

oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(R.S. §5168; Pub. L. 86-230, §2, Sept. 8, 1959, 73 Stat. 457.)

#### REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in text, was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified this section and to sections 16, 21, 22 to 24a, 25a, 25b, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

#### CODIFICATION

R.S. §5168 derived from act June 3, 1864, ch. 106, §17, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

#### AMENDMENTS

1959—Pub. L. 86-230 substituted "all" for "at least 50 per centum" before "of its capital stock".

#### EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

### § 27. Certificate of authority to commence banking

(a) If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the Comptroller may withhold from an association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by title 62 of the Revised Statutes. A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto.

(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by

other depository institutions or depository institution holding companies and is organized to engage exclusively in providing services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a "banker's bank").

(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.

(R.S. §5169; Pub. L. 95-630, title XV, §1504, Nov. 10, 1978, 92 Stat. 3713; Pub. L. 96-221, title VII, §712(a), (c), Mar. 31, 1980, 94 Stat. 189, 190; Pub. L. 97-320, title IV, §404(a), Oct. 15, 1982, 96 Stat. 1511; Pub. L. 103-325, title III, §322(a)(2), Sept. 23, 1994, 108 Stat. 2227.)

#### REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in subsec. (a), was in the original "this Title" meaning title LXII of the Revised Statutes, consisting of R.S. §§5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

#### CODIFICATION

R.S. §5169 derived from act June 3, 1864, ch. 106, §12, 18, 13 Stat. 102, 104, which was the National Bank Act. See section 38 of this title.

#### AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-325, §322(a)(2)(A), inserted "or depository institution holding companies" after "by other depository institutions".

Pub. L. 103-325, §322(a)(2)(B), which directed substitution of "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')" for "services for other depository institutions and their officers, directors and employees", was executed by making the substitution for "services for other depository institutions and their officers, directors, and employees" to reflect the probable intent of Congress.

1982—Pub. L. 97-320 designated existing provisions as subsec. (a) and added subsec. (b).

1980—Pub. L. 96-221, §712(a), (c), temporarily inserted provisions relating to treatment of national banking associations as additional banks within the contemplation of section 1842 of this title. See Termination Date of 1980 Amendment note below.

1978—Pub. L. 95-630 inserted provision that a National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto.

## TERMINATION DATE OF 1980 AMENDMENT

Pub. L. 96-221, title VII, § 712(c), Mar. 31, 1980, 94 Stat. 190, provided that: "The amendments made by this section [amending this section and section 1842 of this title] are hereby repealed on October 1, 1981."

## EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-630, title XV, § 1505, Nov. 10, 1978, 92 Stat. 3713, provided that: "This title [amending this section and sections 1715z-10 and 2902 of this title and amending provisions set out as a note under section 1666f of Title 15, Commerce and Trade] shall take effect upon enactment [Nov. 10, 1978]."

## EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

**§ 28. Repealed. Pub. L. 103-325, title VI, § 602(e)(1), Sept. 23, 1994, 108 Stat. 2291**

Section, R.S. § 5170, required publication of certificate of authority to commence banking for 60 days after issuance.

## CODIFICATION

R.S. § 5170 derived from act June 3, 1864, ch. 106, § 18, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

**§ 29. Power to hold real property**

A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years except as otherwise provided in this section.

For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.

Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.

(R.S. § 5137; Feb. 25, 1927, ch. 191, § 3, 44 Stat. 1227; Pub. L. 96-221, title VII, § 701(a), Mar. 31, 1980, 94 Stat. 186; Pub. L. 97-25, title III, § 302, July 27, 1981, 95 Stat. 145; Pub. L. 97-320, title IV, § 413, Oct. 15, 1982, 96 Stat. 1521.)

## REFERENCES IN TEXT

Title 62 of the Revised Statutes, referred to in last par., was in the original "this title" meaning title LXII of the Revised Statutes, consisting of R.S. §§ 5133 to 5244, which are classified to this section and sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5133 to 5244 to the Code, see Tables.

## CODIFICATION

R.S. § 5137 derived from act June 3, 1864, ch. 106, § 28, 13 Stat. 107, which was the National Bank Act. See section 38 of this title.

## AMENDMENTS

1982—Pub. L. 97-320 substituted "Notwithstanding the five-year holding limitation of this section or any other provision of title 62 of the Revised Statutes, any national banking association which on October 15, 1982, held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association" for "Notwithstanding any other provision of this section, any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association's books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association".

1981—Pub. L. 97-25 inserted provision that any national banking association which, on July 27, 1981, held title to and possession of real estate which was carried on the association's books at a nominal value on December 31, 1979, may continue to hold such real estate until December 31, 1982, if the earnings from such real estate are separately disclosed in the financial statements of the association.

1980—Pub. L. 96-221 inserted provisions relating to authorization to hold real estate in the possession of a national banking association upon application by the association.