

17:9-41

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(Banking)

NJSA: 17:9-41

LAWS OF: 1996 CHAPTER: 17

BILL NO: S307

SPONSOR(S): Inverso and Kenny

DATE INTRODUCED: Pre-filed

COMMITTEE: ASSEMBLY: ---
SENATE: State Management

AMENDED DURING PASSAGE: Yes Amendments during passage
First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: ASSEMBLY: February 29, 1996
SENATE: February 26, 1996

DATE OF APPROVAL: April 17, 1996

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes
COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes
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FOLLOWING WERE PRINTED:
REPORTS: No
HEARINGS: Yes

974.90 New Jersey. Legislature. Senate. State Management, Investment
B218 and Financial Institutions Committee.
1884 Public hearing on the impact of the "Rieggle-Neal Interstate
Banking and Branching Efficiency Act of 1994," held 10-24-94, 2-
16-95, Trenton, 1995.

See:

"New Jersey opts into interstate branching," 144 NJLJ (6-10-96)

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[First Reprint]
SENATE, No. 307

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators INVERSO and KENNY

1 AN ACT concerning banking and revising parts of the statutory law.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. Section 1 of P.L.1970, c.236 (C.17:9-41) is amended to read as
7 follows:

8 1. In this act, unless the context otherwise requires:

9 "Association" means any State or federally chartered savings and
10 loan association;

11 "Capital funds" means (a) in the case of a State bank or national
12 bank or capital stock savings bank, the aggregate of the capital stock,
13 surplus and undivided profits of the bank or savings bank; (b) in the
14 case of a mutual savings bank, the aggregate of the capital deposits,
15 if any, and the surplus of the savings bank; and (c) in the case of an
16 association, the aggregate of all reserves required by any law or
17 regulation, and the undivided profits, if any, of the association;

18 "Commissioner" means the Commissioner of Banking;

19 "Defaulting depository" means a public depository as to which an
20 event of default has occurred;

21 "Eligible collateral" means:

22 (a) Obligations of any of the following:

23 (1) The United States;

24 (2) Any agency or instrumentality of the United States, including,
25 but not limited to, the Student Loan Marketing Administration, the
26 Government National Mortgage Association, the Federal Home Loan
27 Mortgage Corporation, the Federal National Mortgage Association,
28 the Federal Housing Administration and the Small Business
29 Administration;

30 (3) The State of New Jersey or any of its political subdivisions;

31 (4) Any other governmental unit; or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSM committee amendments adopted February 5, 1996.

1 (b) Obligations guaranteed or insured by any of the following, to
2 the extent of that insurance or guaranty:

3 (1) The United States;

4 (2) Any agency or instrumentality of the United States, including,
5 but not limited to, the Student Loan Marketing Administration, the
6 Government National Mortgage Association, the Federal Home Loan
7 Mortgage Corporation, the Federal National Mortgage Association,
8 the Federal Housing Administration and the Small Business
9 Administration;

10 (3) The State of New Jersey or any of its political subdivisions; or

11 (c) Obligations now or hereafter authorized by law as security for
12 public deposits;

13 (d) Obligations in which the State, political subdivisions of the
14 State, their officers, boards, commissions, departments and agencies
15 may invest pursuant to an express authorization under any law
16 authorizing the issuance of those obligations; or

17 (e) Any other obligations as may be approved by the commissioner
18 by regulation or by specific approval;

19 "Event of default" means issuance of an order of a supervisory
20 authority or of a receiver restraining a public depository from making
21 payments of deposit liabilities;

22 "Governmental unit" means any county, municipality, school district
23 or any public body corporate and politic created or established under
24 any law of this State by or on behalf of any one or more counties or
25 municipalities, or any board, commission, department or agency of any
26 of the foregoing having custody of funds;

27 "Maximum liability" of a public depository means, with respect to
28 any event of default, a sum equal to 5% of the average daily balance
29 of collected public funds held on deposit by the depository during the
30 six-month period ending on the last day of the month next preceding
31 the occurrence of such event of default;

32 "Net deposit liability" means the deposit liability of a defaulting
33 depository to a governmental unit after deduction of any deposit
34 insurance with respect thereto;

35 "Obligations" means any bonds, notes, capital notes, bond
36 anticipation notes, tax anticipation notes, temporary notes, loan bonds,
37 mortgage related securities, or mortgages;

38 "Public depository" means a State or federally chartered bank, [a
39 national bank, a] savings bank or an association located in this State
40 or a state or federally chartered bank, savings bank or an association
41 located in another state with a branch office in this State, the deposits
42 of which are insured by the Federal Deposit Insurance Corporation [or
43 the Federal Savings and Loan Insurance Corporation, as the case may
44 be,] and which receives or holds public funds on deposit;

45 "Public funds" means the funds of any governmental unit, but does
46 not include deposits held by the State of New Jersey Cash

1 Management Fund;

2 "Valuation date" means December 31 and June 30.

3 (cf: P.L.1986, c.161, s.1)

4

5 2. Section 1 of P.L.1948, c.67 (C.17:9A-1) is amended to read as
6 follows:

7 1. As used in this act, and except as otherwise expressly provided
8 in this act:

9 (1) "Bank" shall include the following:

10 (a) Every corporation heretofore organized pursuant to the act
11 entitled "An act concerning banks and banking (Revision of 1899),"
12 approved March 24, 1899;

13 (b) Every corporation heretofore organized pursuant to the act
14 entitled "An act concerning trust companies (Revision of 1899),"
15 approved March 24, 1899;

16 (c) Every corporation heretofore organized pursuant to chapter 4
17 of Title 17 of the Revised Statutes;

18 (d) Every corporation, other than a savings bank, heretofore
19 authorized by any general or special law of this State to transact
20 business as a bank or as a trust company, or as both;

21 (e) Every corporation hereafter organized pursuant to article 2 of
22 this act;

23 (2) "Banking institution" shall mean a bank, an out-of-State bank
24 having a branch office in this State, an out-of-country bank having a
25 branch office in this State, savings bank, and a national banking
26 association having its principal or a branch office in this State;

27 (3) "Board of managers" of a savings bank shall include the board
28 of trustees of a savings bank;

29 (4) "Capital stock" shall include both common stock and preferred
30 stock;

31 (5) "Certificate of incorporation," unless the context requires
32 otherwise, shall mean:

33 (a) The certificate of incorporation, together with all amendments
34 thereto, of every bank and savings bank organized pursuant to any
35 general law of this State;

36 (b) The charter, together with all amendments thereto, of every
37 bank and savings bank organized pursuant to any special law of this
38 State;

39 (6) "Commissioner" shall mean the Commissioner of Banking of
40 New Jersey;

41 (7) "Department" shall mean the Department of Banking of New
42 Jersey;

43 (8) "Fiduciary" shall include trustee, executor, administrator,
44 receiver, guardian, assignee, and every other person occupying any
45 other lawful office or employment of trust;

46 (9) "Manager" of a savings bank shall include a trustee of a savings

1 bank;

2 (10) "Municipality" shall mean a city, town, township, village, and
3 borough of this State;

4 (11) "Population" shall mean the population as determined by the
5 latest federal census or as determined by the commissioner from other
6 information which he may deem reliable;

7 (12) "Qualified bank" shall mean:

8 (a) A bank or an out-of-State bank with a branch office in New
9 Jersey which has heretofore been authorized or which shall hereafter
10 be authorized to exercise any of the powers authorized by section 28
11 of P.L.1948, c.67 (C.17:9A-28);

12 (b) A savings bank which has heretofore been authorized or which
13 shall hereafter be authorized to exercise any of the powers authorized
14 by section 28 of P.L.1948, c.67 (C.17:9A-28); and

15 (c) A national banking association having its principal or a branch
16 office in this State authorized to act as a fiduciary;

17 (13) "Savings bank" shall include the following:

18 (a) Every corporation heretofore organized pursuant to the act
19 entitled "An act concerning savings banks," approved April 12, 1876;

20 (b) Every corporation heretofore organized pursuant to the act
21 entitled "An act concerning savings banks," approved May 2, 1906;

22 (c) Every corporation heretofore organized pursuant to chapter 6
23 of Title 17 of the Revised Statutes;

24 (d) Every corporation, other than a bank, authorized by any
25 general or special law of this State to carry on the business of a
26 savings bank or institution or society for savings;

27 (e) Every corporation hereafter organized pursuant to article 3 of
28 [this act] P.L.1948, c.67 (C.17:9A-7 and 17:9A-8) or P.L.1982, c.9
29 (C.17:9A-8.1 et seq.);

30 (14) "Branch office" of a bank or savings bank shall mean an office,
31 unit, station, facility, terminal, space or receptacle at a fixed location
32 other than a principal office, however designated, at which any
33 business that may be conducted in a principal office of a bank or
34 savings bank may be transacted. "Branch office" includes full branch
35 offices, minibranch offices and communication terminal branch offices;

36 (15) "Full branch office" means a branch office of a bank or savings
37 bank not subject to the limitations or restrictions imposed upon
38 minibranch offices or communication terminal branch offices;

39 (16) "Minibranch office" means a branch office of a bank or savings
40 bank which does not occupy more than 500 square feet of floor space
41 and which does not contain more than four teller stations, manned by
42 employees of the bank or savings bank;

43 (17) "Communication terminal branch office" means a branch office
44 of a bank or savings bank which is either manned by a bona fide third
45 party under contract to a bank or savings bank or unmanned and which
46 consists of equipment, structures or systems, by means of which

1 information relating to financial services rendered to the public is
2 transmitted and through which transactions with banks and savings
3 banks are consummated, either instantaneously or otherwise;

4 (18) "Secondary mortgage loan" means a loan made to an
5 individual, association, joint venture, partnership, limited partnership
6 association, or any other group of individuals however organized,
7 except a corporation, which is secured in whole or in part by a lien
8 upon any interest in real property, including, but not limited to, shares
9 of stock in a cooperative corporation, created by a security agreement,
10 including a mortgage indenture, or any other similar instrument or
11 document, which real property is subject to one or more prior
12 mortgage liens and which is used as a dwelling, including a dual
13 purpose or combination type dwelling which is also used as a business
14 or commercial establishment, and has accommodations for not more
15 than six families, except that a loan which: (a) is to be repaid in 90
16 days or less; (b) is taken as security for a home repair contract
17 executed in accordance with the provisions of P.L.1960, c.41
18 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a
19 dwelling, if title to the dwelling is in the name of the seller and the
20 seller has resided in said dwelling for at least one year, if the buyer is
21 purchasing said dwelling for his own residence and, as part of the
22 purchase price, executes a secondary mortgage in favor of the seller,
23 shall not be included within the definition of "secondary mortgage
24 loan";

25 (19) With respect to savings banks, "director" and "board of
26 directors" may be used to mean "manager" and "board of managers,"
27 respectively.

28 (20)¹ "De novo branch" means a branch office of a foreign bank in
29 this State which is originally established as a branch office, and does
30 not become a branch office of the foreign bank as a result of the
31 acquisition by the foreign bank of an insured depository institution or
32 a branch office of an insured depository institution or the conversion,
33 merger, or consolidation of any such institution or branch office.

34 (21)¹ "Foreign bank" means a company, other than a banking
35 institution, organized under the laws of the United States, another
36 state, or a foreign government, which is authorized by the laws under
37 which it is organized to exercise some or all of the powers specified in
38 paragraph (4) of section 24 of P.L.1948, c.67 (C.17:9A-24),
39 paragraphs (4), (5) and (13) of section 25 of P.L.1948, c.67
40 (C.17:9A-25), and paragraphs (3) through (9), inclusive, of section 28
41 of P.L.1948, c.67 (C.17:9A-28).

42 ¹ [(22)] (21)¹ "Home state" means:

43 (a) with respect to a national bank, the state in which the main
44 office is located; and

45 (b) with respect to a state bank, the state by which the bank is
46 chartered.

1 ~~[(23)] (22)~~¹ "Host state" means, with respect to a bank, a state,
 2 other than the home state of the bank, in which the bank maintains, or
 3 seeks to establish and maintain, a branch office.

4 For purposes of this subsection and subsection (22), "bank" means a
 5 bank as defined in the Federal Deposit Insurance Act, 12 U.S.C.
 6 §1813(a)(2).

7 ~~[(24)] (23)~~¹ "Out-of-State bank" means a state bank, as defined in
 8 the Federal Deposit Insurance Act, 12 U.S.C. §1813(a)(2), with a
 9 home state other than New Jersey.

10 ~~[(25)] (24)~~¹ "Out-of-country bank" means a bank chartered under
 11 the laws of a country other than the United States.

12 ~~[(26)] (25)~~¹ "Interstate merger transaction" means:

13 (1) The merger or consolidation of banks with different home
 14 states, and the conversion of branches of any bank involved in the
 15 merger or consolidation into branches of the resulting bank; or

16 (2) The purchase of all or substantially all of the assets, the
 17 assumption of all or substantially all of the liabilities, or both, including
 18 all or substantially all of the branches, of a bank whose home state is
 19 different from the home state of the acquiring bank.

20 ~~[(27)] (26)~~¹ "State" means any state of the United States, the
 21 District of Columbia, any territory of the United States, Puerto Rico,
 22 Guam, American Samoa, the Trust Territory of the Pacific Islands, the
 23 Virgin Islands and the Northern Mariana Islands.

24 ~~[(28)] (27)~~¹ "Resulting bank" means a state or federally chartered
 25 bank or state chartered savings bank that has resulted from an
 26 interstate merger transaction pursuant to P.L.1948, c.67 (C.17:9A-1
 27 et seq.).

28 (cf: P.L.1992, c.187, s.1)

29

30 3. Section 19 of P.L.1948, c.67 (C.17:9A-19) is amended to read
 31 as follows:

32 19. A. Any bank or savings bank may, pursuant to a resolution of
 33 its board of directors or board of managers, establish and maintain
 34 branch offices, subject to the conditions and limitations of this article.

35 B. **[No bank or savings bank shall establish or maintain a branch**
 36 **office which is located outside the municipality in which it maintains**
 37 **its principal office, except that a bank or savings bank may establish**
 38 **and maintain a branch office or offices anywhere in the State:**

39 (1) When such bank is a receiving bank as defined in section 132
 40 or a receiving savings bank as defined in section 205, and each
 41 proposed branch will be established at a location occupied by the
 42 principal office or a branch office of a merging bank, as defined in
 43 section 132; or a merging savings bank, as defined in section 205; or

44 (2) When each proposed branch will be established at a location
 45 occupied by the principal office or a branch office of a banking
 46 institution in liquidation or in contemplation of liquidation. **]** ~~(Deleted~~

1 by amendment, P.L. , c. .)(pending before the Legislature as this
2 bill.)

3 (3) (Deleted by amendment.)

4 C. No bank shall hereafter establish a full branch office unless its
5 capital **[**stock and surplus shall at least equal the minimum capital
6 stock and surplus required by section 4 on the organization of a bank
7 to transact business at the location occupied by the principal office of
8 the bank proposing to establish such full branch office, plus at least
9 \$100,000.00 of capital stock for each full branch office maintained or
10 proposed to be established by such bank **]** shall equal or exceed the
11 minimum capital established by the commissioner by regulation.

12 D. No savings bank shall hereafter establish a full branch office
13 unless its **[**surplus shall at least equal the minimum capital deposits
14 required by section 8 on the organization of a savings bank to transact
15 business at the location occupied by the principal office of the savings
16 bank proposing to establish such full branch office, plus at least
17 \$100,000.00 of surplus for each full branch office maintained or
18 proposed to be established by such savings bank **]** capital shall equal
19 or exceed the minimum capital established by the commissioner by
20 regulation.

21 E. (Deleted by amendment.)

22 F. (Deleted by amendment.)

23 G. (Deleted by amendment.)

24 H. (Deleted by amendment.)

25 I. (Deleted by amendment.)

26 J. (Deleted by amendment.)

27 K. A bank or savings bank may establish a full branch office, a
28 minibranch office, or communications terminal branch office anywhere
29 in this State**[**, provided that no bank or savings bank shall, except as
30 provided in subsection B. of this section, establish a full branch office
31 or a minibranch office in a municipality, other than that in which it
32 maintains its principal office, which has a population of less than
33 10,000, and in which another banking institution maintains its principal
34 office. For purposes of this subsection, the principal office of each
35 bank or national banking association which is a subsidiary of a bank
36 holding company which controls two or more banking institutions
37 shall be deemed to be a branch office.

38 The commissioner, upon application, may set aside the population
39 requirement set forth above for full branch offices or minibranch
40 offices**]**.

41 L. Except as otherwise provided by law, no foreign bank **[**as
42 defined in section 315 **]** shall establish, operate or maintain in this State
43 any full branch office, minibranch office or communication terminal
44 branch office.

45 (cf: P.L.1981, c.24, s.1)

1 4. Section 1 of P.L.1989, c.245 (C.17:9A-19.2) is amended to read
2 as follows:

3 1. **[A banking]** a. An insured depository institution located in this
4 State may accept deposits and conduct other banking business as agent
5 for any [other banking institution which is also a subsidiary of the
6 same bank holding company or savings bank holding company]
7 affiliate, without being required to obtain a license as a branch office
8 of the [other banking institution] affiliate or foreign bank; and may
9 provide customer information to [the bank holding company or
10 savings bank holding company of which it is a subsidiary or to] any
11 [other subsidiary thereof] affiliate solely for use in conducting
12 business with the customer. [A customer shall have the right to treat
13 the processing of a transaction by a bank acting as agent pursuant to
14 this section as processing by the customer's bank for all purposes,
15 including the date and time of processing.] For purposes of this [act,
16 "subsidiary" and "bank holding company" shall have the same meaning
17 as set forth in section 1 of P.L.1986, c.6 (C.17:9A-373), and "savings
18 bank holding company" shall mean a "mutual savings bank holding
19 company" or a "capital stock savings bank holding company" as set
20 forth in section 1 of P.L.1987, c.201 (C.17:9A-382)] section,
21 "control" shall be construed consistently with the provisions of
22 paragraph (2) of subsection (a) of section 2 of the "Bank Holding
23 Company Act of 1956," 12 U.S.C. §1841(a)(2); "insured depository
24 institution" shall have the same meaning as set forth in the "Federal
25 Deposit Insurance Act," 12 U.S.C. §1813; "foreign bank," "agency,"
26 and "branch" shall have the same meaning as set forth in the
27 "International Banking Act of 1978," 12 U.S.C. §3101 et seq.; and
28 "affiliate" means a company which controls, is controlled by or under
29 common control with another company, and includes a United States
30 branch or agency of a foreign bank.

31 b. The commissioner shall have the authority to request from any
32 insured depository institution information with respect to its activities
33 as an agent, including a request for a copy of any agreement of an
34 insured depository institution to act as an agent for an affiliate.

35 (cf: P.L.1989, c.245, s.1)

36

37 5. Section 20 of P.L.1948, c.67 (C.17:9A-20) is amended to read
38 as follows:

39 20. A. (1) Before any full branch office shall be established
40 [except those branches established pursuant to paragraph (1) of
41 subsection B. of section 19], the bank or savings bank shall file
42 written application in the department for the commissioner's approval
43 thereof. If, after such investigation or hearings, or both, as the
44 commissioner may determine to be advisable, [he] the commissioner
45 shall find:

1 ~~[(1)]~~ (a) That the bank or savings bank has complied with the
2 requirements of section 19 of P.L.1948, c.67 (C.17:9A-19);

3 ~~[(2)]~~ (b) That the interests of the public will be served to
4 advantage by the establishment of such full branch office; ~~[and]~~

5 ~~[(3)]~~ (c) That conditions in the locality in which the proposed full
6 branch office is to be established afford reasonable promise of
7 successful operation; and

8 (d) That the applicant has achieved sufficient compliance, as
9 defined by the commissioner by regulation, with the "Community
10 Reinvestment Act of 1977," 12 U.S.C. §2901 et seq.;
11 the commissioner shall, within 90 days after the filing of the
12 application, approve such application.

13 (2) To determine if an applicant meets the requirements of
14 subparagraph (c) of paragraph (1) of this subsection A., the
15 commissioner shall consider only the costs of purchasing, constructing,
16 leasing or otherwise establishing the proposed office including the
17 costs for staffing, furniture and equipment needed therefor and the
18 effect of these costs on the operations of the applicant as a whole.

19 (3) The applicant need not demonstrate an ability to operate the
20 proposed office at a profit within a definable period of time based on
21 the generation of new deposits from the market area to be entered
22 except to the extent that losses suffered at the proposed office could
23 affect the safety and soundness of the applicant's overall operations.

24 B. Before any minibranch office shall be established, the bank or
25 savings bank shall file a written application on forms supplied by the
26 commissioner. A duly adopted resolution of the board of directors or
27 managers authorizing such application shall accompany the
28 application. Notice of such application shall be published in
29 accordance with procedural rules and regulations of the department.
30 Within 20 days after said notice is published, any person or banking
31 institution having objections to the application shall submit detailed
32 written factual and legal grounds for the objection to the
33 commissioner. There shall be no hearing required to be held by the
34 commissioner in connection with such application. The commissioner,
35 after considering the application and written objections and such
36 investigation as ~~[he]~~ the commissioner deems advisable, shall approve
37 the application, if ~~[he]~~ the commissioner shall find

38 (1) That the convenience and needs of the public will be served to
39 advantage by the establishment of such minibranch office; and

40 (2) That the costs of establishing such minibranch office, including
41 (a) construction and alteration costs; (b) the cost of real property to
42 be acquired in connection therewith or rental to be paid for space to
43 be occupied by such office; (c) the cost of purchasing or renting and
44 installing the equipment to be used in the operation of such office; and
45 (d) the cost of manning such office, shall not in the aggregate exceed
46 such sum as the commissioner shall deem reasonable, taking into

1 consideration the capital and surplus of the bank, or the surplus of the
2 savings bank.

3 C. Before any communication terminal branch office shall be
4 established, the bank or savings bank shall file in the department
5 written notice of the proposed establishment [which shall consist of a
6 resolution duly adopted by the board of directors or board of
7 managers] and such other information as the commissioner shall
8 require. [No hearing shall be held by the commissioner in connection
9 with such application. Within 45 days after receipt of the application,
10 the commissioner shall approve the application unless he finds that the
11 establishment is contrary to the interest of the public.]

12 D. Any bank or savings bank may participate in the establishment,
13 maintenance or use of one or more communication terminal branch
14 offices with one or more financial institutions whose deposits are
15 insured by [either] the Federal Deposit Insurance Corporation [or the
16 Federal Savings and Loan Insurance Corporation]. The commissioner
17 may require a bank or savings bank to participate with one or more
18 insured financial institutions, at a reasonable cost, if the institution
19 requesting participation maintains a principal, full branch or
20 minibranch office located within 5 miles of the proposed site.

21 E. A bank or savings bank shall provide insurance protection under
22 its bonding program for transactions involving such communication
23 terminal branch offices.

24 F. [A bank which maintains a communication terminal branch
25 office shall be deemed to have come into possession and to have
26 received such deposits at the time when they are placed in the
27 receptacle.](Deleted by amendment, P.L. , c.)(pending before the
28 Legislature as this bill.)

29 G. The commissioner shall have the power to make, amend and
30 repeal rules and regulations concerning the establishment, maintenance
31 and operation of full branch offices, minibranch offices and
32 communication terminal branch offices not inconsistent with the
33 provisions of this act. The regulations so made shall also be directed
34 toward the creation, operation and maintenance of a substantial
35 competitive parity between banking institutions and other financial
36 institutions in all matters relating to the establishment, operation, and
37 maintenance of branch offices.

38 (cf: P.L.1975, c.148, s.3)

39

40 6. Section 21 of P.L.1948, c.67 (C.17:9A-21) is amended to read
41 as follows:

42 21. A. The failure of a bank, out-of-State bank or savings bank to
43 open and operate a branch office within [six months] one year after
44 the commissioner approves the application therefor shall automatically
45 terminate the right of the bank, out-of-State bank or savings bank to

1 open the branch office, and it shall make no further application to
2 establish a branch office at such location, or in the area which would
3 be served by a bank, out-of-State bank or savings bank doing business
4 at such location, until after the expiration of one year from the date of
5 such approval; except that, for good cause shown, the commissioner
6 may, in **[his]** the commissioner's discretion, on application of the
7 bank, out-of-State bank or savings bank made before the expiration of
8 **[such six months]** the one year period, extend for additional periods,
9 not in excess of six months each, the time within which such branch
10 office may be opened.

11 B. A bank, out-of-State bank or savings bank may discontinue a
12 branch office upon resolution of its board of directors or board of
13 managers. Upon the adoption of such a resolution, the bank,
14 out-of-State bank or savings bank shall file a certificate in the
15 department specifying the location of the branch office to be
16 discontinued, and the date upon which the discontinuance shall be
17 effective.

18 C. Whenever the commissioner shall find that a branch office is not
19 open for the transaction of business during such hours or days as **[he]**
20 the commissioner shall determine are reasonably necessary for the
21 banking needs of the area served by such branch office, the
22 commissioner may, by order, direct the bank, out-of-State bank or
23 savings bank to keep such branch office open during such hours or
24 days, and, upon the failure of the bank, out-of-State bank or savings
25 bank to comply with such order, the commissioner may, after giving
26 the bank, out-of-State bank or savings bank reasonable opportunity
27 to be heard, make an order forfeiting the right of the bank, out-of-State bank or savings bank to maintain the branch office, and,
28 upon the service of the order upon the bank, out-of-State bank or
29 savings bank, it shall cease to maintain such branch office. An order
30 of the commissioner made pursuant to this subsection shall be subject
31 to review, hearing and relief in the Superior Court, in a proceeding in
32 lieu of prerogative writ.

34 (cf: P.L.1953, c.17, s.15)

35

36 7. Section 22 of P.L.1948, c.67 (C.17:9A-22) is amended to read
37 as follows:

38 22. A. Upon filing an application therefor in the department, and
39 upon obtaining the approval of the commissioner thereto a bank or
40 savings bank may change the location of its principal office or of a
41 branch office **[to a location within the same municipality in which such**
42 **principal office or such branch office is located, and may change the**
43 **location of its principal office to a location in a municipality other than**
44 **that in which it maintains its principal office, but not more than 30**
45 **miles distant from such principal office]** located in this State to
46 another location in this State. Upon filing an application therefor in

1 the department, and upon obtaining the approval of the commissioner
2 thereto, an out-of-State bank with a branch office located in this State
3 may change the location of a branch office in this State to another
4 location in this State, and a bank or savings bank with a branch office
5 located outside this State may change the location of a branch office
6 to another location in that state.

7 B. If it shall appear from the application, or if the commissioner
8 shall find from such proof as [he] the commissioner may require, or
9 from such investigation as [he] the commissioner may cause to be
10 made, that the area which would be served by such office after its
11 change in location would not be substantially different from the area
12 theretofore served by such office, [he] the commissioner shall approve
13 the application.

14 C. If it shall appear to the commissioner, from the application, or
15 from such proof as [he] the commissioner may require, or from such
16 investigation as [he] the commissioner may cause to be made, that the
17 proposed location will be so far removed from the place then occupied
18 by such principal office or by such branch office that the area which
19 would be served by such office after its change in location would be
20 substantially different from the area theretofore served by it, [he] the
21 commissioner shall not approve such application unless, after such
22 investigation or hearing, or both, as the commissioner may determine
23 to be advisable, [he] the commissioner shall find that the interests of
24 the public will be served to advantage by such change in location, and
25 that conditions in the locality to which removal is proposed afford
26 reasonable promise of successful operation.

27 D. [No bank shall change the location of its principal office
28 pursuant to subsection C of this section unless, following the approval
29 of the commissioner, it shall amend its certificate of incorporation to
30 effect such change.] No savings bank shall change the location of its
31 principal office pursuant to subsection C₂ of this section unless, prior
32 to making application to the commissioner for his approval, the change
33 in location is approved by a vote of two-thirds of its board of
34 managers then in office.

35 (cf: P.L.1979, c.226, s.1)

36
37 8. Section 23 of P.L.1948, c.67 (C.17:9A-23) is amended to read
38 as follows:

39 23. A bank or savings bank may, without satisfying the
40 requirements of section 22 of P.L.1948, c.67 (C.17:9A-22), change
41 the location of its principal office to a location in this State then
42 occupied by a branch office maintained by it. After such a change, the
43 bank or savings bank may maintain a branch office at the location
44 formerly occupied by its principal office, or it may discontinue
45 business at such location. Such bank or savings bank shall file a

1 certificate of such change in the department within 1 week from the
2 date such change is made. A change in location effected pursuant to
3 this section shall not be subject to the limitations imposed by
4 subsections C or D of section 19 of P.L.1968, c.67 (C.17:9A-19). No
5 change in location shall be made under this section without prior
6 written approval of the commissioner which the commissioner shall
7 not withhold unless ~~he~~ the commissioner shall find that such change
8 will not be in the public interest.

9 (cf: P.L.1970, c.165, s.3)

10

11 9. Section 2 of P.L.1952, c.179 (C.17:9A-23.2) is amended to read
12 as follows:

13 2. ~~Each auxiliary office shall be located in the same municipality~~
14 ~~as that in which the bank or savings bank maintains the office to which~~
15 ~~such auxiliary office is an adjunct.]~~ No auxiliary office shall be
16 established or maintained at a location which is outside this State or
17 more than [2,000 feet] one mile from the office of the bank or savings
18 bank to which such auxiliary office is an adjunct; nor shall any such
19 auxiliary office be established within 1,000 feet of the principal office
20 or a branch office of another banking institution without the written
21 consent of such other banking institution. Such consent, once given,
22 shall thereafter be irrevocable, regardless whether it was given
23 gratuitously or for a valuable consideration. No bank or savings bank
24 shall be required to discontinue an auxiliary office for the reason that,
25 after its establishment pursuant to this act, another banking institution
26 has established its main office or a branch office within 1,000 feet of
27 such auxiliary office.

28 (cf: P.L.1962, c.101, s.1)

29

30 10. Section 3 of P.L.1961, c.67 (C.17:9A-23.11) is amended to
31 read as follows:

32 3. a. A branch office established pursuant to this act may be
33 located ~~in a municipality other than the municipality in which the~~
34 ~~applying bank maintains its principal office, but no bank shall establish~~
35 ~~any such branch office outside the county in which it maintains its~~
36 ~~principal office] anywhere in this State.~~

37 b. No branch office established pursuant to this act shall be
38 removed to a location outside the installation on which it has been
39 established.

40 c. The principal office of the bank may not be interchanged with
41 any branch office established pursuant to this act.

42 d. ~~In determining whether a banking institution maintains its~~
43 ~~principal office or a branch office in a municipality within the meaning~~
44 ~~of section 19B(3) of the act to which this act is a supplement, a branch~~
45 ~~office established pursuant to this act shall be disregarded.](Deleted~~
46 ~~by amendment, P.L. , c. .)(pending before the Legislature as this~~

1 bill.)

2 e. The right to maintain a branch office established pursuant to this
3 act shall cease and the branch office shall be discontinued when the
4 authority to maintain it under Federal law or regulation ceases.

5 f. A branch office maintained pursuant to this act shall not be
6 deemed to be a branch as an adjunct of which an auxiliary office may
7 be established.

8 (cf: P.L.1961, c.67, s.3.)

9

10 11. (New section) a. A bank or savings bank may, pursuant to a
11 resolution of its board of directors, establish and maintain a branch
12 office or branch offices outside this State, subject to the conditions
13 and limitations of sections 19 and 20 of P.L.1948, c.67 (C.17:9A-19
14 and 17:9A-20).

15 b. No bank or savings bank shall establish a branch office outside
16 this State unless the laws of the jurisdiction where the branch is to be
17 established do not prohibit the establishment of the branch.

18 c. A bank or savings bank which establishes a branch office outside
19 this State shall have such additional powers in that state as permitted
20 to banks or savings banks, as applicable, in the state in which the
21 branch is located.

22

23 ¹[12. (New section) a. An out-of-State bank without a branch
24 office in this State may apply to establish a de novo branch office in
25 this State by filing with the department a copy of the application the
26 out-of-State bank filed with the regulator in its home state and the
27 application it filed with the responsible federal bank supervisory
28 agency.

29 b. The commissioner shall approve the application if the
30 out-of-State bank is adequately capitalized as of the date of the
31 application, will be adequately capitalized and managed after the
32 branch is established, has published notice of the application in
33 accordance with procedural rules and regulations of the department,
34 and has achieved sufficient compliance, as defined by the
35 commissioner by regulation, with the Community Reinvestment Act of
36 1977, 12 U.S.C. §2901 et seq.

37 c. A national bank without a branch office in this State may
38 establish a de novo branch office in this State by application to the
39 Comptroller of the Currency so long as the national bank is adequately
40 capitalized as of the date of the application, will be adequately
41 capitalized and managed after the branch is established and has
42 achieved satisfactory compliance with the Community Reinvestment
43 Act of 1977, 12 U.S.C. §2901 et seq.]¹

44

45 ¹[13.] 12.¹ (New section) An out-of-State bank that opens,
46 occupies or maintains a branch office in this State shall have in this

1 State only the powers a bank chartered in this State has.

2

3 ¹[[14.] 13.¹ (New section) a. An out-of-State bank with at least
4 one branch office in this State, and a national bank with at least one
5 branch office in this State, may establish and maintain additional
6 branch offices in this State as long as the out-of-State bank or national
7 bank is adequately capitalized as of the date of the application, will be
8 adequately capitalized and managed after the branch is established, and
9 has achieved sufficient compliance with the "Community Reinvestment
10 Act of 1977," 12 U.S.C. §2901 et seq.

11 b. An out-of-State bank or national bank branching in New Jersey
12 pursuant to this section, shall publish notice of the application in New
13 Jersey in the appropriate trade journals.

14

15 ¹[[15.] 14.¹ Section 1 of P.L.1968, c.149 (C.17:9A-23.50) is
16 amended to read as follows:

17 1. [A.] As used in this act unless the context requires otherwise,

18 (a) "Commissioner" means the Commissioner of Banking [and
19 Insurance] and any other person lawfully exercising the powers of
20 such commissioner;

21 (b) "Bank" includes banks, out-of-State banks and savings banks,
22 and, to the extent the provisions hereof are not inconsistent with and
23 do not infringe upon paramount Federal law governing national banks,
24 "bank" also includes national banks;

25 (c) "Officers" means the person or persons designated by the board
26 of directors of a bank or the board of managers or trustees of a savings
27 bank or the board of directors or managers or trustees of an
28 out-of-State bank, as appropriate, to act for the bank, out-of-State
29 bank or savings bank in carrying out the provisions of this act;

30 (d) "Emergency" means any condition which interferes with the
31 conduct of normal business operations at one or more or all offices of
32 a bank or banks, or which poses an imminent or existing threat to the
33 safety and security of persons or property, or both. Without limiting
34 the generality of the foregoing, an emergency may arise as a result of
35 any one or more of the following: fire; flood; wind, rain or snow
36 storms; labor disputes; power failures; transportation failures; war; and
37 riots, civil commotions, and other acts of lawlessness or violence;

38 (e) "Office" means any place at which a bank transacts business or
39 conducts operations related to the transaction of business;

40 (f) "Person" includes natural persons, corporations, partnerships
41 and associations.

42 (cf: P.L.1968, c.149, s.1)

43

44 ¹[[16.] 15.¹ Section 9 of P.L.1981, c.153 (C.17:9A-24a) is
45 amended to read as follows:

46 9. The commissioner shall have the power to make, amend, and

1 repeal regulations permitting banks to exercise any power, right,
2 benefit, or privilege permitted to national or state banks, provided that
3 such power, right, benefit, or privilege is not contrary to law. Such
4 regulations shall be in substantial conformity with similar rules or
5 regulations of the Comptroller of the Currency, the Federal Reserve
6 Board, and the Federal Deposit Insurance Corporation, as applicable.
7 (cf: P.L.1981, c.153, s.9)

8
9 ¹[17.] 16.¹ (New section) a. One or more banks or savings banks
10 may, with the approval of the commissioner, enter into an interstate
11 merger transaction with an out-of-State bank or banks pursuant to
12 section 11 of P.L.1982, c.9 (C.17:9A-8.11), article 21 of "The
13 Banking Act of 1948," P.L.1948, c.67 (C.17:9A-132 et seq.) or article
14 31 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-199 et
15 seq.), as applicable.

16 b. Except as otherwise expressly provided in this subsection b., an
17 interstate merger transaction shall not be permitted if, upon
18 consummation of the transaction, the resulting state or federally
19 chartered bank or savings bank, including all federally insured
20 depository institutions that would be affiliates as defined in subsection
21 (k) of section (2) of the federal "Bank Holding Company Act of
22 1956," 12 U.S.C. 1841(k), would control 30 percent or more of the
23 total amount of deposits held by insured depository institutions in this
24 State. The commissioner may by regulation adopt a procedure
25 whereby the foregoing limitation on control of deposits may be waived
26 for good cause.

27 c. The commissioner shall not permit before June 1, 1997, an
28 interstate merger transaction involving one or more banks or savings
29 banks and an out-of-State bank or banks unless the home state of each
30 bank involved in the transaction has in effect, as of the date of the
31 approval of such transaction, a law that applies equally to all
32 out-of-state banks and expressly permits interstate merger transactions
33 with all out-of-state banks.

34 d. The commissioner shall not permit on or after June 1, 1997, an
35 interstate merger transaction involving one or more banks or savings
36 banks and an out-of-State bank or banks if the home state of any bank
37 or savings bank involved in the merger transaction has enacted a law
38 after September 29, 1994, and before June 1, 1997, that applies
39 equally to all out-of-State banks and expressly prohibits merger
40 transactions involving out-of-State banks.

41 e. An out-of-State bank may, with the approval of the
42 commissioner, acquire a branch office of a bank, out-of-State bank,
43 national bank or savings bank, and the branch shall be treated, for
44 purposes of this section, as a bank or savings bank, as appropriate.

45 f. A bank or savings bank may, with the approval of the
46 commissioner, acquire an out-of-State branch office of a bank, savings

1 bank or an out-of-State bank, and the branch shall be treated, for
2 purposes of this section, as an out-of-State bank.

3 g. Any out-of-State bank which shall be the resulting bank in an
4 interstate merger transaction shall file with the commissioner in a
5 manner consistent with regulations promulgated by the commissioner
6 for this purpose.

7

8 ¹[18.] 17. ¹ Section 148 of P.L.1948, c.67 (C.17:9A-148) is
9 amended to read as follows:

10 148. A. As used in subsection B. of this section, "applicable
11 Federal law" means the laws of the United States, as presently enacted
12 and as hereafter from time to time supplemented or amended,
13 governing the merger or consolidation of a bank organized under State
14 laws into a national banking association, under the charter of such
15 association; and, as used in subsection C. of this section, "applicable
16 Federal law" means the laws of the United States, as presently enacted
17 and as hereafter from time to time supplemented or amended,
18 governing the merger or consolidation of a national banking
19 association into a bank organized under State laws, under the charter
20 of such bank.

21 B. One or more banks may, without the approval of the
22 commissioner or of any other officer, department, board or agency of
23 this State, merge into or consolidate with a national banking
24 association under the charter of such association, with the approval of
25 the holders of at least 2/3 of the capital stock of each such bank
26 entitled to vote. A majority of the directors of each such bank shall,
27 within 10 days after such approval has been given, file in the
28 department a certificate over their signatures that such approval has
29 been given, and that the bank intends to act in pursuance thereof.
30 Except as otherwise provided in subsection D. of this section, a
31 merger or consolidation authorized by this subsection shall be effected
32 solely in the manner and with the effect provided by applicable Federal
33 law, and no such merger or consolidation shall be subject to sections
34 132 through 147 of P.L.1948, c.67 (C.17:9A-132 through 17:9A-147)
35 or to any other law of this State; but a copy of the agreement or
36 merger or consolidation certified by the comptroller of the currency
37 shall be evidence, and may be recorded, as provided by section 138 of
38 P.L.1948, c.67 (C.17:9A-138). Upon the taking effect of the merger
39 or consolidation, the bank shall be deemed to have surrendered its
40 charter.

41 C. One or more national banking associations, or one or more
42 national banking associations together with one or more banks may,
43 with the approval of the commissioner as provided by section 136 of
44 P.L.1948, c.67 (C.17:9A-136), merge into a bank, or may consolidate
45 with a bank under the charter of such bank. Each bank which is a
46 party to such a merger or consolidation as a merging bank or as the

1 receiving bank shall, in all respects, comply with and be subject to the
2 provisions of sections 134 through 147 of P.L.1948, c.67
3 (C.17:9A-134 through 17:9A-147), in the same manner and with the
4 same effect as if all the parties to such merger or consolidation were
5 banks; the rights, duties, obligations, powers and privileges of each
6 such bank, whether such bank is a merging bank or the receiving bank,
7 and of its or their depositors, other creditors, stockholders and all
8 other persons in interest, shall be as prescribed and defined by sections
9 134 through 137 of P.L.1948, c.67 (C.17:9A-134 through 17:9A-137);
10 and except as in this subsection otherwise provided in respect to
11 national banking associations, every provision contained in sections
12 134 through 137 of P.L.1948, c.67 (C.17:9A-134 through 17:9A-137)
13 shall be applicable to a merger or consolidation effected pursuant to
14 this subsection, notwithstanding that a national banking association is
15 a party to such a merger or consolidation. Each national banking
16 association which is a party to a merger or consolidation authorized by
17 this subsection shall comply with and be subject to the provisions of
18 applicable Federal law, and the rights, duties, obligations, powers and
19 privileges of such national banking association, and of its depositors,
20 other creditors, stockholders and all other persons in interest, shall be
21 as prescribed and defined by such applicable Federal law.

22 D. National banking associations may, under the laws of the United
23 States, merge into or consolidate with a bank organized under State
24 laws, without approval by any United States authority other than an
25 authority empowered by United States law to approve or disapprove
26 of a merger between, or a consolidation of, State-chartered banks.

27 E. Except as otherwise expressly provided in this subsection E., an
28 interstate merger transaction shall not be permitted if, upon
29 consummation of the transaction, the resulting state or federally
30 chartered bank or savings bank, including all federally insured
31 depository institutions that would be affiliates as defined in subsection
32 (k) of section (2) of the federal "Bank Holding Company Act of
33 1956," 12 U.S.C. 1841(k), would control 30 percent or more of the
34 total amount of deposits held by insured depository institutions in this
35 State. The commissioner may by regulation adopt a procedure
36 whereby the foregoing limitation on control of deposits may be waived
37 for good cause.

38 F. Before June 1, 1997, a merger involving a bank and a national
39 banking association without a branch office in New Jersey shall not be
40 not permitted unless the home state of each institution involved in the
41 transaction has in effect, as of the date of the approval of that
42 transaction, a law that applies equally to all out-of-state banks and
43 expressly permits interstate merger transactions with all out-of-state
44 banks. On or after June 1, 1997, a merger involving a bank and a
45 national banking association without a branch office in New Jersey,
46 shall not be not permitted if the home state of any institution involved

1 in the transaction has enacted a law after September 29, 1994 and
2 before June 1, 1997, that applies equally to all out-of-state banks and
3 expressly prohibits merger transactions involving out-of-state banks.

4 G. A national banking association without a principal or branch
5 office in New Jersey may acquire a branch office of a bank, and the
6 branch shall be treated, for the purposes of this section, as a bank. A
7 bank may acquire an out-of-State branch office of a national banking
8 association, and the branch shall be treated, for purposes of this
9 section, as a national banking association.

10 (cf: P.L.1973, c.211, s.4)

11
12 ¹[19.] 18. Section 256 of P.L.1948, c.67 (C.17:9A-256) is
13 amended to read as follows:

14 256. A. Every bank and out-of-State bank with a branch office in
15 this State shall make and file in the department, not less than two
16 reports during each year, in the form prescribed by the commissioner.

17 B. Every report filed pursuant to subsection A of this section shall
18 state in detail and under appropriate heads the assets and liabilities of
19 the bank or out-of-State bank at the close of business on any day
20 specified by the commissioner, and shall be filed in the department
21 within ten days after the receipt by the bank or out-of-State bank of a
22 request therefor. The report shall be attested by the signatures of at
23 least three directors who are not officers of the bank or out-of-State
24 bank, and shall be verified by the oaths of at least two officers of the
25 bank or out-of-State bank. The commissioner may extend for not more
26 than ten days the time within which such report shall be filed.

27 C. The commissioner shall have power to call for special reports
28 from a bank or out-of-State bank when, in **[his]** the commissioner's
29 judgment, such special reports are necessary in order to obtain a full
30 and complete knowledge of its condition.

31 D. A bank or out-of-State bank which fails to make and transmit
32 a report required by this section shall be subject to a penalty of **[one**
33 **hundred dollars]** \$100 for each day during which such failure
34 continues, to be recovered with costs by the State in any court of
35 competent jurisdiction in a civil action prosecuted by the
36 Attorney-General.

37 E. The commissioner may waive the requirements of this section
38 if the bank or out-of-State bank files a similar report with federal
39 regulators and adequate provision is made for the commissioner to
40 have access to that filing.

41 (cf: P.L.1953, c.17, s.38)

42
43 ¹[20.] 19. Section 258 of P.L.1948, c.67 (C.17:9A-258) is
44 amended to read as follows:

45 258. A summary of **[each** report filed pursuant to subsection A of
46 section 256, in such form as the commissioner shall prescribe, shall be

1 published once by the bank in a newspaper published and circulated in
2 the municipality in which the bank maintains its principal office, or, if
3 there be no such newspaper, then in one published in the county in
4 which the bank maintains its principal office, or in an adjoining county,
5 and which has a general circulation in such municipality. The
6 publication shall be made within two weeks after the filing of the
7 report, and the cost thereof shall be paid by the bank. Proof of
8 publication shall be made and filed in the department] the report of
9 assets and liabilities as of the end of the most recent fiscal year,
10 required to be submitted to the department pursuant to the section 256
11 of P.L.1948, c.67 (C.17:9A-256), shall be readily available to
12 customers of the bank.

13 (cf: P.L.1948, c.67, s.258)

14

15 ¹[21.] 20. ¹ Section 260 of P.L.1948, c.67 (C.17:9A-260) is
16 amended to read as follows:

17 260. A. The commissioner shall, whenever and as often as [he]
18 the commissioner shall deem it advisable, cause the affairs of every
19 bank, and every out-of-State bank with a branch office in New Jersey,
20 to be examined to determine whether the bank or out-of-State bank is
21 conducting its business in conformity with the laws of this State and
22 its certificate of incorporation, and with safety to its depositors, other
23 creditors and the public.

24 B. The officers and employees of every bank and out-of-State bank
25 being examined shall exhibit to the examiners all its securities, books,
26 records and accounts and shall otherwise facilitate the examination so
27 far as it may be in their power.

28 C. The commissioner, a deputy commissioner, and every examiner
29 assigned by the commissioner or by a deputy commissioner to examine
30 the affairs of a bank or out-of-State bank may administer an oath to
31 any person whose testimony is required for the purposes of the
32 examination. The commissioner or deputy commissioner may compel
33 the appearance of any person for the purposes of examination, by
34 subpoena ad testificandum and the production of books, papers,
35 documents, or other records by subpoena duces tecum.

36 D. For banks or out-of-State banks with branches in New Jersey
37 and one or more other states, the commissioner may contract with the
38 state banking regulator in the other state or states where branch offices
39 are located to conduct cooperative exams. Pursuant to those
40 agreements, examiners of the department may examine branch offices
41 of banks and out-of-State banks both in New Jersey and in other
42 states, and examiners of other state banking regulators may examine
43 branch offices of banks and out-of-state banks both in New Jersey and
44 in other states. The fees for these examinations may be shared
45 pursuant to a contract or agreement among the regulators.

46 (cf: P.L.1948, c.67, s.260)

1

2 ¹~~22.~~ 21.¹ Section 264 of P.L.1948, c.67 (C.17:9A-264) is
3 amended to read as follows:

4 264. Every report and copy of a report of examination of a bank or
5 out-of-State bank made by or under the supervision of the
6 commissioner, and every report and copy thereof made by a bank or
7 out of state bank pursuant to subsection C₂ of section 256 of
8 P.L.1948, c.67 (C.17:9A-256) shall be confidential, and shall not be
9 made public by any officer, director or employee of a bank, and shall
10 not be subject to subpoena or to admission into evidence in any action
11 or proceeding in any court, except pursuant to an order of the court
12 made upon notice to the commissioner and after affording the
13 commissioner an opportunity to advise the court of reasons for
14 excluding from evidence such report or any portion thereof. The court
15 shall order the issuance of a subpoena for the production or admission
16 into evidence of any such report or portion thereof, only if it is
17 satisfied that (1) it is material and relevant to the issues in the
18 proceedings, and (2) the ends of justice and public advantage will be
19 subserved thereby. This section shall not prohibit the commissioner
20 from sharing a report of examination with another state or federal
21 regulator so long as provision is made for retaining the confidentiality
22 of the report. This section shall not apply to any action or proceeding
23 instituted by the commissioner or Attorney General pursuant to any
24 law of this State.

25 (cf: P.L.1948, c.67, s.264)

26

27 ¹~~23.~~ 22.¹ Section 267 of P.L.1948, c.67 (C.17:9A-267) is
28 amended to read as follows:

29 267. A. If the commissioner finds that a bank, or an out-of-State
30 bank with a branch in this State, is violating the provisions of its
31 certificate of incorporation, or is conducting its business in violation
32 of any law of this State or another state where it is transacting
33 business, or in an unsafe manner, ~~he~~ the commissioner shall order
34 the bank to cease its ultra vires, unlawful or unsafe practices, as the
35 case may be.

36 B. An order of the commissioner made pursuant to subsection A
37 of this section shall be subject to review, hearing and relief in the
38 Superior Court by a proceeding in lieu of prerogative writ. The
39 institution of proceedings for review in the Superior Court shall
40 suspend the accrual of the penalties provided for by section 268 of
41 P.L.1948, c.67 (C.17:9A-268) until the final determination of such
42 proceedings.

43 (cf: P.L.1953, c.97, s.1)

44

45 ¹~~24.~~ 23.¹ Section 268 of P.L.1948, c.67 (C.17:9A-268) is
46 amended to read as follows:

1 268. A bank, or out-of-State bank with a branch in this State,
2 which continues to violate the provisions of its certificate of
3 incorporation or which continues to conduct its business in violation
4 of any law of this State, or another state where it is transacting
5 business, or in an unsafe manner, after having been ordered by the
6 commissioner to cease such practices, shall be liable to a penalty of
7 **【one thousand dollars (\$1,000.00)】**\$1,000 to be recovered with costs
8 by the State in any court of competent jurisdiction in a civil action
9 prosecuted by the Attorney-General, and it shall be liable to a like
10 penalty for each day's additional default from and after the time
11 specified in the order. The penalty provided by this section shall be in
12 addition to and not in lieu of any other provision of law applicable
13 upon a bank's or out-of-State bank's failure to comply with an order
14 of the commissioner.

15 (cf: P.L.1953, c.17, s.42)

16

17 ¹**【25.】** 24.¹ Section 316 of P.L.1948, c.67 (C.17:9A-316) is
18 amended to read as follows:

19 316. A. **【No】** Except as otherwise provided pursuant to section
20 1 of P.L.1989, c.245 (C.17:9A-19.2) and sections ¹【38 through 87】
21 37 through 86¹ of P.L. c. (C.) (pending before the Legislature
22 as this bill), no foreign bank organized under the laws of a foreign
23 government shall transact any business in this State.

24 B. A foreign bank, other than one excluded by subsection A of this
25 section, may transact business in this State only as executor or as
26 testamentary trustee or guardian, and then only when named in a
27 decedent's will or codicil thereto. Before transacting such business in
28 this State, a foreign bank shall secure from the commissioner a
29 certificate of authority to transact such business. The commissioner
30 shall not issue a certificate of authority to a foreign bank unless a
31 qualified bank is permitted to transact business as executor, or as
32 testamentary trustee or guardian, when named in a will or codicil
33 thereto, in the jurisdiction in which the foreign bank has its principal
34 office.

35 C. No foreign bank shall maintain an office in this State, except
36 that a foreign bank may maintain one or more service facilities in this
37 State, provided that the foreign bank performs only back office
38 operations at the service facility and does not transact business with
39 its customers or the public at the service facility. Prior to opening a
40 service facility in this State, a foreign bank shall register the service
41 facility with the commissioner, which registration shall include the
42 address of the proposed service facility and the name and address of
43 the foreign bank's agent in this State for service of process. No
44 foreign bank organized under the laws of a foreign government which
45 has an office licensed as a representative office pursuant to sections ¹【56
46 and 57】 55 and 56¹ of P.L. , c. (C.) (pending before the

1 Legislature as this bill), shall be required to register under this
2 subsection as a service facility. Each service facility shall comply with
3 the requirements and pay the fees that the commissioner establishes by
4 regulation. Each service facility shall be subject to examination by the
5 department to determine whether the foreign bank has operated the
6 service facility in accordance with the provisions of this subsection, the
7 costs of which examination shall be paid by the foreign bank at the
8 department's per diem rate for examinations of depository institutions.
9 The commissioner may, upon notice and a hearing, order a foreign
10 bank to close any service facility operated in violation of the
11 provisions of this subsection or of other any law. **[An entity which is**
12 **affiliated, either directly or indirectly, with a foreign bank and intends**
13 **to engage in back office operations in this State shall register and be**
14 **regulated pursuant to this subsection as if it were a foreign bank.]** Any
15 entity acting as an agent pursuant to section 1 of P.L.1989, c.245
16 (C.17:9A-19.2) shall not be required to register and be regulated
17 pursuant to this subsection C.

18 D. For the purposes of this section, the term "transact business"
19 shall not include back office operations and the term "back office
20 operations" shall include **[only]** the following activities: data
21 processing, record-keeping, accounting, check and deposit sorting and
22 posting, computation and posting of interest, other similar clerical and
23 statistical functions, **[and]** producing and mailing correspondence or
24 documents **[provided that the correspondence or documents do not**
25 **include the address of the service facility]** and such other similar
26 activities that the commissioner approves.

27 E. (1) For the purposes of Article 44 of "The Banking Act of
28 1948," P.L.1948 c.67, (C.17:9A-315 through 17:9A-332), a foreign
29 bank, including one organized under the laws of a foreign country,
30 shall not be deemed to transact business or maintain an office in this
31 State by virtue of conducting business in this State through an agent
32 in this State which is an insured depository institution affiliate or other
33 agent.

34 (2) Nothing in this section or in the "Banking Act of 1948,"
35 P.L.1948, c.67 (C.17:9A-1 et seq.) shall prohibit a foreign bank,
36 including one organized under the laws of a foreign country, from
37 owning and operating in this State, as a subsidiary, a State or federally
38 chartered bank and the ownership and operation of, and the sharing of
39 directors, officers and employees with that subsidiary shall not
40 constitute transacting business in this State.

41 (cf: P.L.1991, c.74, s.1)

42

43 ¹**[26.]** 25.¹ Section 334 of P.L.1948, c.67 (C.17:9A-334) is
44 amended to read as follows:

45 334. A foreign bank shall pay to the commissioner for the use of
46 the State a fee, to be prescribed by the commissioner by regulation, in

1 an amount not less than or not more than, the following minimum and
 2 maximum amounts:

| | Minimum | Maximum |
|---|---------------|----------|
| 3 | | |
| 4 | | |
| 5 (1) For filing a copy of its | | |
| 6 certificate of incorporation or | | |
| 7 amendment thereof or other | | |
| 8 change therein | \$50.00 | \$250.00 |
| 9 | | |
| 10 (2) For filing a statement of | | |
| 11 its financial condition ... | 50.00 | 250.00 |
| 12 | | |
| 13 (3) For filing a power of | | |
| 14 attorney ... | 25.00 | 75.00 |
| 15 | | |
| 16 (4) For each substitution of | | |
| 17 securities pursuant to sub- | | |
| 18 section B ₁ of section 320 of | | |
| 19 <u>P.L.1948, c.67 (C.17:9A-320)</u> | 25.00 | 100.00 |
| 20 | | |
| 21 <u>(5) For registering a back</u> | | |
| 22 <u>office</u> | <u>500.00</u> | |
| 23 | | |

24 The commissioner shall charge for the issuance of a certificate of
 25 authority or a certificate of renewal of a certificate of authority such
 26 fee as ~~he~~ the commissioner shall prescribe by rule or regulation, not
 27 to exceed \$1,500.00. The certificate shall run from the date of
 28 issuance to the end of the biennial period. When the initial certificate
 29 is issued in the second year of the biennial certification period, the
 30 certificate fee shall be an amount equal to one-half of the fee for the
 31 biennial certification period.

32 The commissioner may by rule or regulation adopted pursuant to
 33 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 34 seq.) impose other fees and charges, including assessments and fees for
 35 application and examinations, on out-of-State banks establishing
 36 branch offices or agency offices in this State.

37 (cf: P.L.1988, c.73, s.2)

38

39 ¹~~[27.]~~ 26. ¹ Section 2 of P.L.1969, c.118 (C.17:9A-356) is
 40 amended to read as follows:

41 2. (1) An acquiring corporation may ~~],~~ subject to the provisions of
 42 An act concerning the ownership of bank stock in certain cases,
 43 defining certain terms in relation thereto, imposing certain restrictions
 44 on such ownership, providing for the enforcement of the act and for
 45 punishment of violations thereof, approved June 5, 1957 (P.L.1957,
 46 c.70),] acquire ownership of all the outstanding shares of the capital

1 stock of one or more banks in the manner provided by this act.

2 (2) Shares of capital stock of an acquiring corporation, or other
3 securities convertible into such shares, may be issued or delivered in
4 exchange for shares of capital stock of one or more participating banks
5 pursuant to a plan of acquisition without first being offered to existing
6 shareholders of the acquiring corporation, (i) except, in the case of an
7 acquiring corporation organized on or after January 1, 1969, as
8 otherwise provided in its certificate of incorporation, or (ii) if, in the
9 case of an acquiring corporation organized prior to January 1, 1969,
10 its certificate of incorporation, as amended, so provides.

11 (3) The method of acquiring bank shares authorized by this act is
12 not exclusive, but is in addition to any other lawful methods for the
13 acquisition of bank shares by corporations.

14 (cf: P.L.1969, c.118, s.2)

15

16 ¹~~28.~~ 27.¹ (New section) The commissioner is authorized to
17 enter into contracts with bank supervisors of other states for the
18 purpose of establishing effective and efficient supervisory and
19 regulatory structures and practices with respect to the provisions of
20 sections 1 through ¹~~27~~ 26¹ of this ¹~~1995~~ 1996¹ amendatory and
21 supplementary act.

22

23 ¹~~29.~~ 28.¹ (New section) As used in sections ¹~~29 through 37~~
24 28 through 36¹ of P.L. , c. (C.)(pending before the Legislature
25 as this bill):

26 "Acquire" means:

27 (1) That a company merges or consolidates with a bank holding
28 company;

29 (2) That a company assumes direct or indirect ownership or control
30 of:

31 (a) more than 25 percent of any class of voting shares of a
32 bank holding company or a bank, if the acquiring company was not a
33 bank holding company prior to that acquisition;

34 (b) more than 5 percent of any class of voting shares of a bank
35 holding company or a bank, if the acquiring company was a bank
36 holding company prior to that acquisition;

37 (c) all or substantially all of the assets of a bank holding
38 company or a bank; or

39 (3) That a company takes any other action that results in the direct
40 or indirect acquisition or control by that company of a bank holding
41 company or a bank.

42 "Affiliate," "bank," "company," and "subsidiary" have the meanings
43 set forth in section 2 of the federal "Bank Holding Company Act of
44 1956," 12 U.S.C. §1841.

45 "Bank holding company" has the meaning set forth in subsection (a)
46 of section 2 of the federal "Bank Holding Company Act of 1956," 12

1 U.S.C. §1841(a) and, unless the context requires otherwise, includes
2 a New Jersey bank holding company, an out-of-State bank holding
3 company and a foreign bank holding company.

4 "Bank supervisory agency" means any of the following:

5 (1) The Office of the Comptroller of the Currency, the Federal
6 Deposit Insurance Corporation, the Board of Governors of the Federal
7 Reserve System, and any successor to these agencies; and

8 (2) Any agency of another state with primary responsibility for
9 chartering and supervising banks.

10 "Branch" has the meaning set forth in section 1 of P.L.1948, c.67
11 (C.17:9A-1).

12 "Control" shall be construed consistently with the provisions of
13 paragraph (2) of subsection (a) of section 2 of the "Bank Holding
14 Company Act of 1956," 12 U.S.C. §1841(a)(2).

15 "Commissioner" means the Commissioner of Banking.

16 "Deposit" has the meaning set forth in the "Federal Deposit
17 Insurance Act," 12 U.S.C. §1813.

18 "Depository institution" means any institution included for any
19 purpose within the definitions of "insured depository institution" as set
20 forth in the "Federal Deposit Insurance Act," 12 U.S.C. §1813(c)(2)
21 and (3).

22 "Foreign bank holding company" means a bank holding company
23 that is organized under the laws of a country other than the United
24 States, including any territory or possession thereof.

25 "New Jersey bank" means a bank that is:

26 (1) organized under P.L.1948, c.67 (C.17:9A-1 et seq.); or

27 (2) organized under federal law and having its principal place of
28 business in this State.

29 "New Jersey bank holding company" means a bank holding
30 company that:

31 (1) has its principal place of business in this State; and

32 (2) is not controlled by a bank holding company other than a New
33 Jersey bank holding company.

34 "Out-of-State bank holding company" means:

35 (1) a bank holding company that is not a New Jersey bank holding
36 company; and

37 (2) unless the context requires otherwise, includes a foreign bank
38 holding company.

39 "Person" has the meaning given it pursuant to R.S.1:1-2.

40 "Principal place of business" of a bank holding company means the
41 state in which the total deposits of its bank subsidiaries are the
42 greatest.

43 "State" means any state, territory, or other possession of the United
44 States, including the District of Columbia.

45

46 ¹[30.] 29.¹ (New section) Sections ¹[29 through 37] 28 through

1 36¹ of P.L. , c. (C.)(pending before the Legislature as this
2 bill) set forth the conditions under which a person may acquire a New
3 Jersey bank or New Jersey bank holding company. Sections ¹[29
4 through 37] 28 through 36¹ are intended not to discriminate against
5 out-of-State bank holding companies or against foreign bank holding
6 companies in any manner that would violate subsection (d) of section
7 3 of the federal "Bank Holding Company Act of 1956," 12
8 U.S.C. §1842(d), as amended effective September 29, 1995.

9
10 ¹[31.] 30¹ (New section) a. Except as otherwise expressly
11 permitted by federal law, no person may acquire a New Jersey bank
12 holding company or a New Jersey bank without the prior approval of
13 the commissioner.

14 b. The prohibitions in subsection a. of this section shall not apply
15 if the acquisition is made:

16 (1) in a transaction arranged by the commissioner or another bank
17 supervisory agency to prevent the insolvency or closing of the
18 acquired bank; or

19 (2) in a transaction in which a bank forms its own bank holding
20 company, if the ownership rights of the former bank shareholders are
21 substantially similar to those of the shareholders of the new bank
22 holding company.

23 c. In a transaction for which the commissioner's approval is not
24 required under this section, the parties shall give written notice to the
25 commissioner at least 15 days before the effective date of the
26 acquisition, unless a shorter period of notice is required under
27 applicable federal law.

28
29 ¹[32.] 31¹ (New section) a. A person that proposes to make an
30 acquisition under sections ¹[29 through 37] 28 through 36¹ of P.L. ,
31 c. (C.) (pending before the Legislature as this bill) shall:

32 (1) file with the commissioner an application in the form that the
33 commissioner requires; and

34 (2) pay to the commissioner an application fee prescribed by the
35 commissioner.

36 b. To the extent consistent with the effective discharge of the
37 commissioner's responsibilities, the forms established under sections
38 ¹[29 through 37] 28 through 36¹ of P.L. , c. (C.)(pending
39 before the Legislature as this bill) for application and reporting shall
40 conform to those established by the Board of Governors of the Federal
41 Reserve System under the federal "Bank Holding Company Act of
42 1956," 12 U.S.C. §1841 et seq.

43 c. In connection with an application received under this section, the
44 commissioner shall:

45 (1) require that prior notice of the application be published in a
46 daily newspaper of general circulation and provide an opportunity for

1 public comment; and

2 (2) make the application available for public inspection to the
3 extent required or permitted under applicable State or federal law.

4 d. If the applicant is an out-of-State bank holding company it shall
5 submit with the application proof that the applicant has complied with
6 or is exempted from the requirements of N.J.S.14A:13-3 and
7 N.J.S.14A:13-4, requiring registration by foreign corporations doing
8 business in this State.

9
10 ¹~~33.~~ 32.¹ (New section) a. In deciding whether to approve an
11 application for a proposed acquisition under sections ¹~~29 through~~
12 ~~37~~ 28 through 36¹ of P.L. , c. (C.)(pending before the
13 Legislature as this bill), the commissioner shall consider whether the
14 acquisition may:

15 (1) be detrimental to the safety and soundness of the New Jersey
16 bank or New Jersey bank holding company to be acquired;

17 (2) result in an undue concentration of resources or a substantial
18 reduction of competition in this State; or

19 (3) have a significantly adverse impact on the convenience and
20 needs of the community or communities in this State that are served
21 by the New Jersey bank or New Jersey bank holding company.

22 b. Except as otherwise provided in this section, the commissioner
23 shall not approve an acquisition under sections ¹~~29 through 37~~ 28
24 through 36¹ of P.L. , c. (C.)(pending before the Legislature as
25 this bill) if upon consummation of the transaction, the applicant,
26 including any depository institution affiliated with the applicant, would
27 control 30 percent or more of the total amount of deposits held by
28 depository institutions in this State.

29 c. The commissioner may by regulation adopt a procedure whereby
30 the limitation on control of deposits set forth in subsection b. of this
31 section may be waived for good cause shown.

32
33 ¹~~34.~~ 33.¹ (New section) a. The commissioner shall decide
34 whether to approve an acquisition under sections ¹~~29 through 37~~ 28
35 through 36¹ of P.L. , c. (C.)(pending before the Legislature as
36 this bill) within 60 days after receipt of a completed application,
37 provided, that if the commissioner requests additional information
38 from the applicant following receipt of a completed application, the
39 time limit for decision by the commissioner shall be the later of:

40 (1) the date set forth above in this subsection, or

41 (2) 30 days after the commissioner's receipt of the requested
42 additional information.

43 b. The commissioner may in the commissioner's discretion hold a
44 public hearing in connection with an application.

45 c. If the commissioner holds a public hearing in connection with an
46 application, the time limits specified in subsection a. of this section

1 shall be extended to 30 days after the conclusion of the public hearing.

2 d. An application shall be deemed approved if the commissioner
3 takes no action on the application within the time limits specified in
4 this section.

5

6 ¹~~35.~~ 34.¹ (New section) a. To the extent specified by the
7 commissioner by regulation, order or written request:

8 (1) each bank holding company or person that controls a New
9 Jersey bank or a New Jersey bank holding company shall submit to the
10 commissioner one or more copies of each report filed with any bank
11 supervisory agency, except for any report the disclosure of which
12 would be prohibited by applicable federal or state law, within 15 days
13 after the filing thereof with that agency; and

14 (2) each person that controls a New Jersey bank or a New Jersey
15 bank holding company that does not file a report with any other bank
16 supervisory agency shall file an annual report with the commissioner.

17 b. At the request of the commissioner, to the extent permitted by
18 applicable state and federal law, each bank holding company or person
19 that controls a New Jersey bank or a New Jersey bank holding
20 company shall provide to the commissioner copies of the reports of
21 examination of any New Jersey bank or New Jersey bank holding
22 company.

23

24 ¹~~36.~~ 35.¹ (New section) The commissioner may enforce the
25 provisions of sections ¹~~29 through 37~~ 28 through 36¹ of P.L. ,

26 c. (C.)(pending before the Legislature as this bill) by any
27 appropriate action in the Superior Court of this State, including an
28 action for civil money penalties, injunctive relief or divestment.

29

30 ¹~~37.~~ 36.¹ (New section) In order to carry out the purposes of
31 sections ¹~~29 through 37~~ 28 through 36¹ of P.L. , c. (C.)
32 (pending before the Legislature as this bill) the commissioner may:

33 a. Adopt regulations pursuant to the "Administrative Procedure
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.);

35 b. Enter into cooperative, coordinating or information-sharing
36 agreements with any other bank supervisory agency or any
37 organization affiliated with or representing one or more bank
38 supervisory agencies;

39 c. Accept any report of examination or investigation by another
40 bank supervisory agency having concurrent jurisdiction over a New
41 Jersey bank holding company or any New Jersey bank in lieu of
42 conducting the commissioner's own examination or investigation of
43 that bank holding company or bank;

44 d. Enter into joint examinations or joint enforcement actions with
45 any other bank supervisory agency having concurrent jurisdiction over
46 any New Jersey bank holding company or New Jersey bank; provided,

1 however, that the commissioner may take any such action
2 independently if the commissioner determines that the action is
3 necessary or appropriate to carry out the commissioner's
4 responsibilities under sections ¹~~29 through 37~~ 28 through 36¹ of
5 P.L. , c. (C.)(pending before the Legislature as this bill) and
6 to ensure compliance with the laws of this State; and

7 e. May assess supervisory and examination fees that shall be
8 payable by New Jersey banks and New Jersey bank holding companies
9 in connection with the commissioner's performance of the
10 commissioner's duties under sections ¹~~29 through 37~~ 28 through 36¹
11 of P.L. , c. (C.)(pending before the Legislature as this bill)
12 and in accordance with regulations adopted by the commissioner.
13 These fees may be shared with other bank supervisory agencies or any
14 organizations affiliated with or representing one or more bank
15 supervisory agencies in accordance with agreements between them and
16 the commissioner.

17
18 ¹~~38.~~ 37.¹ (New section) a. Sections ¹~~38 through 87~~ 37
19 through 86¹ of P.L. , c. (C.)(pending before the Legislature
20 as this bill) shall govern the establishment and operation in New Jersey
21 of offices and certain commercial lending company affiliates of banks
22 organized under the laws of a foreign country except that the
23 operation of such foreign banks through subsidiary banks or
24 depository institutions organized under the laws of the United States
25 or any state of the United States, the deposits of which are insured by
26 the Federal Deposit Insurance Corporation or any successor thereto,
27 shall be governed by the other provisions of "The Banking Act of
28 1948," P.L. 1948, c. 67 (C. 17:9A-1 et seq.).

29 b. For purposes of sections ¹~~38 through 87~~ 37 through 86¹ of
30 P.L. , c. (C.)(pending before the Legislature as this bill),
31 unless the context clearly requires otherwise, the following terms shall
32 be interpreted and applied in the same manner as the Federal Reserve
33 interprets and applies the terms with respect to foreign banks and
34 foreign banking organizations: "agency;" "branch;" "commercial
35 lending company;" "to establish;" "foreign bank;" "foreign banking
36 organization;" "office or office of a foreign bank;" "representative
37 office;" and "subsidiary."

38 c. The provisions of sections ¹~~38 through 87~~ 37 through 86¹ of
39 P.L. , c. (C.)(pending before the Legislature as this bill) are
40 intended to authorize foreign banks to establish and operate branches,
41 agencies, commercial lending company affiliates and representative
42 offices in this State and generally to ensure that interstate branches of
43 foreign banks may be established and operated in this State to the
44 extent consistent with the provisions of section 5 of the "International
45 Banking Act of 1978," 12 U.S.C. §3103, and the regulations of the
46 Federal Reserve promulgated thereunder, 12 CFR §211.20 et seq., and

1 under terms and conditions that are generally comparable to and no
2 less favorable than those applicable to the establishment of interstate
3 federal branches in this State by foreign banks.

4 d. As provided in subsection e. of this section, a foreign bank may
5 establish a branch or agency in this State in the same manner
6 (including by merger or other transactions under the Federal Deposit
7 Insurance Act, 12 U.S.C. §1831u, and comparable provisions of the
8 laws of this State, with New Jersey banks or other institutions) as, and
9 subject generally to the same criteria, standards, conditions,
10 requirements and procedures applicable to the establishment of
11 interstate branches in this State by an out-of-State bank having the
12 same home state in the United States as the foreign branch or agency,
13 notwithstanding any provisions of the laws or regulations of this State
14 to the contrary.

15 e. In interpreting the provisions of sections ¹ [38 through 87] 37
16 through 86¹ of P.L. , c. (C.)(pending before the Legislature as
17 this bill), the commissioner:

18 (1) generally shall apply to the establishment of an initial office of
19 a foreign bank whether or not the initial office is an interstate branch,
20 and any subsequent intrastate offices of a foreign bank, the same
21 criteria, standards, conditions, requirements and procedures applicable
22 to the establishment of an initial branch in New Jersey by an
23 out-of-State bank, and of subsequent intrastate branches in this State
24 by an out-of-State bank;

25 (2) may apply any other criterion, standard, condition, requirement
26 or provision of the laws or regulations of this State that is determined
27 by the commissioner to be substantially equivalent to or consistent
28 with a criterion, standard, condition, requirement or provision of
29 federal law or regulation generally applicable to the establishment of
30 offices in the United States by foreign banks or specifically applicable
31 to the establishment of an office in the United States by the applicant
32 foreign bank;

33 (3) may by regulation or order allow a foreign bank:

34 (a) to acquire an individual branch of any "insured bank," as that
35 term is defined in the "Federal Deposit Insurance Act," 12 U.S.C.
36 §1813(h), or of any other depository institution, including another
37 foreign bank, without acquiring the entire bank or other institution;

38 (b) to acquire or merge with another foreign bank maintaining a
39 branch or agency in this State and thereafter continue each operation
40 as its own; or

41 (c) to acquire or establish an interstate office through any other
42 means not inconsistent with section 5 of the "International Banking
43 Act of 1978," 12 U.S.C. §3103.

44 For purposes of this section, "out-of-State bank" shall have the
45 meaning given that term pursuant to section 1 of P.L.1948, c.67
46 (C.17:9A-1).

1 ¹[39.] 38.¹ (New section) As used in sections ¹[38 through 87]
2 37 through 86¹ of P.L. , c. (C.)(pending before the
3 Legislature as this bill):

4 "Agency" means any place of business of a foreign bank at which
5 credit balances are maintained, checks are paid, money is lent, or, to
6 the extent not prohibited by federal law, deposits are accepted from a
7 person or entity that is not a citizen or resident of the United States.
8 Obligations shall not be considered credit balances unless they are:

9 (1) Incidental to, or arise out of the exercise of, other lawful
10 banking powers;

11 (2) To serve a specific purpose;

12 (3) Not solicited from the general public;

13 (4) Not used to pay routine operating expenses such as salaries,
14 rent, or taxes in the United States;

15 (5) Withdrawn within a reasonable period of time after the specific
16 purpose for which they were placed has been accomplished; and

17 (6) Drawn upon in a manner reasonable in relation to the size and
18 nature of the account.

19 "Banking Act" means "The Banking Act of 1948," P.L.1948, c.67
20 (C.17:9A-1 et seq.).

21 "Banking subsidiary," with respect to a specified foreign bank,
22 means a bank that is a subsidiary as the terms "bank" and "subsidiary"
23 are defined in section 2 of the federal "Bank Holding Company Act of
24 1956," 12 U.S.C. §1841.

25 "Branch" means any place of business of a foreign bank at which
26 deposits are received and that is not an agency, as that term is defined
27 in this section.

28 "Business in this State", when used with respect to a foreign bank
29 which is licensed to establish one or more agencies or branch offices,
30 includes, without limitation, the aggregate business of all those offices
31 and agencies.

32 "Change the status of an office" means convert a representative
33 office into a branch or agency, or an agency into a branch, or the
34 reverse of the foregoing, but does not include renewal of the license
35 of an existing office.

36 "Commercial lending company" means any organization, other than
37 a bank or an organization operating under section 25 of the Federal
38 Reserve Act, 12 U.S.C. 601-604a, organized under the laws of any
39 state of the United States or a foreign country, that maintains credit
40 balances permissible for an agency and engages in the business of
41 making commercial loans. Commercial lending company includes any
42 company chartered under Article XII of the banking law of the State
43 of New York.

44 "Commissioner" means the Commissioner of Banking of New
45 Jersey.

46 "Controlling person," when used with respect to a foreign bank,

1 means any person who, directly or indirectly, controls that bank.

2 "Department" means the Department of Banking of New Jersey.

3 "To establish" or "establish" means to:

4 (1) Open and conduct business through an office;

5 (2) Acquire directly, through merger, consolidation, or similar
6 transaction with another foreign bank, the operations of an office that
7 is open and conducting business;

8 (3) Acquire an office through the acquisition of a foreign bank
9 subsidiary that will cease to operate in the same corporate form
10 following the acquisition;

11 (4) Change the status of an office; or

12 (5) Relocate an office from one physical location to another, unless
13 the new office is in the same building as the existing office.

14 "Executive officer," when used with respect to a foreign bank or a
15 controlling person of a foreign bank, means the chief executive officer,
16 the chief operating officer, the chief financial officer, and any other
17 person who participates or has authority to participate in major
18 policy-making functions of such bank or controlling person.

19 "Executive officer," when used with respect to a foreign bank, includes
20 the head of the international division, or, if there is no such division,
21 the closest equivalent division or unit of that bank.

22 "Federal agency" has the meaning set forth in section 1(b) of the
23 "International Banking Act of 1978," 12 U.S.C. §3101.

24 "Federal branch" has the meaning set forth in section 1(b) of the
25 "International Banking Act of 1978," 12 U.S.C. §3101.

26 "FDIC" means the Federal Deposit Insurance Corporation
27 established pursuant to "Federal Deposit Insurance Act," 12 U.S.C.
28 §1811 et seq.

29 "Federal Reserve" means the Board of Governors of the Federal
30 Reserve System.

31 "Foreign country" means any nation other than the United States,
32 including, without limitation, any subdivision, territory, trust territory,
33 dependency, or possession of any such nation. With respect to banks
34 which do not have deposit insurance with the FDIC, "foreign country"
35 also includes Puerto Rico, Guam, American Samoa, the Virgin Islands,
36 and any territory, trust territory, dependency, or insular possession of
37 the United States.

38 "Foreign bank" means an organization that is organized under the
39 laws of a foreign country and that engages directly in the business of
40 banking outside of the United States. The term "foreign bank" does
41 not include a central bank of a foreign country that does not engage in
42 a commercial banking business in the United States through an office.

43 "Foreign banking organization" means a foreign bank that operates
44 a branch, agency or commercial lending company subsidiary in the
45 United States or that controls a bank in the United States and any
46 company of which such foreign bank is a subsidiary.

1 "License" means a license issued under sections ¹**[38 through 87]**
2 37 through 86¹ of P.L. , c. (C.) (pending before the Legislature
3 as this bill), authorizing a foreign bank or a commercial lending
4 company to establish and to maintain an office; to be "licensed" means
5 to be issued or to hold a license; and to be "licensed to transact
6 business in this State," when used with respect to a foreign bank or a
7 commercial lending company, means that the bank is licensed to
8 establish an agency or branch office or commercial lending company.

9 "Loans and extensions of credit" means all direct and indirect
10 advances of funds to a person made on the basis of any obligation of
11 that person to repay funds.

12 "Office" or "office of a foreign bank" means any branch, agency,
13 representative office, or commercial lending company subsidiary of a
14 foreign bank in the United States.

15 "Organization" means a corporation, government, partnership,
16 association, or any other entity.

17 "Person" means an individual or an organization.

18 "Primary office," when used with respect to a foreign bank which
19 is licensed to establish a single office, means that office and, when
20 used with respect to a foreign bank which is licensed to establish two
21 or more offices, means one of those offices which that bank has
22 designated as its primary office in accordance with section ¹**[52] 51¹**
23 of P.L. , c. (C.) (pending before the Legislature as this bill).

24 "Representative office" means any place of business of a foreign
25 bank that is not a branch, agency, or subsidiary of the foreign bank.

26 "State of the United States" means any state of the United States or
27 the District of Columbia.

28 "Subsidiary" means an organization, 25 percent or more of whose
29 voting shares is directly or indirectly owned, controlled, or held with
30 the power to vote by a company, including a foreign bank or foreign
31 banking organization, or any organization that is otherwise controlled
32 or capable of being controlled by a foreign bank or foreign banking
33 organization.

34

35 ¹**[40.] 39.¹** (New section) a. For purposes of sections ¹**[38**
36 **through 87]** 37 through 86¹ of P.L. , c. (C.) (pending before
37 the Legislature as this bill), offices of foreign banks are divided into
38 classes and ranked in ascending order, as follows:

- 39 (1) Representative office.
40 (2) Commercial lending company.
41 (3) Agency.
42 (4) Branch.

43 b. For purposes of sections ¹**[38 through 87]** 37 through 86¹ of
44 P.L. , c. (C.) (pending before the Legislature as this bill):

- 45 (1) Changing a lower class office into a higher class office shall be
46 treated as establishing the higher class office, but not as closing the

1 lower class office.

2 (2) Changing a higher class office into a lower class office shall be
3 treated as closing the higher class office, but not as establishing the
4 lower class office.

5 c. In the case of changing a higher class office into a lower class
6 office, when the application for approval to close the higher class
7 office has been approved and all conditions precedent to the closing
8 have been fulfilled, the foreign bank may change the higher class office
9 into the lower class office, and the commissioner shall issue a license
10 authorizing the bank to establish the lower class office.

11

12 ¹[41.] 40.¹ (New section) Fees shall be paid to, and collected by,
13 the commissioner as follows:

14 a. The fee for filing with the commissioner an application by a
15 foreign bank which is not licensed to transact business in this State for
16 approval to establish a branch office shall be \$3,000.

17 b. The fee for filing with the commissioner an application by a
18 foreign bank or commercial lending company which is not licensed to
19 transact business in this State for approval to establish an agency or an
20 office of a commercial lending company shall be \$2,500.

21 c. The fee for filing with the commissioner an application by a
22 foreign bank which is licensed to transact business in this State for
23 approval to establish a branch office shall be \$2,000.

24 d. The fee for filing with the commissioner an application by a
25 foreign bank or commercial lending company which is licensed to
26 transact business in this State for approval to establish an agency or an
27 office of a commercial lending company shall be \$1,500.

28 e. The fee for filing with the commissioner an application by a
29 foreign bank for approval to establish a representative office shall be
30 \$1,500.

31 f. The fee for filing with the commissioner an application by a
32 foreign bank or commercial lending company which is licensed to
33 establish an agency, branch or commercial lending company office for
34 approval to relocate or to close that office shall be \$1,000.

35 g. The fee for filing with the commissioner an application by a
36 foreign bank which is licensed to establish a representative office for
37 approval to relocate or to close that representative office shall be
38 \$500.

39 h. The fee for issuing a license shall be \$300.

40 i. The commissioner, by regulation, shall have the power to
41 increase the fees set forth above and to set and to charge additional
42 fees, including but not limited to, annual assessment fees.

43

44 ¹[42.] 41.¹ (New section) a. Each application filed with the
45 commissioner under sections ¹[38 through 87] 37 through 86¹ of
46 P.L. , c. (C.)(pending before the Legislature as this bill) or

1 under any regulation or order issued under sections ¹[38 through 87]
2 37 through 86¹ of P.L. , c. (C.)(pending before the
3 Legislature as this bill) shall be in such form, shall contain the
4 information, be signed in the manner, and, if the commissioner so
5 requires, be verified in the manner the commissioner may by regulation
6 or order require.

7 b. Without limiting the foregoing, the commissioner shall require
8 as part of the application all of the information submitted to the
9 Federal Reserve in connection with any application and may require
10 only the information in the form submitted to the Federal Reserve as
11 these are required pursuant to the "Bank Holding Company Act of
12 1956," 12 U.S.C. §1841 et seq., the "International Banking Act of
13 1978," 12 U.S.C. §3101 et seq. and regulation K, 12 CFR §211.20 et
14 seq., issued by the Federal Reserve.

15

16 ¹[43.] 42.¹ (New section) a. In this section, "act" includes,
17 without limitation, omission.

18 b. For purposes of making findings on an application by a foreign
19 bank or commercial lending company for approval to establish an
20 office:

21 (1) The commissioner may, in the absence of credible evidence to
22 the contrary, find that the directors, executive officers, and any
23 controlling person of the bank and the directors and executive officers
24 of any controlling person of the bank are each of good character and
25 sound financial standing.

26 (2) The commissioner may find that the bank, a director, executive
27 officer, or a controlling person of the bank, or director or executive
28 officer of a controlling person of the bank is not of good character if
29 that person:

30 (a) Has been convicted of, or has pleaded nolo contendere to, any
31 crime involving an act of fraud or dishonesty;

32 (b) Has consented to or suffered a judgment in any civil action
33 based upon conduct involving an act of fraud or dishonesty;

34 (c) Has consented to or suffered the suspension or revocation of
35 any professional, occupational, or vocational license based upon
36 conduct involving an act of fraud or dishonesty;

37 (d) Has willfully made or caused to be made in any application or
38 report filed with the commissioner or in any proceeding before the
39 commissioner, any statement which was at the time and in the light of
40 the circumstances under which it was made false or misleading with
41 respect to any material fact, or has willfully omitted to state in any
42 such application or report any material fact which was required to be
43 stated therein; or

44 (e) Has willfully committed any violation of, or has willfully aided,
45 abetted, counseled, commanded, induced, or procured the violation by
46 any other person of, any provision of this section or of any regulation

1 or order issued under this section.

2 c. Paragraph (2) of subsection b., of this section shall not be
3 deemed to be an exclusive list of the grounds upon which the
4 commissioner may find, for purposes of making findings on an
5 application by a foreign bank or commercial lending company for
6 approval to establish an office, that such bank or company, a director,
7 executive officer, or controlling person of the bank, or a director or
8 executive officer of a controlling person of the bank or company, is
9 not of good character.

10

11 ¹[44.] 43.¹ (New section) a. Each foreign bank and commercial
12 lending company which is licensed to establish an office shall file with
13 the commissioner reports as and when the commissioner may by
14 regulation or order require.

15 b. Each report filed with the commissioner under sections ¹[38
16 through 87] 37 through 86¹ of P.L. , c. (C.)(pending before
17 the Legislature as this bill) or under any regulation or order issued
18 thereunder shall be in the form, contain the information, be signed in
19 the manner, and, if the commissioner so requires, be verified in the
20 manner the commissioner may by regulation or order require.

21

22 ¹[45.] 44.¹ (New section) Each foreign bank and commercial
23 lending company which is licensed to establish an office shall make,
24 keep, and preserve at an office or at any other place as the
25 commissioner may by regulation or order approve, the books,
26 accounts, and other records relating to the business of the office, in the
27 form, manner, and for the time the commissioner may by regulation or
28 order provide.

29

30 ¹[46.] 45.¹ (New section) a. No foreign bank which is licensed
31 to establish an agency or branch office shall concurrently establish a
32 federal agency or federal branch in this State.

33 b. No foreign bank which establishes a federal agency or federal
34 branch in this State shall concurrently be licensed to establish an
35 agency or branch office in this State.

36

37 ¹[47.] 46.¹ (New section) A foreign bank or commercial lending
38 company may open one or more offices in this State. Each office shall
39 be separately licensed and each office of a separate class shall be
40 separately maintained.

41

42 ¹[48.] 47.¹ (New section) a. (1) No foreign bank, other than a
43 foreign bank which is licensed to establish an agency or branch office,
44 shall be issued a license to establish a representative office or
45 commercial lending company unless it shall have first filed with the
46 commissioner, in the form as the commissioner may by regulation or

1 order require, an appointment irrevocably appointing the commissioner
2 to be the bank's or commercial lending company's attorney to receive
3 service of any lawful process in any noncriminal judicial or
4 administrative proceeding against the bank or any of its successors
5 which arises out of the activities in this State of the representative
6 office or commercial lending company after the appointment has been
7 filed, with the same force and validity as if served personally on the
8 bank or its successor, as the case may be.

9 (2) Any foreign bank, other than a foreign bank which is licensed
10 to establish an agency or branch office or which establishes a federal
11 agency or federal branch in this State, which establishes a
12 representative office or commercial lending company and which has
13 not filed with the commissioner an appointment pursuant to paragraph
14 (1) of this subsection a., shall be deemed by the establishment of that
15 office to have appointed the commissioner as its attorney to receive
16 service of any lawful process in any noncriminal judicial or
17 administrative proceeding against the bank or any of its successors
18 which arises out of the activities in this State of the representative
19 office or commercial lending company with the same force and validity
20 as if served personally on the bank or its successor, as the case may
21 be.

22 b. (1) No foreign bank shall be issued a license to establish an
23 agency or branch office unless it shall have first filed with the
24 commissioner, in a form as the commissioner may by regulation or
25 order require, an appointment irrevocably appointing the commissioner
26 to be the bank's attorney to receive service of any lawful process in
27 any noncriminal judicial or administrative proceeding against the bank
28 or any of its successors which arises after the appointment has been
29 filed, with the same force and validity as if served personally on the
30 bank or its successor, as the case may be.

31 (2) Any foreign bank which establishes an agency or branch office,
32 other than a federal agency or federal branch, and which has not filed
33 with the commissioner an appointment pursuant to paragraph (1) of
34 this subsection b. shall be deemed by the establishment of that office
35 to have appointed the commissioner as its attorney to receive service
36 of any lawful process in any noncriminal judicial or administrative
37 proceeding against the bank or any of its successors with the same
38 force and validity as if served personally on the bank or its successor,
39 as the case may be.

40 c. Service may be made on a foreign bank which has appointed or
41 is deemed to have appointed the commissioner as its attorney for
42 service of process by leaving a copy of the process at any office of the
43 commissioner. However, this service is not effective unless (1) the
44 party making the service, who may be the commissioner, forthwith
45 sends notice of the service and a copy of the process by registered or
46 certified mail to the foreign bank at its last address on file with the

1 commissioner at any of its offices in this State or at its primary office
2 wherever located, and (2) an affidavit of compliance with this
3 subsection c. by the party making service is filed in the case on or
4 before the return date, if any, or within such further time as the court,
5 in the case of a judicial proceeding, or the administrative agency, in the
6 case of an administrative proceeding, allow.

7
8 ¹~~49.~~ 48.¹ (New section) No license shall be transferable or
9 assignable.

10
11 ¹~~50.~~ 49.¹ (New section) Each foreign bank and commercial
12 lending company which is licensed to establish an office shall post its
13 license in a conspicuous place at that office.

14
15 ¹~~51.~~ 50.¹ (New section) a. Each foreign bank and commercial
16 lending company which is licensed to establish an office shall assign to
17 that office a popular name which consists of a specific designation by
18 name, number or both, and shall post the popular name and the name
19 of the bank in a conspicuous place at the office.

20 b. The popular name that a foreign bank assigns to a representative
21 office which it is licensed to establish shall include the term
22 "representative office."

23 c. The popular name that a foreign bank assigns to an agency
24 which it is licensed to establish shall not include the term "branch"
25 unless that term is modified by the word "foreign" or "overseas" or by
26 a similar word.

27 d. Each foreign bank which is licensed to establish a commercial
28 lending company shall select a popular name that includes the term
29 "commercial lending company" and shall post with that popular name
30 a clear expression of whether the foreign bank is liable for the debts
31 and obligations of the commercial lending company.

32
33 ¹~~52.~~ 51.¹ (New section) Whenever a foreign bank is licensed to
34 establish two or more offices it shall designate one of those offices as
35 its primary office.

36
37 ¹~~53.~~ 52.¹ (New section) Each foreign bank and commercial
38 lending company which is licensed to establish an office shall conduct
39 all of the business of that office in a single building or in a single
40 building and adjoining buildings. However, for good cause and with
41 the approval of the commissioner, the bank may conduct part of the
42 business of the office elsewhere in the same vicinity.

43
44 ¹~~54.~~ 53.¹ (New section) a. The department shall have the right
45 to examine each office which the commissioner licenses under section
46 ¹~~38 through 87~~ 37 through 86¹ of P.L. , c. (C.)(pending

1 before the Legislature as this bill). The department shall insure that
2 each office which is licensed hereunder is examined by either the
3 Federal Reserve or the department as often as the commissioner deems
4 it advisable. The costs of any examination by the department shall be
5 assessed to the bank or commercial lending company which is the
6 holder of the license. The examination fees shall be assessed in the
7 same manner and on the same basis as examination fees are assessed
8 for banks or trust companies organized under the Banking Act.

9 b. The commissioner may contract with the Federal Reserve or the
10 bank examination officials in any other state of the United States or in
11 any other foreign country to conduct cooperative examinations. Every
12 report and copy of a report of examination of a foreign bank or office
13 of a foreign bank made by or under the supervision of the
14 commissioner, and every report and copy thereof made by a bank
15 pursuant to the requirement of the commissioner, shall be confidential,
16 and shall not be made public by any officer, director or employee of a
17 foreign bank, and shall not be subject to subpoena or to admission into
18 evidence in any action or proceeding in any court, except pursuant to
19 an order of the court made upon notice to the commissioner and after
20 affording the commissioner an opportunity to advise the court of
21 reasons for excluding from evidence that report or any portion thereof.
22 The court shall order the issuance of a subpoena for the production or
23 admission into evidence of any report or portion thereof, only if it is
24 satisfied that (1) it is material and relevant to the issues in the
25 proceedings, and (2) the ends of justice and public advantage will be
26 subserved thereby. This section shall not prohibit the commissioner
27 from sharing a report of examination with another state or federal
28 regulator or a bank regulator from a foreign country, or other person,
29 so long as provision is made for retaining the confidentiality of the
30 report. This section shall not apply to any action or proceeding
31 instituted by the commissioner or Attorney General pursuant to any
32 law of this State.

33
34 ¹**[55.] 54.**¹ (New section) A foreign bank or commercial lending
35 company which makes a loan or extends credit from an office in this
36 State, or books a loan or extension of credit in this State, shall comply
37 with any applicable interest rate limitations imposed by the laws of
38 this State or the United States which would be applicable to that loan
39 if made by a commercial bank organized under the Banking Act.
40 When transacting business in this State, an office of a foreign bank
41 shall comply with all other laws and regulations of the State governing
42 the business in which the office is engaged, unless the commissioner,
43 for good cause shown, exempts the office by regulation or order from
44 compliance.

45
46 ¹**[56.] 55.**¹ (New section) a. No foreign bank shall establish a

1 representative office in this State unless it is licensed to establish a
2 representative office at that place.

3 b. (1) No person shall establish a representative office in this State
4 as representative of a foreign bank unless that bank is licensed to
5 establish the office as a representative office.

6 (2) For purposes of sections ¹~~38 through 87~~ 37 through 86¹ of
7 P.L. , c. (C.)(pending before the Legislature as this bill), if any
8 person establishes an office in this State as representative of a foreign
9 bank, that foreign bank shall be deemed to establish the office as a
10 representative office.

11 c. Neither subsection a. nor subsection b. of this section shall
12 prohibit a foreign bank which establishes a federal agency or federal
13 branch in this State from establishing one or more representative
14 offices in this State.

15

16 ¹~~57.~~ 56.¹ (New section) a. (1) No foreign bank shall establish
17 a representative office unless the commissioner shall have first
18 approved the establishment of that office and issued a license
19 authorizing the foreign bank to establish the office.

20 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
21 bank which establishes a federal agency or federal branch in this State
22 from establishing one or more representative offices in this State.

23 b. If the commissioner finds the following with respect to an
24 application by a foreign bank to establish a representative office, the
25 commissioner shall approve the application:

26 (1) That the bank, any controlling person of the bank, the directors
27 and executive officers of the bank or of any controlling person of the
28 bank, and the proposed management of the office are each of good
29 character and sound financial standing;

30 (2) That the financial history and condition of the bank are
31 satisfactory;

32 (3) That the management of the bank and the proposed
33 management of the office are adequate;

34 (4) That it is reasonable to believe that, if licensed to establish the
35 office, the bank will operate the office in compliance with all
36 applicable laws, regulations, and orders; and

37 (5) That the bank's establishment of the office will promote the
38 public convenience and advantage.

39 (6) Such other standards as the commissioner may by regulation
40 require.

41 If the commissioner finds otherwise, the commissioner shall deny
42 the application.

43 c. Whenever an application by a foreign bank to establish a
44 representative office has been approved and all conditions precedent
45 to the issuance of a license authorizing the foreign bank to establish
46 the representative office have been fulfilled, the commissioner shall

1 issue the license.

2

3 ¹~~58.~~ 57.¹ (New section) a. No foreign bank which is licensed
4 to establish a representative office shall relocate its office unless the
5 commissioner shall have first approved the relocation and issued a
6 license authorizing the foreign bank to establish the office at the new
7 site.

8 b. If the commissioner finds the following with respect to an
9 application by a foreign bank to relocate a representative office, the
10 commissioner shall approve the application:

11 (1) If the new site of the office is in the same vicinity as the old
12 site, that the relocation of the office will not be substantially
13 detrimental to the public convenience and advantage; or

14 (2) If the new site of the office is not in the same vicinity as the old
15 site:

16 (a) that the relocation of the office from the old site will not be
17 substantially detrimental to the public convenience and advantage in
18 the area which is primarily served by the office at the old site; and

19 (b) that the relocation of the office to the new site will promote the
20 public convenience and advantage.

21 If the commissioner finds otherwise, the commissioner shall deny
22 the application.

23 c. Whenever an application by a foreign bank to relocate a
24 representative office has been approved and all conditions precedent
25 to the issuance of a license authorizing such bank to establish the
26 office at the new site have been fulfilled, the commissioner shall issue
27 the license.

28 d. Promptly after a foreign bank which is licensed to establish a
29 representative office relocates its office, the bank shall surrender to the
30 commissioner the license which authorized it to establish the office at
31 the old site.

32

33 ¹~~59.~~ 58.¹ (New section) A foreign bank which is licensed to
34 establish a representative office may, subject to regulations the
35 commissioner may prescribe, engage in representational functions at
36 that office but shall not solicit or accept deposits or credit balances or
37 otherwise transact business at the office.

38

39 ¹~~60.~~ 59.¹ (New section) a. (1) No foreign bank which is
40 licensed to establish a representative office shall close its office unless
41 the commissioner shall have first approved the closing.

42 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
43 bank which is licensed to establish a representative office from closing
44 the office in accordance with sections ¹~~80 through 86~~ 79 through
45 85¹ of P.L. , c. (C.)(pending before the Legislature as this
46 bill).

1 b. If the commissioner finds, with respect to an application by a
2 foreign bank to close a representative office, that the closing of that
3 office will not be substantially detrimental to the public convenience
4 and advantage, the commissioner shall approve the application. If the
5 commissioner finds otherwise, the commissioner shall deny the
6 application.

7 c. Whenever an application by a foreign bank to close a
8 representative office has been approved and all conditions precedent
9 to the closing have been fulfilled, that bank may close the office and
10 shall promptly thereafter surrender to the commissioner the license
11 which authorized it to establish the office.

12
13 ¹~~61.~~ 60.¹ (New section) Any office of a foreign bank existing in
14 this State on the effective date of sections ¹~~38 through 87~~ 37
15 through 86¹ of P.L. , c. (C.)(pending before the Legislature as
16 this bill) which had been previously approved by the commissioner
17 shall be granted a license by the commissioner as a representative
18 office for purposes of that act.

19
20 ¹~~62.~~ 61.¹ (New section) a. No foreign bank shall transact
21 business in this State except at an agency or branch office which it is
22 licensed to establish and at which it is permitted by sections ¹~~38~~
23 through 87 37 through 86¹ of P.L. , c. (C.)(pending before
24 the Legislature as this bill) to transact that business.

25 b. Subsection a. of this section shall not be deemed to prohibit:

26 (1) Any foreign bank which establishes a federal agency or federal
27 branch in this State from transacting at that federal agency or federal
28 branch such business as it may be authorized to transact under
29 applicable federal laws and regulations;

30 (2) Any foreign bank from carrying on the activities described in
31 paragraph (2) of N.J.S. 14A:13-3;

32 (3) Any foreign bank which does not establish an agency or branch
33 office from making, in this State, loans secured by liens on real or
34 personal property located in this State or enforcing those loans in this
35 State; or

36 (4) Any foreign bank which does not establish an agency or branch
37 office from transacting trust business in this State if the trust business
38 is not conducted from an office or location in this State and that trust
39 business is limited to trust business permitted by, and conducted
40 pursuant to a certificate of authority issued by the commissioner in
41 accordance with subsection B. of section 316 of P.L.1948, c.67
42 (C.17:9A-316 B.).

43
44 ¹~~63.~~ 62.¹ (New section) a. (1) No foreign bank shall establish
45 an agency or branch office unless the commissioner shall have first
46 approved the establishment of that office and issued a license

1 authorizing the bank to establish the office.

2 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
3 bank from establishing a federal agency or federal branch in this State.

4 b. If the commissioner finds the following with respect to an
5 application by a foreign bank to establish an agency or branch office,
6 the commissioner shall approve that application:

7 (1) That the bank, any controlling person of the bank, the directors
8 and executive officers of the bank or of any controlling person of the
9 bank, and the proposed management of the office are each of good
10 character and sound financial standing;

11 (2) That the financial history and condition of the bank are
12 satisfactory;

13 (3) That the management of the bank and the proposed
14 management of the office are adequate;

15 (4) That it is reasonable to believe that, if licensed to establish the
16 office, the bank will operate the office in a safe and sound manner and
17 in compliance with all applicable laws, regulations, and orders;

18 (5) That the bank's plan to establish and to operate the office
19 affords reasonable promise of successful operation; and

20 (6) That the bank's establishment of the office will promote the
21 public convenience and advantage.

22 If the commissioner finds otherwise, the commissioner shall deny
23 the application.

24 c. Whenever an application by a foreign bank to establish an
25 agency or branch office has been approved and all conditions
26 precedent to the issuance of a license authorizing the bank to establish
27 the office have been fulfilled, the commissioner shall issue the license.
28

29 ¹[64.] 63.¹ (New section) a. No foreign bank which is licensed to
30 establish an agency or branch office shall relocate that office unless the
31 commissioner shall have first approved the relocation and issued a
32 license authorizing the bank to establish the office at the new site.

33 b. If the commissioner finds the following with respect to an
34 application by a foreign bank to relocate any agency or branch office,
35 the commissioner shall approve the application:

36 (1) If the new site of the office is in the same vicinity as the old
37 site:

38 (a) That it will not be unsafe or unsound for the bank to relocate
39 the office; and

40 (b) That the relocation of the office will not be substantially
41 detrimental to the public convenience and advantage, or that the
42 relocation is necessary in the interests of the safety and soundness of
43 the bank; or

44 (2) If the new site of the office is not in the same vicinity as the old
45 site:

46 (a) That the bank's plan to relocate the office and to establish the

1 office at the new site affords reasonable promise of successful
2 operation;

3 (b) That the relocation of the office from the old site will not be
4 substantially detrimental to the public convenience and advantage in
5 the area which is primarily served by the office at the old site, or that
6 the relocation is necessary in the interests of the safety and soundness
7 of the bank; and

8 (c) That the relocation of the office to the new site will promote
9 the public convenience and advantage.

10 If the commissioner finds otherwise, the commissioner shall deny
11 the application.

12 c. Whenever an application by a foreign bank to relocate an agency
13 or branch office has been approved and all conditions precedent to the
14 issuance of a license authorizing the bank to establish the office at the
15 new site have been fulfilled, the commissioner shall issue the license.

16 d. Promptly after a foreign bank which is licensed to establish an
17 agency or branch office relocates the office, the bank shall surrender
18 to the commissioner the license which authorized it to establish the
19 office at the old site.

20

21 ¹[65.] 64.¹ (New section) a. A foreign bank which is licensed to
22 establish an agency or branch office may transact banking business at
23 that office, subject to the following:

24 (1) If the office is an agency, the bank shall not transact the
25 business of accepting deposits, other than deposits of: (a) a foreign
26 nation; (b) an agency or instrumentality of a foreign nation; or (c) a
27 person which resides, is domiciled, and maintains its principal place of
28 business in a foreign nation. For purposes of this paragraph "person"
29 means any individual, proprietorship, joint venture, partnership, trust,
30 business trust, syndicate, association, joint stock company,
31 corporation, or any other organization or any branch or division
32 thereof.

33 (2) If the office is a branch office, the bank shall not transact the
34 business of accepting any deposits other than: (a) deposits of the kind
35 described in paragraph (1) of this subsection a.; (b) deposits of
36 \$100,000 or more; (c) deposits of less than \$100,000 which the branch
37 is permitted to accept under applicable federal law; or (d) deposits the
38 acceptance of which the commissioner determines by regulation or
39 order does not constitute engaging in domestic retail deposit activities
40 requiring deposit insurance protection.

41 (3) If the office is an agency or branch office or commercial
42 lending company, the bank or lending company may maintain credit
43 balances as those obligations are defined under the term "agency" in
44 section ¹[39] 38¹ of P.L. , c. (C.)(pending before the
45 Legislature as this bill).

46 (4) In any case, the bank or commercial lending company shall not

1 transact any business which it is not authorized to transact or is
2 prohibited from transacting under the laws of its domicile or which
3 banks organized under the laws of this State are not authorized to
4 transact or are prohibited from transacting.

5 b. No foreign bank which is licensed to establish an agency or
6 branch office shall transact any trust business at that office unless the
7 commissioner expressly authorizes the trust business by order upon a
8 finding by the commissioner that the agency or branch is qualified to
9 transact such business under standards similar to those required to
10 obtain a charter for a trust company under the Banking Act.

11 c. All provisions of the Banking Act shall apply to any foreign bank
12 or commercial lending company licensed to transact business in this
13 State, unless the commissioner by regulation or order otherwise
14 specifies.

15 d. (1) Any provisions of the Banking Act which are applicable to
16 or with respect to foreign banks licensed to transact business in this
17 State, whether by law, regulation or order, shall be applied with any
18 changes in interpretation or application as may be necessary or
19 appropriate.

20 (2) Without limiting the provisions of paragraph (1) of this
21 subsection d., for purposes of any provision of the Banking Act, which
22 are applicable to or with respect to a foreign bank or commercial
23 lending company licensed to transact business in this State:

24 (a) "Approved by, or approval of, the board" means approved or
25 ratified by the board of the bank, by a committee of the board
26 authorized to exercise the powers of the board with respect to the
27 particular matter, or by an officer of the bank who is assigned to the
28 head office of the bank and who has authority over the bank's business
29 in this State, including authority to approve or ratify the particular
30 matter.

31 (b) "Principal office" means the primary office of the bank.

32 (c) "Shareholders' equity" means the shareholders' equity of the
33 bank or, if the bank has no shareholders' equity, the closest equivalent
34 account or accounts.

35 e. Whenever any provision of the Banking Act, which is applicable
36 to or with respect to a foreign bank or commercial lending company
37 licensed to transact business in this State limits the amount of any
38 assets or liabilities of the bank, including, by way of example, the
39 amount of borrowings of, obligations to, or investment of the bank or
40 commercial lending company, for purposes of calculating the amount
41 of such assets or liabilities, only assets or liabilities of the agencies or
42 branch offices of the bank or commercial lending company shall be
43 included, and the assets and liabilities of offices of the bank or
44 commercial lending company outside this State shall be excluded.

45

46 ¹[66.] 65.¹ (New section) a. Whenever the commissioner calls for

1 a report of condition or income from commercial banks organized
2 under the laws of this State, the commissioner shall call for a like
3 report from each foreign bank which is licensed to transact business in
4 this State.

5 b. Whenever a foreign bank which is licensed to transact business
6 in this State files with the commissioner a report called for under
7 subsection a. of this section, that report shall be readily available to the
8 customers of the office of the bank.

9 c. The statement of condition shall be in the form, contain the
10 information, and be signed in the manner, and, if the commissioner so
11 requires by regulation or order, be verified in the manner the
12 commissioner may by regulation or order require.

13

14 ¹~~67.~~ 66.¹ (New section) Each foreign bank which is licensed to
15 establish an agency or branch office shall, in accordance with the
16 regulations the commissioner may prescribe, give notice that deposits
17 in that office are not insured by the Federal Deposit Insurance
18 Corporation.

19

20 ¹~~68.~~ 67.¹ (New section) a. If a foreign bank is licensed to
21 establish a depository agency or branch office and such office is not
22 subject to the regulations of the Depository Institutions Deregulation
23 Committee established pursuant to the "Depository Institutions
24 Deregulation Act of 1980," 12 U.S.C. §3501 et seq., Regulation Q of
25 the Federal Reserve, 12 CFR §217 et seq., or Part 329 of the
26 regulations of the Federal Deposit Insurance Corporation, 12 CFR
27 §329 et seq., the bank shall, with respect to deposits accepted at the
28 office, comply with the regulations regarding maximum interest rates
29 on deposits, prepayment of time deposits, and related matters the
30 commissioner may prescribe as being necessary and appropriate to
31 establish competitive equality between foreign banks and banks
32 organized under the laws of this State which are subject to the
33 regulations of the Depository Institutions Deregulation Committee,
34 Regulation Q of the Federal Reserve, or Part 329 of the regulations of
35 the Federal Deposit Insurance Corporation.

36 b. Whenever the commissioner adopts a regulation or order of
37 repeal of a regulation under subsection a. of this section, the
38 commissioner may, without describing specific facts showing the need
39 for immediate action, make the regulation or order of repeal effective
40 immediately.

41

42 ¹~~69.~~ 68.¹ (New section) a. Each foreign bank which is licensed
43 to transact business in this State shall keep the assets of that business
44 separate and apart from the assets of its business outside this State.

45 b. The creditors of the business in this State of a foreign bank
46 which is licensed to transact business in this State shall be entitled to

1 priority over other creditors with respect to the assets of the foreign
2 banks's business in this State.

3

4 ¹[70.] 69.¹ (New section) a. In this section:

5 (1) "Adjusted liabilities," when used with respect to a foreign bank,
6 means the liabilities of the bank's business in this State, excluding: (a)
7 accrued expenses; (b) any liability to an office, whether in or outside
8 of this State, or subsidiary of the bank; and (c) such other liabilities as
9 the commissioner may by regulation or order exclude.

10 (2) "Applicable minimum," when used with respect to eligible
11 assets deposited or to be deposited with an approved depository by a
12 foreign bank, means the amount as the commissioner may from time
13 to time by regulation or order determine to be necessary for the
14 establishment of sound financial condition, for the protection of the
15 interests of creditors of the bank's business in this State, or for the
16 protection of the public interest.

17 However, in the case of a foreign bank which is licensed to establish
18 an agency or a branch office, the applicable minimum shall in no event
19 be less than the greater of (a) 5 percent of the adjusted liabilities of the
20 bank or (b) \$1,000,000.

21 (3) "Approved depository," when used with respect to a foreign
22 bank, means a bank organized under the laws of this State or a
23 national bank headquartered in this State which has been selected by
24 such foreign bank and approved by the commissioner for the purpose
25 of acting as the approved depository of the foreign bank and which has
26 filed with the commissioner, in the form as the commissioner may by
27 regulation or order prescribe, an agreement to comply with all
28 applicable provisions of this section and of any regulation or order
29 issued under this section.

30 (4) "Eligible assets" when used with respect to a foreign bank,
31 means any of the following:

32 (a) Cash.

33 (b) Any investment security which by regulation is eligible for
34 investment by a commercial bank organized under the Banking Act.

35 (c) Any negotiable certificate of deposit which: (i) has a maturity
36 of not more than one year, (ii) is payable in the United States, and
37 (iii) is issued by a bank organized under the laws of a state of the
38 United States, by a national bank, or by a branch office of a foreign
39 bank which is located in the United States.

40 (d) Any commercial paper which is payable in the United States
41 and which is rated P-1 or its equivalent by a nationally recognized
42 rating service; provided, however, that any conflict in rating shall be
43 resolved in favor of the lower rating.

44 (e) Any banker's acceptance which is payable in the United States
45 and which is eligible for discount with a Federal Reserve bank.

46 (f) Any other asset which the commissioner by regulation or order

1 determines to be eligible.

2 Notwithstanding the foregoing provisions of this paragraph,
3 "eligible asset," when used with respect to a foreign bank, does not
4 include any instrument the issuer of which: (i) is, or is affiliated with,
5 the foreign bank; (ii) is domiciled in, or controlled by a bank or other
6 person domiciled in, the same foreign nation as the foreign bank; or
7 (iii) is, or is controlled by, the foreign nation. For purposes of the
8 foregoing provision, to be "affiliated" means to control, to be
9 controlled by, or to be under common control with.

10 b. For purposes of this section:

11 (1) The amount of adjusted liabilities of a foreign bank's business
12 in this State shall be computed for the period, in the manner, and on
13 the basis as the commissioner may by regulation or order prescribe.

14 (2) Any eligible asset shall be valued at the lesser of market or par.

15 c. (1) Before any foreign bank is licensed to transact business in
16 this State, the bank shall deposit, and each foreign bank which is
17 licensed to transact business in this State shall maintain on deposit,
18 with an approved depository, eligible assets having a value in an
19 amount not less than the applicable minimum.

20 (2) Whenever a foreign bank which is licensed to transact business
21 in this State ceases to be so licensed, the bank shall thereafter establish
22 on deposit, with an approved depository, eligible assets having a value
23 in an amount not less than the applicable minimum for the period of
24 time the commissioner may determine to be necessary for the
25 protection of creditors of the bank's business in this State or for the
26 protection of the public interest.

27 d. (1) No foreign bank which establishes eligible assets on deposit
28 with an approved depository pursuant to this section shall withdraw
29 any of those eligible assets except with the prior approval of the
30 commissioner.

31 (2) No approved depository which holds eligible assets on deposit
32 from a foreign bank pursuant to this section shall release any of those
33 eligible assets except with the prior approval of the commissioner or
34 as otherwise provided in subsection h. of this section.

35 e. Any foreign bank which establishes eligible assets on deposit
36 with an approved depository pursuant to this section shall be entitled
37 to receive any income paid on such eligible assets, unless the
38 commissioner shall have suspended or revoked its license to transact
39 business in this State or taken possession of its property and business
40 in this State.

41 f. (1) Whenever a foreign bank deposits eligible assets with, or
42 withdraws eligible assets from, an approved depository pursuant to
43 this section, the bank shall do so in accordance with the procedures
44 and requirements the commissioner may by regulation or order
45 prescribe.

46 (2) Whenever an approved depository receives, holds, or releases

1 eligible assets pursuant to this section, the approved depository shall
2 do so in accordance with the procedures and requirements the
3 commissioner may by regulation or order prescribe and shall file with
4 the commissioner reports as and when the commissioner may by
5 regulation or order require.

6 g. Whenever a foreign bank establishes eligible assets on deposit
7 with an approved depository pursuant to this section:

8 (1) The eligible assets shall be deemed to be pledged to the
9 commissioner for the benefit of the creditors of the bank's business in
10 this State; and, notwithstanding any provision of the Uniform
11 Commercial Code, N.J.S.12A:1-101 et seq., to the contrary, the
12 commissioner, for the benefit of the creditors, shall be deemed to have
13 a security interest in those eligible assets.

14 (2) The eligible assets shall be free from any lien, charge, right of
15 setoff, credit, or preference in connection with any claim of the
16 approved depository against the bank.

17 h. (1) If the commissioner takes possession of the property and
18 business of a foreign bank which establishes eligible assets on deposit
19 with an approved depository pursuant to this section, the approved
20 depository shall, upon order of the commissioner, release those eligible
21 assets to the commissioner, as liquidator of the property and business
22 of the bank.

23 (2) If a foreign bank which establishes eligible assets on deposit
24 with an approved depository pursuant to this section fails to pay any
25 judgement creditor of its business in this State and the commissioner
26 has not taken possession of the property and business of the bank, the
27 approved depository shall release the eligible assets to the
28 commissioner, and the commissioner shall make the disposition of the
29 eligible assets, as a court of competent jurisdiction of this State or of
30 the United States may order for the benefit of that judgement creditor.
31 For purposes of this paragraph, "judgement creditor of its business in
32 this State" means a person to whom the bank is required to pay money
33 under a judgement which: (a) arose out of the bank's business in this
34 State; (b) has been entered by a court of competent jurisdiction of this
35 State or of the United States; (c) has become final, in that all
36 possibility of direct attack on that judgement by way of appeal, motion
37 for new trial, motion to vacate, or petition for extraordinary writ has
38 been exhausted; and (d) has remained unpaid for a period of not less
39 than 60 days after becoming final.

40
41 ¹[71.] 70.¹ (New section) a. In this section:

42 (1) "Adjusted liabilities," when used with respect to a foreign bank
43 which is licensed to establish an agency or a branch office this State,
44 means the liabilities of that bank's business in this State, excluding: (a)
45 accrued expenses; (b) any liability to an office, whether in or outside
46 of this State, or majority-owned subsidiary of the bank; and (c) such

1 other liabilities as the commissioner may by regulation or order
2 exclude.

3 (2) "Eligible assets" means any asset which the commissioner by
4 regulation or order determines to be eligible for purposes of this
5 section. However, "eligible asset," when used with respect to a
6 foreign bank which is licensed to establish an agency or a branch
7 office, includes: (a) any asset which the bank establishes on deposit
8 pursuant to section ¹~~70~~ 69¹ of P.L. , c. (C.)(pending before
9 the Legislature as this bill); and (b) any reserves which the bank
10 establishes with respect to its business in this State in accordance with
11 requirements prescribed by the Federal Reserve.

12 b. For purposes of this section, the amount of eligible assets and
13 the amount of adjusted liabilities of a foreign bank which is licensed to
14 establish an agency or a branch office in this State shall each be
15 computed for the period, in the manner, and on the basis as the
16 commissioner may by regulation or order prescribe.

17 c. A foreign bank licensed to establish an agency or a branch office
18 in this State shall hold at its agency or branch offices in this State or
19 at such other places as the commissioner may approve, eligible assets
20 in the amount, if any, as the commissioner may from time to time by
21 regulation or order determine to be necessary for the interests of
22 creditors of the bank's business in this State, or for the protection of
23 the public interest. However, in no event shall the amount exceed 108
24 percent of the adjusted liabilities of the bank's business in this State.

25 d. If the commissioner finds, with respect to a foreign bank
26 licensed to establish an agency or a branch office in this State, that
27 such action is necessary for the establishment of sound financial
28 condition, for the protection of the public interest, the commissioner
29 may order the bank to place all or part of the eligible assets which the
30 bank is required to hold under subsection c. of this section in the
31 custody of a bank organized under the laws of this State or a national
32 bank headquartered in this State that the commissioner may designate.

33

34 ¹~~72.~~ 71.¹ (New section) a. (1) No foreign bank which is
35 licensed to establish an agency or branch office shall close its office
36 unless the commissioner shall have first approved the closing.

37 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
38 bank which is licensed to establish an agency or branch office from
39 closing that office in accordance with sections ¹~~80 through 86~~ 79
40 through 85¹ of P.L. , c. (C.)(pending before the Legislature
41 as this bill).

42 b. If the commissioner finds the following with respect to an
43 application by a foreign bank to close an agency or branch office, the
44 commissioner shall approve the application:

45 (1) That it will not be unsafe or unsound for the bank to close the
46 office; and

1 (2) That the closing of the office will not be substantially
2 detrimental to the public convenience and advantage or that the
3 closing of the office is necessary in the interests of the safety and
4 soundness of the bank.

5 If the commissioner finds otherwise, the commissioner shall deny
6 the application.

7 c. Whenever an application by a foreign bank to close an agency or
8 branch office has been approved and all conditions precedent to the
9 closing have been fulfilled, the bank may close the office and shall
10 promptly thereafter surrender to the commissioner the license which
11 authorized it to establish the office.

12
13 ¹~~73.~~ 72.¹ (New section) a. No commercial lending company
14 shall transact business in this State except at an office it is licensed to
15 establish and at which it is permitted by sections ¹~~73 through 79~~ 72
16 through 78¹ of P.L. , c. (C.)(pending before the Legislature as
17 this bill) to transact such business.

18 b. Subsection a. of this section shall not prohibit:

19 (1) Any commercial lending company from carrying on the
20 activities described in paragraph (2) of N.J.S.14A:13-3;

21 (2) Any commercial lending company from making in this State
22 loans secured by liens on real or personal property located in this State
23 or enforcing those loans in this State; or

24 (3) Any commercial lending company from transacting trust
25 business in this State so long as the trust business is not conducted
26 from any office or location in this State and that trust business is
27 limited to trust business permitted by, and conducted pursuant to a
28 certificate of authority issued by the commissioner in accordance with
29 subsection B. of section 316 of P.L.1948, c.67 (C.17:9A-316 B.).

30 c. No person shall establish an office in this State for a commercial
31 lending company unless the commercial lending company is licensed
32 to transact business in this State. For purposes of this section, if
33 anyone establishes an office to act on behalf of or solicit business for
34 a commercial lending company in this State, the office shall be deemed
35 to be the office of the commercial lending company regardless of
36 whether the business of the commercial lending company is transacted
37 at that office.

38
39 ¹~~74.~~ 73.¹ (New section) a. No foreign bank and no commercial
40 lending company shall establish an office of a commercial lending
41 company in this State unless the commissioner shall have first
42 approved the establishment of that office and issued a license
43 authorizing the commercial lending company to maintain the office.

44 b. If the commissioner finds the following with respect to an
45 application by a commercial lending company to establish a
46 commercial lending company, the commissioner shall approve that

1 application:

2 (1) That the commercial lending company, any controlling person
3 of the commercial lending company, the directors and executive
4 officers of the commercial lending company or of any controlling
5 person of the commercial lending company, and the proposed
6 management of the office are each of good character and sound
7 financial standing;

8 (2) That the financial history and condition of the commercial
9 lending company are satisfactory;

10 (3) That the management of the commercial lending company and
11 the proposed management of the office are adequate;

12 (4) That it is reasonable to believe that, if licensed to establish the
13 office, the commercial lending company will operate the office in a
14 safe and sound manner and in compliance with all applicable laws,
15 regulations, and orders; and

16 (5) That the commercial lending company's establishment of the
17 office will promote the public convenience and advantage.

18 If the commissioner finds otherwise, the commissioner shall deny
19 the application. The commissioner may, in approving any application,
20 condition the issuance of the license upon the compliance by the
21 commercial lending company with any provisions of sections ¹ [62
22 through 72] ~~61 through 71~~¹ or sections ¹ [80 through 86] ~~79 through~~
23 ~~85~~¹ of P.L. , c. (C.)(pending before the Legislature as this
24 bill) applicable to branches and agencies.

25
26 ¹ [75.] ~~74.~~¹ (New section) a. No commercial lending company
27 which is licensed to establish a commercial lending office shall relocate
28 that office unless the commissioner shall have first approved that
29 relocation and issued a license authorizing the commercial lending
30 company to establish the office at the new site.

31 b. If the commissioner finds the following with respect to an
32 application by a commercial lending company to relocate a commercial
33 lending office, the commissioner shall approve the application

34 (1) If the new site of the office is in the same vicinity as the old
35 site, that the relocation of the office will not be substantially
36 detrimental to the public convenience and advantage; or

37 (2) If the new site of the office is not in the same vicinity as the old
38 site:

39 (a) That the relocation of the office from the old site will not be
40 substantially detrimental to the public convenience and advantage in
41 the area which is primarily served by the office at the old site; and

42 (b) That the relocation of the office to the new site will promote
43 the public convenience and advantage.

44 If the commissioner finds otherwise, the commissioner shall deny
45 the application.

46 c. Whenever an application by a commercial lending company for

1 approval to relocate a commercial lending office has been approved
2 and all conditions precedent to the issuance of a license authorizing the
3 commercial lending company to establish an office at the new site have
4 been fulfilled, the commissioner shall issue the license.

5 d. Promptly after a commercial lending company which is licensed
6 to establish a commercial lending office relocates its office, that
7 commercial lending company shall surrender to the commissioner the
8 license which authorized it to establish an office at the old site.

9
10 ¹~~76.~~ 75. (New section) A commercial lending company which
11 is licensed to establish a commercial lending office may, subject to
12 such regulations or orders as the commissioner may prescribe, engage
13 in representational functions at the commercial lending office for a
14 foreign bank but shall not solicit or accept deposits or credit balances
15 or otherwise transact business at the office on behalf of a foreign bank.

16
17 ¹~~77.~~ 76. (New section) a. (1) No commercial lending company
18 which is licensed to establish a commercial lending office shall close
19 its office unless the commissioner shall have first approved the closing.

20 (2) Paragraph (1) shall not prohibit a commercial lending company
21 which is licensed to establish a commercial lending office from closing
22 its office in accordance with section ¹~~80 through 86~~ 79 through 85¹
23 of P.L. , c. (C.)(pending before the Legislature as this bill).

24 b. If the commissioner finds, with respect to an application by a
25 commercial lending company to close a commercial lending office, that
26 the closing of the office will not be substantially detrimental to the
27 public convenience and advantage, the commissioner shall approve the
28 application. If the commissioner finds otherwise, the commissioner
29 shall deny the application.

30 c. Whenever an application by a commercial lending company to
31 close a commercial lending office has been approved and all conditions
32 precedent to that closing have been fulfilled, the commercial lending
33 company may close its office and shall promptly thereafter surrender
34 to the commissioner the license which authorized it to establish the
35 office.

36
37 ¹~~78.~~ 77. (New section) The powers of a commercial lending
38 company in this State shall be limited as provided in section ¹~~65~~ 64¹
39 and elsewhere in sections ¹~~38 through 87~~ 37 through 86¹ of P.L. ,
40 c. (C.)(pending before the Legislature as this bill).

41
42 ¹~~79.~~ 78. (New section) The commissioner shall have the power
43 to grant to any organization which is organized under the laws of this
44 State, including but not limited to a corporation, limited partnership,
45 limited liability company, joint venture or partnership, the right to
46 operate as a commercial lending company if the commercial lending

1 company : will be licensed under sections ¹【73 through 78】 72
2 through 77¹ of P.L. , c. (C.)(pending before the Legislature
3 as this bill); is a subsidiary of a foreign bank; and agrees in its
4 certificate of incorporation or organization or similar document to
5 limit its activities to those permitted to a commercial lending company
6 under sections ¹【38 through 87】 37 through 86¹ of P.L. ,
7 c. (C.)(pending before the Legislature as this bill) and
8 Regulation K promulgated by the Federal Reserve, 12 CFR §211 et
9 seq. Any such grant shall be issued in connection with and as part of
10 a license for a commercial lending office hereunder.

11

12 ¹【80.】 79¹ (New section) a. Except as provided in subsection b.
13 of this section, any foreign bank which holds a license to establish an
14 office may voluntarily surrender that license by filing the license and
15 a report with the commissioner. However, any foreign bank which
16 holds licenses to establish two or more offices may not voluntarily
17 surrender less than all of those licenses.

18 b. If the commissioner has reason to doubt a foreign bank's ability
19 or willingness to pay in full the claims of its creditors, the
20 commissioner shall take action as provided pursuant to section ¹【86】
21 85¹ of P.L. , c. (C.)(pending before the Legislature as this
22 bill).

23 c. (1) Except as otherwise provided in paragraph (2) of this
24 subsection c., a voluntary surrender of a license shall be effective on
25 the 30th day after that license and the report called for in subsection
26 a. of this section are filed with the commissioner or on such earlier
27 date as the commissioner may by order specify.

28 (2) If a proceeding to revoke or suspend a license is pending at the
29 time when that license and the report called for in subsection a. of this
30 section are filed with the commissioner or if a proceeding to revoke or
31 suspend a license or to impose conditions upon the surrender of a
32 license is instituted before the 30th day after the license and the report
33 called for in subsection a. of this section are filed with the
34 commissioner, the voluntary surrender of the license shall become
35 effective at the time and upon the conditions as the commissioner may
36 by order specify.

37

38 ¹【81.】 80¹ (New section) If, after notice and a hearing, the
39 commissioner finds that any person has violated any provision of
40 sections ¹【38 through 87】 37 through 86¹ of P.L. , c. (C.)
41 (pending before the Legislature as this bill) or of any regulation or
42 order issued thereunder, the commissioner may order that person to
43 pay to the commissioner a civil penalty in an amount as the
44 commissioner may specify; except that the amount of the civil penalty
45 shall not exceed \$100,000 for each violation or, in the case of a
46 continuing violation, \$100,000 for each day for which the violation

1 continues.

2

3 ¹~~82.~~ 81.¹ (New section) If, after notice and a hearing, the
4 commissioner finds any of the following with respect to a foreign bank
5 or commercial lending company which is licensed to establish an
6 office, the commissioner may issue an order suspending or revoking
7 the license of the bank or commercial lending company:

8 a. That the bank or commercial lending company has violated any
9 provision of sections ¹~~38 through 87~~ 37 through 86 of
10 P.L. , c. (C.)(pending before the Legislature as this bill) or of
11 any regulation or order issued thereunder or any provision of any other
12 applicable law, regulation, or order;

13 b. That the bank or commercial lending company, in case it is
14 licensed to transact business in this State, is transacting that business
15 in an unsafe or unsound manner or, in any case, is transacting business
16 elsewhere in an unsafe or unsound manner;

17 c. That the bank or commercial lending company is in unsafe or
18 unsound condition;

19 d. That the bank or commercial lending company has ceased to
20 operate its office;

21 e. That the bank or commercial lending company is insolvent in
22 that it has ceased to pay its debts in the ordinary course of business,
23 it cannot pay its debts as they become due, or its liabilities exceed its
24 assets;

25 f. That the bank or commercial lending company has suspended
26 payment of its obligations, has made an assignment for the benefit of
27 its creditors, or has admitted in writing its inability to pay its debts as
28 they become due;

29 g. That the bank or commercial lending company has applied for
30 an adjudication of bankruptcy, reorganization, arrangement, or other
31 relief under any bankruptcy, reorganization, insolvency, or moratorium
32 law, or that any person has applied for any such relief under any such
33 law against the bank or commercial lending company and the bank or
34 commercial lending company has by any affirmative act approved of
35 or consented to the action or the relief has been granted.

36 h. That a receiver, liquidator, or conservator has been appointed
37 for the bank or commercial lending company or that any proceeding
38 for such an appointment or any similar proceeding has been initiated
39 in the place where the bank or commercial lending company is
40 domiciled;

41 i. That the existence of the bank or commercial lending company
42 or the authority of the bank or commercial lending company to
43 transact banking business or lending under the laws of the place where
44 the bank or commercial lending company is domiciled has been
45 suspended or terminated; or

46 j. That any fact or condition exists which, if it had existed at the

1 time when the bank or commercial lending company applied for its
2 license to transact business in this State, would have been grounds for
3 denying the application.

4
5 ¹~~83.~~ 82.¹ (New section) a. If the commissioner finds that any of
6 the factors set forth in section ¹~~82~~ 81¹ of P.L. , c.
7 (C.)(pending before the Legislature as this bill) is true with respect
8 to any foreign bank or commercial lending company which is licensed
9 to establish an office and that it is necessary, for the protection of the
10 interests of creditors of the bank's or company's business in this State,
11 or for the protection of the public interest, that the commissioner
12 immediately suspend or revoke the license of the bank or commercial
13 lending company, the commissioner may issue an order suspending or
14 revoking the license of the bank or commercial lending company.

15 b. (1) Within 30 days after an order is issued pursuant to
16 subsection a. of this section, the foreign bank or commercial lending
17 company to which the order is issued may file with the commissioner
18 an application for a hearing on the order. If the commissioner fails to
19 commence that hearing within 15 business days after that application
20 is filed with the commissioner, or within such longer period to which
21 the bank consents, the order shall be deemed rescinded. Within 30
22 days after the hearing, the commissioner shall affirm, modify, or
23 rescind the order; otherwise, the order shall be deemed rescinded.

24 (2) The right of any foreign bank or commercial lending company
25 to which an order is issued under subsection a. of this section to
26 petition for judicial review of that order shall not be affected by the
27 failure of the bank or company to apply to the commissioner for a
28 hearing on the order pursuant to paragraph (1) of this subsection b.

29
30 ¹~~84.~~ 83.¹ (New section) Any foreign bank or commercial lending
31 company whose license to establish an office is suspended or revoked
32 shall immediately surrender its license to the commissioner.

33
34 ¹~~85.~~ 84.¹ (New section) a. Any foreign bank or commercial
35 lending company to which an order is issued under section ¹~~82 or 83~~
36 81 or 82¹ of P.L. , c. (C.)(pending before the Legislature as
37 this bill), may apply to the commissioner to modify or rescind the
38 order. The commissioner shall not grant the application unless he
39 finds that it is in the public interest to do so and that it is reasonable
40 to believe that the bank or commercial lending company will, if and
41 when it is again licensed to establish an office, comply with all
42 applicable provisions of sections ¹~~80 through 86~~ 79 through 85¹ of
43 P.L. , c. (C.)(pending before the Legislature as this bill) and
44 of any regulation or order issued thereunder.

45 b. The right of any foreign bank or commercial lending company
46 to which an order is issued under section ¹~~82 or 83~~ 81 or 82¹ of

1 P.L. , c. (C.)(pending before the Legislature as this bill) to
2 petition for judicial review of that order shall not be affected by the
3 failure of that bank or commercial lending company to apply to the
4 commissioner pursuant to subsection a. of this section to modify or
5 rescind the order.

6
7 ¹~~[86.]~~ 85¹ (New section) a. If the commissioner finds that any of
8 the factors set forth in section ¹~~[82]~~ 81¹ of P.L. , c. (C.)
9 (pending before the Legislature as this bill) or in subsection b. of
10 section ¹~~[80]~~ 79¹ of P.L. , c. (C.)(pending before the
11 Legislature as this bill) is true with respect to any foreign bank which
12 is licensed to transact business in this State and that it is necessary for
13 the protection of the interests of the creditors of the bank's business in
14 this State or for the protection of the public interest that the
15 commissioner take immediate possession of the property and business
16 of the bank, the commissioner may by order forthwith take possession
17 of the property and business of the bank and retain possession until the
18 bank resumes business in this State or is finally liquidated. The bank
19 may, with the consent of the commissioner, resume business in this
20 State upon such conditions as the commissioner may prescribe.

21 b. (1) Whenever the commissioner takes possession of the
22 property and business of a foreign bank pursuant to subsection a. of
23 this section, that bank may, within 10 days apply to the Superior Court
24 in the county in which the primary office of the bank is located to
25 enjoin further proceedings. The court may, after ordering the
26 commissioner to show cause why further proceedings should not be
27 enjoined and after a hearing, dismiss the application or enjoin the
28 commissioner from further proceedings and order him to surrender the
29 property and business of the bank to the bank or make such further
30 order as may be just.

31 (2) The judgement of the court may be appealed by the
32 commissioner or by the bank in the manner provided by law for
33 appeals from the judgement of a Superior Court. In case the
34 commissioner appeals the judgement of the court, an appeal shall
35 operate as a stay of the judgement, and the commissioner shall not be
36 required to post any bond.

37 c. Whenever the commissioner takes possession of the property
38 and business of a foreign bank pursuant to subsection a. of this
39 section, the commissioner shall conserve or liquidate the property and
40 business of that bank pursuant to the receivership provisions of the
41 Banking Act, including Article 42 of "The Banking Act of 1948,"
42 P.L.1948, c.67 (C.17:9A-266 et seq.), and these provisions shall apply
43 as if the bank were a bank organized under the Banking Act.

44 d. When the commissioner has completed the liquidation of the
45 property and business of a foreign bank, the commissioner shall
46 transfer any remaining assets to the bank in accordance with the orders

1 the court may issue. However, if the bank has an office in another
2 state of the United States which is in liquidation and the assets of that
3 office appear to be insufficient to pay in full the creditors of the office,
4 the court shall order the commissioner to transfer to the liquidator of
5 the office that amount of any such remaining assets as appears to be
6 necessary to cover the insufficiency; if there are two or more such
7 offices and the amount of remaining assets is less than the aggregate
8 amount of insufficiencies with respect to the offices, the court shall
9 order the commissioner to distribute the remaining assets among the
10 liquidators of those offices in any manner the court finds equitable.

11 e. The commissioner may apply the provisions of this section to a
12 commercial lending company, in which case these provisions shall
13 take precedence over any other provisions of state law applying to the
14 commercial lending company.

15

16 ¹~~87.~~ 86.¹ (New section) The commissioner shall, pursuant to the
17 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
18 seq.), issue the rules, regulations and orders the commissioner deems
19 necessary in order to perform the commissioner's duties and functions
20 under sections ¹~~38 to 87~~ 37 through 86¹ of P.L. , c. (C.)
21 (pending before the Legislature as this bill.)

22

23 ¹~~88.~~ 87.¹ Section 5 of P.L.1963, c.144 (C.17:12B-5) is amended
24 to read as follows:

25 5. The following words and phrases as used in this act, unless a
26 different meaning is plainly required by the context, shall have the
27 following meaning:

28 (1) "State association" shall mean any savings and loan association,
29 building and loan association, or any corporation, however named,
30 now or hereafter operating pursuant to the provisions of this act.

31 (2) "Federal association" shall mean a savings and loan association
32 organized pursuant to an Act of Congress approved June 30, 1933,
33 entitled "Home Owners' Loan Act of 1933" or any subsequent Act of
34 Congress.

35 (3) "Association" shall mean **[both]** a State association **[and]** , a
36 Federal association having its principal office or a branch office in this
37 State , and an out-of State association having a branch office in this
38 State.

39 (4) "Insured association" shall mean an association whose savings
40 members' accounts or savings deposits are insured by the Federal
41 **[Savings and Loan] Deposit Insurance Corporation.**

42 (5) "Board" shall mean the board of directors of any association.

43 (6) "Commissioner" shall mean the Commissioner of Banking of
44 the State of New Jersey, or such other official as may hereafter be
45 charged by State law with the supervision of State associations.

46 (7) "Member" shall mean a person who holds an account or a

1 savings deposit in a mutual association as a savings member or as a
2 borrowing member.

3 (8) "Savings member" shall mean a member who holds an account
4 or a savings deposit representing savings in an association.

5 (9) "Borrowing member" shall mean a member to whom money of
6 the association is loaned or one who is the owner of property upon
7 which the association holds a mortgage.

8 (10) "Account" shall mean the record of the financial transactions
9 of a member or depositor as shown on the books of the association.

10 (11) "Direct reduction loan" shall mean a loan the principal of
11 which is repayable in periodical installments.

12 (12) "Sinking fund loan" shall mean a loan, the principal of which
13 is contracted to be repaid with the participation value of an installment
14 account pledged as collateral security for the payment of the loan.

15 (13) "Straight mortgage loan" shall mean a loan, the principal of
16 which is repayable upon a fixed day and upon which no interim
17 amortization is required.

18 (14) "Account loan" shall mean a loan secured by the pledge of an
19 account and the shares, if any, issued in connection therewith.

20 (15) "Capital" of a mutual State association shall mean the
21 aggregate participation value of all savings members' accounts. It shall
22 not be limited and shall be accumulated only by payments by savings
23 members, plus dividends credited to their accounts.

24 (16) "Participation value" of an account shall mean the amount
25 paid by a savings member on such account, plus dividends or interest
26 credited thereto, less payments of withdrawals and retirements
27 therefrom and any other amounts lawfully deductible therefrom.

28 (17) "Withdrawal value" of an account shall mean the participation
29 value of such an account, at the time application for withdrawal of the
30 account is filed, less such part, if any, of the dividends or interest then
31 credited to such account as the association is authorized to retain upon
32 withdrawal.

33 (18) "Gross income" shall have the meaning ascribed to it in
34 section 6 of this act.

35 (19) "Net income" shall have the meaning ascribed to it in section
36 7 of this act.

37 (20) "Federal Savings and Loan Insurance Corporation" shall mean
38 the corporation so named, organized pursuant to an Act of Congress,
39 or any Federal corporation, instrumentality or agency which succeeds
40 to the powers and functions of the Federal Savings and Loan Insurance
41 Corporation or undertakes to discharge the purposes for which said
42 corporation was created.

43 (21) "Federal Home Loan Bank Board" shall mean the board so
44 named, organized pursuant to an Act of Congress, or any Federal
45 corporation, instrumentality or agency which succeeds to the powers
46 and functions of the Federal Home Loan Bank Board, or which is

1 formed to carry out the purposes for which such board was created.

2 (22) "Change in the bylaws" includes new bylaws and revisions,
3 amendments, supplements and repealers of existing bylaws.

4 (23) "Principal office," "branch office" and "auxiliary office" shall
5 have the meanings ascribed to them in section 8 of this act.

6 (24) "Agency" shall have the meaning ascribed to it in section 9 of
7 this act.

8 (25) "Per capita assets" shall have the meaning ascribed to it in
9 section 10 of this act.

10 (26) "Population." Where in this act the population of a
11 municipality, a county, or the State is mentioned, the population figure
12 shall be the last current population estimate as furnished to the
13 commissioner by any official agency of the State or Federal
14 Government.

15 (27) "Municipality." The word municipality shall include cities,
16 towns, townships, villages and boroughs.

17 (28) "First lien" shall have the meaning ascribed to it in section 11
18 of this act.

19 (29) "Foreign association" shall mean any association or
20 corporation conducting the business of a savings and loan association,
21 however designated, [not incorporated under the provisions of this
22 act,] except [a Federal] an association.

23 (30) "Department" shall mean the Department of Banking of New
24 Jersey.

25 (31) "Mutual association" shall mean any State association
26 organized pursuant to the provisions of this act without capital stock.

27 (32) "Capital stock association" shall have the meaning ascribed to
28 it in section 15 of P.L.1974, c.137 (C.17:12B-244).

29 (33) "Capital stock" shall have the meaning ascribed to it in section
30 15 of P.L.1974, c.137 (C.17:12B-244).

31 (34) "Stockholder" shall have the meaning ascribed to it in section
32 15 of P.L.1974, c.137 (C.17:12B-244).

33 (35) "Secondary mortgage loan" means a loan made to an
34 individual, association, joint venture, partnership, limited partnership
35 association, or any other group of individuals however organized,
36 except a corporation, which is secured in whole or in part by a lien
37 upon any interest in real property created by a security agreement,
38 including a mortgage, indenture, or any other similar instrument or
39 document, which real property is subject to one or more prior
40 mortgage liens and which is used as a dwelling, including a dual
41 purpose or combination type dwelling which is also used as a business
42 or commercial establishment, and has accommodations for not more
43 than 6 families, except that a loan which: (a) is to be repaid in 90
44 days or less; (b) is taken as security for a home repair contract
45 executed in accordance with the provisions of P.L.1960, c.41
46 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a

1 dwelling if title to the dwelling is in the name of the seller and the
 2 seller has resided in said dwelling for at least 1 year if the buyer is
 3 purchasing said dwelling for his own residence and, as part of the
 4 purchase price, executes a secondary mortgage in favor of the seller,
 5 shall not be included within the definition of "secondary mortgage
 6 loan."

7 (36) ¹ "De novo branch" means a branch of a foreign association
 8 in this State which is originally established as a branch , and does not
 9 become a branch of the foreign association as a result of the
 10 acquisition by the foreign association of an insured depository
 11 institution or a branch of an insured depository institution or the
 12 conversion, merger or consolidation of any such institution or branch.

13 (37) ¹ "Federal Deposit Insurance Corporation" means the
 14 corporation so named, organized pursuant to an Act of Congress, or
 15 any federal corporation, instrumentality or agency which succeeds to
 16 the powers and functions of the Federal Deposit Insurance
 17 Corporation or undertakes to discharge the purposes for which said
 18 corporation was created.

19 ¹ ~~[(38)]~~ (37) ¹ "Home state" with respect to an out-of-State
 20 association means the state by which the association is chartered.
 21 "Home state" with respect to a federal association means the state in
 22 which the principal office is located.

23 ¹ ~~[(39)]~~ (38) ¹ "Out-of-State association" means a savings and loan
 24 association or building and loan association insured by the Federal
 25 Deposit Insurance Corporation and chartered under the laws of a state
 26 other than New Jersey, but not a bank as defined in 12 U.S.C.
 27 §1813(a)(2).

28 ¹ ~~[(40)]~~ (39) ¹ "State" means any state of the United States, the
 29 District of Columbia, any territory of the United States, Puerto Rico,
 30 Guam, American Samoa, the Trust Territory of the Pacific Islands, the
 31 Virgin Islands and the Northern Mariana Islands.

32 ¹ ~~[(41)]~~ (40) ¹ "Resulting association" means a state or federally
 33 chartered association that has resulted from an interstate merger
 34 transaction pursuant to P.L.1963, c.144 (C.17:12-1 et seq.).
 35 (cf: P.L.1981, c.74, s.1)

36

37 ¹ ~~[(89.)~~ 88. ¹ Section 24 of P.L.1963, c.144 (C.17:12B-24) is
 38 amended to read as follows:

39 24. A. No State association shall hereafter establish or operate a
 40 branch office or offices, other than as provided by the conditions and
 41 limitations of sections 24 through 27 of this act without the prior
 42 written approval of the commissioner; provided, however, that any
 43 association operating an authorized branch office at the effective date
 44 of this act may continue to do so.

45 (1) An association operating a branch office approved prior to the
 46 effective date of this act with conditions or restrictions imposed on its

1 operation may upgrade such office by notifying the commissioner at
2 least 30 days before such upgrading. A branch office is considered
3 upgraded if the association is relieved of any of the conditions or
4 restrictions imposed on operation of the office when it opened. If
5 within 30 days of receipt of the notice, the commissioner does not
6 notify the association of his objection which would require the
7 association to submit an application or additional information before
8 upgrading, the association may upgrade the office.

9 (2) An approved, but unopened branch office as of the effective
10 date of this amendatory act may open and operate in the same manner
11 as a branch office approved subsequent to the effective date of this
12 amendatory act.

13 (3) Any application which deals with offices of a State association
14 filed with the commissioner prior to the effective date of this
15 amendatory act shall continue to be processed as any application filed
16 subsequent to the effective date of this amendatory act; however, the
17 commissioner may request such additional information as may be
18 necessary to comply with the requirements of this amendatory act.

19 B. An association may apply for a branch office regardless of the
20 number of branch applications it has pending before the commissioner.
21 Within 15 days after submission of any branch application to the
22 commissioner, the applying State association shall give notice of such
23 application by publication of a notice of such application in a
24 newspaper published within the municipality in which it is proposed to
25 locate the branch office if there be one or, if there be no such
26 newspaper, in a newspaper published in the county and having a
27 substantial circulation in the municipality. The notice shall be in a
28 form approved by the commissioner, and shall include the name of the
29 applying association and the location, as precisely as possible, in the
30 municipality where such branch office is to be located. For good
31 cause, the commissioner may dispense with the notice requirements of
32 this section.

33 No less than 30 days after filing with the commissioner the proof of
34 publication of the aforementioned notice within 90 days thereafter, the
35 commissioner shall announce his decision upon such application and
36 file in his office a written memorandum stating the reasons therefor,
37 which shall be open to public inspection; and he shall forthwith
38 thereafter give written notice thereof to the applicant.

39 C. [The commissioner shall approve an application only if, in his
40 opinion, the branch can be established without undue injury to
41 properly conducted existing local thrift and home financing
42 institutions; the policies, condition and operation of the applying State
43 association afford no basis for supervisory objection, and the proposed
44 branch will open within 12 months of approval unless otherwise
45 allowed by the commissioner. In addition, in considering whether to
46 approve an application, the commissioner shall take into account the

1 State association's record of helping to meet the credit needs of its
2 entire community, including low-to-moderate income neighborhoods
3 pursuant to Part 563e of the regulations promulgated by the Federal
4 Savings and Loan Insurance Corporation. Assessment of a State
5 association's record of performance may be the basis for denying an
6 application.] The commissioner shall approve the application if the
7 commissioner finds that:

8 (1) the State association's capital equals or exceeds the minimum
9 capital established by the commissioner by regulation;

10 (2) the interests of the public will be served to advantage by the
11 establishment of the full branch office;

12 (3) conditions in the locality in which the proposed full branch
13 office is to be established afford reasonable promise of successful
14 operation. To determine if an applicant meets this requirement, the
15 commissioner shall consider only the costs of purchasing, constructing,
16 leasing or otherwise establishing the proposed office, including the
17 costs for staffing, furniture and equipment needed therefor and the
18 effect of these costs on the operations of the applying institution as a
19 whole. The applicant need not demonstrate an ability to operate the
20 proposed office at a profit within a definable period of time based on
21 the generation of new deposits from the market area to be entered
22 except to the extent that losses suffered at the proposed office could
23 affect the safety and soundness of the applicant's overall operations;
24 and

25 (4) that the applicant has achieved sufficient compliance as defined
26 by the commissioner by regulation with the provisions of the
27 "Community Reinvestment Act of 1977," 12 U.S.C. §2901 et seq.

28 D. [Persons may submit communications and answers to protests
29 only as provided in this subsection or as requested by the
30 commissioner.

31 (1) Within 10 days of the last day of publication of notice of
32 application, or 30 days after that day if an extension is requested in
33 writing within the 10-day period, any person may file a communication
34 in favor or protest of the application by furnishing 4 copies to the
35 commissioner.

36 (2) Within 10 days after filing a protest, the commissioner shall
37 advise the protestant and the State association, in writing, whether the
38 protest is considered substantial.

39 (3) A protest is substantial only if it is in writing, filed on time, and
40 contains at least the following:

41 (a) A summary of the reasons for protest;

42 (b) The specific matters in the application to which the protestant
43 objects, and the reasons for each objection;

44 (c) Facts supporting the protest, including relevant economic or
45 financial data;

46 (d) Any adverse effects on the protestant which may result from

1 the approval of the application.

2 (4) The commissioner shall determine whether a protest is
3 substantial and shall not consider protests which are not consider
4 substantial in his assessment of the merits of the application.

5 (5) The applying State association may file an answer to any
6 protest until 15 days after receipt of written notice from the
7 commissioner that such protest is considered substantial by furnishing
8 4 copies of the answer to the commissioner. ~~](Deleted by amendment,~~
9 ~~P.L. , c. .)(Pending before the Legislature as this bill.)~~

10 E. The commissioner shall conduct such investigation or hearing,
11 or both, as ~~](he]~~ ~~the commissioner~~ may deem advisable. The
12 commissioner may adopt, amend, alter or rescind regulations
13 prescribing the form of protest to applications and the procedures to
14 be followed in the event that the commissioner elects to hold a hearing
15 in connection with an application for a branch office, and such other
16 regulations as ~~](he]~~ ~~the commissioner~~ may deem necessary with
17 respect to the provisions of this section. ~~](Such regulations shall be in~~
18 ~~substantial conformity with similar rules and regulations promulgated~~
19 ~~by the Federal Home Loan Bank Board.]~~

20 (cf: P.L.1981, c.376, s.3)

21

22 ¹[90. (New section) a. An out-of-State association without a
23 branch office in this State may apply to establish a de novo branch in
24 this State by filing with the department a copy of the application the
25 association filed with the regulator in its home state and the
26 application it filed with the Federal Deposit Insurance Corporation,
27 and any other information the commissioner may require.

28 b. The commissioner shall approve the application if the
29 out-of-State association is adequately capitalized as of the date of the
30 application, will be adequately capitalized and managed after the
31 branch is established, and has achieved sufficient compliance, as
32 defined by the commissioner by regulation, with the provisions of the
33 "Community Reinvestment Act of 1977," 12 U.S.C. §2901 et seq.

34 c. An out-of-State association without a branch office in this State
35 may not establish a de novo branch office in New Jersey unless the
36 home state of the out-of-State association has in effect, as of the date
37 of approval of such application, a law that permits de novo branching
38 into that state by an association whose home state is New Jersey.]¹

39

40 ¹[91.] ¹89.¹ (New section) a. Upon filing an application therefor in
41 the department, and upon obtaining the approval of the commissioner
42 thereto a State association may change the location of its principal
43 office or of a branch office located in this State to another location in
44 this State. Upon filing an application therefor in the department, and
45 upon obtaining the approval of the commissioner thereto, an
46 out-of-State association with a branch office located in this State may

1 change the location of a branch office in this State to another location
2 in this State, and an association with a branch office located outside
3 this State may change the location of a branch office to another
4 location in that State.

5 b. If it shall appear from the application, or if the commissioner
6 shall find from such proof as the commissioner may require, or from
7 such investigation as the commissioner may cause to be made, that the
8 area which would be served by the principal or branch office after its
9 change in location would not be substantially different from the area
10 theretofore served by that office, the commissioner shall approve the
11 application.

12 c. If it shall appear to the commissioner, from the application, or
13 from such proof as the commissioner may require, or from such
14 investigation as the commissioner may cause to be made, that the
15 proposed location will be so far removed from the place then occupied
16 by the principal office or by the branch office that the area which
17 would be served by that office after its change in location would be
18 substantially different from the area theretofore served by it, the
19 commissioner shall not approve the application unless, after an
20 investigation or hearing, or both, as the commissioner may determine
21 to be advisable, the commissioner shall find that the interests of the
22 public will be served to advantage by the change in location, and that
23 conditions in the locality to which removal is proposed afford
24 reasonable promise of successful operation.

25 d. The failure to open and operate a relocated office within 12
26 months after the commissioner approves the application therefor, shall
27 automatically terminate the right to open the relocated office, except
28 that, for good cause shown, the commissioner may, at the
29 commissioner's discretion, extend for additional periods, not to exceed
30 12 months each time, the time within which the relocated office may
31 be opened, provided that the initial application shall be made before
32 the expiration of 12 months from the date authority is granted to
33 relocate the principal office and any subsequent application shall be
34 made before the expiration of any subsequent period for which
35 permission to extend has been granted by the commissioner.

36
37 ¹[92.] 90.¹ Section 30 of P.L.1963, c.144 (C.17:12B-30) is
38 amended to read as follows:

39 30. **Each auxiliary office shall be located in the same municipality**
40 **as that in which the State association operates the office to which such**
41 **auxiliary office is an adjunct.] No auxiliary office shall be established**
42 **or operated at a location which is outside this State or more than**
43 **[1,500] one mile from the office of the State association to which**
44 **such auxiliary office is an adjunct; nor shall any such auxiliary office**
45 **be established within [1,500] 1,000 feet of the principal office or a**
46 **branch office of another association, without the written consent of**

1 such association. Such consent, once given, shall thereafter be
2 irrevocable, regardless whether it was given gratuitously or for a
3 valuable consideration. No State association shall be required to
4 discontinue an auxiliary office for the reason that, after its
5 establishment pursuant to this act, another association has established
6 its principal office or a branch office within ~~1,500~~ 1,000 feet of such
7 auxiliary office.

8 (cf: P.L.1963, c.144, s.30)

9
10 ¹~~[93.]~~ 91.¹ Section 31 of P.L.1963, c.144 (C.17:12B-31) is
11 amended to read as follows:

12 31. No business shall be transacted at an auxiliary office other than

13 (a) the receipt of payments, deposits of currency, checks and other
14 items;

15 (b) the payment of withdrawals;

16 (c) the cashing of checks, drafts and other items; and

17 (d) the issuance of money orders or travelers' checks.

18 (cf: P.L.1963, c.144, s.31)

19
20 ¹~~[94.]~~ 92.¹ Section 1 of P.L.1968, c.150 (C.17:12B-46.1) is
21 amended to read as follows:

22 1. A. The following words as used in this act, unless a different
23 meaning is plainly required by the context, shall have the following
24 meaning:

25 (1) "Commissioner" means the Commissioner of Banking ~~and~~
26 ~~Insurance~~ or any other person lawfully exercising the powers of such
27 commissioner;

28 (2) "Association" means any State savings and loan association
29 operating pursuant to the "Savings and Loan Act (1963)" P.L.1963,
30 c.144 (C.17:12B-1 et seq.) and any out-of-State association with a
31 branch office in this State;

32 (3) "Officers" means the person or persons designated by the board
33 of directors of an association to act for the association in carrying out
34 the provisions of this act;

35 (4) "Emergency" means any condition which makes the transaction
36 of business, at one or more or all of the offices of an association or
37 associations, contrary to the welfare and security of such office or
38 offices or contrary to the health, safety or security of persons working
39 in or making use of such office or offices. Without limiting the
40 generality of the foregoing, an emergency may arise when any
41 condition poses an imminent or existing threat to the welfare, safety
42 or security of persons or property or both, such as any one or more of
43 the following: forces of the natural elements, fire, explosions,
44 epidemics, power failures, labor disputes, transportation failures, war,
45 riots, civil commotions, and other acts of lawlessness or violence;

46 (5) "Office" means any place at which an association transacts

1 business or conducts operations related to the transaction of business;

2 (6) "Person" includes natural persons, corporations, partnerships
3 and associations.

4 B. This act shall apply to Federal savings and loan associations
5 having their principal offices or a branch office in this State to the
6 extent that the provisions of this act are not inconsistent with and do
7 not infringe upon Federal laws, rules or regulations.

8 (cf: P.L.1968, c.150, s.1)

9

10 ¹[95.] 93.¹ (New section) a. An out-of-State association that
11 opens, occupies or maintains a branch office in this State shall have in
12 this State only the powers a State association has in this State.

13 b. A State association that owns, occupies or maintains a branch
14 office outside this state shall have in that State such additional powers
15 as permitted to associations chartered in the state in which the branch
16 is located.

17

18 ¹[96.] 94.¹ Section 170 of P.L.1963, c.144 (C.17:12B-170) is
19 amended to read as follows:

20 170. Every State association shall make available to its members
21 annually, upon request, a report of its financial condition as of the end
22 of its fiscal year[, either

23 (1) By mailing or delivering to each member, a statement of assets
24 and liabilities, and a statement of operations, or

25 (2) By publishing a statement of its assets and liabilities at least
26 once in a newspaper published or circulating in the municipality in
27 which the principal office of the State association is located and by
28 furnishing to any member upon request, a statement of assets and
29 liabilities, and a statement of operations].

30 (cf: P.L.1963, c.144, s.170)

31

32 ¹[97.] 95.¹ Section 172 of P.L.1963, c.144 (C.17:12B-172) is
33 amended to read as follows:

34 172. Every State association and every out-of-State association
35 with a branch office in this State shall be subject to the examination,
36 inspection and supervision of the department[, and the]. The
37 commissioner shall, either personally or by a person appointed by
38 [him] the commissioner, visit and examine every State association at
39 least once every 2 years, or [oftener] more often if deemed expedient.
40 When deemed advisable, the examiner shall verify the liabilities of the
41 State association to its members by an inspection and verification of
42 their accounts. The commissioner shall promptly communicate the
43 result of every examination to the president of the State association
44 examined, who shall present the same to the board at the next regular
45 meeting, or a special meeting, if deemed advisable, or if so directed by
46 the commissioner. The action taken thereon by the board shall

1 thereupon be promptly communicated by the president to the
2 commissioner.

3 Every report and copy of a report of examination of a State
4 association and out-of-State association made by or under the
5 supervision of the commissioner, shall be confidential, and shall not be
6 made public by any officer, director or employee of a State association
7 or out-of-State association, and shall not be subject to subpoena or to
8 admission into evidence in any action or proceeding in any court,
9 except pursuant to an order of the court made upon notice to the
10 commissioner an opportunity to advise the court of reasons for
11 excluding from evidence such report or any portion thereof. The court
12 shall order the issuance of a subpoena for the production or admission
13 into evidence of any such report or portion thereof, only if it is
14 satisfied that (1) it is material and relevant to the issues in the
15 proceedings, and (2) the ends of justice and public advantage will be
16 subserved thereby. This section shall not apply to any action or
17 proceeding instituted by the commissioner or Attorney General
18 pursuant to any law of this State.

19 For associations or out-of-State associations with branch offices
20 in this State and also in one or more other states, the commissioner
21 may contract with the state regulator in the other state or states where
22 branch offices are located to conduct cooperative examinations.
23 Pursuant to those agreements, examiners of the department may
24 examine branch offices of associations and out-of-State associations
25 in New Jersey and in other states, and examiners of other state
26 regulators may examine branch offices of associations and out-of-state
27 associations in New Jersey and other states. The fees for these
28 examinations may be shared pursuant to a contract or agreement
29 among the regulators.

30 (cf: P.L.1963, c.144, s.172)

31

32 ¹**[98.] 96.** Section 173 of P.L.1963, c.144 (C.17:12B-173) is
33 amended to read as follows:

34 173. The officers, directors and employees of the State association
35 or an out-of-State association shall exhibit its books, papers and
36 securities to the commissioner or the person appointed by him to
37 conduct the examination, and otherwise facilitate the same so far as it
38 may be in their power so to do. The commissioner and every examiner
39 may administer an oath or affirmation to any person whose testimony
40 is required on any examination, and compel the appearance of any
41 person for the purpose of examination, and the production of books,
42 papers and documents, by subpoena. **[The subpoena may be served**
43 **by any police officer or constable of the municipality in which such**
44 **person resides.]**

45 If any person shall fail to obey the subpoena, give testimony,
46 answer questions or produce any books, papers or documents as

1 required, the Superior Court may, upon ex parte application, make an
2 order compelling him to do so.

3 (cf: P.L.1963, c.144, s.173)

4

5 ¹**[99.] 97.**¹ Section 178 of P.L.1963, c.144 (C.17:12B-178) is
6 amended to read as follows:

7 178. If it shall appear to the commissioner that a State association
8 or an out-of-State association has violated any law of this State or of
9 its home state, or any of its by-laws, or is conducting its business in an
10 unsafe or unauthorized manner, he may order it in writing to
11 discontinue its illegal or unsafe practices. Such order shall be sent to
12 the State association's president, who shall present it to the board at
13 its next regular meeting, or at a special meeting, if he deems it
14 advisable, or if the commissioner so directs. The board's action
15 thereon shall be promptly communicated by the president to the
16 commissioner.

17 A State association or out-of-State association which fails or
18 refuses to comply with an order of the commissioner issued pursuant
19 to this section within the time limited in such order, shall be liable to
20 a penalty of \$500.00 to be recovered with costs by the State in any
21 court of competent jurisdiction in a civil action prosecuted by the
22 Attorney General.

23 (cf: P.L.1963, c.144, s.178)

24

25 ¹**[100.] 98.**¹ (New section) a. One or more State associations
26 may, with the approval of the commissioner, merge with an
27 out-of-State association or associations, or with a federal association
28 or associations, each with their principal office outside of this State,
29 pursuant to sections 198 through 212 of P.L.1963, c.144
30 (C.17:12B-198 through 17:12B-212).

31 b. The commissioner may not permit a merger involving an
32 association and an out-of-State association or federal association
33 unless the home state of each out-of-State association and federal
34 association involved in the transaction has in effect, as of the date of
35 the approval of such transaction, a law that permits interstate merger
36 transactions with associations whose home state is this State.

37 c. A resulting association that is an out-of-State association shall
38 file with the commissioner in a manner which is consistent with
39 regulations adopted by the commissioner for this purpose.

40

41 ¹**[101.] 99.**¹ Section 214 of P.L.1963, c.144 (C.17:12B-214) is
42 amended to read as follows:

43 214. a. Foreign associations shall not transact the business of a
44 savings and loan association within this State, or maintain an office
45 within this State, except as authorized pursuant to subsection b. of this
46 section, for the purpose of transacting such business. It shall be

1 unlawful for any person to transact business within this State on behalf
2 of such associations; provided, however, the purchase, acquisition,
3 holding, sale, assignment, transfer, servicing, collecting and
4 enforcement of obligations or any interest therein secured by real
5 estate mortgages or other instruments in the nature of a mortgage,
6 covering real property located in this State, or the foreclosure of such
7 instruments, or the acquisition of title to such property by foreclosure,
8 or otherwise, as a result of default under such instruments, or the
9 holding, protection, rental, maintenance and operation of said property
10 so acquired, or the disposition thereof by a foreign association, or
11 back office operations shall not be considered as transacting business
12 within the meaning of this article.

13 b. A foreign association may maintain one or more service facilities
14 in this State, provided that the foreign association performs only back
15 office operations at the service facility and does not transact business
16 with its customers or the public at the service facility. Prior to
17 opening a service facility in this State, a foreign association shall
18 register the service facility with the commissioner, which registration
19 shall include the address of the proposed service facility and the name
20 and address of the foreign association's agent in this State for service
21 of process. Each service facility shall comply with the requirements
22 and pay the fees that the commissioner establishes by regulation. Each
23 service facility shall be subject to examination by the department to
24 determine whether the foreign association has operated the service
25 facility in accordance with the provisions of this subsection, the costs
26 of which examination shall be paid by the foreign association at the
27 department's per diem rate for examinations of depository institutions.
28 The commissioner may, upon notice and a hearing, order a foreign
29 association to close any service facility operated in violation of the
30 provisions of this subsection or of any other law. An entity which is
31 affiliated, either directly or indirectly, with a foreign association and
32 intends to engage in back office operations in this State shall register
33 and be regulated pursuant to this subsection as if it were a foreign
34 association.

35 c. For the purposes of this section, the term "transact business"
36 shall not include back office operations and the term "back office
37 operations" shall include **[only]** the following activities: data
38 processing, record-keeping, accounting, check and deposit sorting and
39 posting, computation and posting of interest, other similar clerical and
40 statistical functions, **[and]** producing and mailing correspondence or
41 documents **[provided that the correspondence or documents do not**
42 **include the address of the service facility]** and such other activities as
43 the commissioner approves.

44 d. For the purposes of this section, a foreign association shall not
45 be deemed to transact business or maintain an office in this State based

1 solely on the activities of an agent in this State.

2 (cf: P.L.1991, c.74, s.3)

3

4 ¹**【102.】 100.**¹ Section 226 of P.L.1963, c.144 (c.17:12B-226) is
5 amended to read as follows:

6 226 A. Every State association shall pay to the commissioner for
7 the use of the State a fee, to be prescribed by the commissioner by
8 regulation in an amount not less than or not more than, the following
9 minimum and maximum amounts:

| | Minimum | Maximum |
|---|-----------|-----------|
| 10 | | |
| 11 (1) Annual report or | | |
| 12 certificates where required... | \$ 50.00 | \$100.00 |
| 13 (2) Dissolution proceedings | 250.00 | 1,500.00 |
| 14 (3) Any new corporation filing: | | |
| 15 (a) mutual association..... | 5,000.00 | 10,000.00 |
| 16 (b) stock association | 10,000.00 | 20,000.00 |
| 17 (4) Any proceeding under | | |
| 18 section 204 of P.L.1963, | | |
| 19 c.144 (C.17:12B-204), pertaining | | |
| 20 to bulk sales... | 500.00 | 1,500.00 |
| 21 (5) Any proceeding under | | |
| 22 section 198 of P.L.1963, | | |
| 23 c.144 (C.17:12B-198), pertaining | | |
| 24 to mergers, per association | 1,500.00 | 4,000.00 |
| 25 (6) Any application for a | | |
| 26 branch office, except that no | | |
| 27 fee shall be paid under this | | |
| 28 paragraph with respect to a | | |
| 29 branch office acquired as a | | |
| 30 result of a merger or bulk | | |
| 31 purchase... | 1,000.00 | 3,000.00 |
| 32 (7) Application to interchange | | |
| 33 a principal and branch office | | |
| 34 when such interchange involves | | |
| 35 two separate municipalities... | 500.00 | 1,500.00 |
| 36 (8) Application for change | | |
| 37 of name | 50.00 | 250.00 |
| 38 (9) Certifications by the | | |
| 39 commissioner, of papers or | | |
| 40 records on file with the department, | | |
| 41 plus \$2.00 per page for each | | |
| 42 certification ... | 25.00 | 100.00 |
| 43 (10) Application to interchange | | |
| 44 a principal and a branch office | | |
| 45 within the same municipality... | 250.00 | 1,000.00 |

| | Minimum | Maximum |
|--|----------|-----------|
| 1 | | |
| 2 (11) Application to change | | |
| 3 location of principal office | | |
| 4 pursuant to subsection (2) of | | |
| 5 section 40 of P.L.1963, c.144 | | |
| 6 (C.17:12B-40)... | 500.00 | 2,000.00 |
| 7 (12) Application to change | | |
| 8 location of branch office beyond | | |
| 9 1,500 feet and in same municipality | | |
| 10 pursuant to subsection (1) of | | |
| 11 section 4 of P.L.1965, c.127 | | |
| 12 (C.17:12B-27.1)... | 250.00 | 1,000.00 |
| 13 (13) Application to change | | |
| 14 location of branch office | | |
| 15 pursuant to subsection (2) of | | |
| 16 section 4 of P.L.1965, c.127 | | |
| 17 (C.17:12B-27.1)... | 500.00 | 2,000.00 |
| 18 (14) Conversions... | 3,500.00 | 10,000.00 |
| 19 (15) Sharing Facilities | 100.00 | 500.00 |
| 20 (16) Application for approval | | |
| 21 of savings and loan holding | | |
| 22 company... | 2,000.00 | 5,000.00 |
| 23 (17) Filing of any other | | |
| 24 certificate... | 50.00 | 250.00 |
| 25 (18) For issuance of any other | | |
| 26 approval by the commissioner, | | |
| 27 plus a per diem... | 100.00 | 250.00 |
| 28 (19) For filing plans of | | |
| 29 acquisition, stock, savings and | | |
| 30 loan and existing holding | | |
| 31 companies... | 1,500.00 | 4,000.00 |
| 32 (20) In addition to the above | | |
| 33 fees, a per diem charge may be | | |
| 34 assessed when a special investigation | | |
| 35 of a filing is required. | | |
| 36 B. Every State association shall defray all expenses incurred in | | |
| 37 making an examination of its affairs as provided in this act, and the | | |
| 38 commissioner may maintain an action, in the name of the State, against | | |
| 39 the association, for the recovery of such expenses, in a court of | | |
| 40 competent jurisdiction. | | |
| 41 <u>C. The commissioner may by rule or regulation adopted pursuant</u> | | |
| 42 <u>to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1</u> | | |
| 43 <u>et seq.) impose other fees and charges, including assessments and fees</u> | | |
| 44 <u>for applications and examinations, on out-of-State associations</u> | | |
| 45 <u>establishing and operating a branch office in this State.</u> | | |
| 46 (cf: P.L.1988, c.73, s.3) | | |

1 ¹**[103.] 101.**¹ (New section) The Commissioner is authorized to
2 enter into contracts with association supervisors of other states for
3 the purpose of establishing effective and efficient supervisory and
4 regulatory structures and practices with respect to the provisions of
5 sections ¹**[88 through 102]** 87 through 100¹ of this ¹**[1995]** 1996¹
6 amendatory and supplementary act.

7
8 ¹**[104.] 102.**¹ The following are repealed:
9 Section 1 of P.L.1963, c.88 (C.17:9A-22.1);
10 Section 1 of P.L.1971, c.26 (C.17:9A-23.14);
11 Sections 259 and 315 of P.L.1948, c.67 (C.17:19A-259 and
12 17:9A-315);
13 Sections 1 through 3, 6 and 11 of P.L.1957, c.70 (C.17:9A-344
14 through 17:9A-346; 17:9A-349; and 17:9A-354);
15 Section 3 of P.L.1981, c.484 (C.17:9A-345a);
16 Section 2 of P.L.1968, c.426 (C.17:9A-345.2);
17 Section 5 of P.L.1986, c.4 (C.17:9A-348.1);
18 P.L.1986, c.5 (C.17:9A-370 et seq.);
19 P.L.1986, c.6 (C.17:9A-373 et seq.); and
20 Section 4 of P.L.1965, c.127 (C.17:12B-27.1).

21
22 ¹**[105.] 103.**¹ This act shall take effect immediately .

23
24
25
26
27 Provides for interstate banking and branching, permits insured
28 depositories to act as agent for affiliates and provides for certain types
29 of foreign bank entry.

1 17:9A-315);

2 Sections 1 through 3, 6 and 11 of P.L.1957, c.70 (C.17:9A-344
3 through 17:9A-346; 17:9A-349; and 17:9A-354);

4 Section 3 of P.L.1981, c.484 (C.17:9A-345a);

5 Section 2 of P.L.1968, c.426 (C.17:9A-345.2);

6 Section 5 of P.L.1986, c.4 (C.17:9A-348.1);

7 P.L.1986, c.5 (C.17:9A-370 et seq.);

8 P.L.1986, c.6 (C.17:9A-373 et seq.); and

9 Section 4 of P.L.1965, c.127 (C.17:12B-27.1).

10

11 105. This act shall take effect immediately .

12

13

14 *SPONSORS' STATEMENT*

15

16 This bill, in response to the provisions of the federal "Riegle-Neal
17 Interstate Banking and Branching Efficiency Act of 1994," provides
18 for: nationwide interstate banking; interstate branching by acquisition
19 and merger transactions between any combination of federally and
20 state chartered insured depository institutions in those states not
21 opting out of the provisions concerning interstate branching; interstate
22 branching by state and federally chartered insured depository
23 institutions de novo and by the purchase of a single branch of a bank;
24 foreign (country) bank entry into this State directly and by branching
25 from a home state other than New Jersey; and interstate branching by
26 State and out-of-State state chartered savings and loan associations
27 through merger and acquisition, de novo and purchase of a single
28 branch with associations chartered in other states also adopting
29 interstate branching. Branching by State chartered associations is
30 provided in order to give them parity with federally chartered savings
31 banks which already have such authority under regulations
32 promulgated by the Office of Thrift Supervision.

33 This bill permits a branch of an out-of-State insured depository
34 institution to be a public depository under the Governmental Unit
35 Deposit Protection Act.

36 Under sections 2 through 28, the bill: provides for interstate
37 branching by State chartered banks and savings banks and out-of-State
38 banks (including savings banks) through merger and acquisition,
39 purchase of a single branch and de novo branching into this State by
40 banks in another state regardless of whether the other state also
41 permits banks in this State to branch de novo into that state;
42 establishes a cap of 30% on the percent of deposits of insured
43 depositories in this State a resulting bank, including all its federally
44 insured depository institution affiliates, can acquire and control and
45 provides that the commissioner, by regulation, may establish a
46 procedure whereby this cap can be waived; and permits an insured

1 depository institution located in this State to accept deposits and
2 conduct other banking business as agent for any affiliate, in-State or
3 out-of-State, without being required to obtain a license as a branch of
4 that affiliate.

5 Under sections 29 through 37, the bill: provides for bank holding
6 company acquisitions on an interstate basis consistent with the
7 provisions of the federal "Riegle-Neal Interstate Banking and
8 Branching Efficiency Act of 1994;" establishes a cap of 30% on the
9 percent of deposits of insured depositories in this State a bank holding
10 company can acquire and control and provides that the commissioner,
11 by regulation, may establish a procedure whereby this cap can be
12 waived; requires a person who controls a bank or bank holding
13 company that does not file with any other bank regulatory agency, to
14 file reports with the commissioner; and authorizes the commissioner
15 to enter into contracts with bank supervisors of other states for the
16 purpose of establishing effective and efficient supervisory and
17 regulatory structures and practices with respect to interstate branching
18 and agency.

19 Under sections 38 through 87, the bill provides for foreign bank
20 entry through four types of offices: representative; commercial lending
21 company; agency; and branch. Under sections 38 through 55, general
22 requirements for entry and operation of offices are provided,
23 including, but not limited to, requirements with respect to:
24 applications; fees; reports; books and records; federal versus State
25 offices; location of offices; names of companies; examinations; and
26 appointment of the commissioner to receive service of any lawful
27 process.

28 Sections 56 through 62 of the bill establish the procedures for
29 obtaining a license to operate a representative office of a foreign bank;
30 set forth the activities in which a representative office is permitted to
31 engage; and provide for the relocation and closure of a representative
32 office.

33 Sections 63 through 72 of the bill establish the procedures for
34 obtaining a license to operate an agency or a branch of a foreign bank;
35 set forth the activities in which an agency or a branch is permitted to
36 engage; establish the requirements for asset maintenance and a
37 minimum asset pledge; provide for the relocation and closure of an
38 agency or branch office; and provide for the examination of and filing
39 of reports by agency and branch offices.

40 Sections 73 through 79 of the bill establish the procedures for
41 obtaining a license to operate a commercial lending company; set forth
42 the activities in which a commercial lending company is permitted to
43 engage; and provide for the relocation and closure of a commercial
44 lending office.

45 Sections 80 through 86 establish the procedures for the voluntary
46 relinquishment of a license and for action by the commissioner to

1 suspend or revoke a license; to take possession of the property and
2 business of a licensee; and to conserve or liquidate the property and
3 business of the foreign bank.

4 Sections 88 through 102 provide for interstate branching by in- and
5 out-of-State state chartered savings and loan associations and provide
6 the commissioner the authority to examine and supervise the branches
7 that result from such activities on the part of State and out-of-State
8 state chartered savings and loan associations.

9 The bill repeals various sections of statutory law, including, but not
10 limited to: P.L.1957, c.70 (C.17:9A-344 et seq.) concerning transfer
11 of control of stock ownership; and P.L.1986, c.5 (C.17:9A-370 et
12 seq.) and P.L.1986, c.6 (C.17:9A-373 et seq.) concerning interstate
13 banking on a reciprocal basis.

14

15

16

17

18 Provides for interstate banking and branching, permits insured
19 depositories to act as agent for affiliates and provides for certain types
20 of foreign bank entry.

SENATE STATE MANAGEMENT, INVESTMENTS AND
FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

SENATE, No. 307

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 5, 1996

The State Management, Investments and Financial Institutions Committee reports favorably and with committee amendments Senate Bill No. 307.

Senate Bill No. 307, as amended, is in response to the provisions of the federal "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994," provides for: nationwide interstate banking; interstate branching by acquisition and merger transactions between any combination of federally and state chartered insured depository institutions in those states not opting out of the provisions concerning interstate branching; interstate branching by state and federally chartered insured depository institutions by the purchase of a single branch of a bank; and interstate branching by State and out-of-State state chartered savings and loan associations through merger and acquisition and purchase of a single branch with associations chartered in other states also adopting interstate branching. Branching by State chartered associations is provided in order to give them parity with federally chartered savings banks which already have such authority under regulations promulgated by the Office of Thrift Supervision.

This bill permits a branch of an out-of-State insured depository institution to be a public depository under the Governmental Unit Deposit Protection Act.

Under sections 2 through 27, the bill: provides for interstate branching by State chartered banks and savings banks and out-of-State banks (including savings banks) through merger and acquisition and purchase of a single branch; establishes a cap of 30% on the percent of deposits of insured depositories in this State a resulting bank, including all its federally insured depository institution affiliates, can acquire and control and provides that the commissioner, by regulation, may establish a procedure whereby this cap can be waived; and permits an insured depository institution located in this State to accept deposits and conduct other banking business as agent for any affiliate, in-State or out-of-State, without being required to obtain a license as a branch of that affiliate.

Under sections 28 through 36, the bill: provides for bank holding company acquisitions on an interstate basis consistent with the provisions of the federal "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;" establishes a cap of 30% on the percent of deposits of insured depositories in this State a bank holding company can acquire and control and provides that the commissioner, by regulation, may establish a procedure whereby this cap can be waived; requires a person who controls a bank or bank holding company that does not file with any other bank regulatory agency, to file reports with the commissioner; and authorizes the commissioner to enter into contracts with bank supervisors of other states for the purpose of establishing effective and efficient supervisory and regulatory structures and practices with respect to interstate branching and agency.

Under sections 37 through 86, the bill provides for foreign (country) bank entry, in a manner consistent with and appropriate to other out-of-State (foreign) banks, through four types of offices: representative; commercial lending company; agency; and branch. Under sections 37 through 54, general requirements for entry and operation of offices are provided, including, but not limited to, requirements with respect to: applications; fees; reports; books and records; federal versus State offices; location of offices; names of companies; examinations; and appointment of the commissioner to receive service of any lawful process.

Sections 55 through 60 of the bill establish the procedures for obtaining a license to operate a representative office of a foreign bank; set forth the activities in which a representative office is permitted to engage; and provide for the relocation and closure of a representative office.

Sections 61 through 71 of the bill establish the procedures for obtaining a license to operate an agency or a branch of a foreign bank; set forth the activities in which an agency or a branch is permitted to engage; establish the requirements for asset maintenance and a minimum asset pledge; provide for the relocation and closure of an agency or branch office; and provide for the examination of and filing of reports by agency and branch offices.

Sections 72 through 78 of the bill establish the procedures for obtaining a license to operate a commercial lending company; set forth the activities in which a commercial lending company is permitted to engage; and provide for the relocation and closure of a commercial lending office.

Sections 79 through 85 establish the procedures for the voluntary relinquishment of a license and for action by the commissioner to suspend or revoke a license; to take possession of the property and business of a licensee; and to conserve or liquidate the property and business of the foreign bank.

Sections 87 through 101 provide for interstate branching by in- and out-of-State state chartered savings and loan associations and

provide the commissioner the authority to examine and supervise the branches that result from such activities on the part of State and out-of-State state chartered savings and loan associations.

The bill repeals various sections of statutory law, including, but not limited to: P.L.1957, c.70 (C.17:9A-344 et seq.) concerning transfer of control of stock ownership; and P.L.1986, c.5 (C.17:9A-370 et seq.) and P.L.1986, c.6 (C.17:9A-373 et seq.) concerning interstate banking on a reciprocal basis.

The amendments to this bill remove the sections of Senate, No. 307 permitting de novo entry into this State by an out-of-State bank, savings bank, savings and loan association or foreign (country) banks.

Other amendments to the bill are technical in nature, renumbering sections and changing references to section numbers that have been changed by the deletion of two sections from the bill.

This bill was prefiled for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

974.901
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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

TRENTON, NJ 08625

CONTACT: Becky Taylor
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(609)777-2600

RELEASE: Apr. 18, 1996

Gov. Christie Whitman today signed legislation clearing the way for out of state and foreign banks to enter the state's banking market. Gov. Whitman also signed transportation legislation that authorizes the use of \$25 million for road maintenance and repair made necessary by winter weather conditions and requires New Jersey Transit to perform a study on rail passenger service on the Route 130 corridor.

S-307/A-607 authorizes out of state and foreign banks , by acquiring an existing New Jersey bank or a branch of a New Jersey bank, to open other branches in the state. Banks from other states will now have the opportunity to branch directly into New Jersey.

"New Jersey will now have a chance to compete with our neighboring states to attract domestic and foreign banks to this state, thereby creating jobs and spurring investment," said Gov. Whitman.

"With this legislation, along with Gov. Whitman's progressive tax policies and our highly skilled work force, New Jersey can be a major financial services center in the Northeast," said acting Banking Commissioner John Traier.

States are permitted by the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 to authorize interstate branching and banking. New Jersey is the 30th state to opt into interstate bank branching. This bill also allows New Jersey state chartered banks the option of branching into other states and provides for comprehensive regulation of these banks.

Sponsors of the legislation were Senators Peter Inverso (R-Mercer/Middlesex) and Bernard Kenny, Jr. (D-Hudson), the late Assemblyman Monroe Lustbader (R-Essex/Union), and Assemblyman Christopher Bateman (R-Morris/Somerset).