

1983 WL 182077 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 16, 1983

*1 Mr. Robert C. Cleveland
Commissioner of Banking
State Board of Financial Institutions
1026 Sumter Street
Room 217
Columbia, South Carolina 29201

Dear Mr. Cleveland:

You have requested an opinion from this office as to whether a Delaware bank holding company with its principal place of business in South Carolina can own one hundred (100%) percent of the voting shares of a South Carolina bank. Section 34-23-30(B) of the South Carolina Code of Laws (1976) prohibits a 'foreign holding company' from acquiring ownership or control of more than twenty-five (25%) percent of the voting shares of a South Carolina bank. A 'foreign holding company' is defined as a corporation, partnership, business trust, voting trust, unincorporated association, joint stock association or similar organization that is created by or organized under:

1. the laws of the United States and not having its principal place of business in South Carolina; or
2. the laws of any foreign state, kingdom or government; or
3. the laws of any state of the United States other than South Carolina.

Since a Delaware bank holding company falls within category three (3) of the above definition, it would be considered a 'foreign holding company' within the meaning of § 34-23-30(B) and, therefore, would be subject to the restrictions of that section. The fact that the Delaware bank holding company may have its principal place of business in South Carolina does not remove it from this category.

Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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