

425 (4) An institution described in Subsection (3)(a) that is organized as a limited liability
426 company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it
427 is authorized to conduct business under this title as a limited liability company.

428 (5) (a) All rights, privileges, powers, duties, and obligations of an institution described
429 in Subsection (1) that is organized as a limited liability company and its members and
430 managers shall be governed by Title 48, Chapter 2c, Utah Revised Limited Liability Company
431 Act, except:

432 (i) the following sections do not apply to an institution that is described in Subsection
433 (3)(a):

434 (A) Subsection 48-2c-402(2)(a)(ii);

435 (B) Section 48-2c-604;

436 (C) Section 48-2c-703;

437 (D) Section 48-2c-708;

438 (E) Subsection 48-2c-801(2);

439 (F) Section 48-2c-1102;

440 (G) Section 48-2c-1104; and

441 (H) Subsections 48-2c-1201(2) through (5); and

442 (ii) as otherwise provided in this title.

443 (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection
444 (3)(a):

445 (i) for purposes of transferring a member's interests in the institution, a member's
446 interest in the institution shall be treated like a share of stock in a corporation; and

447 (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to
448 another person, the person who receives the member's interest shall obtain the member's entire
449 rights associated with the member's interest in the institution including:

- 450 (A) all economic rights; and
- 451 (B) all voting rights.
- 452 (c) An institution described in Subsection (3)(a) may not by agreement or otherwise
- 453 change the application of Subsection (5)(a) to the institution.
- 454 (6) Unless the context requires otherwise, for the purpose of applying this title to an
- 455 institution described in Subsection (1) that is organized as a limited liability company:
- 456 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,
- 457 includes the equivalent citation to Title 48, Chapter 2c, Utah Revised Limited Liability
- 458 Company Act;
- 459 (b) "articles of incorporation" includes a limited liability company's articles of
- 460 organization as that term is used in Section 48-2c-403;
- 461 (c) "board of directors" includes one or more persons who have, with respect to an
- 462 institution described in Subsection (1), authority substantially similar to that of a board of
- 463 directors of a corporation;
- 464 (d) "bylaws" includes a limited liability company's operating agreement as that term is
- 465 defined in Section 48-2c-102;
- 466 (e) "corporation" includes a limited liability company organized under Title 48,
- 467 Chapter 2c, Utah Revised Limited Liability Company Act;
- 468 (f) "director" includes any of the following of a limited liability company:
- 469 (i) a manager;
- 470 (ii) a director; or
- 471 (iii) other person who has with respect to the institution described in Subsection (1),
- 472 authority substantially similar to that of a director of a corporation;
- 473 (g) "dividend" includes distributions made by a limited liability company under Title
- 474 48, Chapter 2c, Part 10, Distributions;
- 475 (h) "incorporator" includes the organizers of a limited liability company as provided in
- 476 Title 48, Chapter 2c, Part 4, Formation;
- 477 (i) "officer" includes any of the following of an institution described in Subsection (1):

478 (i) an officer; or
 479 (ii) other person who has with respect to the institution described in Subsection (1)
 480 authority substantially similar to that of an officer of a corporation;

481 (j) "security," "shares," or "stock" of a corporation includes:

482 (i) a membership interest in a limited liability company as provided in Title 48,
 483 Chapter 2c, Part 7, Members; and

484 (ii) any certificate or other evidence of an ownership interest in a limited liability
 485 company; and

486 (k) "stockholder" or "shareholder" includes an owner of an interest in an institution
 487 described in Subsection (1) including a member as provided in Title 48, Chapter 2c, Part 7,
 488 Members.

489 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 490 commissioner shall make rules governing the form of a request for approval filed under this
 491 section.

492 (8) A depository institution organized under the laws of this state may not be organized
 493 as or converted to a series of members, managers, or interests in a limited liability company as
 494 provided in Section 48-2c-606.

495 Section 5. Section 7-3-3 is amended to read:

496 **7-3-3. "Banking business" defined -- Credit card banks -- Insurance of deposit**
 497 **accounts.**

498 (1) (a) Except as provided under Subsection (1)(b), a person is considered to be
 499 conducting a banking business and is a bank subject to the provisions of this title that are
 500 applicable to banks if the person is authorized:

- 501 (i) under the laws of this;
- 502 (A) state[;];
- 503 (B) another state[;];
- 504 (C) the United States[;];
- 505 (D) the District of Columbia[;]; or

506 (E) any territory of the United States; and
507 (ii) (A) to accept deposits from the public; and
508 (B) to conduct such other business activities as may be authorized by statute or by the
509 commissioner in accordance with Subsection 7-3-10~~(2)~~(3).

510 (b) A person is not considered to be a bank subject to the provisions of this title that are
511 applicable to banks if the person is authorized to conduct the business of:

- 512 (i) a federal savings and loan association;
- 513 (ii) a federal savings bank;
- 514 (iii) a savings and loan association subject to Chapter 7, Savings and Loan

515 Associations Act;

- 516 (iv) a savings bank subject to Chapter 7, Savings and Loan Associations Act;
- 517 (v) an industrial bank subject to Chapter 8, Industrial Banks;
- 518 (vi) a federally chartered credit union; or
- 519 (vii) a credit union subject to Chapter 9, Utah Credit Union Act.

520 (2) A person authorized to operate as a bank in this state may operate as a credit card
521 bank if it:

- 522 (a) engages only in credit card operations;
- 523 (b) does not accept demand deposits or deposits that the depositor may withdraw by
524 check or similar means for payment to third parties or others;
- 525 (c) does not accept any savings or time deposits of less than \$100,000;
- 526 (d) maintains only one office that accepts deposits; and
- 527 (e) does not engage in the business of making commercial loans.

528 (3) All deposit accounts in banks or branches subject to the jurisdiction of the
529 department shall be insured by the Federal Deposit Insurance Corporation or any successor to
530 the Federal Deposit Insurance Corporation.

531 Section 6. Section **7-3-10** is amended to read:

532 **7-3-10. Organization -- Powers, rights, and privileges of banking corporation --**
533 **Other business activities.**

534 (1) A bank chartered under this chapter shall be:

535 (a) a domestic corporation under Title 16, Chapter 10a, Utah Revised Business
536 Corporation Act; or

537 (b) subject to Section 7-1-810, including the requirement that the bank be an S
538 Corporation immediately before becoming a limited liability company, a limited liability
539 company created under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act.

540 ~~[(1)] (2) [In addition to the powers granted under Title 16, Chapter 10a, Utah Revised~~
541 ~~Business Corporation Act, a] A bank has all the rights, privileges, and powers necessary or~~
542 ~~incidental to carrying on the business of banking in addition to the powers granted:~~

543 (a) if the bank is a corporation, under Title 16, Chapter 10a, Utah Revised Business
544 Corporation Act; or

545 (b) subject to Section 7-1-810, if the bank is a limited liability company, under Title
546 48, Chapter 2c, Utah Revised Limited Liability Company Act.

547 ~~[(2)] (3) The commissioner may, by rule or order, determine that necessary or~~
548 ~~incidental rights, privileges, and powers include:~~

549 ~~(a) the rights, privileges, and powers held by national banks; or~~

550 ~~(b) other business activities so long as the commissioner's determination is not~~
551 ~~inconsistent with the rules, regulations, or other actions of the board of governors of the~~
552 ~~Federal Reserve System under Section 4(c)(8) of the Bank Holding Company Act of 1956, 12~~
553 ~~U.S.C. Sec. 1843(c)(8).~~

554 ~~[(3)] (4) The commissioner shall implement this section in a manner consistent with~~
555 ~~the purposes set forth in Section 7-1-102.~~

556 Section 7. Section **7-5-14** is amended to read:

557 **7-5-14. Mergers, consolidations, acquisitions, transfers, or reorganizations**
558 **involving entities engaged in trust business -- Succession of rights and duties -- Petition**
559 **for appointment of another trust company.**

560 (1) As used in this section:

561 (a) "Eligible trust company" means any of the following that is authorized under this

562 chapter or the laws of the United States to engage in the trust business in this state:

563 (i) a trust company;

564 (ii) a depository institution; or

565 (iii) a corporation.

566 (b) "Reorganization" includes:

567 (i) the creation by a trust company of a subsidiary corporation that is:

568 (A) wholly owned by that trust company; and

569 (B) organized solely for the purpose of conducting all or any portion of the trust

570 business of that trust company; or

571 (ii) any merger or other combination between a trust company and:

572 (A) a wholly owned trust company subsidiary of that trust company; or

573 (B) a wholly owned trust company subsidiary of the depository institution holding

574 company which owns or controls that trust company.

575 ~~[(+)]~~ (2) Notwithstanding any provision of law to the contrary, ~~[a]~~ an eligible trust
576 ~~company[, depository institution, or other corporation authorized under this chapter or under~~
577 ~~the laws of the United States to engage in the trust business in this state]~~ may, subject to ~~[the~~
578 ~~provisions of]~~ Sections 7-1-702, 7-1-704, and 7-1-705:

579 (a) (i) merge or consolidate with[;] another eligible trust company;

580 (ii) acquire control of[;] another eligible trust company;

581 (iii) acquire all or a portion of the assets and trust business of[; or] another eligible trust
582 company;

583 (iv) assume all or any portion of the liabilities of[; or (iii)] another eligible trust
584 company;

585 (v) transfer control to[;] another eligible trust company;

586 (vi) transfer all or a portion of its assets and trust business to[; or] another eligible trust
587 company; or

588 (vii) transfer all or a portion of its liabilities to[; any other] another eligible trust
589 company[, depository institution, or other corporation, which institution is authorized under

590 this chapter or under the laws of the United States to engage in the trust business in this state];
591 or

592 (b) reorganize.

593 ~~[(2) Upon]~~ (3) (a) Subject to Subsection (3)(b), upon final approval by the
594 commissioner of any merger, consolidation, acquisition of control, acquisition of assets,
595 assumption of liabilities, or reorganization, and upon written notice of this approval to all
596 persons entitled to and then receiving trust accountings from the transferring or reorganizing
597 trust company, the resulting or acquiring trust company shall, without court proceedings or a
598 court order, succeed to all rights, privileges, duties, obligations, and undertakings under all
599 trust instruments, agency and fiduciary relationships and arrangements, and other trust business
600 transferred and acquired in the manner authorized by this section. ~~[However, except]~~

601 (b) Except as provided otherwise in the relevant trust instrument, any interested person
602 may, not more than 30 days after receipt of written notice of the merger, consolidation,
603 acquisition, transfer, or reorganization, petition any court of competent jurisdiction to appoint
604 another or succeeding trust company with respect to any agency or fiduciary relationship
605 affecting that interested person, and until another or succeeding trust company is so appointed,
606 the acquiring or resulting trust company is entitled to act as agent or fiduciary with respect to
607 the agency or fiduciary relationship.

608 ~~[(3) As used in this section, a "reorganization" includes, but is not limited to:]~~

609 ~~[(a) the creation by a trust company of a subsidiary corporation which is wholly owned~~
610 ~~by that trust company and which is organized solely for the purpose of conducting all or any~~
611 ~~portion of the trust business of that trust company; or]~~

612 ~~[(b) any merger or other combination between a trust company and:]~~

613 ~~[(i) a wholly owned trust company subsidiary of that trust company; or]~~

614 ~~[(ii) a wholly owned trust company subsidiary of the depository institution holding~~
615 ~~company which owns or controls that trust company.]~~