

ANALYSIS OF S. 310

(Senator Glass; January 14, 1941)

"To regulate the control of insured banks by holding companies, and for other purposes."

Prohibition of bank holding companies. - This bill makes it unlawful after June 30, 1944 (1) for any company to own, control, hold, or acquire more than 10 per cent of the voting securities of an insured bank, or (2) for more than 10 per cent of the voting securities of an insured bank to be held by a trustee for the benefit of the shareholders, members, or participants of any one company, or (3) for any company to control in any manner, through any device, the management or policies of an insured bank or the election of a majority of the directors of an insured bank.

Exemptions. - The prohibitions of the bill do not apply to any company which is determined by the Board of Directors of the Federal Deposit Insurance Company (1) not to control the management or policies of any insured bank, or (2) to control only incidentally the management or policies of one or more insured banks, the company being primarily engaged in a business not closely related to banking, where such control will not in the opinion of the Board adversely affect the banking business or the public. In addition, the bill would not prohibit any company from acquiring voting securities of an insured bank in satisfaction of previously contracted debts, except that no voting securities so acquired in excess of the prohibited amounts shall be held for a longer period than 6 months.

Dividend Restrictions. - The bill makes it unlawful after the date of its approval for any insured bank, over the objection of the Comptroller of the Currency if the bank is a national bank, or a District of Columbia bank, or over the objection of the Board of Directors of the Federal Deposit Insurance Corporation, if the bank is not a national bank, or a District of Columbia bank, to declare or pay any dividends when, in the opinion of the Comptroller or the Board, as the case may be, the declaration or payment of such dividends would not be compatible with the best interests of the bank, its depositors or other creditors, or with the public interest.

Definitions. - Within the meaning of the Act, the term "company" is defined as meaning any bank, corporation, partnership, association, joint stock company, business trust, or organized group of persons, whether incorporated or not, or any receiver, trustee, or other liquidating agent of any of the foregoing; but the term does not include the United States, a State, any political subdivision of a State, or any agency of the United States, of a State, or of any political subdivision of a State. The bill

also defines very broadly the terms "voting security", "own", "control", "hold", and "acquire".

Sanctions. - Any company violating the provisions of the Act or any regulation thereunder is made subject, for each violation, to a fine of not more than \$100,000; and any individual violating provisions of the Act or of any regulation thereunder is made subject, for each violation, to a fine of not more than \$10,000, or to imprisonment for not more than 5 years, or both. In addition, the Board of Directors of the Federal Deposit Insurance Corporation is given authority to order the removal, after notice and hearing, of any officer or director of an insured bank who is responsible for any violation of the Act or who fails to disclose any violation to the proper authorities. The Board is further authorized to bring action in the District Courts of the United States to enjoin violations of the provisions of the Act or of any regulation thereunder; and the District Courts and the United States courts of any territory or other place subject to the jurisdiction of the United States are given original jurisdiction of such actions.

Administration. - The administration of the Act is vested in the Board of Directors of the Federal Deposit Insurance Corporation. That Board is authorized to issue regulations, to define terms, to make investigations, to subpoena witnesses, to administer oaths, to require the production of books, papers, etc., and to invoke the aid of the District Courts in the enforcement of these powers.

The above is intended merely as a summary of the provisions of S. 310. It is understood that, pursuant to the request of the Board, Messrs. Wingfield and Cagle will prepare an analysis of the effect of the bill.

HHH: cmm



1 or any receiver, trustee, or other liquidating agent of any of  
2 the foregoing in his capacity as such, but shall not be deemed  
3 to include the United States, a State, any political subdivision  
4 of a State, or any agency of the United States, of a State, or  
5 of any political subdivision of a State.

6 (2) The term "insured bank" means any bank the de-  
7 posits of which are insured under the provisions of section  
8 12B of the Federal Reserve Act, as amended.

9 (3) The term "voting security" includes any security  
10 entitling the owner or holder thereof to vote in the direction  
11 or management of the affairs of a bank, either directly or  
12 through any other person or company, and any security  
13 issued under or pursuant to any trust, agreement, or arrange-  
14 ment whereby a trustee or trustees or agent or agents for the  
15 owner or holder of such security are entitled to vote in the  
16 direction or management of the affairs of a bank.

17 (4) The terms "own", "control", "hold", and "ac-  
18 quire", as applied to voting securities are intended and shall  
19 be deemed to include the receipt, possession or enjoyment,  
20 directly or through any other company, entity, device, or  
21 status whatsoever, of any legal, equitable, or beneficial right,  
22 title, or interest in any voting security.

23 (5) The term "Board" means Board of Directors of  
24 the Federal Deposit Insurance Corporation.



1 or more insured banks, the company being primarily engaged  
2 in business not closely related to banking, when such control  
3 will not, in the opinion of the Board, adversely affect the  
4 banking business or the public or be inconsistent with the  
5 general purpose of this statute. In addition, section 3 of  
6 this Act shall not be construed as prohibiting any company  
7 from acquiring in good faith any voting securities of an  
8 insured bank in satisfaction of debts previously contracted in  
9 the course of its business, but no voting securities so acquired  
10 in excess of the amounts prescribed in section 3 of this Act  
11 shall be owned, controlled, or held by such company for a  
12 longer period than six months.

13

#### DIVIDEND RESTRICTIONS

14 SEC. 5. After the date of the approval of this Act, it  
15 shall be unlawful for any insured bank, over the objection  
16 of the Comptroller of the Currency if such bank is a national  
17 banking association, or a bank or trust company doing busi-  
18 ness in the District of Columbia, or over the objection of the  
19 Board if such bank is not a national banking association, or  
20 a bank or trust company doing business in the District of  
21 Columbia, to declare or to pay any dividend or any of its  
22 capital stock when, in the opinion of the Comptroller of the  
23 Currency or the Board, as the case may be, the declaration  
24 or payment of any such dividend would not be compatible  
25 with the best interests of such bank, its depositors or other  
26 creditors, or with the public interest.

## SANCTIONS

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2       SEC. 6. (1) Any company which knowingly violates  
3 any provision of this Act or of any rule or regulation there-  
4 under, upon conviction thereof, shall be subject, for each  
5 violation, to a fine of not exceeding \$100,000, and any indi-  
6 vidual who knowingly violates any provision of this Act or of  
7 any rule or regulation thereunder, upon conviction thereof,  
8 shall be subject, for each violation, to a fine of not exceeding  
9 \$10,000, or to imprisonment for not exceeding five years, or  
10 to both, in the discretion of the court.

11       (2) Whenever, in the opinion of the Board, any officer  
12 or director of an insured bank is responsible for any violation  
13 of any of the provisions of this Act, or of any of the rules  
14 or regulations thereunder or, having knowledge of a violation,  
15 fails to disclose such violation to the proper authorities, the  
16 Board may cause notice to be served upon such director or  
17 officer to appear before the Board to show cause why he  
18 should not be removed from office. A copy of such order  
19 shall be sent to each director of the bank affected by regis-  
20 tered mail. If after granting the accused director or officer  
21 a reasonable opportunity to be heard the Board finds that  
22 he is responsible for or, having knowledge thereof, has failed  
23 to disclose to the proper authorities any such violation, the  
24 Board in its discretion may order that such director or officer  
25 be removed from office. A copy of such order shall be

1 served upon such director or officer. A copy of such order  
2 shall also be served upon the bank of which he is a director  
3 or officer, whereupon such director or officer shall cease to  
4 be a director or officer of such bank. Any such director  
5 or officer removed from office as herein provided, who there-  
6 after participates in any manner in the management of such  
7 bank, shall be deemed to have violated this Act and shall be  
8 subject to the penalties prescribed in subsection (1) of this  
9 section.

10 (3) Whenever it shall appear to the Board that any  
11 person is engaged in or about to engage in any acts or prac-  
12 tices which constitute or will constitute a violation of any of  
13 the provisions of this Act, or of any rule or regulation there-  
14 under, the Board may in its discretion bring an action, in any  
15 court granted jurisdiction in such cases by this Act, to enjoin  
16 such acts or practices and to enforce compliance with the pro-  
17 visions of this Act or of any rule or regulation thereunder,  
18 and upon a proper showing a permanent or temporary in-  
19 junction or decree or restraining or mandatory order shall  
20 be granted without bond.

#### 21 JURISDICTION

22 SEC. 7. The District Courts of the United States, and the  
23 United States Courts of any Territory or other place subject  
24 to the jurisdiction of the United States, shall have original  
25 jurisdiction over any proceedings instituted under any of the



1 provisions of this Act or of any rule or regulation thereunder,  
2 and, concurrently with State and Territorial courts, of all  
3 suits in equity and actions at law brought to enforce any  
4 liability or duty created by, or to enjoin any violation of,  
5 any provisions of this Act, or of any rule or regulation there-  
6 under. No costs shall be assessed for or against the Board  
7 in any proceeding under this Act brought by or against the  
8 Board in any court.

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#### ADMINISTRATION

10 SEC. 8. (1) The administration of this Act is hereby  
11 vested in the Board which shall have authority to make,  
12 issue, amend, and rescind such rules and regulations (in-  
13 cluding definitions of banking, technical, and trade terms  
14 used in this Act) as may be necessary or appropriate to carry  
15 out the provisions of this Act.

16 (2) The Board, in its discretion, may investigate any  
17 facts, conditions, practices, or matters which it may deem  
18 necessary or appropriate for the purpose of determining  
19 whether any company or individual has violated or is about  
20 to violate any provision of this Act or of any rule or regula-  
21 tion thereunder, or for the purpose of aiding in the enforce-  
22 ment of the provisions of this Act, or aiding in the prescribing  
23 of rules and regulations thereunder, or in the obtaining of  
24 information to serve as a basis for recommending further legis-  
25 lation concerning the matters to which this Act relates. For

1 the purpose of any investigation or any other proceeding  
2 under this Act, any member of the Board, or any officer  
3 thereof designated by it, is empowered to administer oaths  
4 and affirmations, subpoena witnesses, compel their attendance,  
5 take evidence, and require the production of any books,  
6 papers, correspondence, memoranda, contracts, agreements,  
7 or other records which the Board, or any such member, or  
8 any such officer, deems relevant or material to the inquiry.  
9 Such attendance of witnesses and the production of any such  
10 records may be required from any place in any State or in  
11 any Territory or other place subject to the jurisdiction of  
12 the United States at any designated place of hearing. In  
13 case of contumacy by or refusal to obey a subpoena issued to,  
14 any person, the Board may invoke the aid of any district  
15 court of the United States or of any United States court of  
16 any Territory or other place subject to the jurisdiction of  
17 the United States, in requiring the attendance and testimony  
18 of witnesses and the production of books, papers, correspond-  
19 ence, memoranda, contracts, agreements, or other records.  
20 Any such court may issue an order requiring such person  
21 to appear before the Board, any member of the Board, or  
22 any officer thereof designated by the Board, there to produce  
23 records, if so ordered, or to give testimony touching the  
24 matter under investigation or in question; and any failure to

1 obey such order of the court may be punished by such court  
2 as a contempt thereof.

3 **SEPARABILITY OF PROVISIONS**

4 **SEC. 9.** If any provision of this Act, or the application  
5 of such provision to any person or circumstances, shall be  
6 held invalid, the remainder of this Act and the application of  
7 such provision to persons or circumstances other than those  
8 as to which it is held invalid, shall not be affected thereby.

77TH CONGRESS  
1ST SESSION

**S. 310**

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**A BILL**

To regulate the control of insured banks by  
holding companies, and for other purposes.

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By Mr. GLASS

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JANUARY 14, 1941

Read twice and referred to the Committee on  
Banking and Currency