

## § 1861. Short title and definitions

### (a) Short title

This chapter may be cited as the “Bank Service Company Act”.

### (b) Definitions

For the purpose of this chapter—

(1) the term “appropriate Federal banking agency” shall have the meaning provided in section 1813(q) of this title;

(2) the term “bank service company” means—

(A) any corporation—

(i) which is organized to perform services authorized by this chapter; and

(ii) all of the capital stock of which is owned by 1 or more insured depository institutions; and

(B) any limited liability company—

(i) which is organized to perform services authorized by this chapter; and

(ii) all of the members of which are 1 or more insured depository institutions.

(3) the term “Board” means the Board of Governors of the Federal Reserve System;

(4) the term “depository institution” means, except when such term appears in connection with the term “insured depository institution”, an insured bank, a savings association, a financial institution subject to examination by the appropriate Federal banking agency or the National Credit Union Administration Board, or a financial institution the accounts or deposits of which are insured or guaranteed under State law and are eligible to be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board;

(5) **INSURED DEPOSITORY INSTITUTION.**—The terms “depository institution” and “savings association” have the same meanings as in section 1813 of this title;

(6) the term “invest” includes any advance of funds to a bank service company, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment;

(7) the term “limited liability company” means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 1813 of this title) which provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company;

(8) the term “principal investor” means the insured depository institution that has the largest dollar amount invested in the equity of a bank service company. In any case where two or more insured depository institutions have equal dollar amounts invested in a bank service company, the company shall, prior to commencing operations, select one of the insured depository institutions as its principal investor and shall notify the depository institution’s appropriate Federal banking agency of that choice within 5 business days of its selection; and

(9) the terms “State depository institution”, “Federal depository institution”, “State savings association” and “Federal savings association” have the same meanings as in section 1813 of this title.

(Pub. L. 87-856, §1, Oct. 23, 1962, 76 Stat. 1132; Pub. L. 97-320, title VII, §709, Oct. 15, 1982, 96 Stat. 1540; Pub. L. 97-457, §32(a), Jan. 12, 1983, 96 Stat. 2511; Pub. L. 104-208, div. A, title II, §2613(a), (b), Sept. 30, 1996, 110 Stat. 3009-476; Pub. L. 109-351, title VI, §602(b)(1), Oct. 13, 2006, 120 Stat. 1979; Pub. L. 111-203, title III, §357(1), (2), July 21, 2010, 124 Stat. 1547, 1548.)

#### AMENDMENTS

2010—Subsec. (b)(4). Pub. L. 111-203, §357(1), inserted “a savings association,” after “an insured bank,” substituted “appropriate Federal banking agency” for “Director of the Office of Thrift Supervision”, and struck out “, the Federal Savings and Loan Insurance Corporation,” after “Federal Deposit Insurance Corporation”.

Subsec. (b)(5). Pub. L. 111-203, §357(2), substituted “terms ‘depository institution’ and ‘savings association’ have the same meanings as in section 1813” for “term ‘insured depository institution’ has the same meaning as in section 1813(c)”.

2006—Subsec. (b)(2)(A)(ii), (B)(ii). Pub. L. 109-351, §602(b)(1)(F), substituted “insured depository institutions” for “insured banks”.

Subsec. (b)(4). Pub. L. 109-351, §602(b)(1)(A), inserted “, except when such term appears in connection with the term ‘insured depository institution,’” after “means” and substituted “Director of the Office of Thrift Supervision” for “Federal Home Loan Bank Board”.

Subsec. (b)(5). Pub. L. 109-351, §602(b)(1)(B), added par. (5) and struck out former par. (5) which defined “insured bank”.

Subsec. (b)(8). Pub. L. 109-351, §602(b)(1)(G), substituted “means the insured bank”, “insured depository institutions” for “insured banks” in two places, and “the depository institution’s appropriate” for “the bank’s appropriate”.

Subsec. (b)(9). Pub. L. 109-351, §602(b)(1)(C)–(E), added par. (9).

1996—Subsec. (a). Pub. L. 104-208, §2613(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “This chapter may be cited as the ‘Bank Service Corporation Act’.”

Subsec. (b)(2). Pub. L. 104-208, §2613(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the term ‘bank service corporation’ means a corporation organized to perform services authorized by this chapter, all of the capital stock of which is owned by one or more insured banks;”.

Subsec. (b)(6). Pub. L. 104-208, §2613(b)(2), substituted “company” for “corporation” and struck out “and” after semicolon at end.

Subsec. (b)(7). Pub. L. 104-208, §2613(b)(3), added par. (7). Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 104-208, §2613(b)(4), substituted “company” for “corporation” wherever appearing and “equity” for “capital stock”.

Pub. L. 104-208, §2613(b)(3), redesignated par. (7) as (8). 1983—Subsec. (b)(4). Pub. L. 97-457 substituted “a” for “or another” after “insured bank,” and inserted reference to a financial institution insured by State law and eligible to be insured by certain Federal agencies.

1982—Subsec. (a). Pub. L. 97-320 substituted provision that this chapter may be cited as the “Bank Service Corporation Act” for provision that term “Federal supervisory agency” meant the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Board of Directors of the Federal Deposit Insurance Corporation.

Subsec. (b). Pub. L. 97-320 substituted definitions of “appropriate Federal banking agency”, “bank service corporation”, “Board”, “depository institution”, “insured bank”, “invest”, and “principal investor” for provision that term “bank services” meant services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

Subsec. (c). Pub. L. 97-320 redesignated provisions of subsec. (c) defining “bank service corporation” as (b)(2), and revised definition.

Subsec. (d). Pub. L. 97-320 redesignated provisions of subsec. (d) as (b)(6).

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

### § 1862. Amount of investment in bank service company

Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 1464(c)(4)(B) of this title, an insured depository institution may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service company. No insured depository institution shall invest more than 5 per centum of its total assets in bank service companies.

(Pub. L. 87-856, §2, Oct. 23, 1962, 76 Stat. 1132; Pub. L. 97-320, title VII, §709, Oct. 15, 1982, 96 Stat. 1541; Pub. L. 104-208, div. A, title II, §2613(c), Sept. 30, 1996, 110 Stat. 3009-477; Pub. L. 109-351, title VI, §602(a), (b)(2), Oct. 13, 2006, 120 Stat. 1978, 1979.)

#### AMENDMENTS

2006—Pub. L. 109-351 inserted “or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 1464(c)(4)(B) of this title” after “relating to banks” and substituted “insured depository institution” for “insured bank” in two places.

1996—Pub. L. 104-208 substituted “company” for “corporation” in section catchline and “company” and “companies” for “corporation” and “corporations”, respectively, in text.

1982—Pub. L. 97-320 substituted provisions relating to the maximum permissible amount of investment in a bank service corporation by an insured bank for provisions which read as follows:

“(a) No limitation or prohibition otherwise imposed by any provision of Federal law exclusively relating to banks shall prevent any two or more banks from investing not more than 10 per centum of the paid-in and unimpaired capital and unimpaired surplus of each of them in a bank service corporation.

“(b) If stock in a bank service corporation has been held by two banks, and one of such banks ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stockholding bank, the corporation may nevertheless continue to function as such and the other bank may continue to hold stock in it.”

### § 1863. Permissible bank service company activities for depository institutions

Without regard to the provisions of sections 1864 and 1865 of this title, an insured depository

institution may invest in a bank service company that performs, and a bank service company may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.

(Pub. L. 87-856, §3, Oct. 23, 1962, 76 Stat. 1132; Pub. L. 97-320, title VII, §709, Oct. 15, 1982, 96 Stat. 1541; Pub. L. 104-208, div. A, title II, §2613(d), Sept. 30, 1996, 110 Stat. 3009-477; Pub. L. 109-351, title VI, §602(a), Oct. 13, 2006, 120 Stat. 1978.)

#### AMENDMENTS

2006—Pub. L. 109-351 substituted “insured depository institution” for “insured bank”.

1996—Pub. L. 104-208 substituted “company” for “corporation” wherever appearing in section catchline and text.

1982—Pub. L. 97-320 substituted provisions relating to permissible bank service corporation activities for depository institutions for provisions that a bank service corporation must provide bank services to a bank that applied for them if the applying bank competed with a bank which held stock in the corporation unless comparable services were available elsewhere at competitive cost or furnishing the services would be beyond the practical capacity of the corporation.

### § 1864. Permissible bank service company activities for other persons

#### (a) Services permissible other than taking deposits

A bank service company may provide to any person any service authorized by this section, except that a bank service company shall not take deposits.

#### (b) Services to be performed in State where shareholders or members are located

Except as permissible under subsection (c), (d), or (e) or with the prior approval of the Board under section 1865(b) of this title in accordance with subsection (f) of this section—

(1) a bank service company shall not perform the services authorized by this section in any State other than that State in which its shareholders or members are located; and

(2) all insured bank shareholders or members of a bank service company shall be located in the same State.

#### (c) Performance where State bank or savings association is shareholder or member

A bank service company in which a State bank or State savings association is a shareholder or member shall perform only those services that such State bank or State savings association shareholder or member is authorized to perform under the law of the State in which such State bank or State savings association operates and shall perform such services only at locations in the State in which such State bank or State savings association shareholder or member could be authorized to perform such services.