

STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. 86- 114 p 329

November 20, 1986

SUBJECT: Banks and Banking; Corporations; Incorporation.

SYLLABUS: A company organized under the laws of the State of Delaware may become a South Carolina bank holding company and may acquire a South Carolina bank.

TO: Robert C. Cleveland  
Commissioner of Banking

FROM: Richard B. Kale, Jr.  
Senior Assistant Attorney General

QUESTION: Whether a Delaware chartered bank holding company may become a South Carolina bank holding company and acquire a South Carolina bank?

OPINION:

Yes. Section 34-24-20 (11), South Carolina Code of Laws (1976), as amended, defines "South Carolina bank holding company" as a company that:

- (A) Has its principal place of business in the State of South Carolina;
- (B) Has deposits of its Southern Region bank subsidiaries and South Carolina bank subsidiaries that exceed eighty percent of the total deposits of all bank subsidiaries of the bank holding company other than those bank subsidiaries held under subsection (a) of § 34-24-60; and
- (C) Is not controlled by a bank holding company other than a South Carolina bank holding company.

There is no statutory requirement that a South Carolina bank holding company be organized under the laws of South Carolina.<sup>1</sup> Therefore, a Delaware company, which has its principal place of business in South Carolina, meets the eighty percent deposit requirement, and is not controlled by a non-South Carolina bank holding company, may become a "South Carolina bank

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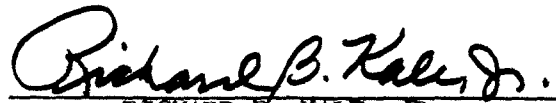
1. Compare, Section 34-24-20 (10), South Carolina Code of Laws (1976), which defines "South Carolina bank" as a bank organized under the laws of South Carolina. The failure to include a similar provision for bank holding companies clearly indicates that the Legislature did not intend to impose this requirement on bank holding companies.

Mr. Robert C. Cleveland

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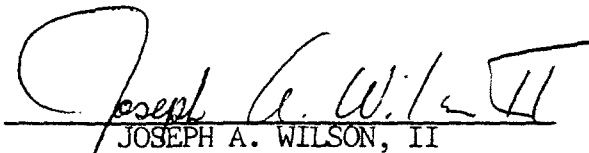
holding company" and under Section 34-24-30 (2), South Carolina Code of Laws (1976) may acquire a South Carolina bank.



RICHARD B. KALE, JR.

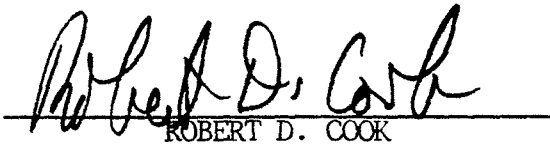
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



JOSEPH A. WILSON, II

Chief Deputy Attorney General



ROBERT D. COOK

Executive Assistant for Opinions