

TITLE 26
BANKS AND BANKING

CHAPTER 4
BANK SERVICE CORPORATIONS

26-401. DEFINITIONS. As used in this section:

"Invest" includes any advance of funds to a bank service corporation, 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;

"Applying bank" means a bank applying to a bank service corporation for bank services; and

"Stockholding bank" means a bank which owns stock of a bank service corporation.

[26-401, added 1979, ch. 41, sec. 2, p. 80.]

26-402. INVESTMENT IN SERVICE CORPORATION. No limitation or prohibition otherwise imposed by any provision of the laws of the state of Idaho exclusively relating to banks shall prevent or prohibit any two (2) or more banks from investing not more than ten percent (10%) of the paid-in and unimpaired capital and unimpaired surplus of each of them in a bank service corporation.

[26-402, added 1979, ch. 41, sec. 2, p. 80.]

26-403. BANKS JOINTLY HOLDING STOCK -- EFFECT OF WITHDRAWAL BY ONE BANK. If stock in a bank service corporation has been held by two (2) banks, and one (1) 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.

[26-403, added 1979, ch. 41, sec. 2, p. 80.]

26-404. DUTY OF BANK SERVICE CORPORATION NOT TO DISCRIMINATE -- BURDEN OF PROOF. Whenever a bank, referred to in this section as an "applying bank," subject to examination by either the department of finance of the state of Idaho, or a federal bank supervisory agency, applies for a type of bank service for itself from a bank service corporation which supplies the same type of bank services to another bank, and the applying bank is competitive with any bank, referred to in this section as a "stockholding bank," which holds stock in such corporation, the corporation must offer to supply such services by either:

(a) issuing stock to the applying bank and furnishing bank services to it on the same basis as to the other banks holding stock in the corporation, or

(b) furnishing bank services to the applying bank at rates no higher than necessary to fairly reflect the cost of such services, including the reasonable cost of the capital provided to the corporation by its stockholders, at the corporation's option, unless comparable services at competitive overall cost are available to the applying bank from another source, or unless the furnishing of the services sought by the ap-

plying bank would be beyond the practical capacity of the corporation. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service corporation to show such availability.

[26-404, added 1979, ch. 41, sec. 2, p. 80.]

26-405. PROHIBITED ACTIVITIES. No bank service corporation may engage in any revenue producing activity other than the performance of bank services for banks and, to an extent not exceeding one-half (1/2) of its total activity, the performance of similar services for persons or organizations other than banks.

[26-405, added 1979, ch. 41, sec. 2, p. 81.]