

104TH CONGRESS
2D SESSION

H. R. 2981

To amend the Bank Holding Company Act of 1956 to provide investment opportunities for small bank holding companies.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 1996

Mr. BAKER of Louisiana introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To amend the Bank Holding Company Act of 1956 to provide investment opportunities for small bank holding companies.

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 “Entrepreneurial In-
5 vestment Act of 1996”.

6 **SEC. 2. EQUITY CAPITAL INVESTMENTS BY SMALLER BANK**
7 **HOLDING COMPANIES.**

8 Section 4(c) of the Bank Holding Company Act of
9 1956 (12 U.S.C. 1843(e)) is amended by adding at the
10 end thereof the following new paragraph:

1 “(15) shares of a company (other than an in-
2 sured depository institution or a depository institu-
3 tion holding company) engaged in activities not au-
4 thorized pursuant to section 4 provided the condi-
5 tions and requirements of this paragraph are met.

6 “(A) ACQUISITION AND RETENTION OF
7 SHARES.—No bank holding company may ac-
8 quire and retain ownership or control of shares
9 of a company pursuant to this paragraph un-
10 less—

11 “(i) each insured depository institu-
12 tion controlled by the bank holding com-
13 pany is well-capitalized;

14 “(ii) the total consolidated assets of
15 the bank holding company are less than \$1
16 billion;

17 “(iii) the bank holding company or
18 any subsidiary of the bank holding com-
19 pany has had a significant debt relation-
20 ship with the company for at least 1 year;

21 “(iv) the aggregate amount of all in-
22 vestments held by the bank holding com-
23 pany and all of its subsidiaries under this
24 paragraph, measured quarterly, does not
25 exceed 50 percent of the sum of the excess

1 capital of each insured depository institu-
2 tion controlled by the bank holding com-
3 pany;

4 “(v) the shares do not represent 25
5 percent or more of any class of voting
6 shares of any company;

7 “(vi) the shares are not acquired or
8 held by a depository institution or a sub-
9 sidiary of a depository institution; and

10 “(vii) the bank holding company does
11 not actively manage or operate the com-
12 pany.

13 “(B) RESTRICTIONS ON JOINT MARKET-
14 ING.—No depository institution (and no sub-
15 sidiary of such depository institution) shall—

16 “(i) offer or market, directly or indi-
17 rectly through any arrangement, any prod-
18 uct or service of any company whose
19 shares are owned or controlled by the bank
20 holding company pursuant to this para-
21 graph; or

22 “(ii) permit any of such depository in-
23 stitution’s (or subsidiary’s) products or
24 services to be offered or marketed, directly
25 or indirectly through any arrangement, by

1 or through any company whose shares are
2 owned or controlled by the bank holding
3 company pursuant to this paragraph.

4 “(C) ONE-TIME PRIOR APPROVAL.—Prior
5 to making any investments under this para-
6 graph, the bank holding company must obtain
7 approval from the Board to engage in invest-
8 ment activities under this paragraph.

9 “(D) ACCOUNTING REQUIREMENTS.—

10 “(i) AGGREGATE VALUE OF INVEST-
11 MENTS.—The value of all investments
12 made under this paragraph shall be com-
13 puted quarterly and shall be the lower of
14 the initial cost of the shares or the book
15 value of the shares.

16 “(ii) MARK-TO-MARKET.—For pur-
17 poses of determining compliance with the
18 limitations in this paragraph, the value of
19 any shares held under this paragraph shall
20 be determined—

21 “(I) by treating the shares as
22 having been sold by the bank holding
23 company for the fair market value of
24 such shares as of the date of such de-
25 termination; or

1 “(II) in the case of any shares
2 which are not traded in any market or
3 on any exchange, the value of any
4 such shares shall be the lower of the
5 cost of the shares to the bank holding
6 company at the time of the acquisition
7 of such shares or the book value of
8 the shares.

9 “(E) ACQUISITION OF SHARES IN EXCESS
10 OF LIMITATION THROUGH SATISFACTION OF A
11 PRIOR DEBT.—

12 “(i) NOT SUBJECT TO LIMITATIONS.—
13 The acquisition of voting shares of any
14 company in satisfaction of a debt which
15 was previously contracted in good faith
16 shall not be subject to the limitations con-
17 tained in this paragraph and any shares so
18 acquired shall not be taken into account
19 under this paragraph in connection with
20 any other acquisition of shares by the bank
21 holding company under this paragraph.

22 “(ii) DIVESTITURE REQUIRED.—Not-
23 withstanding any other provision of law,
24 any voting shares of any company which
25 are acquired in satisfaction of a debt which

1 was previously contracted in good faith at
2 a time when such company was a company
3 referred to in this paragraph shall be di-
4 vested before the end of the 3-year period
5 beginning on the date of such acquisition.

6 “(F) AUTHORITY OF THE BOARD.—

7 “(i) IN GENERAL.—No provision of
8 this paragraph shall be construed as limit-
9 ing the authority of the Board to—

10 “(I) supervise and regulate the
11 investments in voting shares of any
12 company; or

13 “(II) require the divestiture of a
14 bank holding company or any of its
15 subsidiaries of shares of any company
16 whenever the Board determines such
17 action to be appropriate in order to
18 preserve the safety and soundness of
19 any insured depository institution.

20 “(ii) BANK WITH FALLING CAPITAL
21 LEVELS.—If, at any time, the aggregate
22 amount of the investments in shares made
23 under this paragraph exceeds the amount
24 described in subparagraph (A)(iv) due to a
25 decrease in the capital levels of any insured

1 depository institution, the Board may take
2 such action, including requiring the sale of
3 any shares held under this paragraph, as
4 may be appropriate in order to preserve
5 the safety and soundness of the insured
6 depository institution.

7 “(G) DEFINITIONS.—

8 “(i) EXCESS CAPITAL.—For purposes
9 of this paragraph, the term ‘excess capital’
10 means the amount by which the total risk-
11 based capital of a depository institution ex-
12 ceeds the level required for the institution
13 to be well-capitalized for purposes of sec-
14 tion 38 of the Federal Deposit Insurance
15 Act;

16 “(ii) BOOK VALUE OF SHARES.—For
17 purposes of this paragraph, the term ‘book
18 value of shares’ means the product of—

19 “(I) the amount equal to the
20 total assets of the company issuing
21 the shares minus the total liabilities of
22 such company; and

23 “(II) the percentage of the total
24 amount of shares of the company

1 which are owned by the bank holding
2 company.

3 “(iii) FOREIGN BANKS.—For purposes
4 of subparagraph (B), the term ‘depository
5 institution’ includes a foreign bank.”.

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