

SENATE BILL NO. 164

BY SENATORS MARTINY AND THOMPSON

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AN ACT

To amend and reenact R.S. 6:415(B), (C), (D), (F) and (G), and to enact R.S. 6:415(I), relative to banking; to provide certain restrictions and prohibit certain practices; to provide for loans, credit exposure, derivative transactions, restrictions, and rules; to provide certain definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 6:415(B), (C), (D), (F) and (G) are hereby amended and reenacted, and R.S. 6:415(I) is hereby enacted to read as follows:

§415. Loans; **other credit exposure; derivative transactions;** restrictions; penalties

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B. A state bank shall not loan on a secured basis to any one borrower, directly or indirectly, an amount in excess of one-half the sum of its capital stock and surplus, **provided that all amounts loaned on an unsecured basis up to the limit set forth in Subsection A of this Section shall be added to all amounts loaned on a secured basis pursuant to this Subsection, and the total thereof shall not exceed one half of the state bank's capital stock and surplus.** However, a state bank may loan to one borrower an amount not to exceed the sum of its capital stock and surplus, but only when such loan is secured by a pledge of obligations of the United States of America, or of the state of Louisiana, or any subdivision or municipality thereof, or is a commodity loan secured by readily marketable staples.

C. Loans and other extensions of credit which are fully secured by a pledge of any deposit of the lending bank are not subject to any of the limits prescribed by this Section. **For the purposes of this Subsection, a loan or other extension of credit is "fully secured" only to the extent of the dollar amount of the funds in**

1 the deposit account at any time while the loan or other extension of credit is
 2 outstanding, and provided that the funds in the deposit account that are relied
 3 upon for the exemption provided in this Subsection comply with all of the
 4 following requirements:

5 (1) A security interest has been and remains perfected as to third parties
 6 pursuant to applicable state and federal laws and regulations.

7 (2) The bank maintains adequate internal controls and procedures to
 8 prevent improper release of the pledged deposit account funds.

9 (3) The funds in the pledged deposit account are fully collected and
 10 subject to no superior or intervening right or order of a party other than the
 11 bank.

12 (4) The funds remain on deposit in the deposit account at all times while
 13 the loan or extension of credit is outstanding.

14 D. The acceptance of drafts and, the issuance of letters of credit, and the
 15 entering into any credit exposure arising from a derivative transaction,
 16 repurchase agreement, reverse repurchase agreement, securities lending
 17 transaction, or securities borrowing transaction between the lending bank and
 18 the borrower shall also be subject to this Section. For purposes of this Section,
 19 a "derivative transaction" shall include any transaction that is a contract,
 20 agreement, swap, warrant, note or option that is based, in whole or in part, on
 21 the value of, any interest in, any quantitative measure of, or the occurrence of
 22 any event relating to, one or more commodities, securities, currencies, interest
 23 or other rates, indices, or other assets.

24 * * *

25 ~~F. In accordance with regulations promulgated by the commissioner, a~~ A
 26 state bank may acquire a pool of loans and other extensions of credit or a
 27 participation in such pool of loans or extensions of credit from other entities, with
 28 partial or full recourse to those entities to the extent that the limits prescribed in
 29 Subsections A and B of this Section apply to individual loans contained in the pool,
 30 provided that an executive officer of the bank, designated by the board of directors,

1 affirm by affidavit that a representative portion of the individual loans has been
 2 reviewed by him, or by a qualified third party who has contracted with the bank for
 3 that purpose, to determine that they appear to be credit worthy, and that the bank is
 4 relying primarily on the responsibility of each maker for payment of the loans or
 5 extensions of credit and not on a full or partial recourse endorsement and guarantee
 6 by the transferor.

7 G. ~~In accordance with regulations promulgated by the commissioner,~~ a A
 8 state bank may make a loan or other extension of credit which would otherwise
 9 exceed the limits prescribed in Subsections A and B **of this Section** when the
 10 purpose of the loan is to finance the sale of real estate acquired for debts previously
 11 contracted or for use as bank premises. Such loans may only be made upon prior
 12 written approval of the commissioner.

13 * * *

14 **I. The commissioner of financial institutions shall have the authority to**
 15 **promulgate rules and regulations in accordance with the Administrative**
 16 **Procedure Act regarding the provisions of this Section.**

17 Section 2. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____