

111TH CONGRESS
1ST SESSION

S. 1316

To amend the Federal Deposit Insurance Act to modify requirements relating to the location of bank branches on Indian reservations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2009

Mr. INOUE (for himself, Mr. JOHNSON, Mr. DODD, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Federal Deposit Insurance Act to modify requirements relating to the location of bank branches on Indian reservations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Reservation
5 Bank Branch Act of 2009”.

1 **SEC. 2. REGULATIONS GOVERNING INSURED DEPOSITORY**
 2 **INSTITUTIONS.**

3 Section 18(d) of the Federal Deposit Insurance Act
 4 (12 U.S.C. 1828(d)) is amended by adding at the end the
 5 following:

6 “(5) ELECTION BY INDIAN TRIBES TO PERMIT
 7 BRANCHING OF BANKS ON INDIAN RESERVATIONS.—

8 “(A) DEFINITIONS.—In this paragraph,
 9 the following definitions shall apply:

10 “(i) DE NOVO BRANCH.—The term
 11 ‘de novo branch’ means a branch of a
 12 State bank that—

13 “(I) is originally established by
 14 the State bank as a branch; and

15 “(II) does not become a branch
 16 of the State bank as a result of—

17 “(aa) the acquisition by the
 18 State bank of an insured depository
 19 institution (or a branch of
 20 an insured depository institu-
 21 tion); or

22 “(bb) the conversion, merg-
 23 er, or consolidation of any such
 24 institution or branch.

25 “(ii) HOME STATE.—

1 “(I) IN GENERAL.—The term
2 ‘home State’ means the State in
3 which the main office of a State bank
4 is located.

5 “(II) BRANCHES ON INDIAN RES-
6 ERVATIONS.—The term ‘home State’
7 with respect to a State bank, the main
8 office of which is located within the
9 boundaries of an Indian reservation
10 (in a case in which State law permits
11 the chartering of such a main office
12 on an Indian reservation), means—

13 “(aa) the State in which the
14 Indian reservation is located; or

15 “(bb) for an Indian reserva-
16 tion that is located in more than
17 1 State, the State in which the
18 portion of the Indian reservation
19 containing the main office of the
20 State bank is located.

21 “(iii) HOST RESERVATION.—The term
22 ‘host reservation’, with respect to a bank,
23 means an Indian reservation located in a
24 State other than the home State of the

1 bank in which the bank maintains, or
2 seeks to establish and maintain, a branch.

3 “(iv) INDIAN RESERVATION.—

4 “(I) IN GENERAL.—The term
5 ‘Indian reservation’ means land sub-
6 ject to the jurisdiction of an Indian
7 tribe.

8 “(II) INCLUSIONS.—The term
9 ‘Indian reservation’ includes—

10 “(aa) any public domain In-
11 dian allotment;

12 “(bb) any land area located
13 within the outer geographic
14 boundaries recognized as an In-
15 dian reservation by a Federal
16 treaty, Federal regulation, deci-
17 sion or order of the Bureau of
18 Indian Affairs or any successor
19 agency thereto, or statute in
20 force with respect to a federally
21 recognized tribal nation;

22 “(cc) any former Indian res-
23 ervation in the State of Okla-
24 homa; and

1 “(dd) any land held by a
2 Native village, Native group, Re-
3 gional Corporation, or Village
4 Corporation under the Alaska
5 Native Claims Settlement Act
6 (43 U.S.C. 1601 et seq.).

7 “(v) INDIAN TRIBE.—The term ‘In-
8 dian tribe’ has the same meaning as in sec-
9 tion 4 of the Indian Self-Determination
10 and Education Assistance Act (25 U.S.C.
11 450b).

12 “(vi) TRIBAL GOVERNMENT.—

13 “(I) IN GENERAL.—The term
14 ‘tribal government’ means the busi-
15 ness council, tribal council, or similar
16 legislative or governing body of an In-
17 dian tribe—

18 “(aa) the members of which
19 are representatives elected by the
20 members of the Indian tribe; and

21 “(bb) that is empowered to
22 enact laws applicable within the
23 Indian reservation of the Indian
24 tribe.

1 “(II) MULTITRIBAL RESERVA-
2 TIONS.—The term ‘tribal govern-
3 ment’, with respect to an Indian res-
4 ervation within the boundaries of
5 which are located more than 1 Indian
6 tribe, each of which has a separate
7 council, means a joint business council
8 or similar intertribal governing council
9 that includes representatives of each
10 applicable Indian tribe.

11 “(III) INCLUSION.—The term
12 ‘tribal government’ includes a gov-
13 erning body of any Regional Corpora-
14 tion or Village Corporation (as defined
15 in section 3 of the Alaska Native
16 Claims Settlement Act (43 U.S.C.
17 1602)).

18 “(B) APPROVAL BY CORPORATION.—Sub-
19 ject to subparagraph (C), in addition to any
20 other authority under this section to approve an
21 application to establish a branch within the
22 boundaries of an Indian reservation, the Cor-
23 poration may approve an application of a State
24 bank to establish and operate a de novo branch
25 within the boundaries of 1 or more Indian res-

1 ervations (regardless of whether the Indian res-
2 ervations are located within the home State of
3 the State bank), if there is in effect within the
4 host reservation a law enacted by the tribal gov-
5 ernment of the host reservation that—

6 “(i) applies with equal effect to all
7 banks located within the host reservation;
8 and

9 “(ii) specifically permits any in-State
10 or out-of-State bank to establish within the
11 host reservation a de novo branch.

12 “(C) CONDITIONS.—

13 “(i) ESTABLISHMENT.—An applica-
14 tion by a State bank to establish and oper-
15 ate a de novo branch within a host reserva-
16 tion shall not be subject to the require-
17 ments and conditions applicable to an ap-
18 plication for an interstate merger trans-
19 action under paragraphs (1), (3), and (4)
20 of section 44(b).

21 “(ii) OPERATION.—Subsections (c)
22 and (d)(2) of section 44 shall not apply
23 with respect to a branch of a State bank
24 that is established and operated pursuant

1 to an application approved under this
2 paragraph.

3 “(iii) PROHIBITION.—

4 “(I) IN GENERAL.—Except as
5 provided in subclause (II), no State
6 nonmember bank that establishes or
7 operates a branch on 1 or more In-
8 dian reservations solely pursuant to
9 paragraph (5) may establish any addi-
10 tional branch outside of such Indian
11 reservation in any State in which the
12 Indian reservation is located.

13 “(II) EXCEPTION.—Subclause (I)
14 shall not apply if a State nonmember
15 bank described in that subclause
16 would be permitted to establish and
17 operate an additional branch under
18 any other provision of this section,
19 without regard to the establishment or
20 operation by the State nonmember
21 bank of a branch on the subject In-
22 dian reservation.”.

1 **SEC. 3. BRANCH BANKS.**

2 Section 5155 of the Revised Statutes of the United
3 States (12 U.S.C. 36) is amended by inserting after sub-
4 section (g) the following:

5 “(h) ELECTION BY INDIAN TRIBES TO PERMIT
6 BRANCHING OF NATIONAL BANKS ON INDIAN RESERVA-
7 TIONS.—

8 “(1) DEFINITIONS.—In this subsection, the fol-
9 lowing definitions shall apply:

10 “(A) DE NOVO BRANCH.—The term ‘de
11 novo branch’ means a branch of a national
12 bank that—

13 “(i) is originally established by the na-
14 tional bank as a branch; and

15 “(ii) does not become a branch of the
16 national bank as a result of—

17 “(I) the acquisition by the na-
18 tional bank of an insured depository
19 institution (or a branch of an insured
20 depository institution); or

21 “(II) the conversion, merger, or
22 consolidation of any such institution
23 or branch.

24 “(B) HOME STATE.—

1 “(i) IN GENERAL.—The term ‘home
2 State’ means the State in which the main
3 office of a national bank is located.

4 “(ii) BRANCHES ON INDIAN RESERVA-
5 TIONS.—The term ‘home State’, with re-
6 spect to a national bank, the main office of
7 which is located within the boundaries of
8 an Indian reservation, means—

9 “(I) the State in which the In-
10 dian reservation is located; or

11 “(II) for an Indian reservation
12 that is located in more than 1 State,
13 the State in which the portion of the
14 Indian reservation containing the
15 main office of the national bank is lo-
16 cated.

17 “(C) HOST RESERVATION.—The term
18 ‘host reservation’, with respect to a national
19 bank, means an Indian reservation located in a
20 State other than the home State of the bank in
21 which the bank maintains, or seeks to establish
22 and maintain, a branch.

23 “(D) INDIAN RESERVATION.—

1 “(i) IN GENERAL.—The term ‘Indian
2 reservation’ means land subject to the ju-
3 risdiction of an Indian tribe.

4 “(ii) INCLUSIONS.—The term ‘Indian
5 reservation’ includes—

6 “(I) any public domain Indian al-
7 lotment;

8 “(II) any land area located with-
9 in the outer geographic boundaries
10 recognized as an Indian reservation by
11 a Federal treaty, Federal regulation,
12 decision or order of the Bureau of In-
13 dian Affairs or any successor agency
14 thereto, or statute in force with re-
15 spect to a federally recognized tribal
16 nation;

17 “(III) any former Indian reserva-
18 tion in the State of Oklahoma; and

19 “(IV) any land held by a Native
20 village, Native group, Regional Cor-
21 poration, or Village Corporation under
22 the Alaska Native Claims Settlement
23 Act (43 U.S.C. 1601 et seq.).

24 “(E) INDIAN TRIBE.—The term ‘Indian
25 tribe’ has the same meaning as in section 4 of

1 the Indian Self-Determination and Education
2 Assistance Act (25 U.S.C. 450b).

3 “(F) TRIBAL GOVERNMENT.—

4 “(i) IN GENERAL.—The term ‘tribal
5 government’ means the business council,
6 tribal council, or similar legislative or gov-
7 erning body of an Indian tribe—

8 “(I) the members of which are
9 representatives elected by the mem-
10 bers of the Indian tribe; and

11 “(II) that is empowered to enact
12 laws applicable within the Indian res-
13 ervation of the Indian tribe.

14 “(ii) MULTITRIBAL RESERVATIONS.—
15 The term ‘tribal government’, with respect
16 to an Indian reservation within the bound-
17 aries of which are located more than 1 In-
18 dian tribe, each of which has a separate
19 council, means a joint business council or
20 similar intertribal governing council that
21 includes representatives of each applicable
22 Indian tribe.

23 “(iii) INCLUSION.—The term ‘tribal
24 government’ includes a governing body of
25 any Regional Corporation or Village Cor-

1 poration (as defined in section 3 of the
2 Alaska Native Claims Settlement Act (43
3 U.S.C. 1602)).

4 “(2) APPROVAL BY COMPTROLLER.—Subject to
5 paragraph (3), in addition to any other authority
6 under this section to approve an application to es-
7 tablish a national bank branch within the boundaries
8 of an Indian reservation, the Comptroller may ap-
9 prove an application of a national bank to establish
10 and operate a de novo branch within the boundaries
11 of an Indian reservation (regardless of whether the
12 Indian reservation is located within the home State
13 of the national bank), if there is in effect within the
14 host reservation a law enacted by the tribal govern-
15 ment of the host reservation that—

16 “(A) applies with equal effect to all banks
17 located within the host reservation; and

18 “(B) specifically permits any in-State or
19 out-of-State bank to establish within the host
20 reservation a de novo branch.

21 “(3) CONDITIONS.—

22 “(A) ESTABLISHMENT.—An application by
23 a national bank to establish and operate a de
24 novo branch within a host reservation shall not
25 be subject to the requirements and conditions

1 applicable to an application for an interstate
2 merger transaction under paragraphs (1), (3),
3 and (4) of section 44(b) of the Federal Deposit
4 Insurance Act (12 U.S.C. 1831u(b)).

5 “(B) OPERATION.—Subsections (c) and
6 (d)(2) of section 44 of that Act (12 U.S.C.
7 1831u) shall not apply with respect to a branch
8 of a national bank that is established and oper-
9 ated pursuant to an application approved under
10 this subsection.

11 “(C) PROHIBITION.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), no national bank that
14 establishes or operates a branch on 1 or
15 more Indian reservations solely pursuant
16 to subsection (h) may establish any addi-
17 tional branch outside of such Indian res-
18 ervation in the State in which the Indian
19 reservation is located.

20 “(ii) EXCEPTION.—Clause (i) shall
21 not apply if a national bank described in
22 that clause would be permitted to establish
23 and operate an additional branch under
24 any other provision of this section or other
25 applicable law, without regard to the estab-

1 lishment or operation by the national bank
2 of a branch on the subject Indian reserva-
3 tion.”.

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