

105TH CONGRESS  
2D SESSION

# H. R. 4348

To amend section 5137 of the Revised Statutes of the United States to allow national banks to continue to hold passive investments in certain subsurface rights acquired in the course of the banking business and carried on the books of the bank for a nominal amount.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1998

Mr. SESSIONS introduced the following bill; which was referred to the  
Committee on Banking and Financial Services

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## A BILL

To amend section 5137 of the Revised Statutes of the United States to allow national banks to continue to hold passive investments in certain subsurface rights acquired in the course of the banking business and carried on the books of the bank for a nominal amount.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Bank Investment in  
5       Subsurface Rights Act”.

1 **SEC. 2. AMENDMENT TO SECTION 5137 OF THE REVISED**  
2 **STATUTES OF THE UNITED STATES.**

3 (a) IN GENERAL.—Section 5137 of the Revised Stat-  
4 utes of the United States (12 U.S.C. 29) is amended by  
5 adding at the end the following new subsection:

6 “(d) PASSIVE INVESTMENTS IN SUBSURFACE  
7 RIGHTS AND INTERESTS IN RIGHTS.—

8 “(1) IN GENERAL.—Notwithstanding sub-  
9 sections (a), (b), and (c), a national bank may hold  
10 subsurface rights of real estate, and interests in  
11 such rights, if—

12 “(A) the national bank acquires the prop-  
13 erty pursuant to the paragraphs designated the  
14 ‘First’, ‘Second’, and ‘Third’ of subsection (a);

15 “(B) the national bank—

16 “(i) holds the rights or interest pas-  
17 sively; and

18 “(ii) is not engaged in production, ex-  
19 traction, exploration, or other active use of  
20 the rights or interests;

21 “(C) the national bank does not make any  
22 new investments relating to the rights or inter-  
23 ests without the approval of the Comptroller of  
24 the Currency;

25 “(D) the national bank—

1 “(i) values the subsurface rights and  
2 interests in such rights on the books of the  
3 bank for no more than a nominal amount;  
4 and

5 “(ii) separately discloses the aggregate  
6 amount of earnings from the rights  
7 and interests in the annual financial state-  
8 ments of the bank; and

9 “(E) the Comptroller of the Currency de-  
10 termines that the possession of such rights and  
11 interests is not inconsistent with the safety and  
12 soundness of the national bank.

13 “(2) AUTHORITY OF COMPTROLLER OF THE  
14 CURRENCY TO REQUIRE DIVESTITURE.—The Comp-  
15 troller of the Currency may order, at any time, a na-  
16 tional bank which holds subsurface rights of real es-  
17 tate, and interests in such rights, pursuant to para-  
18 graph (1) to divest such rights and interests if the  
19 Comptroller determines that continued ownership of  
20 such rights or interests is detrimental to the na-  
21 tional bank.”.

22 (b) TECHNICAL AMENDMENTS TO REDESIGNATE UN-  
23 DESIGNATED PARAGRAPHS AS SUBSECTIONS.—Section  
24 5137 of the Revised Statutes of the United States (12  
25 U.S.C. 29) is amended—

1 (1) in the 1st undesignated paragraph by strik-  
2 ing “5137. A national banking association may pur-  
3 chase” and inserting the following:

4 **“SEC. 5137. POWER TO HOLD REAL ESTATE.**

5 “(a) IN GENERAL.—A national banking association  
6 may purchase”;

7 (2) in the 3d undesignated paragraph, by strik-  
8 ing “For real estate in the possession of a national  
9 banking association upon application” and inserting  
10 the following:

11 “(b) DIVESTMENT PERIOD APPLICABLE FOR INELI-  
12 GIBLE REAL ESTATE HELD BEFORE BECOMING A NA-  
13 TIONAL BANK.—For real estate in the possession of a na-  
14 tional banking association upon application”; and

15 (3) in the 4th undesignated paragraph, by  
16 striking “Notwithstanding the five-year holding limi-  
17 tation of this section” and inserting the following:

18 “(c) EXTENSION OF HOLDING PERIOD UNDER CER-  
19 TAIN CIRCUMSTANCES.—Notwithstanding the 5-year hold-  
20 ing period limitation of this section”.

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