

79TH CONGRESS
1ST SESSION

H. R. 2776

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 1945

Mr. SPENCE introduced the following bill; which was referred to the Committee on Banking and Currency

A BILL

To control and regulate bank holding companies, to control and regulate relationships between insured banks and their affiliates, 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 That section 23A of the Federal Reserve Act, as amended,
4 is amended to read as follows:

5 **“BANK HOLDING COMPANIES**

6 “SEC. 23A. (a) DECLARATION OF POLICY.—It is here-
7 by declared to be the policy of the Congress, in accordance
8 with which policy all the provisions of this Act shall be inter-
9 preted, to prevent the creation of bank holding companies
10 hereafter; to prohibit existing bank holding companies from

1 expanding; to separate their business of managing and con-
2 trolling banks from unrelated businesses; to prevent avoid-
3 ance of existing banking laws by means of the corporate
4 device; and otherwise to provide for the regulation of bank
5 holding companies to the end that their influence and control
6 shall be directed toward the pursuit of sound policies and the
7 maintenance of sound financial conditions by their sub-
8 sidiary banks.

9 “Before the expiration of five years following the pas-
10 sage of this Act the Board of Governors of the Federal
11 Reserve System shall report to Congress the results of the
12 administration of this Act, stating what, if any, substantial
13 difficulties have been encountered in carrying out the pur-
14 poses of this Act, and any recommendations as to changes
15 in the law which in the opinion of the Board would be
16 desirable.

17 “(b) DEFINITIONS.—When used in this section—

18 “(1) ‘Bank holding company’ means (A) any
19 company of which two or more banks are subsidiaries;
20 or (B) any group of persons that, after notice and
21 opportunity for hearing, the Board has determined ex-
22 ercises such a controlling influence over the management
23 or policies of two or more banks by means of joint
24 or concerted action or pursuant to a mutual understand-
25 ing or arrangement as, in the public interest, to require

1 such person or group of persons to be subject to the
2 obligations, duties, and liabilities imposed in this section
3 upon bank holding companies.

4 “(2) ‘Bank’ means any national bank, or any
5 State bank, banking association, savings bank, or trust
6 company. The terms ‘member bank’, ‘national bank’,
7 ‘Board’, ‘district’, and ‘Reserve bank’ have the same
8 meanings as are assigned to them, respectively, in sec-
9 tion 1 of this Act. The terms ‘insured bank’, ‘State
10 member bank’, and ‘district bank’ have the same mean-
11 ings as are assigned to them, respectively, in section
12 12B of this Act, as amended.

13 “(3) ‘Person’ means any individual or company.

14 “(4) ‘Company’ means any corporation, partner-
15 ship, joint-stock company, business trust, voting trust,
16 association, bank, or bank holding company, whether
17 incorporated or not; excluding, however, any such com-
18 pany which is wholly owned by the United States.

19 “(5) ‘Subsidiary’ means, with respect to a specified
20 company—

21 “(A) any company 10 per centum or more
22 of whose outstanding voting shares (excluding shares
23 owned by the United States or by any company
24 wholly owned by the United States) is owned by
25 the specified company; or

1 “(B) any company the management or
2 policies of which the Board determines, after notice
3 and opportunity for hearing, are subject to a con-
4 trolling influence by the specified company.

5 “(6) ‘Voting share’ means any share of stock,
6 capital note, or debenture, or evidence of proprietary
7 interest, the ownership of which presently carries with
8 it the right to vote in the direction or management of the
9 affairs of a company. Shares not directly owned shall
10 be deemed to be owned within the meaning of this para-
11 graph if, after notice and opportunity for hearing, the
12 Board determines that they are indirectly owned, con-
13 trolled, or held with power to vote.

14 “(7) ‘Affiliate’ means, with respect to a specified
15 bank, any company—

16 “(A) which is a subsidiary of the specified
17 bank;

18 “(B) of which the specified bank is a sub-
19 sidiary but which is not a bank holding company;

20 “(C) 50 per centum or more of whose vot-
21 ing shares is owned by persons who own 50 per
22 centum or more of the voting shares of the bank
23 (exclusive in both instances of shares owned by
24 the United States or by any company wholly owned
25 by the United States) ; or

1 “(D) which is a subsidiary of a company which
2 is an affiliate of the specified bank by virtue of clauses
3 (B) or (C) of this paragraph.

4 “(8) ‘Effective date’ means the date of the enact-
5 ment of the Act containing this amendment, except
6 that with respect to a bank holding company becoming
7 such as a result of a determination of the Board under
8 clause (B) of paragraph (5) of this subsection, ‘effec-
9 tive date’ means the date of notice of such determination
10 by the Board.

11 “(c) **ENGAGING IN NONBANKING BUSINESS.**—Except
12 as otherwise expressly provided in this subsection, it shall be
13 unlawful for any bank holding company, after one year
14 after the effective date, to engage in any business other than
15 that of managing or controlling subsidiary banks of which
16 it is a bank holding company. The prohibition in this sub-
17 section shall not apply to the exercise of any rights in con-
18 nection with voting shares of nonbanking companies lawfully
19 acquired or retained by a bank holding company as permitted
20 by subsection (f) of this section or to the management or
21 control of any subsidiary companies so acquired or retained.

22 “(d) **ACQUISITION OF BANK SHARES BY COMPANIES.**—
23 Except under circumstances which would make such an
24 acquisition lawful by a national bank or by a bank holding
25 company, it shall be unlawful, after the date of the enact-

1 ment of the Act containing this amendment, for any con-
2 pany to become the owner of voting shares of any bank if
3 after such acquisition of such voting shares such company
4 would own as much as 10 per centum of the outstanding
5 voting shares of each of two banks (excluding shares owned
6 by the United States or any company wholly owned by the
7 United States).

8 “(e) ACQUISITION AND RETENTION OF BANK SHARES
9 BY BANK HOLDING COMPANIES.—Except as otherwise ex-
10 pressly provided in this subsection, it shall be unlawful for
11 any bank holding company, after the effective date, to be-
12 come the owner of voting shares of any bank. Likewise,
13 it shall be unlawful for any bank holding company after the
14 effective date, directly or indirectly to vote or, after two years
15 after the effective date, to own any voting shares of any
16 bank of which it became the owner subsequent to December
17 31, 1942, and on or before the effective date. The Board
18 may, in individual cases, when in its judgment it would not
19 be detrimental to the public interest, from time to time
20 extend for not more than one year at a time the period
21 during which a company may continue to own such voting
22 shares so acquired before the effective date. The prohibition
23 in this subsection shall not apply to the acquisition or reten-
24 tion of any additional voting shares of any bank where the
25 bank holding company involved owned 50 per centum or

1 more of the outstanding voting shares (excluding shares
2 owned by the United States or by any company wholly
3 owned by the United States and any voting shares acquired
4 directly or indirectly by the bank holding company subse-
5 quent to December 31, 1942) on the date of the enactment
6 of the Act containing this amendment: *Provided*, That, when
7 such shares are acquired, the bank holding company offers to
8 acquire on the same terms and acquires, to the extent such
9 offer is accepted, the voting shares of all minority share-
10 holders of the bank.

11 **“(f) ACQUISITION AND RETENTION OF VOTING SHARES**
12 **OF NONBANKING COMPANIES.**—It shall be unlawful for any
13 bank holding company, after the effective date, to become
14 the owner of any voting shares of any company other than
15 a bank or, after two years after the effective date, to con-
16 tinue to own voting shares of any such company acquired
17 on or before the effective date, unless in any such case (1)
18 the consent of the Board shall have been first obtained
19 and the Board shall have determined that the business of
20 such company is so closely related to the bank holding com-
21 pany's business of holding the stock of or managing or con-
22 trolling banks as to be a proper incident thereto; or (2)
23 such shares are acquired from a subsidiary bank of such
24 bank holding company at the request of any Federal or
25 State authority having statutory power to examine and

1 supervise such bank; or (3) such shares are acquired in
2 the collection of a lawful debt previously contracted to the
3 bank holding company or any of its subsidiaries, but such
4 bank holding company shall not continue to own such shares
5 after two years after such acquisition except as authorized
6 by the Board pursuant to this subsection; or (4) the Board
7 has extended the period during which a bank holding com-
8 pany may continue to own stock acquired in a manner not
9 prohibited by this subsection and the Board is authorized
10 to grant such extension from time to time for not more than
11 one year at a time if in its judgment such an extension would
12 not be detrimental to the public interest. Any nonbanking
13 company which becomes or continues to be a subsidiary
14 of a bank holding company as the result of the acquisition
15 or retention of its voting shares in a manner permitted by
16 the provisions of this subsection shall be subject to the pro-
17 visions of this section to the same extent as if it were a bank
18 holding company.

19 “(g) CONSOLIDATIONS WITH SUBSIDIARY BANKS.—
20 Except as otherwise expressly provided in this section, it
21 shall be unlawful, after the effective date, for any bank
22 which is a subsidiary of a bank holding company to consoli-
23 date or merge with another bank or to enter into any con-
24 tract or arrangement with another bank or its shareholders

1 to acquire in excess of 10 per centum of the assets of such
2 other bank. The prohibition in this subsection shall not
3 apply to acquisitions of assets in the open market for cash
4 and which are not acquired as a part of a plan, agreement,
5 or understanding to bring about the liquidation, consolida-
6 tion, or merger of the bank from which such assets are being
7 acquired.

8 “(h) PERMISSIVE ACQUISITIONS AND CONSOLIDA-
9 TIONS.—Notwithstanding any other provision of this section,
10 no acquisition or retention of voting shares of any bank by a
11 bank holding company shall be deemed to be a violation of
12 this section if such acquisition or retention occurs after prior
13 approval of and subject to such terms and conditions as may
14 be imposed by the Board; and no consolidation or merger of
15 any bank which is a subsidiary of a bank holding company
16 with another bank and no acquisition of assets of another
17 bank by such subsidiary bank shall be deemed to be a viola-
18 tion of this section if such acquisition occurs after prior ap-
19 proval of and subject to such terms and conditions as may
20 be imposed by (1) the Comptroller of the Currency if the
21 subsidiary bank is a national bank or a district bank; or
22 (2) the Board if the subsidiary bank is a State member
23 bank; or (3) the Federal Deposit Insurance Corporation in
24 the case of any other subsidiary bank.

1 "(i) INSURANCE OF DEPOSITS OF SUBSIDIARY
2 BANKS.—After one year after the effective date, it shall be
3 unlawful for any bank holding company to have any sub-
4 sidiary bank which is not an insured bank: *Provided*, That
5 the Board, with respect to a noninsured bank which was a
6 subsidiary bank on the effective date, may from time to
7 time and for good cause shown by such bank holding
8 company, extend for not more than one year at a time
9 the period within which such bank shall become an insured
10 bank.

11 "(j) BORROWING BY BANK HOLDING COMPANY.—Ex-
12 cept as otherwise expressly provided in this subsection, it
13 shall be unlawful for any bank holding company directly
14 or indirectly (1) to receive any loan or extension of credit
15 from any bank which is a subsidiary of such bank holding
16 company, or (2) to sell any securities or other property to
17 any such subsidiary bank; but it shall not be unlawful under
18 this subsection, subject to such conditions as may be im-
19 posed by rules, regulations, or orders of the Board to renew,
20 or extend the term of, any such loan or credit outstanding
21 on the effective date. The Board may, by rules, regulations,
22 or orders, permit such loans, extensions of credit, or sales
23 to the extent that it may find the same necessary and
24 appropriate in order (1) to facilitate adjustments in the
25 business and assets of bank holding companies to meet the

1 requirements of this section; (2) to meet the proper financial
2 requirements of any nonbanking subsidiary the retention of whose shares by the bank holding company has
3 been authorized by the Board pursuant to subsection (f)
4 of this section; or (3) to meet emergencies as may be
5 determined by the Board.

7 “(k) DIVIDENDS.—It shall be unlawful for any bank holding company, except with the approval of the Board, to pay any dividend, or to make any distribution in the nature of a dividend payment, wholly or partly from any source other than (1) such company’s accumulated undistributed net income, or (2) such company’s net income for the current or preceding fiscal year, not including, in either case, profits realized upon the sale of securities or other properties.

16 “(l) SERVICE FEES OR BENEFITS.—If the Board shall have reason to believe, or if any Federal or State authority having statutory power to examine and supervise any subsidiary bank shall advise the Board that it has reason to believe, that exorbitant or unreasonable service, management, or similar charges or fees or benefits are being assessed against or obtained from any subsidiary bank by the bank holding company of which such bank is a subsidiary, the Board may, after notice and opportunity for hearing, order that all or any part of such charges or fees or benefits which

1 it finds to be exorbitant or unreasonable shall be discontinued;
2 and it shall be unlawful for such bank holding company
3 thereafter to assess or obtain any such charges or fees
4 or benefits in contravention of the Board's order.

5 "(m) RESERVE FUND.—After the effective date, every
6 bank holding company shall use all its net earnings over and
7 above 6 per centum per annum of the book value of its own
8 shares to accumulate a fund consisting of cash and of readily
9 marketable assets of the kinds eligible for investment by
10 national banks under the provisions of section 5136 of the
11 United States Revised Statutes in an amount equal to at
12 least 12 per centum of the aggregate par value of all bank
13 shares owned by it. Assets comprising such fund shall be
14 identified in an appropriate manner and shall be kept free
15 and clear of any lien, pledge, or hypothecation of any kind
16 or nature. Such assets may be used by the bank holding
17 company to replace capital of its subsidiary banks and to
18 eliminate losses and depreciation from the assets of such
19 banks, but, except as permitted by the Board, shall not be
20 used by the company for any other purpose and any deficiency
21 in such assets resulting from such use shall be replaced
22 at the same rate as above provided.

23 "(n) REGISTRATION, REPORTS, AND EXAMINATIONS.—
24 (1) Within ninety days after the effective date, every bank
25 holding company shall register with the Board on forms

1 prescribed by the Board, which shall include, with such other
2 information as the Board may require, statements showing
3 (A) its financial condition at the end of its fiscal year last
4 preceding the date of registration including therein the
5 amount of its accumulated net income at such time; (B)
6 name and address of each of the bank holding company's
7 subsidiary banks and address of each branch of each such
8 bank; (C) name and address of each other bank of which
9 the bank holding company owns shares; (D) number of
10 shares of each class of stock of each bank owned by the
11 bank holding company; (E) information concerning the
12 manner in which such shares are owned; (F) name, address,
13 and nature of business of each of the bank holding company's
14 subsidiaries, other than banks, and the manner in which the
15 relationship arises; and (G) such information as the Board
16 may require concerning all changes in the foregoing which
17 have occurred since December 31, 1942, including dates
18 thereof. The Board may, in its discretion, extend the time
19 within which a bank holding company shall register and file
20 the requisite statement.

21 "(2) Each bank holding company shall furnish to the
22 Board from time to time such reports as may be required by
23 the Board and in such form and detail as the Board may
24 prescribe. Such reports shall contain such information con-
25 cerning the bank holding company and its subsidiaries as

1 the Board shall deem necessary to disclose fully the relations
2 among such companies, the effect of such relations upon the
3 affairs of the subsidiary banks, and whether the provisions of
4 this section have been complied with.

5 “(3) Each bank holding company and each subsidiary
6 thereof shall be subject to such examinations by examiners
7 selected or approved by the Board as shall be necessary to
8 disclose fully the relations between such bank holding com-
9 pany and its subsidiaries, the effect of such relations upon the
10 affairs of the subsidiary banks, and whether the provisions
11 of this section or of the Board’s orders, rules, or regulations
12 have been complied with; and the examiner making such an
13 examination shall have power to administer oaths and to
14 examine any of the officers, directors, employees, and agents
15 of such bank holding company or subsidiary under oath. The
16 expenses of any such examination may, in the discretion of
17 the Board, be assessed against the bank holding company and,
18 when so assessed, shall be paid such bank holding company.

19 “(o) REGULATIONS.—The Board shall have the au-
20 thority to make and issue such rules, regulations, and orders,
21 not inconsistent with the provisions of this section, as may be
22 necessary to enable it to administer and carry out the pur-
23 poses of this section and prevent evasions thereof and it
24 shall likewise have authority to amend, modify, or rescind
25 any such rules, regulations, or orders so made or issued. All

1 powers and functions of the Board prescribed by this section,
2 other than the issuance, amendment, modification, or rescis-
3 sion of rules, regulations, and orders and the determination
4 of matters of general policy, may be performed through such
5 members of the Board or such officers and employees thereof
6 or such Federal Reserve banks or officers or employees
7 thereof as the Board may deem advisable in order to fa-
8 cilitate the administration of this section.

9 “(p) HEARINGS, INVESTIGATIONS, AND COURT RE-
10 VIEW OF ORDERS.—(1) In addition to the hearings author-
11 ized in this section, the Board shall also have authority to
12 make such investigations as may be necessary to determine
13 whether any proceeding under this section should be insti-
14 tuted against a particular person or persons, or with respect
15 to a particular transaction or transactions; and the Board
16 shall keep appropriate records of all hearings and investi-
17 gations.

18 “(2) For the purpose of any hearing or investigation
19 under this section, any member of the Board, or any officer
20 thereof designated by it, is empowered to administer oaths
21 and affirmations, subp^ena witnesses, compel their attendance,
22 take evidence, and require the production of any books,
23 records, or other papers which are relevant or material to
24 the inquiry. Such attendance of witnesses and the produc-
25 tion of any such papers may be required from any place

1 in any State or in any Territory or other place subject to
2 the jurisdiction of the United States at any designated place
3 where such a hearing is being held or investigation is being
4 made.

5 “(3) In case of refusal to obey a subpoena issued to, or
6 contumacy by, any person, the Board may invoke the aid
7 of any court of the United States within the jurisdiction of
8 which such hearing or investigation is carried on, or where
9 such person resides or carries on business, in requiring the
10 attendance and testimony of witnesses and the production of
11 books, records, or other papers. And such court may issue an
12 order requiring such person to appear before the Board or
13 member or officer designated by the Board, there to produce
14 records, if so ordered, or to give testimony touching the matter
15 under investigation or in question; and any failure to obey
16 such order of the court may be punished by such court as a
17 contempt thereof. All process in any such case may be served
18 in the judicial district whereof such person is an inhabitant
19 or wherever he may be found. No person shall be excused
20 from attending and testifying or from producing books,
21 records, or other papers in obedience to a subpoena issued
22 under the authority of this section on the ground that the
23 testimony or evidence, documentary or otherwise, required
24 of him may tend to incriminate him or subject him to a
25 penalty or forfeiture; but no individual shall be prosecuted.

1 or subject to any penalty or forfeiture for or on account of
2 any transaction, matter, or thing concerning which he is
3 compelled to testify or produce evidence, documentary or
4 otherwise, after having claimed his privilege against self-
5 incrimination, except that such individual so testifying shall
6 not be exempt from prosecution and punishment for perjury
7 committed in so testifying. Any person who without just
8 cause shall fail or refuse to attend and testify or to answer
9 any lawful inquiry or to produce books, records, or other
10 papers in obedience to the subpoena of the Board, if in his or
11 its power so to do, shall be guilty of a misdemeanor and
12 upon conviction shall be subject to a fine of not more than
13 \$1,000 or to imprisonment for a term of not more than one
14 year, or both.

15 “(4) Any person or party aggrieved by an order issued
16 by the Board under this section may obtain a review of
17 such order in the circuit court of appeals of the United
18 States within any circuit wherein such person resides or
19 has his principal place of business, or in the United States
20 Court of Appeals for the District of Columbia, by filing in
21 such court, within sixty days after the entry of such order,
22 a written petition praying that the order of the Board be
23 modified or set aside in whole or in part. A copy of such
24 petition shall be forthwith served upon any member of the

1 Board or upon the Board's secretary at its offices in the
2 city of Washington, and thereupon the Board shall certify
3 and file in the court a transcript of the record upon which
4 the order complained of was entered. Upon the filing of
5 such transcript such court shall have exclusive jurisdiction
6 to affirm, modify, or set aside such order in whole or in
7 part. No objection to the order of the Board shall be con-
8 sidered by the court unless such objection shall have been
9 urged before the Board or unless there were reasonable
10 grounds for failure so to do. The finding of the Board as
11 to the facts, if supported by substantial evidence, shall be
12 conclusive. If application is made to the court for leave
13 to adduce additional evidence, and it is shown to the satis-
14 faction of the court that such additional evidence is material
15 and that there were reasonable grounds for failure to adduce
16 such evidence in the proceeding before the Board, the court
17 may order such additional evidence to be taken before the
18 Board and to be adduced upon the hearing in such manner
19 and upon such terms and conditions as to the court may
20 seem proper. The Board may modify its findings as to
21 the facts by reason of the additional evidence so taken, and
22 it shall file with the court such modified or new findings,
23 which, if supported by substantial evidence, shall be con-
24 clusive, and its recommendation, if any, for the modification
25 or setting aside of the original order. The judgment and

1 decree of the court affirming, modifying, or setting aside, in
2 whole or in part, any such order of the Board shall be final,
3 subject to review by the Supreme Court of the United
4 States upon certiorari or certification as provided in sec-
5 tions 239 and 240 of the Judicial Code, as amended. The
6 commencement of proceedings to review an order of the
7 Board issued under this section shall not operate as a stay
8 of the Board's order unless the court otherwise orders.

9 “(q) PENALTIES.—(1) If, after notice and opportunity
10 for hearing, the Board finds that a bank holding company
11 has willfully violated any of the provisions of this section, or
12 of any rules, regulations, or orders of the Board issued pur-
13 suant thereto, or has knowingly permitted or assented to or
14 participated in any such violation by any subsidiary, the
15 Board may issue an order, effective for such period as may
16 be fixed by the order and containing any one or more of the
17 following prohibitions: (A) That such bank holding com-
18 pany shall not pay any salary or other remuneration to any
19 officer or director of the company found by the Board to
20 have willfully participated in such violation or violations and
21 who was made a party to such hearing by the Board; (B)
22 that no subsidiary bank of such bank holding company shall
23 pay dividends on shares owned by such bank holding com-
24 pany or pay or become liable to pay to such bank holding
25 company or any of its subsidiaries any service, management,

1 or similar charges or fees, or render any specified benefit;
2 and (C) that such bank holding company shall not directly
3 or indirectly vote the shares owned by it or otherwise partici-
4 pate in the management or control of any subsidiary bank.

5 “(2) Any person who willfully violates any provision of
6 this section or any rule, regulation, or order issued by the
7 Board pursuant thereto shall upon conviction be fined not
8 more than \$10,000 or imprisoned not more than two years,
9 or both. Every officer, director, agent, and employee of a
10 bank holding company shall be subject to the same penalties
11 for false entries in any book, report, or statement of such bank
12 holding company as are applicable to officers, directors,
13 agents, and employees of member banks for false entries in
14 any books, reports, or statements of member banks under
15 section 5209 of the Revised Statutes, as amended.”

16 SEC. 2. The Federal Reserve Act, as amended, is hereby
17 further amended by inserting after section 23A thereof a
18 new section to read as follows:

19 “AFFILIATES OF INSURED BANKS

20 “SEC. 23B. (a) DEFINITIONS.—When used in this sec-
21 tion, the terms which are defined in subsection (b) of sec-
22 tion 23A of this Act, as amended, shall have the same mean-
23 ing as are therein assigned to them respectively: *Provided*,
24 *however*, That, for purposes of determining whether a speci-
25 fied company is an affiliate of an insured bank when such

1 insured bank is not a subsidiary of a bank holding company,
2 the Comptroller of the Currency in the case of a national
3 bank and the Federal Deposit Insurance Corporation in the
4 case of an insured bank which is not a member bank shall
5 have the powers set out in paragraphs (5) and (6) of sub-
6 section (b) of section 23A of this Act to be exercised in the
7 same manner and subject to the same conditions as provided
8 for the Board in such section.

9 **“(b) LOANS TO BANK HOLDING COMPANIES AND SUB-**
10 **SIDIARIES.—** (1) It shall be unlawful, after the effective date,
11 for any bank which is a subsidiary of a bank holding com-
12 pany directly or indirectly to make any loan or extension of
13 credit to, or to purchase any securities from, such bank hold-
14 ing company or any nonbanking subsidiary thereof if the
15 transaction would result in violation by such bank holding
16 company of subsection (j) of section 23A of this Act.

17 **“(2)** It shall be unlawful, after the effective date, for
18 any bank which is a subsidiary of a bank holding company
19 directly or indirectly to accept the capital stock, bonds, de-
20 bentures, or other such obligations of such bank holding com-
21 pany or any nonbanking subsidiary thereof as collateral secu-
22 rity for any loan or extension of credit made by such sub-
23 sidiary bank.

24 **“(3)** It shall be unlawful, after the effective date, for
25 any bank which a subsidiary of a bank holding company

1 directly or indirectly to accept the capital stock, debentures,
2 or other such obligations of any other subsidiary bank of the
3 same bank holding company as collateral security for any
4 loan or extension of credit. Any loan or extension of credit
5 to or purchase of securities under a repurchase agreement
6 from one subsidiary bank by another subsidiary bank of the
7 same bank holding company shall be deemed to be a loan
8 or extension of credit to or a purchase of securities from an
9 affiliate subject to subsection (c) of this section.

10 “(c) LOANS TO AFFILIATES.—(1) It shall be unlaw-
11 ful, after the effective date, for any insured bank (A) to
12 make any loan or extension of credit to, or purchase secu-
13 rities under a repurchase agreement from any of its affiliates,
14 or (B) to invest any of its funds in the capital stock, bonds,
15 debentures, or other such obligations of any such affiliate or
16 any company which would become an affiliate by reason of
17 such an investment (such a company being deemed to be
18 an affiliate for the purposes of this subsection), or (C) to
19 accept the capital stock, bonds, debentures, or other such
20 obligations of any such affiliate as collateral security for
21 advances made to any person, partnership, association, or
22 corporation, if, in the case of any such affiliate, the aggregate
23 amount of such loans, extensions of credit, repurchase agree-
24 ments, investments, and advances against such collateral secu-
25 rity will exceed 10 per centum of the capital stock and surplus

1 of such insured bank, or if, in the case of all such affiliates,
2 the aggregate amount of such loans, extensions of credit, re-
3 purchase agreements, investments, and advances against such
4 collateral security will exceed 20 per centum of the capital
5 stock and surplus of such insured bank.

6 “(2) Within the foregoing limitations, each such loan
7 or extension of credit of any kind or character shall be secured
8 by collateral in the form of stocks, bonds, debentures, or other
9 such obligations having a market value at the time of making
10 the loan or extension of credit of at least 20 per centum more
11 than the amount of the loan or extension of credit, or of at
12 least 10 per centum more than the amount of the loan or
13 extension of credit if it is secured by obligations of any State,
14 or of any political subdivision or agency thereof: *Provided*,
15 That the provisions of this paragraph shall not apply to loans
16 or extensions of credit secured by obligations of the United
17 States or obligations fully guaranteed by the United States
18 as to principal and interest, or by obligations of the Federal
19 intermediate credit banks, the Federal land banks, the
20 Federal home-loan banks, or the Home Owners' Loan Cor-
21 poration, or by such notes, drafts, bills of exchange, or
22 bankers' acceptances as are eligible for rediscount or for pur-
23 chase by Federal Reserve banks.

24 “(3) The provisions of this subsection shall not be ap-
25 plicable to any affiliate (A) engaged on the effective date

1 solely in holding the bank premises of the insured bank with
2 which it is affiliated or in maintaining and operating prop-
3 erties acquired for banking purposes prior to such date; (B)
4 engaged solely in conducting a safe-deposit business or the
5 business of an agricultural credit corporation or livestock
6 loan company; (C) in the capital stock of which a national
7 banking association is authorized to invest pursuant to section
8 25 of this Act, as amended, or a subsidiary of such affiliate,
9 all the stock of which (except qualifying shares of directors
10 in an amount not to exceed 10 per centum) is owned by
11 such affiliate; (D) organized under section 25 (a) of this
12 Act, as amended, or a subsidiary of such affiliate, all the
13 stock of which (except qualifying shares of directors in an
14 amount not to exceed 10 per centum) is owned by such
15 affiliate; (E) engaged solely in holding obligations of the
16 United States or obligations fully guaranteed by the United
17 States as to principal and interest, or obligations of the
18 Federal intermediate credit banks, the Federal land banks,
19 the Federal home-loan banks, or the Home Owners' Loan
20 Corporation; (F) where the affiliate relationship has arisen
21 out of a bona fide debt contracted prior to the date of the
22 creation of such relationship; or (G) where the affiliate
23 relationship exists by reason of the ownership or control
24 of any voting shares thereof by an insured bank as executor,
25 administrator, trustee, receiver, agent, depositary, or in any

1 other fiduciary capacity, except where such shares are held
2 for the benefit of stockholders owning 50 per centum or
3 more of the voting shares of such insured bank; but as to
4 any such affiliate, insured banks shall continue to be subject
5 to other provisions of law applicable to loans by such banks
6 and investments by such banks in stocks, bonds, debentures,
7 or other such obligations. The provisions of this subsection
8 shall likewise not apply to indebtedness of any affiliate for
9 unpaid balances due a bank on assets purchased from such
10 bank or to loans secured by, or extensions of credit against,
11 obligations of the United States or obligations fully guaran-
12 teed by the United States as to principal and interest.

13 “(d) REPORTS.—Each insured bank shall obtain such
14 reports from its affiliates (other than insured banks) as
15 (1) in the case of a State member bank, may be required
16 by the Board or the Federal Reserve bank of its district; or
17 (2) in the case of a national bank or a district bank, may
18 be required by the Comptroller of the Currency; or (3) in
19 the case of any other insured bank, may be required by the
20 Federal Deposit Insurance Corporation. Each such report
21 shall be filed with the authority requiring it within such
22 time as such authority may prescribe. Such reports may be
23 required and shall be in such form as in the judgment of the
24 appropriate authority shall be necessary to disclose fully the
25 relations between the banks and their affiliates, the effect of

1 such relations upon the affairs of the banks, and whether the
2 provisions of this subsection have been complied with. The
3 authority requiring any such report may require that it be
4 published by the bank under such conditions as such author-
5 ity may direct.

6 “(e) EXAMINATIONS.—Examiners authorized to ex-
7 amine national banks are authorized to examine affiliates of
8 national banks; examiners authorized to examine State mem-
9 ber banks are authorized to examine affiliates of State mem-
10 ber banks; and examiners authorized to examine nonmember
11 insured banks which are subsidiary banks are authorized to ex-
12 amine affiliates of such subsidiary banks. In connection with
13 the examination of any insured bank, examiners selected or
14 approved by the Board or by the Federal Reserve bank of its
15 district, the Comptroller of the Currency, or the Federal De-
16 posit Insurance Corporation, as the case may be, shall be
17 authorized to make such examination of all affiliates of such
18 bank as shall be necessary, in the judgment of the appropri-
19 ate authority above-mentioned, to disclose fully the relations
20 between the affiliates and the bank, the effect of such rela-
21 tions upon the affairs of the bank, and whether the provisions
22 of this section have been complied with; and the examiner
23 making such examination shall have power to administer
24 oaths and to examine any of the officers, directors, employees,
25 and agents of any such affiliate under oath. The expenses of

1 any such examination, in the discretion of the appropriate
2 authority above-mentioned, may be treated as expenses of
3 examination of the bank.

4 “(f) SECURITY AFFILIATES.—It shall be unlawful for
5 any member bank to have after June 16, 1934, and for any
6 other insured bank to have, after one year after the effective
7 date, any affiliate which is engaged principally in the issue,
8 flotation, underwriting, public sale, or distribution at whole-
9 or retail or through syndicate participation of stocks, bonds,
10 debentures, notes, or other securities: *Provided*, That nothing
11 in this subsection shall apply to any such organization which
12 shall have been placed in formal liquidation and which shall
13 transact no business except such as may be incidental to the
14 liquidation of its affairs. A violation of this subsection shall
15 be deemed to be a separate offense for each day such violation
16 continues.

17 “(g) PENALTIES.—If any violation of this section shall
18 continue for six calendar months after the bank shall have
19 been warned by the board or by the Federal Reserve bank
20 of its district, in the case of a member bank, or by the board
21 of directors of the Federal Deposit Insurance Corporation,
22 in the case of any other insured bank, to discontinue the
23 same, (1) in the case of a national bank, all the rights, privi-
24 leges, and franchises granted to it under the National Bank
25 Act may be forfeited in the manner prescribed in section 2

1 of this Act, as amended, or (2) in the case of a State mem-
2 ber bank, all of its rights and privileges of membership in
3 the Federal Reserve System may be forfeited in the manner
4 prescribed in section 9 of this Act, as amended, or (3) in
5 the case of any other insured bank, the insurance of its
6 deposits may be terminated in the manner prescribed in
7 subsection (i) of section 12B of this Act, as amended.

8 “(2) Any person who willfully violates any provision
9 of this section shall upon conviction be fined not more than
10 \$1,000.”

11 SEC. 3. TECHNICAL AMENDMENTS.—(a) The para-
12 graph of section 4 of the Federal Reserve Act, as amended,
13 which commences with the words “The Board of Governors
14 of the Federal Reserve System shall classify” is amended
15 by striking out all of the language therein which follows
16 the colon and by inserting in lieu thereof the following:
17 *“Provided,* That whenever any member bank or member
18 banks within the same Federal Reserve district are sub-
19 sidiaries of the same bank holding company within the
20 meaning of section 23A of this Act, participation in any
21 such nomination or election by such member banks, in-
22 cluding such bank holding company if it is also a member
23 bank, shall be confined to one of such banks, which may
24 be designated for the purpose by such bank holding
25 company.”

1 (b) The sixteenth, seventeenth, eighteenth, twenty-
2 first, and twenty-second paragraphs of section 9 of the
3 Federal Reserve Act, as amended, are repealed.

4 (c) (1) The second sentence of the first paragraph of
5 section 5240 of the Revised Statutes, as amended, is amended
6 by changing the colon following the words "Comptroller
7 of the Currency" to a period and by striking out the re-
8 mainder of the sentence.

9 (2) The last two sentences of the first paragraph of
10 section 5240 of the Revised Statutes, as amended, are
11 amended by striking out the words "or affiliate" in each
12 sentence.

13 (3) The second paragraph of section 5240 of the Re-
14 vised Statutes, as amended, is amended by striking out the
15 first three sentences, including the proviso at the end of
16 the third sentence, and by striking out the last two sentences.

17 (4) The fourth sentence of the second paragraph of sec-
18 tion 5240 of the Revised Statutes, as amended, is amended
19 by striking out the words "and affiliates thereof herein pro-
20 vided for" and "or affiliates thereof".

21 (5) The fifth sentence of the second paragraph of sec-
22 tion 5240 of the Revised Statutes, as amended, is amended
23 by striking out the words "and/or affiliates".

24 (d) The last paragraph of section 21 of the Federal
25 Reserve Act, as amended, is repealed.

1 (e) Subsections (b) and (c) of section 2 of the Banking
2 Act of 1933, as amended, are repealed.

3 (f) Section 20 of the Banking Act of 1933, as amended,
4 is repealed.

5 (g) (1) The first sentence of section 5144 of the Revised
6 Statutes, as amended, is amended by inserting the word
7 "and" immediately before "(3)". and by changing to a
8 period the comma preceding the words "and (4)" and by
9 striking out that which follows in such sentence.

10 (2) The second paragraph and all succeeding paragraphs of section 5144 of the Revised Statutes, as amended, are repealed.

11 (h) The second paragraph of section 5211 of the Revised Statutes, as amended, is repealed.

12 (i) (1) Subsection (d) of section 26 of the Revenue Act of 1936, as amended, is amended to read as follows:

13 "(d) BANK HOLDING COMPANIES.—In the case of a bank holding company (as defined in section 23A of the Federal Reserve Act), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such company during the taxable year to the acquisition of cash or readily marketable assets of the kinds eligible for investment by national banks under the provisions of section 5136 of the United States Revised Statutes, in compliance with subsec-

1 tion (m) of section 23A of the Federal Reserve Act. The
2 aggregate of the credits allowable under this subsection for
3 all taxable years shall not exceed the amount required to be
4 devoted under such subsection (m) to such purposes."

5 (2) Subdivision (1) (C) of subsection (a) of section
6 14 of the Revenue Act of 1936, as amended, is amended to
7 read as follows:

8 " (C) In the case of a bank holding company (as de-
9 fined in section 23A of the Federal Reserve Act), the amount
10 allowed as a credit under section 26 (d)."

11 (3) Subdivision (1) (D) of subsection (c) of section
12 102 of the Revenue Act of 1936, as amended, is amended
13 to read as follows:

14 " (D) In the case of a bank holding company (as de-
15 fined in section 23A of the Federal Reserve Act), the amount
16 allowed as a credit under section 26 (d)."

17 (j) (1) Paragraph 4 of subsection (c) of section 3 of
18 the Investment Company Act of 1940 is amended to read
19 as follows:

20 " (4) Any bank holding company which is registered
21 with the Board of Governors of the Federal Reserve System
22 pursuant to section 23A of the Federal Reserve Act, as
23 amended."

24 (2) Paragraph (11) of subsection (a) of section 202
25 of the Investment Advisers Act of 1940 is amended by

1 changing the words "or any holding company affiliate, as
2 defined in the Banking Act of 1933" to read "or any bank
3 holding company, as defined in section 23A of the Federal
4 Reserve Act."

5 SEC. 4. SEPARABILITY OF PROVISIONS.—If any provi-
6 sion of this Act, or the application of such provision to any
7 person or circumstance, shall be held invalid, the remainder
8 of the Act, and the application of such provision to persons
9 or circumstances other than those to which it is held invalid,
10 shall not be affected thereby.

79TH CONGRESS
1ST SESSION

H. R. 2776

A BILL

To control and regulate bank holding companies, to control and regulate relationships between insured banks and their affiliates, and for other purposes.

By Mr. SPENCE

MARCH 26, 1945

Referred to the Committee on Banking and Currency