

this section the term 'net profits' shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes."

1959—Pub. L. 86-230 designated existing provisions as subsec. (a), authorized the declaration of dividends, quarterly and annually, when at least one-tenth of the bank's net profits of the preceding half year or of the preceding two consecutive half-year periods has been carried to the surplus fund, respectively, and added subsecs. (b) and (c).

1935—Act Aug. 23, 1935, among other changes, inserted proviso.

§ 61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares

In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or, if so provided by the articles of association of the national bank, to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

(R.S. § 5144; June 16, 1933, ch. 89, § 19, 48 Stat. 186; Aug. 23, 1935, ch. 614, title III, § 311, 49 Stat. 710; Sept. 3, 1954, ch. 1263, § 21, 68 Stat. 1234; Pub. L. 86-114, § 4, July 28, 1959, 73 Stat. 264; Pub. L. 89-485, § 13(c), July 1, 1966, 80 Stat. 242; Pub. L. 109-351, title III, § 301, Oct. 13, 2006, 120 Stat. 1969.)

CODIFICATION

R.S. § 5144 derived from act June 3, 1864, ch. 106, § 11, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

2006—Pub. L. 109-351 substituted "or, if so provided by the articles of association of the national bank, to cumulate" for "or to cumulate" and struck out comma after "his shares shall equal".

1966—Pub. L. 89-485 struck out: clause (4) requirement of a voting permit from the Board for voting shares controlled by a holding company affiliate of a national bank except when voting in favor of voluntary liquidation of an association; second par. definition of control of shares by a holding company affiliate; third par. prescribing procedure for obtaining a voting permit: application to Board, grant or denial of permit in the public interest, factors for consideration, and conditions described in subsecs. (a) to (e) for granting a permit; subsec. (a) requirement of agreement of the holding company affiliate to an examination of the affiliate by bank examiners, reports by such examiners, examination of affiliated banks, and publication of individual or consolidated statements of condition of such banks; subsec. (b) provisions for possession of readily marketable assets other than bank stock and reinvestment of a prescribed amount of net earnings in such assets; subsec. (c) provisions for reserve of assets, use of assets for capital replacement, and situations involving more than one holding company affiliate; subsec. (d) provisions for penalties for false entries; subsec. (e) requirements for disclosure in application of a absence of securities company status and for declaration of dividends out of net earnings; penultimate par. prescribing procedure for revocation of voting permit and prohibiting the use of the bank as a depository for public moneys of the United States and payment of dividends to the affiliate; and last par. authorization for forfeiture of rights, privileges, and franchises of national banks.

1959—Subsec. (c). Pub. L. 86-114 authorized the Board to designate one of the chain of holding company affiliates which would have to maintain the 12 percent reserve and exempted the other holding company affiliates from the requirement.

1954—Subsec. (d). Act Sept. 3, 1954, substituted "section 1005 of Title 18" for "section 592 of this title".

1935—Act Aug. 23, 1935, amended first par., first sentence of third par., and inserted "and the provisions of this subsection, instead of subsection (b), shall apply to all holding company affiliates with respect to any shares of bank stock owned or controlled by them as to which there is no statutory liability imposed upon the holders of such bank stock" at end of subsec. (c).

1933—Act June 16, 1933, inserted provisions for cumulative voting of shares or distribution of votes on a cumulative voting principle, prohibited national banks holding their own shares as sole trustee from voting such shares but permitted such shares to be voted when held by another person or persons as trustees with the bank, denied voting rights to shares controlled by a holding company affiliate of a national bank unless a voting permit was first obtained, provided for application for a voting permit to the Federal Reserve Board, specified conditions for granting the voting permit and procedure for its revocation, and authorized the forfeiture of a National Bank's rights, privileges, and franchises upon such revocation.

§ 62. List of shareholders

The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association,