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ASSEMBLY, No. 2263

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

Assemblymen Garcia and Augustine

SYNOPSIS

Provides for expedited approval process for certain applications by financial institutions and updates parity provisions for financial institutions.

CURRENT VERSION OF TEXT

As introduced.



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

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

6
7 1. Section 2 of P.L.1970, c.294 (C.17:9A-6.2) is amended to read
8 as follows:

9 2. Prior to the time when authorized or unissued shares are issued
10 by a bank, a certificate of amendment made by two officers of the
11 bank, one of whom shall be the president or a vice-president, shall be
12 filed in the Department of Banking and Insurance. The certificate of
13 amendment shall state (a) the amount of the authorized but unissued
14 stock which will be issued; (b) the consideration which will be
15 received by the bank on the issuance of such stock; (c) the date upon
16 which the stock will be issued; and (d) the amount of the bank's
17 capital stock which will be outstanding, and the amount of its surplus
18 after giving effect to such issue. [If the Commissioner of Banking
19 finds that the bank's original or amended certificate of incorporation
20 provides for authorized but unissued stock, and if he finds that the
21 issuance of such stock will not be in violation of law or contrary to
22 the public interest, he shall endorse his approval upon the certificate
23 and file it in the Department of Banking.] The certificate shall be
24 submitted to the commissioner for approval. An applicant shall be
25 notified in writing by the commissioner within five days of receipt of
26 the certificate as to whether the filing of the certificate of amendment
27 is substantially complete. If an applicant is notified that a filing is not
28 substantially complete, the commissioner shall respond in writing as to
29 the substantial completeness of any subsequent filings by the applicant
30 within five days of receipt of the filings. A filing shall be deemed
31 approved on the 21st day after a determination by the commissioner
32 that a filing is substantially complete, unless approved or disapproved
33 earlier by the commissioner in writing. Upon approval pursuant to this
34 section, the certificate of incorporation shall thereupon be amended as
35 set forth in the certificate of amendment. A certificate filed in [such]
36 the department pursuant to this section shall be deemed for all
37 purposes to be an amending of the bank's certificate of incorporation
38 with the same effect as if it had been authorized, executed, approved
39 and filed in such department pursuant to article 19 of [the act of
40 which this act is a supplement] P.L.1948, c.67 (C.17:9A-116 et seq.
41 (cf: P.L.1970, c.294, s.2)

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

Matter underlined thus is new matter.

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

3 20. A. (1) Before any full branch office shall be established, the
4 bank or savings bank shall file written application in the department
5 for the commissioner's approval thereof. If, after such investigation or
6 hearings, or both, as the commissioner may determine to be advisable,
7 the commissioner shall find:

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

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

12 (c) That conditions in the locality in which the proposed full branch
13 office is to be established afford reasonable promise of successful
14 operation; and

15 (d) That the applicant has achieved sufficient compliance, as
16 defined by the commissioner by regulation, with the "Community
17 Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq.;

18 the commissioner shall, within 90 days after the filing of the
19 application, approve such application.

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

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

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

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

1 (2) That the costs of establishing such minibranch office, including
2 (a) construction and alteration costs; (b) the cost of real property to
3 be acquired in connection therewith or rental to be paid for space to
4 be occupied by such office; (c) the cost of purchasing or renting and
5 installing the equipment to be used in the operation of such office; and
6 (d) the cost of manning such office, shall not in the aggregate exceed
7 such sum as the commissioner shall deem reasonable, taking into
8 consideration the capital and surplus of the bank, or the surplus of the
9 savings bank.

10 C. (Deleted by amendment, P.L.1999, c.252.)

11 D. (Deleted by amendment, P.L.1999, c.252.)

12 E. A bank or savings bank shall provide insurance protection under
13 its bonding program for transactions involving a communication
14 terminal facility.

15 F. (Deleted by amendment, P.L.1996, c.17.)

16 G. The commissioner shall have the power to make, amend and
17 repeal rules and regulations concerning the establishment, maintenance
18 and operation of full branch offices, minibranch offices and
19 communication terminal facilities not inconsistent with the provisions
20 of this act. The regulations so made shall also be directed toward the
21 creation, operation and maintenance of a substantial competitive parity
22 between banking institutions and other financial institutions in all
23 matters relating to the establishment, operation, and maintenance of
24 branch offices and communication terminal facilities.

25 H. (1) In lieu of the procedures set forth in subsection A or B of
26 this section, or in section 22 or 23 of P.L.1948, c.67 (C.17:9A-22 or
27 C.17:9A-23), a bank or savings bank which directly or through a
28 predecessor bank or savings bank by merger or other reorganization
29 has been in business for at least three years, and which is well
30 capitalized, adequately managed, and, if applicable, has received in its
31 most recent examination under the "Community Reinvestment Act of
32 1977," 12 U.S.C. s.2901 et seq., a rating of not less than "satisfactory
33 record of meeting community credit needs," or it equivalent, may
34 apply for expedited branch office approval pursuant to this subsection.
35 The bank or savings bank shall file written application of the proposed
36 establishment with the commissioner and with those other persons
37 designated by the commissioner by rule or regulation. The application
38 shall be accompanied by or be in the form of a certification that (a) all
39 applicable provisions of this subsection have been met, (b) the
40 applicant requests expedited processing under this subsection, and (c)
41 contains that other information, if any, as the commissioner may
42 require by rule or regulation to confirm that an establishment of the
43 branch will not adversely affect the safety and soundness of the bank
44 or savings bank.

45 (2) An applicant shall be notified by the commissioner within five
46 days of receipt of the filing of the application as to whether the

1 application is substantially complete. If an applicant is notified that a
2 filing is not substantially complete, the commissioner shall respond in
3 writing as to the substantial completeness of any subsequent filing
4 within five days of receipt of the filing. An application shall be
5 deemed approved on the 21st day after determination by the
6 commissioner that the application is substantially complete, unless
7 approved or denied earlier by the commissioner in writing.

8 (3) For purposes of this subsection, "well capitalized" has the
9 meaning given the term in 12 U.S.C. s.1831o and " well managed"
10 means, unless otherwise determined in writing by the commissioner,
11 (a) the achievement of a composite rating of 1 or 2 under the Uniform
12 Financial Institutions Rating System or an equivalent rating system, in
13 connection with the most recent examination or subsequent review of
14 the bank or savings bank, and (b) at least a rating of 2 for
15 management, if such a rating is given. Nothing in this subsection shall
16 be construed to affect the confidentiality of any rating under applicable
17 law or regulation.

18 (cf: P.L.1999, c.252, s.3)

19
20 3. Section 1 of P.L.1981, c.163 (C.17:9A-24b1) is amended to
21 read as follows:

22 1. [The Commissioner of Banking shall have the power to
23 promulgate rules and regulations authorizing] Notwithstanding the
24 provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) or any other law,
25 banks and savings banks [to] may exercise those powers, rights
26 benefits or privileges now or hereafter authorized for national or out-
27 of-state banks or for Federal [mutual] or out-of-state savings banks
28 or savings associations either directly or through a financial subsidiary
29 or other subsidiary, to the same extent and, subject to the same
30 limitations as national or out-of-state banks or Federal [mutual] or
31 out-of-state savings banks or savings associations, may exercise those
32 powers, rights, benefits or privileges, provided that before exercising
33 any power, right, benefit or privilege of an out-of-state bank or out-of-
34 state savings bank or savings association, the bank or savings bank
35 provides notice to the commissioner, and the commissioner either
36 approves the activity or does not provide notice before the expiration
37 of 30 days that such power, right, benefit or privilege is not
38 appropriate for a New Jersey bank or savings bank on the grounds of
39 safety and soundness. The commissioner shall have the authority to
40 adopt rules and regulations pursuant to this section, which rules and
41 regulations shall have as their objective the placing of banks and
42 savings banks on a substantially competitive parity with national and
43 out-of-state banks and Federal and out-of-state savings banks and
44 savings associations. [Any such regulations shall be in substantial
45 conformity with similar rules and regulations of the Federal Home

1 Loan Bank Board.]

2 (cf: P.L.1981, c.163, s.1)

3

4 4. Section 8 of P.L.1979, c.226 (C.17:9A-24.9) is amended to read
5 as follows:

6 8. Additional powers of banks and savings banks. In addition to
7 the powers which banks and savings banks may otherwise exercise,
8 every bank and savings bank, as defined in section 1 of "The Banking
9 Act of 1948," P.L.1948, c.67 (C.17:9A-1), shall have power

10 (1) To subscribe for, purchase and hold stock of one or more
11 insurance companies organized under the laws of this State which have
12 been or may hereafter be limited to insure banks, savings banks and
13 other depository institutions

14 (a) Against loss from the defaults of persons in positions of trust,
15 public or private, or against loss or damage on account of neglect or
16 breaches of duty or obligations guaranteed by the insurer; and against
17 loss of any bills of exchange, notes, checks, drafts, acceptances of
18 drafts, bonds, securities, evidences of debt, deeds, mortgages,
19 documents, gold or silver, bullion, currency, money, platinum and
20 other precious metals, refined or unrefined, and articles made
21 therefrom, jewelry, watches, necklaces, bracelets, gems, precious and
22 semiprecious stones, and also against loss resulting from damage,
23 except by fire, to the insured's premises, furnishings, fixtures,
24 equipment, safes and vaults therein, caused by burglary, robbery,
25 holdup, theft or larceny, or attempt thereat. No such indemnity
26 indemnifying against loss of any property as specified herein shall
27 indemnify against the loss of any such property occurring while in the
28 mail or in the custody or possession of a carrier for hire for the
29 purpose of transportation, except for the purpose of transportation by
30 an armored motor vehicle accompanied by one or more armed guards;
31 and

32 (b) Against loss or damage by burglary, theft, larceny, robbery,
33 forgery, fraud, vandalism or malicious mischief, or any one or more of
34 such hazards; and against any and all kinds of loss or destruction of or
35 damage to moneys, securities, currencies, scrip, coins, bullion, bonds,
36 notes, drafts, acceptances of drafts, bills of exchange and other
37 valuable papers or documents, except while in the custody or
38 possession of and being transported by a carrier for hire or in the mail.

39 (2) To make loans and investments as authorized for associations
40 by section 155 of the "Savings and Loan Act (1963)," P.L.1963, c.144
41 (C.17:12B-155).

42 (3) To make loans and investments as authorized for associations
43 by, and subject to the limitations of, sections 157 through 160 and 162
44 through 164 of the "Savings and Loan Act (1963)," P.L.1963, c.144
45 (C.17:12B-157 through C.17:12B-160 and C.17:12B-162 through
46 C.17:12B-164).

1 (4) To extend credit through the use of credit cards issued by it
2 through an arrangement with participating vendors, and without
3 limitation of the generality of the foregoing, to exercise all the powers
4 permitted to associations pursuant to subsection (18) of section 48 of
5 the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-48).

6 (5) To make any investment authorized for associations by section
7 165 of the "Savings and Loan Act (1963)," P.L.1963, c.144
8 (C.17:12B-165), provided, however, that where reference is made to
9 State associations or federal associations therein such reference for
10 purposes of this act shall be deemed to refer to banking institutions as
11 defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67
12 (C.17:9A-1).

13 (6) To exercise any powers and activities that have been or are
14 hereafter approved by regulation of the Board of Governors of the
15 Federal Reserve System as being (i) financial in nature or incidental to
16 such financial activity, (ii) complementary to a financial activity and
17 not posing a substantial risk to the safety or soundness of depository
18 institutions or the financial system generally, or (iii) so closely related
19 to banking or managing or controlling banks as to be a proper activity
20 for a bank holding company or financial holding company pursuant to
21 the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s.
22 1841 et seq.) and regulations thereunder, to the extent that federal law
23 does not prohibit banks or savings banks from exercising those powers
24 or activities.

25 (7) To apply to the commissioner for authority, and if granted, to
26 exercise any power or activity that has been or is hereafter deemed to
27 be (i) financial in nature or incidental to such financial activity, (ii)
28 complementary to a financial activity and not posing a substantial risk
29 to the safety or soundness of depository institutions or the financial
30 system generally, or (iii) closely related to banking under the "Bank
31 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
32 seq.) and which has been permitted on an individual basis by order of
33 the Board of Governors of the Federal Reserve System.

34 (8) To make loans, as defined in this subsection, pursuant to which
35 the parties may contract for and the bank or savings bank may receive
36 interest or other compensation at a rate or rates or in an amount that
37 the bank or savings bank and the borrower may agree upon,
38 notwithstanding the provisions of any other law of this State, except
39 N.J.S.2C:21-19, which limits the interest rate or finance charge which
40 would otherwise be applicable to the loan. A loan, for the purposes
41 of this subsection, includes loans in the amount of \$5,000.00 or more,
42 payable on demand or in installments, and (a) which is for the purpose
43 of acquiring or is secured by equipment used for business or
44 commercial purposes or (b) is secured by (i) an interest in warehouse
45 receipts, bills of lading, or other documents of title which are subject
46 to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an

1 interest in negotiable instruments or commercial paper which are
2 subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii)
3 by an interest in stocks, bonds, certificates of deposit or other
4 securities which are subject to chapter 8 of Title 12A of the New
5 Jersey Statutes, or (iv) by an interest in any combination of the
6 foregoing.

7 (9) To engage in the business of providing data processing and
8 computer services.

9 (10) To acquire, by purchase or otherwise, and to sell warrants,
10 options or other similar rights to any class or classes of equity
11 securities issued or to be issued by a corporation, if, at the time the
12 warrants, options or other similar rights are acquired, the issuer, or its
13 parent company, affiliate or subsidiary, is a borrower of funds loaned
14 by the bank or savings bank, and if the acquisition by purchase or
15 otherwise, and the sale of the warrants, options or other similar rights
16 neither adds to the bank's or saving bank's credit risk nor increases the
17 bank's or savings bank's financial liabilities.

18 The commissioner may, by regulation, prescribe the manner in
19 which and the extent to which the powers enumerated in this section
20 may be exercised, including whether they are to be exercised through
21 a subsidiary corporation and may, by regulation, prescribe other
22 powers, not otherwise expressly authorized or prohibited by law,
23 which banks and savings banks may exercise.

24 (cf: P.L.1985, c.528, s.2)

25

26 5. Section 52 of P.L.1948, c.67 (C.17:9A-52) is amended to read
27 as follows:

28 52. A. Dividends on the capital stock of a bank may be paid from
29 time to time wholly in cash, or wholly in stock of the bank, or partly
30 in cash and partly in stock of the bank as the board of directors may
31 in its discretion determine, subject to the limitations in this section
32 contained.

33 B. No dividend shall be paid by a bank on its capital stock unless,
34 following the payment of each such dividend, the capital stock of the
35 bank will be unimpaired, and

36 (1) the bank will have a surplus of not less than 50% of its capital
37 stock, or, if not,

38 (2) the payment of such dividend will not reduce the surplus of the
39 bank.

40 C. The certificate of incorporation of a bank, or an amendment
41 thereof, may provide that dividends may be paid in stock of the bank
42 without an amendment of the bank's certificate of incorporation
43 pursuant to article 19, notwithstanding the payment of such dividend
44 effects an increase in the capital stock of the bank. In such a case,
45 dividends may be paid from time to time in the stock of the bank, at
46 the discretion of the board of directors, without compliance with

1 article 19; provided that, prior to the date of the payment of any such
2 dividend, a certificate made by 2 officers of the bank, 1 of whom shall
3 be the president or a vice-president, shall be filed in the department for
4 the approval of the commissioner, stating

- 5 (1) the date upon which the dividend is to be paid; and
6 (2) the amount of such dividend; **[and]**
7 (3) the amount of the capital stock and the surplus of the
8 bank after giving effect to the payment of such dividend ; and
9 (4) the payment of the dividend will not violate the provisions of
10 subsection B of this section.

11 **[If the commissioner finds that the certificate of incorporation of**
12 **the bank, or an amendment thereof, authorizes the payment of**
13 **dividends in stock of the bank without an amendment of the bank's**
14 **certificate of incorporation pursuant to article 19, and if he finds that**
15 **the payment of the dividend will not violate subsection B of this**
16 **section, he shall endorse his approval upon the certificate, and shall file**
17 **it in the department.] An applicant shall be notified in writing by the**
18 **commissioner within five days of receipt of the certificate as to**
19 **whether the filing of the certificate is substantially complete. If an**
20 **applicant is notified that a filing is not substantially complete, the**
21 **commissioner shall respond in writing as to the substantial**
22 **completeness of any subsequent filings by the applicant within five**
23 **days of receipt of the filings. A filing shall be deemed approved on the**
24 **21st day after a determination by the commissioner that a filing is**
25 **substantially complete, unless approved or denied earlier by the**
26 **commissioner in writing. Upon approval pursuant to this section, the**
27 **certificate shall thereupon be amended as set forth in the certificate of**
28 **amendment.** A certificate filed in the department pursuant to this
29 subsection shall be deemed for all purposes to be an amendment of the
30 certificate of incorporation of the bank with the same effect as if it had
31 been authorized, executed, approved and filed in the department
32 pursuant to article 19.

33 D. When the certificate of incorporation of a bank, or an
34 amendment thereof, does not provide that dividends may be paid in
35 stock of the bank without an amendment of the bank's certificate of
36 incorporation pursuant to article 19, no such dividend which results in
37 an increase in the capital stock of the bank shall be paid unless the
38 necessary increase in capital stock is authorized pursuant to article 19.

39 E. Subsections C and D of this section shall not apply to a stock
40 dividend paid pursuant to section 212.

41 F. This section shall not limit the power of a bank to pay dividends
42 on shares of preferred stock issued prior to the effective date of this
43 act, as provided in its certificate of incorporation.

44 (cf: P.L.1955, c.118, s.1)

45

46 6. Section 117 of P.L.1948, c.67 (C.17:9A-117) is amended to

1 read as follows:

2 117. Whenever the board of directors shall deem it advisable to
3 amend the certificate of incorporation, it shall adopt a resolution
4 setting forth the proposed amendment and fixing a date for a meeting
5 of stockholders to take action thereon, upon notice given pursuant to
6 section 81. If, at such meeting or at any adjournment thereof, the
7 holders of at least two-thirds of the capital stock entitled to vote shall
8 vote in favor of the proposed amendment or any modification thereof,
9 a certificate thereof, setting forth the amendment in full and certifying
10 that the amendment was made for a purpose authorized by law in the
11 manner required by this article, shall be made and acknowledged by
12 two officers of the bank, one of whom shall be the president or
13 vice-president, and shall be submitted to the commissioner for [his]
14 approval. [If the commissioner shall find that the amendment is for a
15 purpose authorized by law, and that all the conditions and
16 requirements in this article and elsewhere in this act specified as
17 prerequisites to an amendment to a certificate of incorporation have
18 been satisfied, he shall endorse his approval upon the certificate of
19 amendment, and shall file it in the department, and] An applicant shall
20 be notified in writing by the commissioner within five days of receipt
21 of the certificate as to whether the filing of the certificate of
22 amendment is substantially complete. If an applicant is notified that
23 a filing is not substantially complete, the commissioner shall respond
24 in writing as to the substantial completeness of any subsequent filings
25 by the applicant within five days of receipt of the filings. A filing shall
26 be deemed approved on the 21st day after a determination by the
27 commissioner that a filing is substantially complete, unless approved
28 or denied earlier by the commissioner in writing. Upon approval
29 pursuant to this section, the certificate of incorporation shall
30 thereupon be amended as set forth in the certificate of amendment.
31 (cf: P.L.1953, c.141, s.4)

32

33 7. Section 198 of P.L.1948, c.67 (C.17:9A-198) is amended to
34 read as follows:

35 198. A. Whenever the board of managers of any savings bank shall
36 deem it advisable to amend the certificate of incorporation, it shall, by
37 a vote of not less than 2/3 of the managers then in office, adopt a
38 resolution setting forth the proposed amendment, and shall publish
39 notice of intention to apply to the commissioner for approval of such
40 amendment at least once a week for 4 successive weeks, in the manner
41 provided in section 10. A copy of the resolution, certified by 2
42 officers, together with proof of such publication and a certified
43 statement that the amendment was made for a purpose authorized by
44 law in the manner specified by this section shall be submitted to the
45 commissioner for approval. [If the commissioner shall find that the
46 amendment is for a purpose authorized by law, and that all the

1 requirements in this article and elsewhere in this act specified as
2 prerequisites to an amendment of a certificate of incorporation by a
3 savings bank have been satisfied, he shall indorse his approval upon
4 the certificate of amendment, and shall file it in the department, and]
5 An applicant shall be notified in writing by the commissioner within
6 five days of receipt of the certificate as to whether the filing of the
7 certificate of amendment is substantially complete. If an applicant is
8 notified that a filing is not substantially complete, the commissioner
9 shall respond in writing as to the substantial completeness of any
10 subsequent filings by the applicant within five days of receipt of the
11 filing. A filing shall be deemed approved on the 21st day after a
12 determination by the commissioner that a filing is substantially
13 complete, unless approved or denied earlier by the commissioner in
14 writing. Upon approval pursuant to this section, the certificate of
15 incorporation shall thereupon be amended as set forth in the certificate
16 of amendment.

17 B. When the amendment is for the purpose specified in paragraph
18 (2) of section 197, the commissioner shall give special consideration
19 to the following:

20 (1) the needs of the community for trust services, and the probable
21 volume of trust business which will be available to the savings bank;

22 (2) the condition of the savings bank, particularly the adequacy of
23 its capital deposits, if any and surplus in relation to its deposit
24 liabilities and other corporate responsibilities, including the proposed
25 exercise of fiduciary powers; but no savings bank shall be authorized
26 to make such an amendment unless its capital deposits, if any, and
27 surplus amount to at least \$500,000.00;

28 (3) the general character and ability of the management of the
29 savings bank;

30 (4) the nature of the supervision to be given to the proposed
31 fiduciary activities;

32 (5) the qualifications, experience and character of the proposed
33 officer or officers who will have control or supervision of the
34 proposed fiduciary activities;

35 (6) whether the savings bank has available competent legal counsel
36 to advise and pass upon trust matters whenever necessary; and

37 (7) any other matters which, in the discretion of the commissioner,
38 are relevant.

39 (cf: P.L.1965, c.171, s.19)

40

41 8. Section 21 of P.L.1987, c.201 (C.17:9A-402) is amended to
42 read as follows:

43 21. Whenever the board of directors of a subsidiary capital stock
44 savings bank deems it advisable to amend the certificate of
45 incorporation, it shall adopt a resolution setting forth the proposed
46 amendment, which amendment shall be approved, at a meeting of the

1 stockholders entitled to vote, by at least 2/3 of the capital stock
2 entitled to vote. If the holders of 2/3 of the shares of capital stock
3 entitled to vote approve the amendment, a certificate of this approval
4 setting forth the amendment and certifying that the amendment was
5 made for a purpose authorized by law in the manner specified by this
6 section, shall be attested by two officers of the bank, one of whom
7 shall be the president or vice president, and shall be submitted to the
8 commissioner for approval. [If the commissioner finds that the
9 amendment is for a purpose authorized by law, and that all
10 requirements of law have been met regarding an amendment to a
11 certificate of incorporation, he shall endorse his approval upon the
12 certificate of amendment, and shall file it with the department, and the
13 certificate of incorporation shall thereupon be deemed to be
14 amended.] An applicant shall be notified in writing by the
15 commissioner within five days of receipt of the certificate as to
16 whether the filing of the certificate of amendment is substantially
17 complete. If an applicant is notified that a filing is not substantially
18 complete, the commissioner shall respond in writing as to the
19 substantial completeness of any subsequent filings by the applicant
20 within five days of receipt of the filings. A filing shall be deemed
21 approved on the 21st day after a determination by the commissioner
22 that a filing is substantially complete, unless approved or denied earlier
23 by the commissioner in writing. Upon approval pursuant to this
24 section, the certificate of incorporation shall thereupon be amended as
25 set forth in the certificate of amendment.

26 (cf: P.L.1987, c.201, s.21)

27

28 9. Section 24 of P.L.1963, c.144 (C.17:12B-24) is amended to
29 read as follows:

30 24. A. No State association shall hereafter establish or operate a
31 branch office or offices, other than as provided by [the conditions and
32 limitations of sections 24 through 27 of this act] law without the prior
33 written approval of the commissioner; provided, however, that any
34 association operating an authorized branch office at the effective date
35 of this act may continue to do so.

36 (1) An association operating a branch office approved prior to the
37 effective date of this act with conditions or restrictions imposed on its
38 operation may upgrade such office by notifying the commissioner at
39 least 30 days before such upgrading. A branch office is considered
40 upgraded if the association is relieved of any of the conditions or
41 restrictions imposed on operation of the office when it opened. If
42 within 30 days of receipt of the notice, the commissioner does not
43 notify the association of his objection which would require the
44 association to submit an application or additional information before
45 upgrading, the association may upgrade the office.

46 (2) An approved, but unopened branch office as of the effective

1 date of this amendatory act may open and operate in the same manner
2 as a branch office approved subsequent to the effective date of this
3 amendatory act.

4 (3) Any application which deals with offices of a State association
5 filed with the commissioner prior to the effective date of this
6 amendatory act shall continue to be processed as any application filed
7 subsequent to the effective date of this amendatory act; however, the
8 commissioner may request such additional information as may be
9 necessary to comply with the requirements of this amendatory act.

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

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

30 C. The commissioner shall approve the application if the
31 commissioner finds that:

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

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

36 (3) conditions in the locality in which the proposed full branch
37 office is to be established afford reasonable promise of successful
38 operation. To determine if an applicant meets this requirement, the
39 commissioner shall consider only the costs of purchasing, constructing,
40 leasing or otherwise establishing the proposed office, including the
41 costs for staffing, furniture and equipment needed therefor and the
42 effect of these costs on the operations of the applying institution as a
43 whole. The applicant need not demonstrate an ability to operate the
44 proposed office at a profit within a definable period of time based on
45 the generation of new deposits from the market area to be entered
46 except to the extent that losses suffered at the proposed office could

1 affect the safety and soundness of the applicant's overall operations;
2 and

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

6 D. (Deleted by amendment, P.L.1996, c.17.)

7 E. The commissioner shall conduct such investigation or hearing,
8 or both, as the commissioner may deem advisable. The commissioner
9 may adopt, amend, alter or rescind regulations prescribing the form of
10 protest to applications and the procedures to be followed in the event
11 that the commissioner elects to hold a hearing in connection with an
12 application for a branch office, and such other regulations as the
13 commissioner may deem necessary with respect to the provisions of
14 this section.

15 F. (1) In lieu of the procedures set forth in subsections A through
16 C and E of this section, or section 89 of P.L.1996, c.17 (C.17:12B-
17 24.1), a State association which, directly or through a predecessor
18 association by merger or other reorganization, has been in business for
19 at least three years, and which is well capitalized, adequately managed,
20 and, if applicable, has received in its most recent examination under
21 the "Community Reinvestment Act of 1977," 12 U.S.C.s.2901 et seq.,
22 a rating of not less than "satisfactory record of meeting community
23 credit needs," or it equivalent, may apply for expedited branch office
24 approval pursuant to this subsection. The State association shall file
25 written application of the proposed establishment with the
26 commissioner and with those other persons designated by the
27 commissioner by rule or regulation. The application shall be
28 accompanied by or be in the form of a certification that (a) all
29 applicable provisions of this subsection have been met, (b) the
30 applicant requests expedited processing under this subsection, and (c)
31 contains that other information, if any, as the commissioner may
32 require by rule or regulation to confirm that an establishment of the
33 branch will not adversely affect the safety and soundness of the State
34 association.

35 (2) An applicant shall be notified by the commissioner within five
36 days of receipt of the filing of the application as to whether the
37 application is substantially complete. If an applicant is notified that a
38 filing is not substantially complete, the commissioner shall respond in
39 writing as to the substantial completeness of any subsequent filings
40 within five days of receipt of the filings. An application shall be
41 deemed approved on the 21st day after determination by the
42 commissioner that the application is substantially complete, unless
43 approved or denied earlier by the commissioner in writing.

44 (3) For purposes of this subsection, the term "well capitalized" has
45 the meaning given the term in 12 U.S.C. s.1831o and "well managed"
46 means, unless otherwise determined in writing by the commissioner,

1 (a) the achievement of a composite rating of 1 or 2 under the Uniform
2 Financial Institutions Rating System or an equivalent rating system in
3 connection with the most recent examination or subsequent review of
4 the State association, and (b) at least a rating of 2 for management, if
5 such rating is given. Nothing in this subsection shall be construed to
6 affect the confidentiality of any such rating under applicable law or
7 regulation.

8 (cf: P.L.1996, c.17, s.88)

9
10 10. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to
11 read as follows:

12 48. Without limiting the generality of the foregoing, every
13 association shall have power to:

14 (1) Have succession by its corporate name for the period limited
15 in its charter or certificate of incorporation, and when no period is
16 limited, perpetually.

17 (2) Sue and be sued in any court.

18 (3) Adopt and use a corporate seal and alter the same.

19 (4) Purchase and otherwise acquire, hold, mortgage, pledge, lease,
20 exchange, sell, convey and otherwise dispose of, any real and personal
21 property, necessary or incidental to its operations and consistent with
22 its powers and purposes.

23 (5) Insure its members' accounts with the Federal [Savings and
24 Loan] Deposit Insurance Corporation, and comply with conditions
25 necessary to obtain and maintain such insurance.

26 (6) Become a member of or stockholder in a Federal Home Loan
27 Bank and to that end to comply with all conditions of membership
28 therein.

29 (7) Act as agent for the United States or the State of New Jersey
30 or any instrumentality of either of them, when designated for that
31 purpose, and perform such reasonable duties as such agent as may be
32 required of it.

33 (8) Join any cooperative league organized for the purpose of
34 protecting and promoting the welfare of associations and their
35 members and comply with all conditions of membership therein.

36 (9) Borrow money from any source in or out of the State, on the
37 note, bond and mortgage or other obligation of the association upon
38 such terms and conditions as the board may from time to time
39 prescribe by resolution adopted by at least a majority of all the
40 members of the board and duly recorded on the minutes and to
41 pledge, assign or transfer mortgages, owned by the association and
42 the obligations secured by such mortgages, together with the shares,
43 if any, pledged as collateral security therefor, or any real or other
44 personal property, as security for the repayment of money so
45 borrowed. No association shall borrow money if by doing so the
46 aggregate of its indebtedness for borrowed money other than to the

1 Federal Home Loan Bank will exceed 20% of its capital, except with
2 the approval of the commissioner.

3 (10) (Deleted by amendment.)

4 (11) Require an advance payment of interest for a period of 1
5 month on any loan; and accept advance payments of interest, if made
6 at the option of the debtor, for any period on any loan. None of such
7 payments shall be deemed usurious.

8 (12) Where shares are issued, charge an admission fee, not to
9 exceed \$0.25 per share, which shall include the cost of membership or
10 share certificate and account book.

11 (13) Impose charges upon a member for failure to make any
12 payment to the association when due, but only as provided in this
13 paragraph. Where the association issues installment share accounts it
14 may impose such charge upon any member holding such an account or
15 any borrower upon a sinking fund mortgage not in excess of 1% a
16 month upon the amount in arrears, except for the first month's
17 arrearage or the amount by which such first month's arrearage may be
18 increased by subsequent arrearage, in which case a charge not in
19 excess of 5% may be imposed. Such charges shall be subject to the
20 further limitations that no such charge shall be deducted from any
21 amount actually paid by a member upon an account nor shall the total
22 of any such charges against any account in any fiscal year exceed the
23 amount that may be charged for failure to make any payments for a
24 6-month period nor shall any charge for default be made on a charge
25 for default. Otherwise an association may impose a charge for failure
26 to make any required payment to it when due upon any loan or
27 contract for the resale of real estate to a member, not to exceed 4%
28 of the amount of each payment in arrears, but no more than one such
29 charge may be made with respect to any one payment in arrears. An
30 association may impose a reasonable service charge against any
31 member who tenders to such association, for collection or as
32 payment, a check or other instrument of any type which subsequently
33 is not honored by the institution or person upon which such check or
34 other instrument is drawn. None of such charges shall be deemed
35 usurious.

36 (14) Compute interest upon any direct reduction loan, on
37 designated payment dates, and add the same to the unpaid balance of
38 such loan.

39 (15) Act as agent for any person where such agency will further the
40 interests of the association and its members, subject to such limitations
41 as may be prescribed by the commissioner.

42 (16) Upon application to and approval by the commissioner, to act
43 as custodian or trustee within the contemplation of the Federal
44 Self-Employed Individuals Tax Retirement Act of 1962, as amended
45 and supplemented, and the Employee Retirement Income Security Act
46 of 1974 as amended and supplemented, and as custodian, trustee or

1 manager of any such investment fund the authorized investments of
2 which include, but need not be limited to, savings accounts or real
3 estate loans, and the beneficial interests in which may be represented
4 by transferable shares or certificates. Associations exercising the
5 powers authorized by this subsection shall segregate all funds held in
6 such fiduciary capacities from the general assets of the association and
7 shall keep a separate set of books and records showing in detail all
8 transactions made under authority of this subsection. If individual
9 records are kept for each self-employed individual's retirement plan
10 and each such investment fund, then all such funds held in such
11 fiduciary capacities by an association may be commingled for
12 appropriate purposes of investment. No funds held in such fiduciary
13 capacities shall be used by an association in the conduct of its
14 business; however, such funds may be invested in savings accounts of
15 the association in the event that the custodial, trust or other plan does
16 not prohibit such investment. In granting or refusing the association's
17 application the commissioner shall take into consideration the
18 investment policies, amount, type and adequacy of reserves, fidelity
19 bonds and any legally required deposits of the applicant and other
20 pertinent facts and circumstances.

21 (17) Upon compliance with subsection (5) of this section, accept
22 from its members accounts to be repaid upon such terms, not
23 inconsistent with this act, as are approved by the Commissioner of
24 Banking and Insurance, by regulation or otherwise, provided that no
25 account shall exceed the limitations established by section 78 of
26 P.L.1963, c.144 (C.17:12B-78), and provided further that no account
27 shall be accepted or issued in the name of any corporation, association
28 or partnership or in the name of any individual for use in trade or
29 business. An association issuing such accounts may honor demands
30 for withdrawal of such accounts in the form of negotiable checks,
31 drafts or orders in the form of electronic fund transfers and may
32 become a member of a clearing facility and satisfy reasonable
33 conditions required for its qualification and pay reasonable expenses
34 therefor. Such accounts may be either interest-bearing or
35 noninterest-bearing; provided, however, that the payment of interest
36 on such accounts be permitted by federal law. An association
37 accepting accounts pursuant to this subsection shall, at all times,
38 maintain reserves against such accounts as shall be prescribed in
39 regulations issued by the commissioner in accordance with the
40 "Administrative Pro
41 cedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) but such reserves
42 shall be equal in nature and amount to those required of savings banks
43 in this State against similar accounts. Such reserves shall be
44 maintained in cash or deposits in one or more reserve depositories as
45 authorized by the Commissioner of Banking and Insurance.
46 Regulations of the commissioner may also provide that associations

1 issuing such type of accounts maintain a general reserve account,
2 federal insurance reserve account and undivided profits of specified
3 minimum amounts and provide for minimum standards of office
4 facilities in connection therewith. An insured association may impose
5 a reasonable service charge for providing and maintaining such
6 accounts for the benefit of its members.

7 (18) Issue credit cards, extend credit in connection therewith, and
8 otherwise engage in or participate in credit card operations subject to
9 such regulations as the commissioner may prescribe. Any such
10 regulations shall be in substantial conformity with similar rules and
11 regulations of the [Federal Home Loan Bank Board] Office of Thrift
12 Supervision.

13 (19) (a) Apply to the commissioner for permission to act as
14 trustee, executor, administrator, guardian, or in any other fiduciary
15 capacity in which federal savings and loan associations doing business
16 in this State are permitted to act. Associations exercising any or all of
17 the powers enumerated in this section shall segregate all assets held in
18 any fiduciary capacity from the general assets of the association and
19 shall keep a separate set of books and records showing in proper detail
20 all transactions engaged in under authority of this section. No
21 association shall receive in its trust department deposits of current
22 funds subject to check or the deposit of checks, drafts, bills of
23 exchange, or other items for collection or exchange purposes. Funds
24 deposited or held in trust by the association awaiting investment shall
25 be carried in a separate account and shall not be used by the
26 association in the conduct of its business unless it shall first set aside
27 in the trust department United States bonds or other securities
28 approved by the commissioner. In the event of the failure of such
29 association, the owners of the funds held in trust for investment shall
30 have a lien on the bonds or other securities so set apart, in addition to
31 their claim against the estate of the association. Whenever the laws of
32 this State require corporations acting in a fiduciary capacity to deposit
33 securities with the State authorities for the protection of private or
34 court trusts, associations so acting shall be required to make similar
35 deposits and securities so deposited shall be held for the protection of
36 private or court trusts, as provided by New Jersey law. Associations
37 in such cases shall not be required to execute the bond usually required
38 of individuals if New Jersey corporations under similar circumstances
39 are exempt from this requirement. Associations shall have power to
40 execute such bond when so required by the laws of New Jersey. In
41 any case in which the laws of this State require that a corporation
42 acting as trustee, executor, administrator, or in any capacity specified
43 in this section shall take an oath or make an affidavit, any officer, as
44 defined in section 65 of P.L.1963, c.144 (C.17:12B-65), of such
45 association may take the necessary oath or execute the necessary
46 affidavit. It shall be unlawful for any association to lend any officer,

1 director, or employee any funds held in trust under the powers
2 conferred by this section. Any officer, director, or employee making
3 such loan, or to whom such loan is made, may be fined not more than
4 \$5,000.00, or imprisoned not more than 5 years, or may be both fined
5 and imprisoned, in the discretion of the court. In passing upon
6 applications for permission to exercise the powers enumerated in this
7 section, the commissioner may take into consideration the amount of
8 capital and surplus of the applying association, whether or not such
9 capital and surplus is sufficient under the circumstances of the case,
10 the needs of the community to be served, and any other facts and
11 circumstances that seem to him proper, and may grant or refuse the
12 application accordingly, except that approval shall not be granted to
13 any association having a capital and surplus less than the capital and
14 surplus required by New Jersey law of State banks, trust companies,
15 and corporations exercising such powers.

16 (b) Any association desiring to surrender its right to exercise the
17 powers granted under this section, in order to relieve itself of the
18 necessity of complying with the requirements of this section, or to
19 have returned to it any securities which it may have deposited with the
20 State authorities for the protection of private or court trusts, or for
21 any other purpose, may file with the commissioner a certified copy of
22 a resolution of its board of directors signifying such desire. Upon
23 receipt of such resolution, the commissioner, after satisfying himself
24 that such association has been relieved in accordance with State law
25 of all duties as trustee, executor, administrator, guardian or other
26 fiduciary, under court, private or other appointments previously
27 accepted under authority of this section, may, in its discretion, issue
28 to such association a certificate certifying that such association is no
29 longer authorized to exercise the powers granted by this section.
30 Upon the issuance of such a certificate by the commissioner, such
31 association (i) shall no longer be subject to the provisions of this
32 section or the regulations of the commissioner made pursuant thereto,
33 (ii) shall be entitled to have returned to it any securities which it may
34 have deposited with the State authorities for the protection of private
35 or court trusts, and (iii) shall not exercise thereafter any of the powers
36 granted by this section without first applying for and obtaining
37 approval to exercise such powers pursuant to the provisions of this
38 section.

39 (c) The commissioner is authorized and empowered to promulgate
40 such regulations as he may deem necessary to enforce compliance with
41 the provisions of this section and the proper exercise of the trust
42 powers granted by this section. Any such regulations shall be in
43 substantial conformity with similar rules and regulations of the
44 **[Federal Home Loan Bank Board] Office of Thrift Supervision.**

45 (20) In accordance with rules and regulations promulgated by the
46 commissioner, issue and sell directly to subscribers or through

1 underwriters mutual capital certificates. Such certificates shall
2 constitute part of the general reserve and net worth of the issuing
3 association. Such certificates--

4 (a) Shall be subordinate to all savings accounts, savings
5 certificates, and debt obligations;

6 (b) Shall constitute a claim in liquidation on the general reserves,
7 surplus, and undivided profits of the association remaining after the
8 payment in full of all savings accounts, savings certificates, and debt
9 obligations;

10 (c) Shall be entitled to the payment of dividends; and

11 (d) May have a fixed or variable dividend rate.

12 The commissioner is authorized and empowered to promulgate such
13 regulations as he may deem necessary with respect to the powers
14 granted by this section. Any such regulations shall be in substantial
15 conformity with similar rules and regulations of the [Federal Home
16 Loan Bank Board] Office of Thrift Supervision. The commissioner
17 shall provide in his regulations for charging losses to the mutual
18 capital certificates, reserves, and other net worth accounts.

19 (21) [If authorized by regulation of the commissioner, exercise any
20 power, right, benefit, or privilege permitted to federal associations,
21 provided that such power, right, benefit or privilege is not specifically
22 prohibited by law, which regulation shall be in substantial conformity
23 with similar rules and regulations of the Federal Home Loan Bank
24 Board; and exercise any power, right, benefit or privilege under this
25 section, modified by regulation of the commissioner, where the Federal
26 Home Loan Bank Board has, by regulation, modified that power,
27 right, benefit or privilege with respect to federal associations.]
28 Notwithstanding the provisions of P.L.1963, c.144 (C.17:12B-1 et
29 seq.) or any other law exercise those powers, rights, benefits or
30 privileges now or hereafter authorized for national or out-of-state
31 banks or for Federal or out-of-state savings banks or savings
32 associations either directly or through a financial subsidiary or other
33 subsidiary, to the same extent and subject to the same limitations as
34 national or out-of-state banks or Federal or out-of-state savings banks
35 or savings associations may exercise those powers, rights, benefits or
36 privileges, provided that before exercising any power, right, benefit or
37 privilege of any out-of-state bank or out-of-state savings bank or
38 savings association, the State association provides notice to the
39 commissioner, and the commissioner either approves the activity or
40 does not provide notice before the expiration of 30 days that such
41 power, right, benefit or privilege is not appropriate for a State
42 association on grounds of safety and soundness. The commissioner
43 shall have the authority to adopt rules and regulations pursuant to this
44 section, which rules and regulations shall have as their objective the
45 placing of State associations on a substantial competitive parity with
46 national and out-of-state banks and Federal and out-of-state savings

1 banks and savings associations.

2 (cf: P.L.1983, c.5, s.1)

3

4 11. Section 21 of P.L. 1989, c. 165 (C. 17:12B-312) is amended
5 to read as follows:

6 21. Whenever the board of directors of a subsidiary capital stock
7 state association deems it advisable to amend the certificate of
8 incorporation, it shall adopt a resolution setting forth the proposed
9 amendment, which amendment shall be approved, at a meeting of the
10 stockholders entitled to vote, by at least 2/3 of the capital stock
11 entitled to vote. If the holders of 2/3 of the shares of capital stock
12 entitled to vote approve the amendment, a certificate of this approval
13 shall be attested by two officers of the state association, one of whom
14 shall be the president or vice president, and shall be submitted to the
15 commissioner for approval. [If the commissioner finds that the
16 amendment is for a purpose authorized by law, and that all
17 requirements of law have been met regarding an amendment to a
18 certificate of incorporation, the commissioner shall approve it by
19 endorsing the certificate of amendment, and shall file it with the
20 department, and the certificate of incorporation shall thereupon be
21 deemed to be amended.] An applicant shall be notified in writing by
22 the commissioner within five days of receipt of the certificate as to
23 whether the filing of the certificate of amendment is substantially
24 complete. If an applicant is notified that a filing is not substantially
25 complete, the commissioner shall respond in writing as to the
26 substantial completeness of any subsequent filings by the applicant
27 within five days of receipt of the filings. A filing shall be deemed
28 approved on the 21st day after a determination by the commissioner
29 that a filing is substantially complete, unless approved or denied earlier
30 by the commissioner in writing. Upon approval pursuant to this
31 section, the certificate of incorporation shall thereupon be amended as
32 set forth in the certificate of amendment.

33 (cf: P.L.1989, c.165, s.21)

34

35 12. Sections 9 and 10 of P.L.1981, c.153 (C.17:9A-24a and
36 C.17:9A-24b) and section 2 of P.L. 1981, c. 163 (C.17:9A-24b.2) are
37 repealed.

38

39 13. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill provides for an expedited approval process for certain
45 applications by banks, savings banks and savings and loan associations,
46 such as for branch office applications, certificate of incorporation

1 amendments, and other corporate approvals. The bill provides that in
2 order to qualify for expedited processing of branch applications, a
3 bank, savings bank or savings and loan association must be well
4 capitalized, well managed and, if applicable, must have received a
5 rating of not less than "satisfactory" in its most recent Community
6 Reinvestment Act examination. The bill also consolidates and clarifies
7 parity power provisions for banks, savings banks and savings and loan
8 associations, and amends the powers of banks and savings banks and
9 their subsidiaries to be consistent with new powers granted by the
10 federal "Gramm-Leach-Bliley Act." The bill thus ensures that New
11 Jersey chartered institutions will always remain competitive with the
12 rest of the country's financial services companies, guaranteeing that
13 New Jersey remains at the forefront of state business climates for the
14 banking industry.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2263

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 20, 2000

The Assembly Banking and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 2263.

As amended by the committee, this bill provides for an expedited approval process for certain applications by banks, savings banks and savings and loan associations, such as for branch office applications, certificate of incorporation amendments, and other corporate approvals. The bill provides that in order to qualify for expedited processing of branch applications, a bank, savings bank or savings and loan association must be well capitalized, well managed and, if applicable, must have received a rating of not less than "satisfactory" in its most recent Community Reinvestment Act examination.

The bill also consolidates and clarifies parity power provisions for banks, savings banks and savings and loan associations to make them competitive with national or out-of-state banks or Federal or out-of-state savings banks or savings associations. The bill also amends the powers of banks and savings banks and their subsidiaries to be consistent with new powers granted by the federal "Gramm-Leach-Bliley Act", which allows federally chartered institutions to engage in certain activities financial in nature and incidental to such activities.

The committee amended the bill to provide that applications submitted pursuant to the expedited approval process shall be deemed approved by the Commissioner of Banking and Insurance on the 30th day after receipt of the filing, unless approved or disapproved earlier by the commissioner in writing. In addition, the committee amendments provide that, prior to engaging in certain activities authorized for federally chartered institutions, State banks and savings banks shall provide notice to the commissioner of the intent to engage in such activities, which activities shall be approved or disapproved before the expiration of 45 days.

[First Reprint]

ASSEMBLY, No. 2263

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

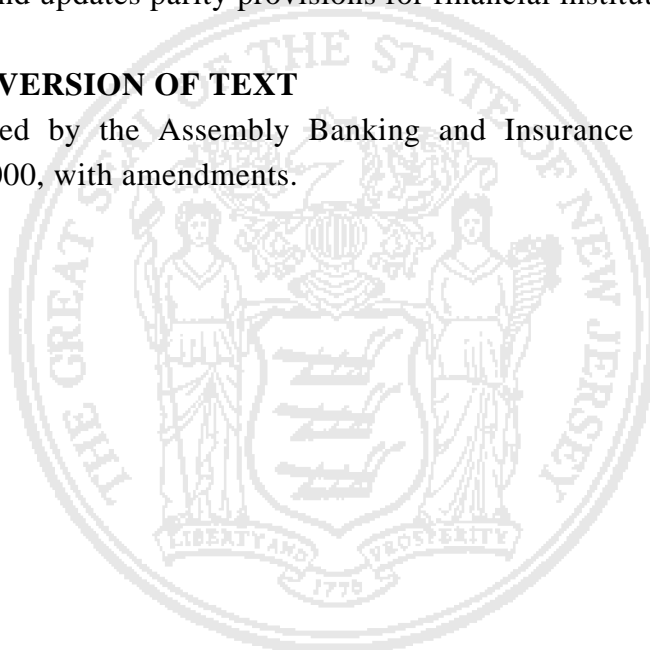
Assemblymen Garcia and Augustine

SYNOPSIS

Provides for expedited approval process for certain applications by financial institutions and updates parity provisions for financial institutions.

CURRENT VERSION OF TEXT

As reported by the Assembly Banking and Insurance Committee on March 20, 2000, with amendments.



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

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

6
7 1. Section 2 of P.L. 1970, c. 294 (C. 17:9A-6.2) is amended to
8 read as follows:

9 2. Prior to the time when authorized or unissued shares are issued
10 by a bank, a certificate of amendment made by two officers of the
11 bank, one of whom shall be the president or a vice-president, shall be
12 filed in the Department of Banking and Insurance. The certificate of
13 amendment shall state (a) the amount of the authorized but unissued
14 stock which will be issued; (b) the consideration which will be
15 received by the bank on the issuance of such stock; (c) the date upon
16 which the stock will be issued; and (d) the amount of the bank's
17 capital stock which will be outstanding, and the amount of its surplus
18 after giving effect to such issue. [If the Commissioner of Banking
19 finds that the bank's original or amended certificate of incorporation
20 provides for authorized but unissued stock, and if he finds that the
21 issuance of such stock will not be in violation of law or contrary to
22 the public interest, he shall endorse his approval upon the certificate
23 and file it in the Department of Banking.]¹ [The certificate shall be
24 submitted to the commissioner for approval. An applicant shall be
25 notified in writing by the commissioner within five days of receipt of
26 the certificate as to whether the filing of the certificate of amendment
27 is substantially complete. If an applicant is notified that a filing is not
28 substantially complete, the commissioner shall respond in writing as to
29 the substantial completeness of any subsequent filings by the applicant
30 within five days of receipt of the filings.]¹ A filing shall be deemed
31 approved on the¹ [21st] 30th¹ day after¹ [a determination] receipt¹
32 by the commissioner¹ [that a filing is substantially complete]¹ , unless
33 approved or disapproved earlier by the commissioner in writing. Upon
34 approval pursuant to this section, the certificate of incorporation shall
35 thereupon be amended as set forth in the certificate of amendment.
36 ¹The commissioner may disapprove a filing if the commissioner finds
37 that the issuance of the stock will be in violation of law or contrary to
38 the public interest.¹ A certificate filed in [such] the department
39 pursuant to this section shall be deemed for all purposes to be an
40 amending of the bank's certificate of incorporation with the same
41 effect as if it had been authorized, executed, approved and filed in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABI committee amendments adopted March 20, 2000.

1 such department pursuant to article 19 of [the act of which this act is
2 a supplement] P.L.1948, c.67 (C.17:9A-116 et seq.).
3 (cf: P.L.1970, c.294, s.2)

4

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

7 20. A. (1) Before any full branch office shall be established, the
8 bank or savings bank shall file written application in the department
9 for the commissioner's approval thereof. If, after such investigation or
10 hearings, or both, as the commissioner may determine to be advisable,
11 the commissioner shall find:

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

14 (b) That the interests of the public will be served to advantage by
15 the establishment of such full branch office;

16 (c) That conditions in the locality in which the proposed full branch
17 office is to be established afford reasonable promise of successful
18 operation; and

19 (d) That the applicant has achieved sufficient compliance, as
20 defined by the commissioner by regulation, with the "Community
21 Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq.; the
22 commissioner shall, within 90 days after the filing of the application,
23 approve such application.

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

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

35 B. Before any minibranch office shall be established, the bank or
36 savings bank shall file a written application on forms supplied by the
37 commissioner. A duly adopted resolution of the board of directors or
38 managers authorizing such application shall accompany the
39 application. Notice of such application shall be published in
40 accordance with procedural rules and regulations of the department.
41 Within 20 days after said notice is published, any person or banking
42 institution having objections to the application shall submit detailed
43 written factual and legal grounds for the objection to the
44 commissioner. There shall be no hearing required to be held by the
45 commissioner in connection with such application. The commissioner,
46 after considering the application and written objections and such

1 investigation as the commissioner deems advisable, shall approve the
2 application, if the commissioner shall find

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

5 (2) That the costs of establishing such minibranch office, including
6 (a) construction and alteration costs; (b) the cost of real property to
7 be acquired in connection therewith or rental to be paid for space to
8 be occupied by such office; (c) the cost of purchasing or renting and
9 installing the equipment to be used in the operation of such office; and
10 (d) the cost of manning such office, shall not in the aggregate exceed
11 such sum as the commissioner shall deem reasonable, taking into
12 consideration the capital and surplus of the bank, or the surplus of the
13 savings bank.

14 C. (Deleted by amendment, P.L.1999, c.252.)

15 D. (Deleted by amendment, P.L.1999, c.252.)

16 E. A bank or savings bank shall provide insurance protection under
17 its bonding program for transactions involving a communication
18 terminal facility.

19 F. (Deleted by amendment, P.L.1996, c.17.)

20 G. The commissioner shall have the power to make, amend and
21 repeal rules and regulations concerning the establishment, maintenance
22 and operation of full branch offices, minibranch offices and
23 communication terminal facilities not inconsistent with the provisions
24 of this act. The regulations so made shall also be directed toward the
25 creation, operation and maintenance of a substantial competitive parity
26 between banking institutions and other financial institutions in all
27 matters relating to the establishment, operation, and maintenance of
28 branch offices and communication terminal facilities.

29 H. (1) In lieu of the procedures set forth in subsection A or B of
30 this section, or in section 22 or 23 of P.L.1948, c.67 (C.17:9A-22 or
31 C.17:9A-23), a bank or savings bank which directly or through a
32 predecessor bank or savings bank by merger or other reorganization
33 has been in business for at least three years, and which is well
34 capitalized, adequately managed, and, if applicable, has received in its
35 most recent examination under the "Community Reinvestment Act of
36 1977," 12 U.S.C. s.2901 et seq., a rating of not less than "satisfactory
37 record of meeting community credit needs," or it equivalent, may
38 apply for expedited branch office approval pursuant to this subsection.
39 The bank or savings bank shall file written application of the proposed
40 establishment with the commissioner and with those other persons
41 designated by the commissioner by rule or regulation. The application
42 shall be accompanied by or be in the form of a certification that (a) all
43 applicable provisions of this subsection have been met, (b) the
44 applicant requests expedited processing under this subsection, and (c)
45 contains that other information, if any, as the commissioner may
46 require by rule or regulation to confirm that an establishment of the

1 branch will not adversely affect the safety and soundness of the bank
2 or savings bank.

3 (2) ¹[An applicant shall be notified by the commissioner within five
4 days of receipt of the filing of the application as to whether the
5 application is substantially complete. If an applicant is notified that a
6 filing is not substantially complete, the commissioner shall respond in
7 writing as to the substantial completeness of any subsequent filing
8 within five days of receipt of the filing.]¹ An application shall be
9 deemed approved on the ¹[21st] 30th¹ day after
10 ¹[determination]receipt¹ by the commissioner ¹[that the application
11 is substantially complete]¹, unless approved or denied earlier by the
12 commissioner in writing.

13 (3) For purposes of this subsection, "well capitalized" has the
14 meaning given the term in 12 U.S.C. s.1831o and " well managed"
15 means, unless otherwise determined in writing by the commissioner,
16 (a) the achievement of a composite rating of 1 or 2 under the Uniform
17 Financial Institutions Rating System or an equivalent rating system, in
18 connection with the most recent examination or subsequent review of
19 the bank or savings bank, and (b) at least a rating of 2 for
20 management, if such a rating is given. Nothing in this subsection shall
21 be construed to affect the confidentiality of any rating under applicable
22 law or regulation.

23 (cf: P.L.1999, c.252, s.3)

24

25 3. Section 1 of P.L.1981, c.163 (C.17:9A-24b1) is amended to
26 read as follows:

27 1. [The Commissioner of Banking shall have the power to
28 promulgate rules and regulations authorizing] **Notwithstanding the**
29 provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) or any other law,
30 banks and savings banks [to] may exercise those powers, rights
31 benefits or privileges now or hereafter authorized for national or out-
32 of-state banks or for Federal [mutual] or out-of-state savings banks
33 or savings associations either directly or through a financial subsidiary
34 or other subsidiary, to the same extent and, subject to the same
35 limitations as national or out-of-state banks or Federal [mutual] or
36 out-of-state savings banks or savings associations, may exercise those
37 powers, rights, benefits or privileges, provided that before exercising
38 any power, right, benefit or privilege of an out-of-state bank or out-of-
39 state savings bank or savings association, the bank or savings bank
40 provides notice to the commissioner, and ¹on a case by case basis¹ the
41 commissioner either approves the activity or does not provide notice
42 before the expiration of ¹[30] 45¹ days that such power, right, benefit
43 or privilege is not appropriate for ¹[a] the¹ New Jersey bank or
44 savings bank on the grounds of safety and soundness. The
45 commissioner shall have the authority to adopt rules and regulations

1 pursuant to this section, which rules and regulations shall have as their
2 objective the placing of banks and savings banks on a substantially
3 competitive parity with national and out-of-state banks and Federal
4 and out-of-state savings banks and savings associations. [Any such
5 regulations shall be in substantial conformity with similar rules and
6 regulations of the Federal Home Loan Bank Board.]

7 (cf: P.L.1981, c.163, s.1)

8

9 4. Section 8 of P.L.1979, c.226 (C.17:9A-24.9) is amended to read
10 as follows:

11 8. Additional powers of banks and savings banks. In addition to
12 the powers which banks and savings banks may otherwise exercise,
13 every bank and savings bank, as defined in section 1 of "The Banking
14 Act of 1948," P.L.1948, c.67 (C.17:9A-1), shall have power

15 (1) To subscribe for, purchase and hold stock of one or more
16 insurance companies organized under the laws of this State which have
17 been or may hereafter be limited to insure banks, savings banks and
18 other depository institutions

19 (a) Against loss from the defaults of persons in positions of trust,
20 public or private, or against loss or damage on account of neglect or
21 breaches of duty or obligations guaranteed by the insurer; and against
22 loss of any bills of exchange, notes, checks, drafts, acceptances of
23 drafts, bonds, securities, evidences of debt, deeds, mortgages,
24 documents, gold or silver, bullion, currency, money, platinum and
25 other precious metals, refined or unrefined, and articles made
26 therefrom, jewelry, watches, necklaces, bracelets, gems, precious and
27 semiprecious stones, and also against loss resulting from damage,
28 except by fire, to the insured's premises, furnishings, fixtures,
29 equipment, safes and vaults therein, caused by burglary, robbery,
30 holdup, theft or larceny, or attempt thereat. No such indemnity
31 indemnifying against loss of any property as specified herein shall
32 indemnify against the loss of any such property occurring while in the
33 mail or in the custody or possession of a carrier for hire for the
34 purpose of transportation, except for the purpose of transportation by
35 an armored motor vehicle accompanied by one or more armed guards;
36 and

37 (b) Against loss or damage by burglary, theft, larceny, robbery,
38 forgery, fraud, vandalism or malicious mischief, or any one or more of
39 such hazards; and against any and all kinds of loss or destruction of or
40 damage to moneys, securities, currencies, scrip, coins, bullion, bonds,
41 notes, drafts, acceptances of drafts, bills of exchange and other
42 valuable papers or documents, except while in the custody or
43 possession of and being transported by a carrier for hire or in the mail.

44 (2) To make loans and investments as authorized for associations
45 by section 155 of the "Savings and Loan Act (1963)," P.L.1963, c.144
46 (C.17:12B-155).

1 (3) To make loans and investments as authorized for associations
2 by, and subject to the limitations of, sections 157 through 160 and 162
3 through 164 of the "Savings and Loan Act (1963)," P.L.1963, c.144
4 (C.17:12B-157 through C.17:12B-160 and C.17:12B-162 through
5 C.17:12B-164).

6 (4) To extend credit through the use of credit cards issued by it
7 through an arrangement with participating vendors, and without
8 limitation of the generality of the foregoing, to exercise all the powers
9 permitted to associations pursuant to subsection (18) of section 48 of
10 the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-48).

11 (5) To make any investment authorized for associations by section
12 165 of the "Savings and Loan Act (1963)," P.L.1963, c.144
13 (C.17:12B-165), provided, however, that where reference is made to
14 State associations or federal associations therein such reference for
15 purposes of this act shall be deemed to refer to banking institutions as
16 defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67
17 (C.17:9A-1).

18 (6) To exercise any powers and activities that have been or are
19 hereafter approved by regulation of the Board of Governors of the
20 Federal Reserve System as being (i) financial in nature or incidental to
21 such financial activity, (ii) complementary to a financial activity and
22 not posing a substantial risk to the safety or soundness of depository
23 institutions or the financial system generally, or (iii) so closely related
24 to banking or managing or controlling banks as to be a proper activity
25 for a bank holding company or financial holding company pursuant to
26 the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s.
27 1841 et seq.) and regulations thereunder, to the extent that federal law
28 does not prohibit banks or savings banks from exercising those powers
29 or activities.

30 (7) To apply to the commissioner for authority, and if granted, to
31 exercise any power or activity that has been or is hereafter deemed to
32 be (i) financial in nature or incidental to such financial activity, (ii)
33 complementary to a financial activity and not posing a substantial risk
34 to the safety or soundness of depository institutions or the financial
35 system generally, or (iii) closely related to banking under the "Bank
36 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
37 seq.) and which has been permitted on an individual basis by order of
38 the Board of Governors of the Federal Reserve System.

39 (8) To make loans, as defined in this subsection, pursuant to which
40 the parties may contract for and the bank or savings bank may receive
41 interest or other compensation at a rate or rates or in an amount that
42 the bank or savings bank and the borrower may agree upon,
43 notwithstanding the provisions of any other law of this State, except
44 N.J.S.2C:21-19, which limits the interest rate or finance charge which
45 would otherwise be applicable to the loan. A loan, for the purposes
46 of this subsection, includes loans in the amount of \$5,000.00 or more,

1 payable on demand or in installments, and (a) which is for the purpose
2 of acquiring or is secured by equipment used for business or
3 commercial purposes or (b) is secured by (i) an interest in warehouse
4 receipts, bills of lading, or other documents of title which are subject
5 to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an
6 interest in negotiable instruments or commercial paper which are
7 subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii)
8 by an interest in stocks, bonds, certificates of deposit or other
9 securities which are subject to chapter 8 of Title 12A of the New
10 Jersey Statutes, or (iv) by an interest in any combination of the
11 foregoing.

12 (9) To engage in the business of providing data processing and
13 computer services.

14 (10) To acquire, by purchase or otherwise, and to sell warrants,
15 options or other similar rights to any class or classes of equity
16 securities issued or to be issued by a corporation, if, at the time the
17 warrants, options or other similar rights are acquired, the issuer, or its
18 parent company, affiliate or subsidiary, is a borrower of funds loaned
19 by the bank or savings bank, and if the acquisition by purchase or
20 otherwise, and the sale of the warrants, options or other similar rights
21 neither adds to the bank's or saving bank's credit risk nor increases the
22 bank's or savings bank's financial liabilities.

23 The commissioner may, by regulation, prescribe the manner in
24 which and the extent to which the powers enumerated in this section
25 may be exercised, including whether they are to be exercised through
26 a subsidiary corporation and may, by regulation, prescribe other
27 powers, not otherwise expressly authorized or prohibited by law,
28 which banks and savings banks may exercise.

29 (cf: P.L.1985, c.528, s.2)

30

31 5. Section 52 of P.L.1948, c.67 (C.17:9A-52) is amended to read
32 as follows:

33 52. A. Dividends on the capital stock of a bank may be paid from
34 time to time wholly in cash, or wholly in stock of the bank, or partly
35 in cash and partly in stock of the bank as the board of directors may
36 in its discretion determine, subject to the limitations in this section
37 contained.

38 B. No dividend shall be paid by a bank on its capital stock unless,
39 following the payment of each such dividend, the capital stock of the
40 bank will be unimpaired, and

41 (1) the bank will have a surplus of not less than 50% of its capital
42 stock, or, if not,

43 (2) the payment of such dividend will not reduce the surplus of the
44 bank.

45 C. The certificate of incorporation of a bank, or an amendment
46 thereof, may provide that dividends may be paid in stock of the bank

1 without an amendment of the bank's certificate of incorporation
2 pursuant to article 19, notwithstanding the payment of such dividend
3 effects an increase in the capital stock of the bank. In such a case,
4 dividends may be paid from time to time in the stock of the bank, at
5 the discretion of the board of directors, without compliance with
6 article 19; provided that, prior to the date of the payment of any such
7 dividend, a certificate made by 2 officers of the bank, 1 of whom shall
8 be the president or a vice-president, shall be filed in the department for
9 the approval of the commissioner, stating

- 10 (1) the date upon which the dividend is to be paid; and
11 (2) the amount of such dividend; **[and]**
12 (3) the amount of the capital stock and the surplus of the
13 bank after giving effect to the payment of such dividend; and
14 (4) the payment of the dividend will not violate the provisions of
15 subsection B of this section.

16 **[If the commissioner finds that the certificate of incorporation of**
17 **the bank, or an amendment thereof, authorizes the payment of**
18 **dividends in stock of the bank without an amendment of the bank's**
19 **certificate of incorporation pursuant to article 19, and if he finds that**
20 **the payment of the dividend will not violate subsection B of this**
21 **section, he shall endorse his approval upon the certificate, and shall file**
22 **it in the department.]** ¹[An applicant shall be notified in writing by
23 the commissioner within five days of receipt of the certificate as to
24 whether the filing of the certificate is substantially complete. If an
25 applicant is notified that a filing is not substantially complete, the
26 commissioner shall respond in writing as to the substantial
27 completeness of any subsequent filings by the applicant within five
28 days of receipt of the filings.]¹ A filing shall be deemed approved on
29 the ¹[21st] ¹30th ¹day after ¹[a determination] receipt by the
30 commissioner ¹[that a filing is substantially complete]¹, unless
31 approved or denied earlier by the commissioner in writing. Upon
32 approval pursuant to this section, the certificate shall thereupon be
33 amended as set forth in the certificate of amendment. A certificate
34 filed in the department pursuant to this subsection shall be deemed for
35 all purposes to be an amendment of the certificate of incorporation of
36 the bank with the same effect as if it had been authorized, executed,
37 approved and filed in the department pursuant to article 19.

38 D. When the certificate of incorporation of a bank, or an
39 amendment thereof, does not provide that dividends may be paid in
40 stock of the bank without an amendment of the bank's certificate of
41 incorporation pursuant to article 19, no such dividend which results in
42 an increase in the capital stock of the bank shall be paid unless the
43 necessary increase in capital stock is authorized pursuant to article 19.

44 E. Subsections C and D of this section shall not apply to a stock
45 dividend paid pursuant to section 212.

46 F. This section shall not limit the power of a bank to pay dividends

1 on shares of preferred stock issued prior to the effective date of this
2 act, as provided in its certificate of incorporation.

3 (cf: P.L.1955, c.118, s.1)

4

5 6. Section 117 of P.L.1948, c.67 (C.17:9A-117) is amended to
6 read as follows:

7 117. Whenever the board of directors shall deem it advisable to
8 amend the certificate of incorporation, it shall adopt a resolution
9 setting forth the proposed amendment and fixing a date for a meeting
10 of stockholders to take action thereon, upon notice given pursuant to
11 section 81. If, at such meeting or at any adjournment thereof, the
12 holders of at least two-thirds of the capital stock entitled to vote shall
13 vote in favor of the proposed amendment or any modification thereof,
14 a certificate thereof, setting forth the amendment in full and certifying
15 that the amendment was made for a purpose authorized by law in the
16 manner required by this article, shall be made and acknowledged by
17 two officers of the bank, one of whom shall be the president or
18 vice-president, and shall be submitted to the commissioner for [his]
19 approval. [If the commissioner shall find that the amendment is for a
20 purpose authorized by law, and that all the conditions and
21 requirements in this article and elsewhere in this act specified as
22 prerequisites to an amendment to a certificate of incorporation have
23 been satisfied, he shall endorse his approval upon the certificate of
24 amendment, and shall file it in the department, and] ¹[An applicant
25 shall be notified in writing by the commissioner within five days of
26 receipt of the certificate as to whether the filing of the certificate of
27 amendment is substantially complete. If an applicant is notified that
28 a filing is not substantially complete, the commissioner shall respond
29 in writing as to the substantial completeness of any subsequent filings
30 by the applicant within five days of receipt of the filings.]¹ A filing
31 shall be deemed approved on the ¹[21st] ¹30th ¹day after [a
32 determination] receipt¹ by the commissioner [that a filing is
33 substantially complete]¹, unless approved or denied earlier by the
34 commissioner in writing. Upon approval pursuant to this section, the
35 certificate of incorporation shall thereupon be amended as set forth in
36 the certificate of amendment.

37 (cf: P.L.1953, c.141, s.4)

38

39 7. Section 198 of P.L.1948, c.67 (C.17:9A-198) is amended to
40 read as follows:

41 198. A. Whenever the board of managers of any savings bank shall
42 deem it advisable to amend the certificate of incorporation, it shall, by
43 a vote of not less than 2/3 of the managers then in office, adopt a
44 resolution setting forth the proposed amendment, and shall publish
45 notice of intention to apply to the commissioner for approval of such
46 amendment at least once a week for 4 successive weeks, in the manner

1 provided in section 10. A copy of the resolution, certified by 2
2 officers, together with proof of such publication and a certified
3 statement that the amendment was made for a purpose authorized by
4 law in the manner specified by this section shall be submitted to the
5 commissioner for approval. [If the commissioner shall find that the
6 amendment is for a purpose authorized by law, and that all the
7 requirements in this article and elsewhere in this act specified as
8 prerequisites to an amendment of a certificate of incorporation by a
9 savings bank have been satisfied, he shall indorse his approval upon
10 the certificate of amendment, and shall file it in the department, and]
11 ¹[An applicant shall be notified in writing by the commissioner within
12 five days of receipt of the certificate as to whether the filing of the
13 certificate of amendment is substantially complete. If an applicant is
14 notified that a filing is not substantially complete, the commissioner
15 shall respond in writing as to the substantial completeness of any
16 subsequent filings by the applicant within five days of receipt of the
17 filing.]¹ A filing shall be deemed approved on the ¹[21st] 30th¹ day
18 after ¹[a determination] receipt¹ by the commissioner ¹[that a filing
19 is substantially complete]¹, unless approved or denied earlier by the
20 commissioner in writing. Upon approval pursuant to this section, the
21 certificate of incorporation shall thereupon be amended as set forth in
22 the certificate of amendment.

23 B. When the amendment is for the purpose specified in paragraph
24 (2) of section 197, the commissioner shall give special consideration
25 to the following:

26 (1) the needs of the community for trust services, and the probable
27 volume of trust business which will be available to the savings bank;

28 (2) the condition of the savings bank, particularly the adequacy of
29 its capital deposits, if any and surplus in relation to its deposit
30 liabilities and other corporate responsibilities, including the proposed
31 exercise of fiduciary powers; but no savings bank shall be authorized
32 to make such an amendment unless its capital deposits, if any, and
33 surplus amount to at least \$500,000.00;

34 (3) the general character and ability of the management of the
35 savings bank;

36 (4) the nature of the supervision to be given to the proposed
37 fiduciary activities;

38 (5) the qualifications, experience and character of the proposed
39 officer or officers who will have control or supervision of the
40 proposed fiduciary activities;

41 (6) whether the savings bank has available competent legal counsel
42 to advise and pass upon trust matters whenever necessary; and

43 (7) any other matters which, in the discretion of the commissioner,
44 are relevant.

45 (cf: P.L.1965, c.171, s.19)

1 8. Section 21 of P.L.1987, c.201 (C.17:9A-402) is amended to
2 read as follows:

3 21. Whenever the board of directors of a subsidiary capital stock
4 savings bank deems it advisable to amend the certificate of
5 incorporation, it shall adopt a resolution setting forth the proposed
6 amendment, which amendment shall be approved, at a meeting of the
7 stockholders entitled to vote, by at least 2/3 of the capital stock
8 entitled to vote. If the holders of 2/3 of the shares of capital stock
9 entitled to vote approve the amendment, a certificate of this approval
10 setting forth the amendment and certifying that the amendment was
11 made for a purpose authorized by law in the manner specified by this
12 section, shall be attested by two officers of the bank, one of whom
13 shall be the president or vice president, and shall be submitted to the
14 commissioner for approval. [If the commissioner finds that the
15 amendment is for a purpose authorized by law, and that all
16 requirements of law have been met regarding an amendment to a
17 certificate of incorporation, he shall endorse his approval upon the
18 certificate of amendment, and shall file it with the department, and the
19 certificate of incorporation shall thereupon be deemed to be
20 amended.] ¹[An applicant shall be notified in writing by the
21 commissioner within five days of receipt of the certificate as to
22 whether the filing of the certificate of amendment is substantially
23 complete. If an applicant is notified that a filing is not substantially
24 complete, the commissioner shall respond in writing as to the
25 substantial completeness of any subsequent filings by the applicant
26 within five days of receipt of the filings.]¹ A filing shall be deemed
27 approved on the ¹[21st] 30th¹ day after ¹[a determination] receipt¹
28 by the commissioner ¹[that a filing is substantially complete]¹, unless
29 approved or denied earlier by the commissioner in writing. Upon
30 approval pursuant to this section, the certificate of incorporation shall
31 thereupon be amended as set forth in the certificate of amendment.
32 (cf: P.L.1987, c.201, s.21)

33
34 9. Section 24 of P.L.1963, c.144 (C.17:12B-24) is amended to
35 read as follows:

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

42 (1) An association operating a branch office approved prior to the
43 effective date of this act with conditions or restrictions imposed on its
44 operation may upgrade such office by notifying the commissioner at
45 least 30 days before such upgrading. A branch office is considered
46 upgraded if the association is relieved of any of the conditions or

1 restrictions imposed on operation of the office when it opened. If
2 within 30 days of receipt of the notice, the commissioner does not
3 notify the association of his objection which would require the
4 association to submit an application or additional information before
5 upgrading, the association may upgrade the office.

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

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

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

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

36 C. The commissioner shall approve the application if the
37 commissioner finds that:

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

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

42 (3) conditions in the locality in which the proposed full branch
43 office is to be established afford reasonable promise of successful
44 operation. To determine if an applicant meets this requirement, the
45 commissioner shall consider only the costs of purchasing, constructing,
46 leasing or otherwise establishing the proposed office, including the

1 costs for staffing, furniture and equipment needed therefor and the
2 effect of these costs on the operations of the applying institution as a
3 whole. The applicant need not demonstrate an ability to operate the
4 proposed office at a profit within a definable period of time based on
5 the generation of new deposits from the market area to be entered
6 except to the extent that losses suffered at the proposed office could
7 affect the safety and soundness of the applicant's overall operations;
8 and

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

12 D. (Deleted by amendment, P.L.1996, c.17.)

13 E. The commissioner shall conduct such investigation or hearing,
14 or both, as the commissioner may deem advisable. The commissioner
15 may adopt, amend, alter or rescind regulations prescribing the form of
16 protest to applications and the procedures to be followed in the event
17 that the commissioner elects to hold a hearing in connection with an
18 application for a branch office, and such other regulations as the
19 commissioner may deem necessary with respect to the provisions of
20 this section.

21 F. (1) In lieu of the procedures set forth in subsections A through
22 C and E of this section, or section 89 of P.L.1996, c.17 (C.17:12B-
23 24.1), a State association which, directly or through a predecessor
24 association by merger or other reorganization, has been in business for
25 at least three years, and which is well capitalized, adequately managed,
26 and, if applicable, has received in its most recent examination under
27 the "Community Reinvestment Act of 1977," 12 U.S.C.s.2901 et seq.,
28 a rating of not less than "satisfactory record of meeting community
29 credit needs," or its equivalent, may apply for expedited branch office
30 approval pursuant to this subsection. The State association shall file
31 written application of the proposed establishment with the
32 commissioner and with those other persons designated by the
33 commissioner by rule or regulation. The application shall be
34 accompanied by or be in the form of a certification that (a) all
35 applicable provisions of this subsection have been met, (b) the
36 applicant requests expedited processing under this subsection, and (c)
37 contains that other information, if any, as the commissioner may
38 require by rule or regulation to confirm that an establishment of the
39 branch will not adversely affect the safety and soundness of the State
40 association.

41 (2) ¹[An applicant shall be notified by the commissioner within five
42 days of receipt of the filing of the application as to whether the
43 application is substantially complete. If an applicant is notified that a
44 filing is not substantially complete, the commissioner shall respond in
45 writing as to the substantial completeness of any subsequent filings
46 within five days of receipt of the filings.]¹ An application shall be

1 deemed approved on the ¹[21st] 30th¹ day after ¹[determination]
2 receipt¹ by the commissioner ¹[that the application is substantially
3 complete]¹, unless approved or denied earlier by the commissioner in
4 writing.

5 (3) For purposes of this subsection, the term "well capitalized" has
6 the meaning given the term in 12 U.S.C. s.1831o and "well managed"
7 means, unless otherwise determined in writing by the commissioner,
8 (a) the achievement of a composite rating of 1 or 2 under the Uniform
9 Financial Institutions Rating System or an equivalent rating system in
10 connection with the most recent examination or subsequent review of
11 the State association, and (b) at least a rating of 2 for management, if
12 such rating is given. Nothing in this subsection shall be construed to
13 affect the confidentiality of any such rating under applicable law or
14 regulation.

15 (cf: P.L.1996, c.17, s.88)

16

17 10. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to
18 read as follows:

19 48. Without limiting the generality of the foregoing, every
20 association shall have power to:

21 (1) Have succession by its corporate name for the period limited
22 in its charter or certificate of incorporation, and when no period is
23 limited, perpetually.

24 (2) Sue and be sued in any court.

25 (3) Adopt and use a corporate seal and alter the same.

26 (4) Purchase and otherwise acquire, hold, mortgage, pledge, lease,
27 exchange, sell, convey and otherwise dispose of, any real and personal
28 property, necessary or incidental to its operations and consistent with
29 its powers and purposes.

30 (5) Insure its members' accounts with the Federal [Savings and
31 Loan] Deposit Insurance Corporation, and comply with conditions
32 necessary to obtain and maintain such insurance.

33 (6) Become a member of or stockholder in a Federal Home Loan
34 Bank and to that end to comply with all conditions of membership
35 therein.

36 (7) Act as agent for the United States or the State of New Jersey
37 or any instrumentality of either of them, when designated for that
38 purpose, and perform such reasonable duties as such agent as may be
39 required of it.

40 (8) Join any cooperative league organized for the purpose of
41 protecting and promoting the welfare of associations and their
42 members and comply with all conditions of membership therein.

43 (9) Borrow money from any source in or out of the State, on the
44 note, bond and mortgage or other obligation of the association upon
45 such terms and conditions as the board may from time to time
46 prescribe by resolution adopted by at least a majority of all the

1 members of the board and duly recorded on the minutes and to
2 pledge, assign or transfer mortgages, owned by the association and
3 the obligations secured by such mortgages, together with the shares,
4 if any, pledged as collateral security therefor, or any real or other
5 personal property, as security for the repayment of money so
6 borrowed. No association shall borrow money if by doing so the
7 aggregate of its indebtedness for borrowed money other than to the
8 Federal Home Loan Bank will exceed 20% of its capital, except with
9 the approval of the commissioner.

10 (10) (Deleted by amendment.)

11 (11) Require an advance payment of interest for a period of 1
12 month on any loan; and accept advance payments of interest, if made
13 at the option of the debtor, for any period on any loan. None of such
14 payments shall be deemed usurious.

15 (12) Where shares are issued, charge an admission fee, not to
16 exceed \$0.25 per share, which shall include the cost of membership or
17 share certificate and account book.

18 (13) Impose charges upon a member for failure to make any
19 payment to the association when due, but only as provided in this
20 paragraph. Where the association issues installment share accounts it
21 may impose such charge upon any member holding such an account or
22 any borrower upon a sinking fund mortgage not in excess of 1% a
23 month upon the amount in arrears, except for the first month's
24 arrearage or the amount by which such first month's arrearage may be
25 increased by subsequent arrearage, in which case a charge not in
26 excess of 5% may be imposed. Such charges shall be subject to the
27 further limitations that no such charge shall be deducted from any
28 amount actually paid by a member upon an account nor shall the total
29 of any such charges against any account in any fiscal year exceed the
30 amount that may be charged for failure to make any payments for a
31 6-month period nor shall any charge for default be made on a charge
32 for default. Otherwise an association may impose a charge for failure
33 to make any required payment to it when due upon any loan or
34 contract for the resale of real estate to a member, not to exceed 4% of
35 the amount of each payment in arrears, but no more than one such
36 charge may be made with respect to any one payment in arrears. An
37 association may impose a reasonable service charge against any
38 member who tenders to such association, for collection or as
39 payment, a check or other instrument of any type which subsequently
40 is not honored by the institution or person upon which such check or
41 other instrument is drawn. None of such charges shall be deemed
42 usurious.

43 (14) Compute interest upon any direct reduction loan, on
44 designated payment dates, and add the same to the unpaid balance of
45 such loan.

46 (15) Act as agent for any person where such agency will further the

1 interests of the association and its members, subject to such limitations
2 as may be prescribed by the commissioner.

3 (16) Upon application to and approval by the commissioner, to act
4 as custodian or trustee within the contemplation of the Federal
5 Self-Employed Individuals Tax Retirement Act of 1962, as amended
6 and supplemented, and the Employee Retirement Income Security Act
7 of 1974 as amended and supplemented, and as custodian, trustee or
8 manager of any such investment fund the authorized investments of
9 which include, but need not be limited to, savings accounts or real
10 estate loans, and the beneficial interests in which may be represented
11 by transferable shares or certificates. Associations exercising the
12 powers authorized by this subsection shall segregate all funds held in
13 such fiduciary capacities from the general assets of the association and
14 shall keep a separate set of books and records showing in detail all
15 transactions made under authority of this subsection. If individual
16 records are kept for each self-employed individual's retirement plan
17 and each such investment fund, then all such funds held in such
18 fiduciary capacities by an association may be commingled for
19 appropriate purposes of investment. No funds held in such fiduciary
20 capacities shall be used by an association in the conduct of its
21 business; however, such funds may be invested in savings accounts of
22 the association in the event that the custodial, trust or other plan does
23 not prohibit such investment. In granting or refusing the association's
24 application the commissioner shall take into consideration the
25 investment policies, amount, type and adequacy of reserves, fidelity
26 bonds and any legally required deposits of the applicant and other
27 pertinent facts and circumstances.

28 (17) Upon compliance with subsection (5) of this section, accept
29 from its members accounts to be repaid upon such terms, not
30 inconsistent with this act, as are approved by the Commissioner of
31 Banking and Insurance, by regulation or otherwise, provided that no
32 account shall exceed the limitations established by section 78 of
33 P.L.1963, c.144 (C.17:12B-78), and provided further that no account
34 shall be accepted or issued in the name of any corporation, association
35 or partnership or in the name of any individual for use in trade or
36 business. An association issuing such accounts may honor demands
37 for withdrawal of such accounts in the form of negotiable checks,
38 drafts or orders in the form of electronic fund transfers and may
39 become a member of a clearing facility and satisfy reasonable
40 conditions required for its qualification and pay reasonable expenses
41 therefor. Such accounts may be either interest-bearing or
42 noninterest-bearing; provided, however, that the payment of interest
43 on such accounts be permitted by federal law. An association
44 accepting accounts pursuant to this subsection shall, at all times,
45 maintain reserves against such accounts as shall be prescribed in
46 regulations issued by the commissioner in accordance with the

1 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
2 but such reserves shall be equal in nature and amount to those required
3 of savings banks in this State against similar accounts. Such reserves
4 shall be maintained in cash or deposits in one or more reserve
5 depositories as authorized by the Commissioner of Banking and
6 Insurance. Regulations of the commissioner may also provide that
7 associations issuing such type of accounts maintain a general reserve
8 account, federal insurance reserve account and undivided profits of
9 specified minimum amounts and provide for minimum standards of
10 office facilities in connection therewith. An insured association may
11 impose a reasonable service charge for providing and maintaining such
12 accounts for the benefit of its members.

13 (18) Issue credit cards, extend credit in connection therewith, and
14 otherwise engage in or participate in credit card operations subject to
15 such regulations as the commissioner may prescribe. Any such
16 regulations shall be in substantial conformity with similar rules and
17 regulations of the [Federal Home Loan Bank Board] Office of Thrift
18 Supervision.

19 (19) (a) Apply to the commissioner for permission to act as
20 trustee, executor, administrator, guardian, or in any other fiduciary
21 capacity in which federal savings and loan associations doing business
22 in this State are permitted to act. Associations exercising any or all of
23 the powers enumerated in this section shall segregate all assets held in
24 any fiduciary capacity from the general assets of the association and
25 shall keep a separate set of books and records showing in proper detail
26 all transactions engaged in under authority of this section. No
27 association shall receive in its trust department deposits of current
28 funds subject to check or the deposit of checks, drafts, bills of
29 exchange, or other items for collection or exchange purposes. Funds
30 deposited or held in trust by the association awaiting investment shall
31 be carried in a separate account and shall not be used by the
32 association in the conduct of its business unless it shall first set aside
33 in the trust department United States bonds or other securities
34 approved by the commissioner. In the event of the failure of such
35 association, the owners of the funds held in trust for investment shall
36 have a lien on the bonds or other securities so set apart, in addition to
37 their claim against the estate of the association. Whenever the laws of
38 this State require corporations acting in a fiduciary capacity to deposit
39 securities with the State authorities for the protection of private or
40 court trusts, associations so acting shall be required to make similar
41 deposits and securities so deposited shall be held for the protection of
42 private or court trusts, as provided by New Jersey law. Associations
43 in such cases shall not be required to execute the bond usually required
44 of individuals if New Jersey corporations under similar circumstances
45 are exempt from this requirement. Associations shall have power to
46 execute such bond when so required by the laws of New Jersey. In

1 any case in which the laws of this State require that a corporation
2 acting as trustee, executor, administrator, or in any capacity specified
3 in this section shall take an oath or make an affidavit, any officer, as
4 defined in section 65 of P.L.1963, c.144 (C.17:12B-65), of such
5 association may take the necessary oath or execute the necessary
6 affidavit. It shall be unlawful for any association to lend any officer,
7 director, or employee any funds held in trust under the powers
8 conferred by this section. Any officer, director, or employee making
9 such loan, or to whom such loan is made, may be fined not more than
10 \$5,000.00, or imprisoned not more than 5 years, or may be both fined
11 and imprisoned, in the discretion of the court. In passing upon
12 applications for permission to exercise the powers enumerated in this
13 section, the commissioner may take into consideration the amount of
14 capital and surplus of the applying association, whether or not such
15 capital and surplus is sufficient under the circumstances of the case,
16 the needs of the community to be served, and any other facts and
17 circumstances that seem to him proper, and may grant or refuse the
18 application accordingly, except that approval shall not be granted to
19 any association having a capital and surplus less than the capital and
20 surplus required by New Jersey law of State banks, trust companies,
21 and corporations exercising such powers.

22 (b) Any association desiring to surrender its right to exercise the
23 powers granted under this section, in order to relieve itself of the
24 necessity of complying with the requirements of this section, or to
25 have returned to it any securities which it may have deposited with the
26 State authorities for the protection of private or court trusts, or for
27 any other purpose, may file with the commissioner a certified copy of
28 a resolution of its board of directors signifying such desire. Upon
29 receipt of such resolution, the commissioner, after satisfying himself
30 that such association has been relieved in accordance with State law
31 of all duties as trustee, executor, administrator, guardian or other
32 fiduciary, under court, private or other appointments previously
33 accepted under authority of this section, may, in its discretion, issue
34 to such association a certificate certifying that such association is no
35 longer authorized to exercise the powers granted by this section.
36 Upon the issuance of such a certificate by the commissioner, such
37 association (i) shall no longer be subject to the provisions of this
38 section or the regulations of the commissioner made pursuant thereto,
39 (ii) shall be entitled to have returned to it any securities which it may
40 have deposited with the State authorities for the protection of private
41 or court trusts, and (iii) shall not exercise thereafter any of the powers
42 granted by this section without first applying for and obtaining
43 approval to exercise such powers pursuant to the provisions of this
44 section.

45 (c) The commissioner is authorized and empowered to promulgate
46 such regulations as he may deem necessary to enforce compliance with

1 the provisions of this section and the proper exercise of the trust
2 powers granted by this section. Any such regulations shall be in
3 substantial conformity with similar rules and regulations of the
4 [Federal Home Loan Bank Board] Office of Thrift Supervision.

5 (20) In accordance with rules and regulations promulgated by the
6 commissioner, issue and sell directly to subscribers or through
7 underwriters mutual capital certificates. Such certificates shall
8 constitute part of the general reserve and net worth of the issuing
9 association. Such certificates--

10 (a) Shall be subordinate to all savings accounts, savings
11 certificates, and debt obligations;

12 (b) Shall constitute a claim in liquidation on the general reserves,
13 surplus, and undivided profits of the association remaining after the
14 payment in full of all savings accounts, savings certificates, and debt
15 obligations;

16 (c) Shall be entitled to the payment of dividends; and

17 (d) May have a fixed or variable dividend rate.

18 The commissioner is authorized and empowered to promulgate such
19 regulations as he may deem necessary with respect to the powers
20 granted by this section. Any such regulations shall be in substantial
21 conformity with similar rules and regulations of the [Federal Home
22 Loan Bank Board] Office of Thrift Supervision. The commissioner
23 shall provide in his regulations for charging losses to the mutual
24 capital certificates, reserves, and other net worth accounts.

25 (21) [If authorized by regulation of the commissioner, exercise any
26 power, right, benefit, or privilege permitted to federal associations,
27 provided that such power, right, benefit or privilege is not specifically
28 prohibited by law, which regulation shall be in substantial conformity
29 with similar rules and regulations of the Federal Home Loan Bank
30 Board; and exercise any power, right, benefit or privilege under this
31 section, modified by regulation of the commissioner, where the Federal
32 Home Loan Bank Board has, by regulation, modified that power,
33 right, benefit or privilege with respect to federal associations.]
34 Notwithstanding the provisions of P.L.1963, c.144 (C.17:12B-1 et
35 seq.) or any other law ¹, ¹ exercise those powers, rights, benefits or
36 privileges now or hereafter authorized for national or out-of-state
37 banks or for Federal or out-of-state savings banks or savings
38 associations either directly or through a financial subsidiary or other
39 subsidiary, to the same extent and subject to the same limitations as
40 national or out-of-state banks or Federal or out-of-state savings banks
41 or savings associations may exercise those powers, rights, benefits or
42 privileges, provided that before exercising any power, right, benefit or
43 privilege of any out-of-state bank or out-of-state savings bank or
44 savings association, the State association provides notice to the
45 commissioner, and ¹on a case by case basis¹ the commissioner either
46 approves the activity or does not provide notice before the expiration

1 of ¹[30] 45¹ days that such power, right, benefit or privilege is not
2 appropriate for ¹[a] the¹ State association on grounds of safety and
3 soundness. The commissioner shall have the authority to adopt rules
4 and regulations pursuant to this section, which rules and regulations
5 shall have as their objective the placing of State associations on a
6 substantial competitive parity with national and out-of-state banks and
7 Federal and out-of-state savings banks and savings associations.

8 (cf: P.L.1983, c.5, s.1)

9

10 11. Section 21 of P.L.1989, c.165 (C.17:12B-312) is amended to
11 read as follows:

12 21. Whenever the board of directors of a subsidiary capital stock
13 state association deems it advisable to amend the certificate of
14 incorporation, it shall adopt a resolution setting forth the proposed
15 amendment, which amendment shall be approved, at a meeting of the
16 stockholders entitled to vote, by at least 2/3 of the capital stock
17 entitled to vote. If the holders of 2/3 of the shares of capital stock
18 entitled to vote approve the amendment, a certificate of this approval
19 shall be attested by two officers of the state association, one of whom
20 shall be the president or vice president, and shall be submitted to the
21 commissioner for approval. [If the commissioner finds that the
22 amendment is for a purpose authorized by law, and that all
23 requirements of law have been met regarding an amendment to a
24 certificate of incorporation, the commissioner shall approve it by
25 endorsing the certificate of amendment, and shall file it with the
26 department, and the certificate of incorporation shall thereupon be
27 deemed to be amended.] ¹[An applicant shall be notified in writing by
28 the commissioner within five days of receipt of the certificate as to
29 whether the filing of the certificate of amendment is substantially
30 complete. If an applicant is notified that a filing is not substantially
31 complete, the commissioner shall respond in writing as to the
32 substantial completeness of any subsequent filings by the applicant
33 within five days of receipt of the filings.] ¹ A filing shall be deemed
34 approved on the ¹[21st] 30th¹ day after ¹[a determination] receipt¹
35 by the commissioner ¹[that a filing is substantially complete]¹, unless
36 approved or denied earlier by the commissioner in writing. Upon
37 approval pursuant to this section, the certificate of incorporation shall
38 thereupon be amended as set forth in the certificate of amendment.

39 (cf: P.L.1989, c.165, s.21)

40

41 12. Sections 9 and 10 of P.L.1981, c.153 (C.17:9A-24a and
42 C.17:9A-24b) and section 2 of P.L.1981, c.163 (C.17:9A-24b.2) are
43 repealed.

44

45 13. This act shall take effect immediately.

[Second Reprint]

ASSEMBLY, No. 2263

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED MARCH 16, 2000

Sponsored by:

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

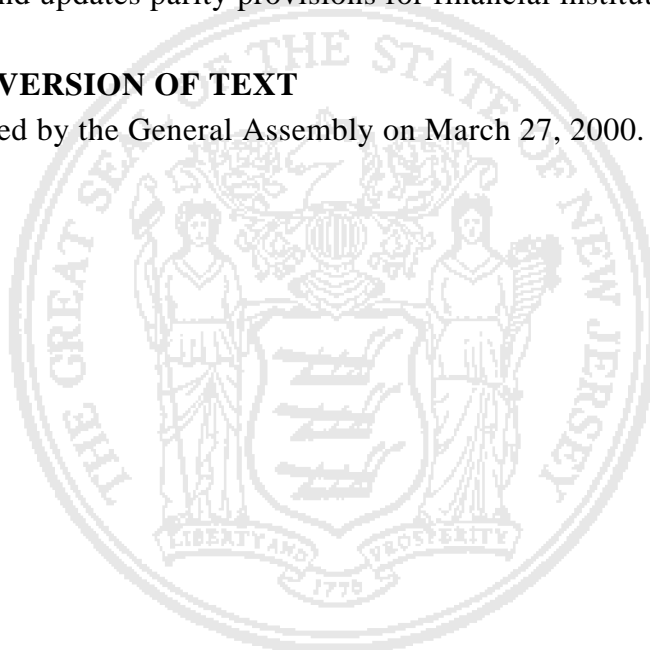
Assemblymen Garcia, Augustine and Senator Cardinale

SYNOPSIS

Provides for expedited approval process for certain applications by financial institutions and updates parity provisions for financial institutions.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 27, 2000.



(Sponsorship Updated As Of: 5/19/2000)

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

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

6
7 1. Section 2 of P.L. 1970, c. 294 (C. 17:9A-6.2) is amended to
8 read as follows:

9 2. Prior to the time when authorized or unissued shares are issued
10 by a bank, a certificate of amendment made by two officers of the
11 bank, one of whom shall be the president or a vice-president, shall be
12 filed in the Department of Banking and Insurance. The certificate of
13 amendment shall state (a) the amount of the authorized but unissued
14 stock which will be issued; (b) the consideration which will be
15 received by the bank on the issuance of such stock; (c) the date upon
16 which the stock will be issued; and (d) the amount of the bank's
17 capital stock which will be outstanding, and the amount of its surplus
18 after giving effect to such issue. [If the Commissioner of Banking
19 finds that the bank's original or amended certificate of incorporation
20 provides for authorized but unissued stock, and if he finds that the
21 issuance of such stock will not be in violation of law or contrary to
22 the public interest, he shall endorse his approval upon the certificate
23 and file it in the Department of Banking.] ¹[The certificate shall be
24 submitted to the commissioner for approval. An applicant shall be
25 notified in writing by the commissioner within five days of receipt of
26 the certificate as to whether the filing of the certificate of amendment
27 is substantially complete. If an applicant is notified that a filing is not
28 substantially complete, the commissioner shall respond in writing as to
29 the substantial completeness of any subsequent filings by the applicant
30 within five days of receipt of the filings.] ¹ A filing shall be deemed
31 approved on the ¹[21st] 30th ¹ day after ¹[a determination] receipt
32 by the commissioner ¹[that a filing is substantially complete] ¹ , unless
33 approved or disapproved earlier by the commissioner in writing. Upon
34 approval pursuant to this section, the certificate of incorporation shall
35 thereupon be amended as set forth in the certificate of amendment.
36 ¹The commissioner may disapprove a filing if the commissioner finds
37 that the issuance of the stock will be in violation of law or contrary to
38 the public interest ²or that the bank's original or amended certificate
39 of incorporation does not provide for authorized but unissued stock.² ¹
40 A certificate filed in [such] the department pursuant to this section
41 shall be deemed for all purposes to be an amending of the bank's

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABI committee amendments adopted March 20, 2000.

² Assembly floor amendments adopted March 27, 2000.

1 certificate of incorporation with the same effect as if it had been
2 authorized, executed, approved and filed in such department pursuant
3 to article 19 of [the act of which this act is a supplement] P.L.1948,
4 c.67 (C.17:9A-116 et seq.).
5 (cf: P.L.1970, c.294, s.2)

6

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

9 20. A. (1) Before any full branch office shall be established, the
10 bank or savings bank shall file written application in the department
11 for the commissioner's approval thereof. If, after such investigation or
12 hearings, or both, as the commissioner may determine to be advisable,
13 the commissioner shall find:

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

16 (b) That the interests of the public will be served to advantage by
17 the establishment of such full branch office;

18 (c) That conditions in the locality in which the proposed full branch
19 office is to be established afford reasonable promise of successful
20 operation; and

21 (d) That the applicant has achieved sufficient compliance, as
22 defined by the commissioner by regulation, with the "Community
23 Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq.; the
24 commissioner shall, within 90 days after the filing of the application,
25 approve such application.

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

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

37 B. Before any minibranch office shall be established, the bank or
38 savings bank shall file a written application on forms supplied by the
39 commissioner. A duly adopted resolution of the board of directors or
40 managers authorizing such application shall accompany the
41 application. Notice of such application shall be published in
42 accordance with procedural rules and regulations of the department.
43 Within 20 days after said notice is published, any person or banking
44 institution having objections to the application shall submit detailed
45 written factual and legal grounds for the objection to the
46 commissioner. There shall be no hearing required to be held by the

1 commissioner in connection with such application. The commissioner,
2 after considering the application and written objections and such
3 investigation as the commissioner deems advisable, shall approve the
4 application, if the commissioner shall find

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

7 (2) That the costs of establishing such minibranch office, including
8 (a) construction and alteration costs; (b) the cost of real property to
9 be acquired in connection therewith or rental to be paid for space to
10 be occupied by such office; (c) the cost of purchasing or renting and
11 installing the equipment to be used in the operation of such office; and
12 (d) the cost of manning such office, shall not in the aggregate exceed
13 such sum as the commissioner shall deem reasonable, taking into
14 consideration the capital and surplus of the bank, or the surplus of the
15 savings bank.

16 C. (Deleted by amendment, P.L.1999, c.252.)

17 D. (Deleted by amendment, P.L.1999, c.252.)

18 E. A bank or savings bank shall provide insurance protection under
19 its bonding program for transactions involving a communication
20 terminal facility.

21 F. (Deleted by amendment, P.L.1996, c.17.)

22 G. The commissioner shall have the power to make, amend and
23 repeal rules and regulations concerning the establishment, maintenance
24 and operation of full branch offices, minibranch offices and
25 communication terminal facilities not inconsistent with the provisions
26 of this act. The regulations so made shall also be directed toward the
27 creation, operation and maintenance of a substantial competitive parity
28 between banking institutions and other financial institutions in all
29 matters relating to the establishment, operation, and maintenance of
30 branch offices and communication terminal facilities.

31 H. (1) In lieu of the procedures set forth in subsection A or B of
32 this section, or in section 22 or 23 of P.L.1948, c.67 (C.17:9A-22 or
33 C.17:9A-23), a bank or savings bank which directly or through a
34 predecessor bank or savings bank by merger or other reorganization
35 has been in business for at least three years, and which is well
36 capitalized, adequately managed, and, if applicable, has received in its
37 most recent examination under the "Community Reinvestment Act of
38 1977," 12 U.S.C. s.2901 et seq., a rating of not less than "satisfactory
39 record of meeting community credit needs," or ²[it] its² equivalent,
40 may apply for expedited branch office approval pursuant to this
41 subsection. The bank or savings bank shall file written application of
42 the proposed establishment with the commissioner and with those
43 other persons designated by the commissioner by rule or regulation.
44 The application shall be accompanied by or be in the form of a
45 certification that (a) all applicable provisions of this subsection have
46 been met, (b) the applicant requests expedited processing under this

1 subsection, and (c) contains that other information, if any, as the
2 commissioner may require by rule or regulation to confirm that an
3 establishment of the branch will not adversely affect the safety and
4 soundness of the bank or savings bank ²or the public interest².

5 (2) ¹[An applicant shall be notified by the commissioner within five
6 days of receipt of the filing of the application as to whether the
7 application is substantially complete. If an applicant is notified that a
8 filing is not substantially complete, the commissioner shall respond in
9 writing as to the substantial completeness of any subsequent filing
10 within five days of receipt of the filing.]¹ An application shall be
11 deemed approved on the ¹[21st] ¹30th¹ day after
12 ¹[determination]receipt¹ by the commissioner ¹[that the application
13 is substantially complete]¹, unless approved or denied earlier by the
14 commissioner in writing.

15 (3) For purposes of this subsection, "well capitalized" has the
16 meaning given the term in 12 U.S.C. s.1831o and " well managed"
17 means, unless otherwise determined in writing by the commissioner,
18 (a) the achievement of a composite rating of 1 or 2 under the Uniform
19 Financial Institutions Rating System or an equivalent rating system, in
20 connection with the most recent examination or subsequent review of
21 the bank or savings bank, and (b) at least a rating of 2 for
22 management, if such a rating is given. Nothing in this subsection shall
23 be construed to affect the confidentiality of any rating under applicable
24 law or regulation.

25 (cf: P.L.1999, c.252, s.3)

26
27 3. Section 1 of P.L.1981, c.163 (C.17:9A-24b1) is amended to
28 read as follows:

29 1. [The Commissioner of Banking shall have the power to
30 promulgate rules and regulations authorizing] Notwithstanding the
31 provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) or any other law,
32 banks and savings banks [to] may exercise those powers, rights
33 benefits or privileges now or hereafter authorized for national or out-
34 of-state banks or for Federal [mutual] or out-of-state savings banks
35 or savings associations either directly or through a financial subsidiary
36 or other subsidiary, to the same extent and, subject to the same
37 limitations as national or out-of-state banks or Federal [mutual] or
38 out-of-state savings banks or savings associations, may exercise those
39 powers, rights, benefits or privileges, provided that before exercising
40 any power, right, benefit or privilege of an out-of-state bank or out-of-
41 state savings bank or savings association, ²the commissioner has
42 adopted a regulation approving an exercise of that power, right,
43 benefit or privilege by banks and savings banks generally or² the bank
44 or savings bank provides notice to the commissioner ²[.]² and ¹on a
45 case by case basis¹ the commissioner either approves the activity or

1 does not provide notice before the expiration of ¹[30] 45¹ days that
2 such power, right, benefit or privilege is not appropriate for ¹[a] the¹
3 New Jersey bank or savings bank on the grounds of safety and
4 soundness ²or on other grounds designated by the commissioner by
5 regulation². The commissioner shall have the authority to adopt rules
6 and regulations pursuant to this section, which rules and regulations
7 shall have as their objective the placing of banks and savings banks on
8 a substantially competitive parity with national and out-of-state banks
9 and Federal and out-of-state savings banks and savings associations.
10 [Any such regulations shall be in substantial conformity with similar
11 rules and regulations of the Federal Home Loan Bank Board.]
12 (cf: P.L.1981, c.163, s.1)

13

14 4. Section 8 of P.L.1979, c.226 (C.17:9A-24.9) is amended to read
15 as follows:

16 8. Additional powers of banks and savings banks. In addition to
17 the powers which banks and savings banks may otherwise exercise,
18 every bank and savings bank, as defined in section 1 of "The Banking
19 Act of 1948," P.L.1948, c.67 (C.17:9A-1), shall have power

20 (1) To subscribe for, purchase and hold stock of one or more
21 insurance companies organized under the laws of this State which have
22 been or may hereafter be limited to insure banks, savings banks and
23 other depository institutions

24 (a) Against loss from the defaults of persons in positions of trust,
25 public or private, or against loss or damage on account of neglect or
26 breaches of duty or obligations guaranteed by the insurer; and against
27 loss of any bills of exchange, notes, checks, drafts, acceptances of
28 drafts, bonds, securities, evidences of debt, deeds, mortgages,
29 documents, gold or silver, bullion, currency, money, platinum and
30 other precious metals, refined or unrefined, and articles made
31 therefrom, jewelry, watches, necklaces, bracelets, gems, precious and
32 semiprecious stones, and also against loss resulting from damage,
33 except by fire, to the insured's premises, furnishings, fixtures,
34 equipment, safes and vaults therein, caused by burglary, robbery,
35 holdup, theft or larceny, or attempt thereat. No such indemnity
36 indemnifying against loss of any property as specified herein shall
37 indemnify against the loss of any such property occurring while in the
38 mail or in the custody or possession of a carrier for hire for the
39 purpose of transportation, except for the purpose of transportation by
40 an armored motor vehicle accompanied by one or more armed guards;
41 and

42 (b) Against loss or damage by burglary, theft, larceny, robbery,
43 forgery, fraud, vandalism or malicious mischief, or any one or more of
44 such hazards; and against any and all kinds of loss or destruction of or
45 damage to moneys, securities, currencies, scrip, coins, bullion, bonds,
46 notes, drafts, acceptances of drafts, bills of exchange and other

1 valuable papers or documents, except while in the custody or
2 possession of and being transported by a carrier for hire or in the mail.

3 (2) To make loans and investments as authorized for associations
4 by section 155 of the "Savings and Loan Act (1963)," P.L.1963, c.144
5 (C.17:12B-155).

6 (3) To make loans and investments as authorized for associations
7 by, and subject to the limitations of, sections 157 through 160 and 162
8 through 164 of the "Savings and Loan Act (1963)," P.L.1963, c.144
9 (C.17:12B-157 through C.17:12B-160 and C.17:12B-162 through
10 C.17:12B-164).

11 (4) To extend credit through the use of credit cards issued by it
12 through an arrangement with participating vendors, and without
13 limitation of the generality of the foregoing, to exercise all the powers
14 permitted to associations pursuant to subsection (18) of section 48 of
15 the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-48).

16 (5) To make any investment authorized for associations by section
17 165 of the "Savings and Loan Act (1963)," P.L.1963, c.144
18 (C.17:12B-165), provided, however, that where reference is made to
19 State associations or federal associations therein such reference for
20 purposes of this act shall be deemed to refer to banking institutions as
21 defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67
22 (C.17:9A-1).

23 (6) To exercise any powers and activities that have been or are
24 hereafter approved by regulation of the Board of Governors of the
25 Federal Reserve System as being (i) financial in nature or incidental to
26 such financial activity, (ii) complementary to a financial activity and
27 not posing a substantial risk to the safety or soundness of depository
28 institutions or the financial system generally, or (iii) so closely related
29 to banking or managing or controlling banks as to be a proper activity
30 for a bank holding company or financial holding company pursuant to
31 the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s.
32 1841 et seq.) and regulations thereunder, to the extent that federal law
33 does not prohibit banks or savings banks from exercising those powers
34 or activities.

35 (7) To apply to the commissioner for authority, and if granted, to
36 exercise any power or activity that has been or is hereafter deemed to
37 be (i) financial in nature or incidental to such financial activity, (ii)
38 complementary to a financial activity and not posing a substantial risk
39 to the safety or soundness of depository institutions or the financial
40 system generally, or (iii) closely related to banking under the "Bank
41 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
42 seq.) and which has been permitted on an individual basis by order of
43 the Board of Governors of the Federal Reserve System.

44 (8) To make loans, as defined in this subsection, pursuant to which
45 the parties may contract for and the bank or savings bank may receive
46 interest or other compensation at a rate or rates or in an amount that

1 the bank or savings bank and the borrower may agree upon,
2 notwithstanding the provisions of any other law of this State, except
3 N.J.S.2C:21-19, which limits the interest rate or finance charge which
4 would otherwise be applicable to the loan. A loan, for the purposes
5 of this subsection, includes loans in the amount of \$5,000.00 or more,
6 payable on demand or in installments, and (a) which is for the purpose
7 of acquiring or is secured by equipment used for business or
8 commercial purposes or (b) is secured by (i) an interest in warehouse
9 receipts, bills of lading, or other documents of title which are subject
10 to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an
11 interest in negotiable instruments or commercial paper which are
12 subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii)
13 by an interest in stocks, bonds, certificates of deposit or other
14 securities which are subject to chapter 8 of Title 12A of the New
15 Jersey Statutes, or (iv) by an interest in any combination of the
16 foregoing.

17 (9) To engage in the business of providing data processing and
18 computer services.

19 (10) To acquire, by purchase or otherwise, and to sell warrants,
20 options or other similar rights to any class or classes of equity
21 securities issued or to be issued by a corporation, if, at the time the
22 warrants, options or other similar rights are acquired, the issuer, or its
23 parent company, affiliate or subsidiary, is a borrower of funds loaned
24 by the bank or savings bank, and if the acquisition by purchase or
25 otherwise, and the sale of the warrants, options or other similar rights
26 neither adds to the bank's or saving bank's credit risk nor increases the
27 bank's or savings bank's financial liabilities.

28 The commissioner may, by regulation, prescribe the manner in
29 which and the extent to which the powers enumerated in this section
30 may be exercised, including whether they are to be exercised through
31 a subsidiary corporation and may, by regulation, prescribe other
32 powers, not otherwise expressly authorized or prohibited by law,
33 which banks and savings banks may exercise.

34 (cf: P.L.1985, c.528, s.2)

35

36 5. Section 52 of P.L.1948, c.67 (C.17:9A-52) is amended to read
37 as follows:

38 52. A. Dividends on the capital stock of a bank may be paid from
39 time to time wholly in cash, or wholly in stock of the bank, or partly
40 in cash and partly in stock of the bank as the board of directors may
41 in its discretion determine, subject to the limitations in this section
42 contained.

43 B. No dividend shall be paid by a bank on its capital stock unless,
44 following the payment of each such dividend, the capital stock of the
45 bank will be unimpaired, and

46 (1) the bank will have a surplus of not less than 50% of its capital

1 stock, or, if not,

2 (2) the payment of such dividend will not reduce the surplus of the
3 bank.

4 C. The certificate of incorporation of a bank, or an amendment
5 thereof, may provide that dividends may be paid in stock of the bank
6 without an amendment of the bank's certificate of incorporation
7 pursuant to article 19, notwithstanding the payment of such dividend
8 effects an increase in the capital stock of the bank. In such a case,
9 dividends may be paid from time to time in the stock of the bank, at
10 the discretion of the board of directors, without compliance with
11 article 19; provided that, prior to the date of the payment of any such
12 dividend, a certificate made by 2 officers of the bank, 1 of whom shall
13 be the president or a vice-president, shall be filed in the department for
14 the approval of the commissioner, stating

15 (1) the date upon which the dividend is to be paid; and

16 (2) the amount of such dividend; ~~[and]~~

17 (3) the amount of the capital stock and the surplus of the

18 bank after giving effect to the payment of such dividend; ²~~[and]~~²

19 (4) the payment of the dividend will not violate the provisions of
20 subsection B of this section ²; and

21 (5) the certificate of incorporation of the bank, or an amendment
22 thereof, authorizes the payment of dividends in stock of the bank
23 without an amendment of the bank's certificate of incorporation
24 pursuant to article 19².

25 [If the commissioner finds that the certificate of incorporation of
26 the bank, or an amendment thereof, authorizes the payment of
27 dividends in stock of the bank without an amendment of the bank's
28 certificate of incorporation pursuant to article 19, and if he finds that
29 the payment of the dividend will not violate subsection B of this
30 section, he shall endorse his approval upon the certificate, and shall file
31 it in the department.] ¹[An applicant shall be notified in writing by
32 the commissioner within five days of receipt of the certificate as to
33 whether the filing of the certificate is substantially complete. If an
34 applicant is notified that a filing is not substantially complete, the
35 commissioner shall respond in writing as to the substantial
36 completeness of any subsequent filings by the applicant within five
37 days of receipt of the filings.]¹ A filing shall be deemed approved on
38 the ¹[21st] 30th ¹ day after [a determination] receipt ~~b~~y the
39 commissioner ¹[that a filing is substantially complete]¹, unless
40 approved or denied earlier by the commissioner in writing. Upon
41 approval pursuant to this section, the certificate shall thereupon be
42 amended as set forth in the certificate of amendment. A certificate
43 filed in the department pursuant to this subsection shall be deemed for
44 all purposes to be an amendment of the certificate of incorporation of
45 the bank with the same effect as if it had been authorized, executed,
46 approved and filed in the department pursuant to article 19.

1 D. When the certificate of incorporation of a bank, or an
2 amendment thereof, does not provide that dividends may be paid in
3 stock of the bank without an amendment of the bank's certificate of
4 incorporation pursuant to article 19, no such dividend which results in
5 an increase in the capital stock of the bank shall be paid unless the
6 necessary increase in capital stock is authorized pursuant to article 19.

7 E. Subsections C and D of this section shall not apply to a stock
8 dividend paid pursuant to section 212.

9 F. This section shall not limit the power of a bank to pay dividends
10 on shares of preferred stock issued prior to the effective date of this
11 act, as provided in its certificate of incorporation.

12 (cf: P.L.1955, c.118, s.1)

13
14 6. Section 117 of P.L.1948, c.67 (C.17:9A-117) is amended to
15 read as follows:

16 117. Whenever the board of directors shall deem it advisable to
17 amend the certificate of incorporation, it shall adopt a resolution
18 setting forth the proposed amendment and fixing a date for a meeting
19 of stockholders to take action thereon, upon notice given pursuant to
20 section 81. If, at such meeting or at any adjournment thereof, the
21 holders of at least two-thirds of the capital stock entitled to vote shall
22 vote in favor of the proposed amendment or any modification thereof,
23 a certificate thereof, setting forth the amendment in full and certifying
24 that the amendment was made for a purpose authorized by law in the
25 manner required by this article, shall be made and acknowledged by
26 two officers of the bank, one of whom shall be the president or
27 vice-president, and shall be submitted to the commissioner for [his]
28 approval. [If the commissioner shall find that the amendment is for a
29 purpose authorized by law, and that all the conditions and
30 requirements in this article and elsewhere in this act specified as
31 prerequisites to an amendment to a certificate of incorporation have
32 been satisfied, he shall endorse his approval upon the certificate of
33 amendment, and shall file it in the department, and] ¹[An applicant
34 shall be notified in writing by the commissioner within five days of
35 receipt of the certificate as to whether the filing of the certificate of
36 amendment is substantially complete. If an applicant is notified that
37 a filing is not substantially complete, the commissioner shall respond
38 in writing as to the substantial completeness of any subsequent filings
39 by the applicant within five days of receipt of the filings.]¹ A filing
40 shall be deemed approved on the ¹[21st] ¹30th¹ day after ¹[a
41 determination] receipt¹ by the commissioner ¹[that a filing is
42 substantially complete]¹, unless approved or denied earlier by the
43 commissioner in writing. Upon approval pursuant to this section, the
44 certificate of incorporation shall thereupon be amended as set forth in
45 the certificate of amendment.

46 (cf: P.L.1953, c.141, s.4)

1 7. Section 198 of P.L.1948, c.67 (C.17:9A-198) is amended to
2 read as follows:

3 198. A. Whenever the board of managers of any savings bank shall
4 deem it advisable to amend the certificate of incorporation, it shall, by
5 a vote of not less than 2/3 of the managers then in office, adopt a
6 resolution setting forth the proposed amendment, and shall publish
7 notice of intention to apply to the commissioner for approval of such
8 amendment at least once a week for 4 successive weeks, in the manner
9 provided in section 10. A copy of the resolution, certified by 2
10 officers, together with proof of such publication and a certified
11 statement that the amendment was made for a purpose authorized by
12 law in the manner specified by this section shall be submitted to the
13 commissioner for approval. [If the commissioner shall find that the
14 amendment is for a purpose authorized by law, and that all the
15 requirements in this article and elsewhere in this act specified as
16 prerequisites to an amendment of a certificate of incorporation by a
17 savings bank have been satisfied, he shall indorse his approval upon
18 the certificate of amendment, and shall file it in the department, and]
19 ¹[An applicant shall be notified in writing by the commissioner within
20 five days of receipt of the certificate as to whether the filing of the
21 certificate of amendment is substantially complete. If an applicant is
22 notified that a filing is not substantially complete, the commissioner
23 shall respond in writing as to the substantial completeness of any
24 subsequent filings by the applicant within five days of receipt of the
25 filing.]¹ A filing shall be deemed approved on the ¹[21st] 30th¹ day
26 after ¹[a determination] receipt¹ by the commissioner ¹[that a filing
27 is substantially complete]¹ , unless approved or denied earlier by the
28 commissioner in writing. Upon approval pursuant to this section, the
29 certificate of incorporation shall thereupon be amended as set forth in
30 the certificate of amendment.

31 B. When the amendment is for the purpose specified in paragraph
32 (2) of section 197, the commissioner shall give special consideration
33 to the following:

34 (1) the needs of the community for trust services, and the probable
35 volume of trust business which will be available to the savings bank;

36 (2) the condition of the savings bank, particularly the adequacy of
37 its capital deposits, if any and surplus in relation to its deposit
38 liabilities and other corporate responsibilities, including the proposed
39 exercise of fiduciary powers; but no savings bank shall be authorized
40 to make such an amendment unless its capital deposits, if any, and
41 surplus amount to at least \$500,000.00;

42 (3) the general character and ability of the management of the
43 savings bank;

44 (4) the nature of the supervision to be given to the proposed
45 fiduciary activities;

46 (5) the qualifications, experience and character of the proposed

1 officer or officers who will have control or supervision of the
2 proposed fiduciary activities;

3 (6) whether the savings bank has available competent legal counsel
4 to advise and pass upon trust matters whenever necessary; and

5 (7) any other matters which, in the discretion of the commissioner,
6 are relevant.

7 (cf: P.L.1965, c.171, s.19)

8

9 8. Section 21 of P.L.1987, c.201 (C.17:9A-402) is amended to
10 read as follows:

11 21. Whenever the board of directors of a subsidiary capital stock
12 savings bank deems it advisable to amend the certificate of
13 incorporation, it shall adopt a resolution setting forth the proposed
14 amendment, which amendment shall be approved, at a meeting of the
15 stockholders entitled to vote, by at least 2/3 of the capital stock
16 entitled to vote. If the holders of 2/3 of the shares of capital stock
17 entitled to vote approve the amendment, a certificate of this approval
18 setting forth the amendment and certifying that the amendment was
19 made for a purpose authorized by law in the manner specified by this
20 section, shall be attested by two officers of the bank, one of whom
21 shall be the president or vice president, and shall be submitted to the
22 commissioner for approval. [If the commissioner finds that the
23 amendment is for a purpose authorized by law, and that all
24 requirements of law have been met regarding an amendment to a
25 certificate of incorporation, he shall endorse his approval upon the
26 certificate of amendment, and shall file it with the department, and the
27 certificate of incorporation shall thereupon be deemed to be
28 amended.] ¹[An applicant shall be notified in writing by the
29 commissioner within five days of receipt of the certificate as to
30 whether the filing of the certificate of amendment is substantially
31 complete. If an applicant is notified that a filing is not substantially
32 complete, the commissioner shall respond in writing as to the
33 substantial completeness of any subsequent filings by the applicant
34 within five days of receipt of the filings.]¹ A filing shall be deemed
35 approved on the ¹[21st] 30th¹ day after ¹[a determination] receipt¹
36 by the commissioner ¹[that a filing is substantially complete]¹, unless
37 approved or denied earlier by the commissioner in writing. Upon
38 approval pursuant to this section, the certificate of incorporation shall
39 thereupon be amended as set forth in the certificate of amendment.

40 (cf: P.L.1987, c.201, s.21)

41

42 9. Section 24 of P.L.1963, c.144 (C.17:12B-24) is amended to
43 read as follows:

44 24. A. No State association shall hereafter establish or operate a
45 branch office or offices, other than as provided by [the conditions and
46 limitations of sections 24 through 27 of this act] law without the prior

1 written approval of the commissioner; provided, however, that any
2 association operating an authorized branch office at the effective date
3 of this act may continue to do so.

4 (1) An association operating a branch office approved prior to the
5 effective date of this act with conditions or restrictions imposed on its
6 operation may upgrade such office by notifying the commissioner at
7 least 30 days before such upgrading. A branch office is considered
8 upgraded if the association is relieved of any of the conditions or
9 restrictions imposed on operation of the office when it opened. If
10 within 30 days of receipt of the notice, the commissioner does not
11 notify the association of his objection which would require the
12 association to submit an application or additional information before
13 upgrading, the association may upgrade the office.

14 (2) An approved, but unopened branch office as of the effective
15 date of this amendatory act may open and operate in the same manner
16 as a branch office approved subsequent to the effective date of this
17 amendatory act.

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

24 B. An association may apply for a branch office regardless of the
25 number of branch applications it has pending before the commissioner.
26 Within ²[15 days after submission of any branch application to the
27 commissioner, the applying State association shall give notice of such
28 application by publication of a notice of such application in a
29 newspaper published within the municipality in which it is proposed to
30 locate the branch office if there be one or, if there be no such
31 newspaper, in a newspaper published in the county and having a
32 substantial circulation in the municipality. The notice shall be in a
33 form approved by the commissioner, and shall include the name of the
34 applying association and the location, as precisely as possible, in the
35 municipality where such branch office is to be located. For good
36 cause, the commissioner may dispense with the notice requirements of
37 this section.

38 No less than 30 days after filing with the commissioner the proof of
39 publication of the aforementioned notice within]² 90 days
40 ²[thereafter] after receipt of a branch application², the commissioner
41 shall announce his decision upon such application ²[and file in his
42 office a written memorandum stating the reasons therefor, which shall
43 be open to public inspection; and he shall forthwith thereafter give
44 written notice thereof to the applicant]².

45 C. The commissioner shall approve the application if the
46 commissioner finds that:

- 1 (1) the State association's capital equals or exceeds the minimum
2 capital established by the commissioner by regulation;
- 3 (2) the interests of the public will be served to advantage by the
4 establishment of the full branch office;
- 5 (3) conditions in the locality in which the proposed full branch
6 office is to be established afford reasonable promise of successful
7 operation. To determine if an applicant meets this requirement, the
8 commissioner shall consider only the costs of purchasing, constructing,
9 leasing or otherwise establishing the proposed office, including the
10 costs for staffing, furniture and equipment needed therefor and the
11 effect of these costs on the operations of the applying institution as a
12 whole. The applicant need not demonstrate an ability to operate the
13 proposed office at a profit within a definable period of time based on
14 the generation of new deposits from the market area to be entered
15 except to the extent that losses suffered at the proposed office could
16 affect the safety and soundness of the applicant's overall operations;
17 and
- 18 (4) that the applicant has achieved sufficient compliance as defined
19 by the commissioner by regulation with the provisions of the
20 "Community Reinvestment Act of 1977," 12 U.S.C. ²s. ²2901 et seq.
- 21 D. (Deleted by amendment, P.L.1996, c.17.)
- 22 E. The commissioner shall conduct such investigation or hearing,
23 or both, as the commissioner may deem advisable. The commissioner
24 may adopt, amend, alter or rescind regulations prescribing the form of
25 protest to applications and the procedures to be followed in the event
26 that the commissioner elects to hold a hearing in connection with an
27 application for a branch office, and such other regulations as the
28 commissioner may deem necessary with respect to the provisions of
29 this section.
- 30 F. (1) In lieu of the procedures set forth in subsections A through
31 C and E of this section, ²[or]² section 89 of P.L.1996, c.17
32 (C.17:12B-24.1), ²paragraph (2) of section 28 of P.L.1963, c. 144 (C.
33 17:12B-28), or paragraph (2) of section 40 of P.L. 1963, c. 144 (C.
34 17:12B-40),² a State association which, directly or through a
35 predecessor association by merger or other reorganization, has been
36 in business for at least three years, and which is well capitalized,
37 adequately managed, and, if applicable, has received in its most recent
38 examination under the "Community Reinvestment Act of 1977," 12
39 U.S.C.s.2901 et seq., a rating of not less than "satisfactory record of
40 meeting community credit needs," or its equivalent, may apply for
41 expedited branch office approval pursuant to this subsection. The
42 State association shall file written application of the proposed
43 establishment with the commissioner and with those other persons
44 designated by the commissioner by rule or regulation. The application
45 shall be accompanied by or be in the form of a certification that (a) all
46 applicable provisions of this subsection have been met, (b) the

1 applicant requests expedited processing under this subsection, and (c)
2 contains that other information, if any, as the commissioner may
3 require by rule or regulation to confirm that an establishment of the
4 branch will not adversely affect the safety and soundness of the State
5 association² or the public interest².

6 (2) ¹[An applicant shall be notified by the commissioner within five
7 days of receipt of the filing of the application as to whether the
8 application is substantially complete. If an applicant is notified that a
9 filing is not substantially complete, the commissioner shall respond in
10 writing as to the substantial completeness of any subsequent filings
11 within five days of receipt of the filings.]¹ An application shall be
12 deemed approved on the ¹[21st] 30th¹ day after ¹[determination]
13 receipt¹ by the commissioner ¹[that the application is substantially
14 complete]¹, unless approved or denied earlier by the commissioner in
15 writing.

16 (3) For purposes of this subsection, the term "well capitalized" has
17 the meaning given the term in 12 U.S.C. s.1831o and "well managed"
18 means, unless otherwise determined in writing by the commissioner,
19 (a) the achievement of a composite rating of 1 or 2 under the Uniform
20 Financial Institutions Rating System or an equivalent rating system in
21 connection with the most recent examination or subsequent review of
22 the State association, and (b) at least a rating of 2 for management, if
23 such rating is given. Nothing in this subsection shall be construed to
24 affect the confidentiality of any such rating under applicable law or
25 regulation.

26 (cf: P.L.1996, c.17, s.88)

27

28 10. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to
29 read as follows:

30 48. Without limiting the generality of the foregoing, every
31 association shall have power to:

32 (1) Have succession by its corporate name for the period limited
33 in its charter or certificate of incorporation, and when no period is
34 limited, perpetually.

35 (2) Sue and be sued in any court.

36 (3) Adopt and use a corporate seal and alter the same.

37 (4) Purchase and otherwise acquire, hold, mortgage, pledge, lease,
38 exchange, sell, convey and otherwise dispose of, any real and personal
39 property, necessary or incidental to its operations and consistent with
40 its powers and purposes.

41 (5) Insure its members' accounts with the Federal [Savings and
42 Loan] Deposit Insurance Corporation, and comply with conditions
43 necessary to obtain and maintain such insurance.

44 (6) Become a member of or stockholder in a Federal Home Loan
45 Bank and to that end to comply with all conditions of membership
46 therein.

1 (7) Act as agent for the United States or the State of New Jersey
2 or any instrumentality of either of them, when designated for that
3 purpose, and perform such reasonable duties as such agent as may be
4 required of it.

5 (8) Join any cooperative league organized for the purpose of
6 protecting and promoting the welfare of associations and their
7 members and comply with all conditions of membership therein.

8 (9) Borrow money from any source in or out of the State, on the
9 note, bond and mortgage or other obligation of the association upon
10 such terms and conditions as the board may from time to time
11 prescribe by resolution adopted by at least a majority of all the
12 members of the board and duly recorded on the minutes and to
13 pledge, assign or transfer mortgages, owned by the association and
14 the obligations secured by such mortgages, together with the shares,
15 if any, pledged as collateral security therefor, or any real or other
16 personal property, as security for the repayment of money so
17 borrowed. No association shall borrow money if by doing so the
18 aggregate of its indebtedness for borrowed money other than to the
19 Federal Home Loan Bank will exceed 20% of its capital, except with
20 the approval of the commissioner.

21 (10) (Deleted by amendment.)

22 (11) Require an advance payment of interest for a period of 1
23 month on any loan; and accept advance payments of interest, if made
24 at the option of the debtor, for any period on any loan. None of such
25 payments shall be deemed usurious.

26 (12) Where shares are issued, charge an admission fee, not to
27 exceed \$0.25 per share, which shall include the cost of membership or
28 share certificate and account book.

29 (13) Impose charges upon a member for failure to make any
30 payment to the association when due, but only as provided in this
31 paragraph. Where the association issues installment share accounts it
32 may impose such charge upon any member holding such an account or
33 any borrower upon a sinking fund mortgage not in excess of 1% a
34 month upon the amount in arrears, except for the first month's
35 arrearage or the amount by which such first month's arrearage may be
36 increased by subsequent arrearage, in which case a charge not in
37 excess of 5% may be imposed. Such charges shall be subject to the
38 further limitations that no such charge shall be deducted from any
39 amount actually paid by a member upon an account nor shall the total
40 of any such charges against any account in any fiscal year exceed the
41 amount that may be charged for failure to make any payments for a
42 6-month period nor shall any charge for default be made on a charge
43 for default. Otherwise an association may impose a charge for failure
44 to make any required payment to it when due upon any loan or
45 contract for the resale of real estate to a member, not to exceed 4% of
46 the amount of each payment in arrears, but no more than one such

1 charge may be made with respect to any one payment in arrears. An
2 association may impose a reasonable service charge against any
3 member who tenders to such association, for collection or as
4 payment, a check or other instrument of any type which subsequently
5 is not honored by the institution or person upon which such check or
6 other instrument is drawn. None of such charges shall be deemed
7 usurious.

8 (14) Compute interest upon any direct reduction loan, on
9 designated payment dates, and add the same to the unpaid balance of
10 such loan.

11 (15) Act as agent for any person where such agency will further the
12 interests of the association and its members, subject to such limitations
13 as may be prescribed by the commissioner.

14 (16) Upon application to and approval by the commissioner, to act
15 as custodian or trustee within the contemplation of the Federal
16 Self-Employed Individuals Tax Retirement Act of 1962, as amended
17 and supplemented, and the Employee Retirement Income Security Act
18 of 1974 as amended and supplemented, and as custodian, trustee or
19 manager of any such investment fund the authorized investments of
20 which include, but need not be limited to, savings accounts or real
21 estate loans, and the beneficial interests in which may be represented
22 by transferable shares or certificates. Associations exercising the
23 powers authorized by this subsection shall segregate all funds held in
24 such fiduciary capacities from the general assets of the association and
25 shall keep a separate set of books and records showing in detail all
26 transactions made under authority of this subsection. If individual
27 records are kept for each self-employed individual's retirement plan
28 and each such investment fund, then all such funds held in such
29 fiduciary capacities by an association may be commingled for
30 appropriate purposes of investment. No funds held in such fiduciary
31 capacities shall be used by an association in the conduct of its
32 business; however, such funds may be invested in savings accounts of
33 the association in the event that the custodial, trust or other plan does
34 not prohibit such investment. In granting or refusing the association's
35 application the commissioner shall take into consideration the
36 investment policies, amount, type and adequacy of reserves, fidelity
37 bonds and any legally required deposits of the applicant and other
38 pertinent facts and circumstances.

39 (17) Upon compliance with subsection (5) of this section, accept
40 from its members accounts to be repaid upon such terms, not
41 inconsistent with this act, as are approved by the Commissioner of
42 Banking and Insurance, by regulation or otherwise, provided that no
43 account shall exceed the limitations established by section 78 of
44 P.L.1963, c.144 (C.17:12B-78), and provided further that no account
45 shall be accepted or issued in the name of any corporation, association
46 or partnership or in the name of any individual for use in trade or

1 business. An association issuing such accounts may honor demands
2 for withdrawal of such accounts in the form of negotiable checks,
3 drafts or orders in the form of electronic fund transfers and may
4 become a member of a clearing facility and satisfy reasonable
5 conditions required for its qualification and pay reasonable expenses
6 therefor. Such accounts may be either interest-bearing or
7 noninterest-bearing; provided, however, that the payment of interest
8 on such accounts be permitted by federal law. An association
9 accepting accounts pursuant to this subsection shall, at all times,
10 maintain reserves against such accounts as shall be prescribed in
11 regulations issued by the commissioner in accordance with the
12 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
13 but such reserves shall be equal in nature and amount to those required
14 of savings banks in this State against similar accounts. Such reserves
15 shall be maintained in cash or deposits in one or more reserve
16 depositories as authorized by the Commissioner of Banking and
17 Insurance. Regulations of the commissioner may also provide that
18 associations issuing such type of accounts maintain a general reserve
19 account, federal insurance reserve account and undivided profits of
20 specified minimum amounts and provide for minimum standards of
21 office facilities in connection therewith. An insured association may
22 impose a reasonable service charge for providing and maintaining such
23 accounts for the benefit of its members.

24 (18) Issue credit cards, extend credit in connection therewith, and
25 otherwise engage in or participate in credit card operations subject to
26 such regulations as the commissioner may prescribe. Any such
27 regulations shall be in substantial conformity with similar rules and
28 regulations of the [Federal Home Loan Bank Board] Office of Thrift
29 Supervision.

30 (19) (a) Apply to the commissioner for permission to act as
31 trustee, executor, administrator, guardian, or in any other fiduciary
32 capacity in which federal savings and loan associations doing business
33 in this State are permitted to act. Associations exercising any or all of
34 the powers enumerated in this section shall segregate all assets held in
35 any fiduciary capacity from the general assets of the association and
36 shall keep a separate set of books and records showing in proper detail
37 all transactions engaged in under authority of this section. No
38 association shall receive in its trust department deposits of current
39 funds subject to check or the deposit of checks, drafts, bills of
40 exchange, or other items for collection or exchange purposes. Funds
41 deposited or held in trust by the association awaiting investment shall
42 be carried in a separate account and shall not be used by the
43 association in the conduct of its business unless it shall first set aside
44 in the trust department United States bonds or other securities
45 approved by the commissioner. In the event of the failure of such
46 association, the owners of the funds held in trust for investment shall

1 have a lien on the bonds or other securities so set apart, in addition to
2 their claim against the estate of the association. Whenever the laws of
3 this State require corporations acting in a fiduciary capacity to deposit
4 securities with the State authorities for the protection of private or
5 court trusts, associations so acting shall be required to make similar
6 deposits and securities so deposited shall be held for the protection of
7 private or court trusts, as provided by New Jersey law. Associations
8 in such cases shall not be required to execute the bond usually required
9 of individuals if New Jersey corporations under similar circumstances
10 are exempt from this requirement. Associations shall have power to
11 execute such bond when so required by the laws of New Jersey. In
12 any case in which the laws of this State require that a corporation
13 acting as trustee, executor, administrator, or in any capacity specified
14 in this section shall take an oath or make an affidavit, any officer, as
15 defined in section 65 of P.L.1963, c.144 (C.17:12B-65), of such
16 association may take the necessary oath or execute the necessary
17 affidavit. It shall be unlawful for any association to lend any officer,
18 director, or employee any funds held in trust under the powers
19 conferred by this section. Any officer, director, or employee making
20 such loan, or to whom such loan is made, may be fined not more than
21 \$5,000.00, or imprisoned not more than 5 years, or may be both fined
22 and imprisoned, in the discretion of the court. In passing upon
23 applications for permission to exercise the powers enumerated in this
24 section, the commissioner may take into consideration the amount of
25 capital and surplus of the applying association, whether or not such
26 capital and surplus is sufficient under the circumstances of the case,
27 the needs of the community to be served, and any other facts and
28 circumstances that seem to him proper, and may grant or refuse the
29 application accordingly, except that approval shall not be granted to
30 any association having a capital and surplus less than the capital and
31 surplus required by New Jersey law of State banks, trust companies,
32 and corporations exercising such powers.

33 (b) Any association desiring to surrender its right to exercise the
34 powers granted under this section, in order to relieve itself of the
35 necessity of complying with the requirements of this section, or to
36 have returned to it any securities which it may have deposited with the
37 State authorities for the protection of private or court trusts, or for
38 any other purpose, may file with the commissioner a certified copy of
39 a resolution of its board of directors signifying such desire. Upon
40 receipt of such resolution, the commissioner, after satisfying himself
41 that such association has been relieved in accordance with State law
42 of all duties as trustee, executor, administrator, guardian or other
43 fiduciary, under court, private or other appointments previously
44 accepted under authority of this section, may, in its discretion, issue
45 to such association a certificate certifying that such association is no
46 longer authorized to exercise the powers granted by this section.

1 Upon the issuance of such a certificate by the commissioner, such
2 association (i) shall no longer be subject to the provisions of this
3 section or the regulations of the commissioner made pursuant thereto,
4 (ii) shall be entitled to have returned to it any securities which it may
5 have deposited with the State authorities for the protection of private
6 or court trusts, and (iii) shall not exercise thereafter any of the powers
7 granted by this section without first applying for and obtaining
8 approval to exercise such powers pursuant to the provisions of this
9 section.

10 (c) The commissioner is authorized and empowered to promulgate
11 such regulations as he may deem necessary to enforce compliance with
12 the provisions of this section and the proper exercise of the trust
13 powers granted by this section. Any such regulations shall be in
14 substantial conformity with similar rules and regulations of the
15 **[Federal Home Loan Bank Board] Office of Thrift Supervision.**

16 (20) In accordance with rules and regulations promulgated by the
17 commissioner, issue and sell directly to subscribers or through
18 underwriters mutual capital certificates. Such certificates shall
19 constitute part of the general reserve and net worth of the issuing
20 association. Such certificates--

21 (a) Shall be subordinate to all savings accounts, savings
22 certificates, and debt obligations;

23 (b) Shall constitute a claim in liquidation on the general reserves,
24 surplus, and undivided profits of the association remaining after the
25 payment in full of all savings accounts, savings certificates, and debt
26 obligations;

27 (c) Shall be entitled to the payment of dividends; and

28 (d) May have a fixed or variable dividend rate.

29 The commissioner is authorized and empowered to promulgate such
30 regulations as he may deem necessary with respect to the powers
31 granted by this section. Any such regulations shall be in substantial
32 conformity with similar rules and regulations of the **[Federal Home**
33 **Loan Bank Board] Office of Thrift Supervision.** The commissioner
34 shall provide in his regulations for charging losses to the mutual
35 capital certificates, reserves, and other net worth accounts.

36 (21) **[If authorized by regulation of the commissioner, exercise any**
37 **power, right, benefit, or privilege permitted to federal associations,**
38 **provided that such power, right, benefit or privilege is not specifically**
39 **prohibited by law, which regulation shall be in substantial conformity**
40 **with similar rules and regulations of the Federal Home Loan Bank**
41 **Board; and exercise any power, right, benefit or privilege under this**
42 **section, modified by regulation of the commissioner, where the Federal**
43 **Home Loan Bank Board has, by regulation, modified that power,**
44 **right, benefit or privilege with respect to federal associations.]**
45 Notwithstanding the provisions of P.L.1963, c.144 (C.17:12B-1 et
46 seq.) or any other law ^{1,1} exercise those powers, rights, benefits or

1 privileges now or hereafter authorized for national or out-of-state
2 banks or for Federal or out-of-state savings banks or savings
3 associations either directly or through a financial subsidiary or other
4 subsidiary, to the same extent and subject to the same limitations as
5 national or out-of-state banks or Federal or out-of-state savings banks
6 or savings associations may exercise those powers, rights, benefits or
7 privileges, provided that before exercising any power, right, benefit or
8 privilege of any out-of-state bank or out-of-state savings bank or
9 savings association, ²the commissioner has adopted a regulation
10 approving an exercise of that power, right, benefit or privilege by state
11 associations generally or² the State association provides notice to the
12 commissioner ²[.]² and ¹on a case by case basis¹ the commissioner
13 either approves the activity or does not provide notice before the
14 expiration of ¹[30] ⁴⁵¹ days that such power, right, benefit or
15 privilege is not appropriate for ¹[a] the¹ State association on grounds
16 of safety and soundness ²or on other grounds designated by the
17 commissioner by regulation². The commissioner shall have the
18 authority to adopt rules and regulations pursuant to this section, which
19 rules and regulations shall have as their objective the placing of State
20 associations on a substantial competitive parity with national and out-
21 of-state banks and Federal and out-of-state savings banks and savings
22 associations.

23 ²(22) Exercise any powers and activities that have been or are
24 hereafter approved by regulation of the Board of Governors of the
25 Federal Reserve System as being (i) financial in nature or incidental to
26 such financial activity, (ii) complementary to a financial activity and
27 not posing a substantial risk to the safety or soundness of depository
28 institutions or the financial system generally, or (iii) so closely related
29 to banking or managing or controlling savings associations as to be a
30 proper activity for a bank holding company or financial holding
31 company pursuant to the "Bank Holding Company Act of 1956," 70
32 Stat. 133 (12 U.S.C. s. 1841 et seq.) and regulations thereunder, to
33 the extent that federal law does not prohibit savings associations from
34 exercising those powers or activities.

35 (23) Apply to the commissioner for authority, and if granted, to
36 exercise any power or activity that has been or is hereafter deemed to
37 be (i) financial in nature or incidental to such financial activity, (ii)
38 complementary to a financial activity and not posing a substantial risk
39 to the safety or soundness of depository institutions or the financial
40 system generally, or (iii) closely related to banking under the "Bank
41 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
42 seq.) and which has been permitted on an individual basis by order of
43 the Board of Governors of the Federal Reserve System.²
44 (cf: P.L.1983, c.5, s.1)

1 11. Section 21 of P.L.1989, c.165 (C.17:12B-312) is amended to
2 read as follows:

3 21. Whenever the board of directors of a subsidiary capital stock
4 state association deems it advisable to amend the certificate of
5 incorporation, it shall adopt a resolution setting forth the proposed
6 amendment, which amendment shall be approved, at a meeting of the
7 stockholders entitled to vote, by at least 2/3 of the capital stock
8 entitled to vote. If the holders of 2/3 of the shares of capital stock
9 entitled to vote approve the amendment, a certificate of this approval
10 shall be attested by two officers of the state association, one of whom
11 shall be the president or vice president, and shall be submitted to the
12 commissioner for approval. [If the commissioner finds that the
13 amendment is for a purpose authorized by law, and that all
14 requirements of law have been met regarding an amendment to a
15 certificate of incorporation, the commissioner shall approve it by
16 endorsing the certificate of amendment, and shall file it with the
17 department, and the certificate of incorporation shall thereupon be
18 deemed to be amended.] ¹[An applicant shall be notified in writing by
19 the commissioner within five days of receipt of the certificate as to
20 whether the filing of the certificate of amendment is substantially
21 complete. If an applicant is notified that a filing is not substantially
22 complete, the commissioner shall respond in writing as to the
23 substantial completeness of any subsequent filings by the applicant
24 within five days of receipt of the filings.]¹ A filing shall be deemed
25 approved on the ¹[21st] 30th¹ day after ¹[a determination] receipt¹
26 by the commissioner ¹[that a filing is substantially complete]¹, unless
27 approved or denied earlier by the commissioner in writing. Upon
28 approval pursuant to this section, the certificate of incorporation shall
29 thereupon be amended as set forth in the certificate of amendment.
30 (cf: P.L.1989, c.165, s.21)

31
32 ²12. Section 5 of P.L. 1982, c. 9 (C. 17:9A-8.5) is amended to
33 read as follows:

34 5. a. A capital stock savings bank may, in its original or amended
35 certificate of incorporation, make provision for authorized but
36 unissued stock. This stock may, with the approval of the
37 commissioner, be issued for those purposes, in addition to the
38 purposes expressly authorized by law, and for any consideration
39 which the board of directors may determine. So long as this stock
40 remains unissued, it shall not constitute capital stock for the purposes
41 of the act to which this act is a supplement.

42 b. Prior to the time when authorized but unissued shares are
43 issued by a capital stock savings bank, a certificate of amendment
44 made by two officers of the savings bank, one of whom shall be the
45 president or a vice-president, shall be filed with the department. The
46 certificate of amendment shall state: (1) the amount of the authorized

1 but unissued stock which will be issued; (2) the consideration which
2 will be received by the capital stock savings bank on the issuance of
3 the stock; (3) the date the stock will be issued; (4) the amount of the
4 capital stock which will be outstanding; and (5) the amount of
5 surplus after giving effect to the issue. [If the commissioner finds that
6 the original or amended certificate of incorporation provides for
7 authorized but unissued stock, and if he finds that the issuance of this
8 stock will not be in violation of law or contrary to the public interest,
9 he shall endorse his approval upon the certificate and file it with the
10 department.] A filing shall be deemed approved on the 30th day after
11 receipt by the commissioner, unless approved or disapproved earlier
12 by the commissioner in writing. Upon approval pursuant to this
13 section, the certificate of incorporation shall thereupon be amended as
14 set forth in the certificate of amendment. The commissioner may
15 disapprove a filing if the commissioner finds that the issuance of the
16 stock will be in violation of law or contrary to the public interest or
17 that the capital stock savings bank's original or amended certificate of
18 incorporation does not provide for authorized but unissued stock. A
19 certificate filed with the department pursuant to this section shall be
20 deemed for all purposes to be an amendment of the certificate of
21 incorporation.

22 c. A capital stock savings bank may issue preferred stock in
23 accordance with the provisions of Article 20 of P.L.1948, c. 67 (C.
24 17:9A-124 to 17:9A-130).²
25 (cf: P.L.1982, c.9, s.5)

26
27 ²13. Section 21 of P.L. 1974, c. 137 (C. 17:12B-250) is amended
28 to read as follows:

29 21. The powers contained in section 47 (C. 17:12B-47), section
30 48 (C. 17:12B-48) and section 130 (C. 17:12B-130) of this act shall
31 be available to capital stock associations (but the term "member" as
32 used therein shall be deemed to refer to "depositor" or "borrower,"
33 and the term "dividends" shall be deemed to refer to "interest" as may
34 be appropriate in the context), and in addition every capital stock
35 association shall have the power to:

36 a. Amend its certificate of incorporation in the following manner:

37 (1) The board shall approve the proposed amendment and direct
38 that it be submitted to a vote at a meeting of the stockholders.

39 (2) Written notice setting forth the proposed amendment or a
40 summary of the changes to be effected thereby shall be given to each
41 stockholder of record entitled to vote thereon within the time and in
42 the manner provided in this act for the giving of notice of meetings of
43 stockholders.

44 (3) At such meeting a vote of the stockholders entitled to vote
45 thereon shall be taken on the proposed amendment. The proposed
46 amendment shall be adopted upon receiving the affirmative vote of a

1 majority of the votes cast in person or by proxy by the stockholders.

2 (4) No amendment shall become effective until it shall have been
3 submitted to the commissioner and he shall either have approved it in
4 writing or failed to take action thereon for a period of 30 days after it
5 shall have been submitted to him. Approval shall not be withheld by
6 the commissioner unless an amendment is in conflict with the
7 provisions of this act.

8 b. Subject to amendment of its certificate of incorporation,
9 authorize issuance of additional capital stock for:

10 (1) Payment of a consideration other than cash in connection with
11 mergers with or purchase of assets of another association.

12 (2) The purpose of increasing the amount of its stated capital by
13 sale of such additional capital stock.

14 (3) Capital stock options, the aggregate of which shall not exceed
15 10% of the amount of authorized capital stock at the time of the
16 granting of such options and the establishment of one or more capital
17 stock purchase plans for officers and employees of the capital stock
18 association, which plan or plans may include provisions for partial
19 contribution by the association.

20 c. Declare and distribute stock dividends without the necessity of
21 an amendment to its certificate of incorporation, notwithstanding that
22 the payment of such dividends will effect an increase in the capital
23 stock of the capital stock association. In such a case, dividends may
24 be paid from time to time on the stock of the capital stock
25 association, at the discretion of the board, provided that prior to the
26 date of the payment of any such dividend, a certificate shall be filed
27 with the commissioner for the approval of the commissioner, stating:

28 (1) The date upon which the dividend is to be paid;

29 (2) The amount of such dividend; and

30 (3) The amount of the capital stock and the paid-in or contributed
31 surplus of the capital stock association after giving effect to the
32 payment of such dividend.

33 [If the commissioner finds that the payment of the stock dividend
34 is not contrary to law, he shall endorse his approval upon the
35 certificate and shall file it in the department.] A filing shall be deemed
36 approved on the 30th day after receipt by the commissioner, unless
37 approved or disapproved earlier by the commissioner in writing. Upon
38 approval pursuant to this section, the certificate of incorporation shall
39 thereupon be amended as set forth in the certificate of amendment. A
40 certificate filed in the department pursuant to this subsection shall be
41 deemed for all purposes to be an amendment to the certificate of
42 incorporation of the capital stock association with the same effect as
43 if it had been authorized, executed, approved and filed in the
44 department pursuant to subsection a. of this section.

45 A split-up or division of the issued shares of any class or series into
46 a greater number of shares of the same class or series without

1 increasing the amount of a capital stock association's stated capital
2 shall not be construed to be a stock dividend within the meaning of
3 this subsection and may be accomplished by amendment of the
4 certificate of incorporation as provided in this act.

5 d. Fix a record date for the purpose of determining the
6 stockholders entitled to notice of, or to vote, at any meetings of
7 stockholders or any adjournment thereof, or to express consent to, or
8 dissent from, any proposal without a meeting, or for the purpose of
9 determining stockholders entitled to receive payment of any dividend
10 or electment of any right, or for the purpose of any other action, the
11 bylaws may provide for fixing, or in the absence of such provision, the
12 board may fix, in advance, a date as the record date for any such
13 determination of stockholders. Such date shall not be more than 60
14 nor less than 10 days before the date of such meeting, nor more than
15 60 days prior to any other action.

16 e. Borrow money provided that the aggregate indebtedness for
17 borrowed money, other than to the Federal Home Loan Bank, will not
18 exceed 20% of its depositors' accounts, except with the approval of
19 the commissioner.²

20 (cf: P.L.1974, c.137, s.21)

21

22 ²14. Section 35 of P.L. `1974, c. 137 (C. 17:12B-264) is amended
23 to read as follows:

24 35. a. Each capital stock association shall have power to create
25 and issue the number of shares of capital stock stated in its certificate
26 of incorporation. Such shares may consist of one class or may be
27 divided into two or more classes and any class may be divided into one
28 or more series. Each class and series may have such designation and
29 such relative dividend, liquidation and other rights, preferences and
30 limitations as shall be stated in the certificate of incorporation, except
31 that all shares of the same class shall be either without par value or
32 shall have the same par value. Each class and series shall be
33 designated so as to distinguish its shares from every other class and
34 series.

35 b. A capital stock association may, in its original or amended
36 certificate of incorporation, make provision for authorized but
37 unissued stock. Such stock may, with the approval of the
38 commissioner as hereinafter provided, be issued for such purposes, in
39 addition to the purposes expressly authorized by law, and for such
40 consideration as the board of directors may determine. So long as
41 such stock remains unissued, it shall not constitute capital stock for
42 the purposes of P.L. 1963, c. 144 (C. 17:12B-1 et seq.).

43 c. Prior to the time when authorized or unissued shares are issued
44 by a capital stock association, a certificate of amendment made by two
45 officers of the capital stock association, one of whom shall be the
46 president or a vice-president, shall be filed in the Department of

1 Banking and Insurance. The certificate of amendment shall state (1)
2 the amount of the authorized but unissued stock which will be issued;
3 (2) the consideration which will be received by the capital stock
4 association on the issuance of such stock; (3) the date upon which the
5 stock will be issued; and (4) the amount of the capital stock
6 association's capital stock which will be outstanding, and the amount
7 of its surplus after giving effect to such issue. A filing shall be deemed
8 approved on the 30th day after receipt by the commissioner, unless
9 approved or disapproved earlier by the commissioner in writing. Upon
10 approval pursuant to this section, the certificate of incorporation shall
11 thereupon be amended as set forth in the certificate of amendment.
12 The commissioner may disapprove a filing if the commissioner finds
13 that the issuance of the stock will be in violation of law or contrary to
14 the public interest or that the capital stock association's original or
15 amended certificate of incorporation does not provide for authorized
16 but unissued stock. A certificate filed in the department pursuant to
17 this section shall be deemed for all purposes to be an amendment of
18 the capital stock association's certificate of incorporation with the
19 same effect as if it had been authorized, executed, approved and filed
20 in the department pursuant to article 19 of P.L. 1963, c. 144 (C.
21 17:12B-1 et seq.).²

22 (cf: P.L.1974, c.137, s.35)

23

24 ²[12.] 15.² Sections 9 and 10 of P.L.1981, c.153 (C.17:9A-24a
25 and C.17:9A-24b) and section 2 of P.L.1981, c.163 (C.17:9A-24b.2)
26 are repealed.

27

28 ²[13.] 16.² This act shall take effect immediately.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2263

with Assembly Floor Amendments
(Proposed By Assemblyman BATEMAN)

ADOPTED: MARCH 27, 2000

In addition to technical amendments, these floor amendments: provide that a bank cannot issue authorized but unissued stock if its original or amended certificate of incorporation does not provide for such; provide that an expedited application for a branch of a bank, savings bank or savings association may be denied if the establishment of the branch will adversely affect the public interest; provide under the parity provisions of the bill that banks, savings banks and savings associations may exercise those powers, rights, benefits or privileges of an out-of-state bank or out-of-state savings bank or savings association which the commissioner has approved by regulation rather than on a case by case basis and when deciding on a case by case basis, the commissioner may establish by regulation grounds for rejection; provide the same approval process for issuing authorized but unissued stock for capital stock savings banks and capital stock associations as provided for banks under the bill; provide for the same approval process for stock dividends by capital stock associations as provided for banks; and amend the powers of savings associations to be consistent with new powers granted by the federal "Gramm-Leach-Bliley Act," which allows federally chartered institutions to engage in certain activities financial in nature and incidental to such activities.

P.L. 2000, CHAPTER 69, *approved July 13, 2000*
Assembly, No. 2263 (*Second Reprint*)

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

3

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

6

7 1. Section 2 of P.L. 1970, c. 294 (C. 17:9A-6.2) is amended to
8 read as follows:

9 2. Prior to the time when authorized or unissued shares are issued
10 by a bank, a certificate of amendment made by two officers of the
11 bank, one of whom shall be the president or a vice-president, shall be
12 filed in the Department of Banking and Insurance. The certificate of
13 amendment shall state (a) the amount of the authorized but unissued
14 stock which will be issued; (b) the consideration which will be
15 received by the bank on the issuance of such stock; (c) the date upon
16 which the stock will be issued; and (d) the amount of the bank's
17 capital stock which will be outstanding, and the amount of its surplus
18 after giving effect to such issue. **[If the Commissioner of Banking**
19 **finds that the bank's original or amended certificate of incorporation**
20 **provides for authorized but unissued stock, and if he finds that the**
21 **issuance of such stock will not be in violation of law or contrary to**
22 **the public interest, he shall endorse his approval upon the certificate**
23 **and file it in the Department of Banking.]** ¹**[The certificate shall be**
24 **submitted to the commissioner for approval. An applicant shall be**
25 **notified in writing by the commissioner within five days of receipt of**
26 **the certificate as to whether the filing of the certificate of amendment**
27 **is substantially complete. If an applicant is notified that a filing is not**
28 **substantially complete, the commissioner shall respond in writing as to**
29 **the substantial completeness of any subsequent filings by the applicant**
30 **within five days of receipt of the filings.]** ¹ A filing shall be deemed
31 approved on the ¹**[21st] 30th¹ day after ¹[a determination]receipt¹**
32 **by the commissioner ¹[that a filing is substantially complete]¹ , unless**
33 **approved or disapproved earlier by the commissioner in writing. Upon**
34 **approval pursuant to this section, the certificate of incorporation shall**
35 **thereupon be amended as set forth in the certificate of amendment.**
36 ¹**The commissioner may disapprove a filing if the commissioner finds**
37 **that the issuance of the stock will be in violation of law or contrary to**
38 **the public interest ²or that the bank's original or amended certificate**
39 **of incorporation does not provide for authorized but unissued stock².¹**

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ABI committee amendments adopted March 20, 2000.

² Assembly floor amendments adopted March 27, 2000.

1 A certificate filed in [such] the department pursuant to this section
2 shall be deemed for all purposes to be an amending of the bank's
3 certificate of incorporation with the same effect as if it had been
4 authorized, executed, approved and filed in such department pursuant
5 to article 19 of [the act of which this act is a supplement] P.L.1948,
6 c.67 (C.17:9A-116 et seq.).
7 (cf: P.L.1970, c.294, s.2)

8

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

11 20. A. (1) Before any full branch office shall be established, the
12 bank or savings bank shall file written application in the department
13 for the commissioner's approval thereof. If, after such investigation or
14 hearings, or both, as the commissioner may determine to be advisable,
15 the commissioner shall find:

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

18 (b) That the interests of the public will be served to advantage by
19 the establishment of such full branch office;

20 (c) That conditions in the locality in which the proposed full branch
21 office is to be established afford reasonable promise of successful
22 operation; and

23 (d) That the applicant has achieved sufficient compliance, as
24 defined by the commissioner by regulation, with the "Community
25 Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq.; the
26 commissioner shall, within 90 days after the filing of the application,
27 approve such application.

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

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

39 B. Before any minibranch office shall be established, the bank or
40 savings bank shall file a written application on forms supplied by the
41 commissioner. A duly adopted resolution of the board of directors or
42 managers authorizing such application shall accompany the
43 application. Notice of such application shall be published in
44 accordance with procedural rules and regulations of the department.
45 Within 20 days after said notice is published, any person or banking
46 institution having objections to the application shall submit detailed

1 written factual and legal grounds for the objection to the
2 commissioner. There shall be no hearing required to be held by the
3 commissioner in connection with such application. The commissioner,
4 after considering the application and written objections and such
5 investigation as the commissioner deems advisable, shall approve the
6 application, if the commissioner shall find

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

9 (2) That the costs of establishing such minibranch office, including
10 (a) construction and alteration costs; (b) the cost of real property to
11 be acquired in connection therewith or rental to be paid for space to
12 be occupied by such office; (c) the cost of purchasing or renting and
13 installing the equipment to be used in the operation of such office; and
14 (d) the cost of manning such office, shall not in the aggregate exceed
15 such sum as the commissioner shall deem reasonable, taking into
16 consideration the capital and surplus of the bank, or the surplus of the
17 savings bank.

18 C. (Deleted by amendment, P.L.1999, c.252.)

19 D. (Deleted by amendment, P.L.1999, c.252.)

20 E. A bank or savings bank shall provide insurance protection under
21 its bonding program for transactions involving a communication
22 terminal facility.

23 F. (Deleted by amendment, P.L.1996, c.17.)

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

33 H. (1) In lieu of the procedures set forth in subsection A or B of
34 this section, or in section 22 or 23 of P.L.1948, c.67 (C.17:9A-22 or
35 C.17:9A-23), a bank or savings bank which directly or through a
36 predecessor bank or savings bank by merger or other reorganization
37 has been in business for at least three years, and which is well
38 capitalized, adequately managed, and, if applicable, has received in its
39 most recent examination under the "Community Reinvestment Act of
40 1977," 12 U.S.C. s.2901 et seq., a rating of not less than "satisfactory
41 record of meeting community credit needs," or ²[it] its² equivalent,
42 may apply for expedited branch office approval pursuant to this
43 subsection. The bank or savings bank shall file written application of
44 the proposed establishment with the commissioner and with those
45 other persons designated by the commissioner by rule or regulation.
46 The application shall be accompanied by or be in the form of a

1 certification that (a) all applicable provisions of this subsection have
2 been met, (b) the applicant requests expedited processing under this
3 subsection, and (c) contains that other information, if any, as the
4 commissioner may require by rule or regulation to confirm that an
5 establishment of the branch will not adversely affect the safety and
6 soundness of the bank or savings bank ²or the public interest².

7 (2) ¹[An applicant shall be notified by the commissioner within five
8 days of receipt of the filing of the application as to whether the
9 application is substantially complete. If an applicant is notified that a
10 filing is not substantially complete, the commissioner shall respond in
11 writing as to the substantial completeness of any subsequent filing
12 within five days of receipt of the filing.]¹ An application shall be
13 deemed approved on the ¹[21st] ¹30th¹ day after
14 ¹[determination]receipt¹ by the commissioner ¹[that the application
15 is substantially complete]¹, unless approved or denied earlier by the
16 commissioner in writing.

17 (3) For purposes of this subsection, "well capitalized" has the
18 meaning given the term in 12 U.S.C. s.1831o and " well managed"
19 means, unless otherwise determined in writing by the commissioner,
20 (a) the achievement of a composite rating of 1 or 2 under the Uniform
21 Financial Institutions Rating System or an equivalent rating system, in
22 connection with the most recent examination or subsequent review of
23 the bank or savings bank, and (b) at least a rating of 2 for
24 management, if such a rating is given. Nothing in this subsection shall
25 be construed to affect the confidentiality of any rating under applicable
26 law or regulation.

27 (cf: P.L.1999, c.252, s.3)

28
29 3. Section 1 of P.L.1981, c.163 (C.17:9A-24b1) is amended to
30 read as follows:

31 1. [The Commissioner of Banking shall have the power to
32 promulgate rules and regulations authorizing] Notwithstanding the
33 provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) or any other law,
34 banks and savings banks [to] may exercise those powers, rights
35 benefits or privileges now or hereafter authorized for national or out-
36 of-state banks or for Federal [mutual] or out-of-state savings banks
37 or savings associations either directly or through a financial subsidiary
38 or other subsidiary, to the same extent and, subject to the same
39 limitations as national or out-of-state banks or Federal [mutual] or
40 out-of-state savings banks or savings associations, may exercise those
41 powers, rights, benefits or privileges, provided that before exercising
42 any power, right, benefit or privilege of an out-of-state bank or out-of-
43 state savings bank or savings association, ²the commissioner has
44 adopted a regulation approving an exercise of that power, right,
45 benefit or privilege by banks and savings banks generally or² the bank

1 or savings bank provides notice to the commissioner ²[.]² and ¹on a
2 case by case basis¹ the commissioner either approves the activity or
3 does not provide notice before the expiration of ¹[30] 45¹ days that
4 such power, right, benefit or privilege is not appropriate for ¹[a] the¹
5 New Jersey bank or savings bank on the grounds of safety and
6 soundness ²or on other grounds designated by the commissioner by
7 regulation². The commissioner shall have the authority to adopt rules
8 and regulations pursuant to this section, which rules and regulations
9 shall have as their objective the placing of banks and savings banks on
10 a substantially competitive parity with national and out-of-state banks
11 and Federal and out-of-state savings banks and savings associations.
12 [Any such regulations shall be in substantial conformity with similar
13 rules and regulations of the Federal Home Loan Bank Board.]
14 (cf: P.L.1981, c.163, s.1)

15

16 4. Section 8 of P.L.1979, c.226 (C.17:9A-24.9) is amended to read
17 as follows:

18 8. Additional powers of banks and savings banks. In addition to
19 the powers which banks and savings banks may otherwise exercise,
20 every bank and savings bank, as defined in section 1 of "The Banking
21 Act of 1948," P.L.1948, c.67 (C.17:9A-1), shall have power

22 (1) To subscribe for, purchase and hold stock of one or more
23 insurance companies organized under the laws of this State which have
24 been or may hereafter be limited to insure banks, savings banks and
25 other depository institutions

26 (a) Against loss from the defaults of persons in positions of trust,
27 public or private, or against loss or damage on account of neglect or
28 breaches of duty or obligations guaranteed by the insurer; and against
29 loss of any bills of exchange, notes, checks, drafts, acceptances of
30 drafts, bonds, securities, evidences of debt, deeds, mortgages,
31 documents, gold or silver, bullion, currency, money, platinum and
32 other precious metals, refined or unrefined, and articles made
33 therefrom, jewelry, watches, necklaces, bracelets, gems, precious and
34 semiprecious stones, and also against loss resulting from damage,
35 except by fire, to the insured's premises, furnishings, fixtures,
36 equipment, safes and vaults therein, caused by burglary, robbery,
37 holdup, theft or larceny, or attempt thereat. No such indemnity
38 indemnifying against loss of any property as specified herein shall
39 indemnify against the loss of any such property occurring while in the
40 mail or in the custody or possession of a carrier for hire for the
41 purpose of transportation, except for the purpose of transportation by
42 an armored motor vehicle accompanied by one or more armed guards;
43 and

44 (b) Against loss or damage by burglary, theft, larceny, robbery,
45 forgery, fraud, vandalism or malicious mischief, or any one or more of
46 such hazards; and against any and all kinds of loss or destruction of or

1 damage to moneys, securities, currencies, scrip, coins, bullion, bonds,
2 notes, drafts, acceptances of drafts, bills of exchange and other
3 valuable papers or documents, except while in the custody or
4 possession of and being transported by a carrier for hire or in the mail.

5 (2) To make loans and investments as authorized for associations
6 by section 155 of the "Savings and Loan Act (1963)," P.L.1963, c.144
7 (C.17:12B-155).

8 (3) To make loans and investments as authorized for associations
9 by, and subject to the limitations of, sections 157 through 160 and 162
10 through 164 of the "Savings and Loan Act (1963)," P.L.1963, c.144
11 (C.17:12B-157 through C.17:12B-160 and C.17:12B-162 through
12 C.17:12B-164).

13 (4) To extend credit through the use of credit cards issued by it
14 through an arrangement with participating vendors, and without
15 limitation of the generality of the foregoing, to exercise all the powers
16 permitted to associations pursuant to subsection (18) of section 48 of
17 the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-48).

18 (5) To make any investment authorized for associations by section
19 165 of the "Savings and Loan Act (1963)," P.L.1963, c.144
20 (C.17:12B-165), provided, however, that where reference is made to
21 State associations or federal associations therein such reference for
22 purposes of this act shall be deemed to refer to banking institutions as
23 defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67
24 (C.17:9A-1).

25 (6) To exercise any powers and activities that have been or are
26 hereafter approved by regulation of the Board of Governors of the
27 Federal Reserve System as being (i) financial in nature or incidental to
28 such financial activity, (ii) complementary to a financial activity and
29 not posing a substantial risk to the safety or soundness of depository
30 institutions or the financial system generally, or (iii) so closely related
31 to banking or managing or controlling banks as to be a proper activity
32 for a bank holding company or financial holding company pursuant to
33 the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s.
34 1841 et seq.) and regulations thereunder, to the extent that federal law
35 does not prohibit banks or savings banks from exercising those powers
36 or activities.

37 (7) To apply to the commissioner for authority, and if granted, to
38 exercise any power or activity that has been or is hereafter deemed to
39 be (i) financial in nature or incidental to such financial activity, (ii)
40 complementary to a financial activity and not posing a substantial risk
41 to the safety or soundness of depository institutions or the financial
42 system generally, or (iii) closely related to banking under the "Bank
43 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
44 seq.) and which has been permitted on an individual basis by order of
45 the Board of Governors of the Federal Reserve System.

46 (8) To make loans, as defined in this subsection, pursuant to which

1 the parties may contract for and the bank or savings bank may receive
2 interest or other compensation at a rate or rates or in an amount that
3 the bank or savings bank and the borrower may agree upon,
4 notwithstanding the provisions of any other law of this State, except
5 N.J.S.2C:21-19, which limits the interest rate or finance charge which
6 would otherwise be applicable to the loan. A loan, for the purposes
7 of this subsection, includes loans in the amount of \$5,000.00 or more,
8 payable on demand or in installments, and (a) which is for the purpose
9 of acquiring or is secured by equipment used for business or
10 commercial purposes or (b) is secured by (i) an interest in warehouse
11 receipts, bills of lading, or other documents of title which are subject
12 to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an
13 interest in negotiable instruments or commercial paper which are
14 subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii)
15 by an interest in stocks, bonds, certificates of deposit or other
16 securities which are subject to chapter 8 of Title 12A of the New
17 Jersey Statutes, or (iv) by an interest in any combination of the
18 foregoing.

19 (9) To engage in the business of providing data processing and
20 computer services.

21 (10) To acquire, by purchase or otherwise, and to sell warrants,
22 options or other similar rights to any class or classes of equity
23 securities issued or to be issued by a corporation, if, at the time the
24 warrants, options or other similar rights are acquired, the issuer, or its
25 parent company, affiliate or subsidiary, is a borrower of funds loaned
26 by the bank or savings bank, and if the acquisition by purchase or
27 otherwise, and the sale of the warrants, options or other similar rights
28 neither adds to the bank's or saving bank's credit risk nor increases the
29 bank's or savings bank's financial liabilities.

30 The commissioner may, by regulation, prescribe the manner in
31 which and the extent to which the powers enumerated in this section
32 may be exercised, including whether they are to be exercised through
33 a subsidiary corporation and may, by regulation, prescribe other
34 powers, not otherwise expressly authorized or prohibited by law,
35 which banks and savings banks may exercise.

36 (cf: P.L.1985, c.528, s.2)

37

38 5. Section 52 of P.L.1948, c.67 (C.17:9A-52) is amended to read
39 as follows:

40 52. A. Dividends on the capital stock of a bank may be paid from
41 time to time wholly in cash, or wholly in stock of the bank, or partly
42 in cash and partly in stock of the bank as the board of directors may
43 in its discretion determine, subject to the limitations in this section
44 contained.

45 B. No dividend shall be paid by a bank on its capital stock unless,
46 following the payment of each such dividend, the capital stock of the

1 bank will be unimpaired, and

2 (1) the bank will have a surplus of not less than 50% of its capital
3 stock, or, if not,

4 (2) the payment of such dividend will not reduce the surplus of the
5 bank.

6 C. The certificate of incorporation of a bank, or an amendment
7 thereof, may provide that dividends may be paid in stock of the bank
8 without an amendment of the bank's certificate of incorporation
9 pursuant to article 19, notwithstanding the payment of such dividend
10 effects an increase in the capital stock of the bank. In such a case,
11 dividends may be paid from time to time in the stock of the bank, at
12 the discretion of the board of directors, without compliance with
13 article 19; provided that, prior to the date of the payment of any such
14 dividend, a certificate made by 2 officers of the bank, 1 of whom shall
15 be the president or a vice-president, shall be filed in the department for
16 the approval of the commissioner, stating

17 (1) the date upon which the dividend is to be paid; and

18 (2) the amount of such dividend; **[and]**

19 (3) the amount of the capital stock and the surplus of the

20 bank after giving effect to the payment of such dividend; ²**[and]**²

21 (4) the payment of the dividend will not violate the provisions of
22 subsection B of this section ²; and

23 (5) the certificate of incorporation of the bank, or an amendment
24 thereof, authorizes the payment of dividends in stock of the bank
25 without an amendment of the bank's certificate of incorporation
26 pursuant to article 19².

27 **[If the commissioner finds that the certificate of incorporation of**
28 **the bank, or an amendment thereof, authorizes the payment of**
29 **dividends in stock of the bank without an amendment of the bank's**
30 **certificate of incorporation pursuant to article 19, and if he finds that**
31 **the payment of the dividend will not violate subsection B of this**
32 **section, he shall endorse his approval upon the certificate, and shall file**
33 **it in the department.]** ¹**[An applicant shall be notified in writing by**
34 **the commissioner within five days of receipt of the certificate as to**
35 **whether the filing of the certificate is substantially complete. If an**
36 **applicant is notified that a filing is not substantially complete, the**
37 **commissioner shall respond in writing as to the substantial**
38 **completeness of any subsequent filings by the applicant within five**
39 **days of receipt of the filings.]** ¹ **A filing shall be deemed approved on**
40 **the ¹[21st] 30th¹ day after ¹[a determination] receipt¹ by the**
41 **commissioner ¹[that a filing is substantially complete]¹, unless**
42 **approved or denied earlier by the commissioner in writing. Upon**
43 **approval pursuant to this section, the certificate shall thereupon be**
44 **amended as set forth in the certificate of amendment. A certificate**
45 **filed in the department pursuant to this subsection shall be deemed for**
46 **all purposes to be an amendment of the certificate of incorporation of**

1 the bank with the same effect as if it had been authorized, executed,
2 approved and filed in the department pursuant to article 19.

3 D. When the certificate of incorporation of a bank, or an
4 amendment thereof, does not provide that dividends may be paid in
5 stock of the bank without an amendment of the bank's certificate of
6 incorporation pursuant to article 19, no such dividend which results in
7 an increase in the capital stock of the bank shall be paid unless the
8 necessary increase in capital stock is authorized pursuant to article 19.

9 E. Subsections C and D of this section shall not apply to a stock
10 dividend paid pursuant to section 212.

11 F. This section shall not limit the power of a bank to pay dividends
12 on shares of preferred stock issued prior to the effective date of this
13 act, as provided in its certificate of incorporation.

14 (cf: P.L.1955, c.118, s.1)

15

16 6. Section 117 of P.L.1948, c.67 (C.17:9A-117) is amended to
17 read as follows:

18 117. Whenever the board of directors shall deem it advisable to
19 amend the certificate of incorporation, it shall adopt a resolution
20 setting forth the proposed amendment and fixing a date for a meeting
21 of stockholders to take action thereon, upon notice given pursuant to
22 section 81. If, at such meeting or at any adjournment thereof, the
23 holders of at least two-thirds of the capital stock entitled to vote shall
24 vote in favor of the proposed amendment or any modification thereof,
25 a certificate thereof, setting forth the amendment in full and certifying
26 that the amendment was made for a purpose authorized by law in the
27 manner required by this article, shall be made and acknowledged by
28 two officers of the bank, one of whom shall be the president or
29 vice-president, and shall be submitted to the commissioner for [his]
30 approval. [If the commissioner shall find that the amendment is for a
31 purpose authorized by law, and that all the conditions and
32 requirements in this article and elsewhere in this act specified as
33 prerequisites to an amendment to a certificate of incorporation have
34 been satisfied, he shall endorse his approval upon the certificate of
35 amendment, and shall file it in the department, and] ¹[An applicant
36 shall be notified in writing by the commissioner within five days of
37 receipt of the certificate as to whether the filing of the certificate of
38 amendment is substantially complete. If an applicant is notified that
39 a filing is not substantially complete, the commissioner shall respond
40 in writing as to the substantial completeness of any subsequent filings
41 by the applicant within five days of receipt of the filings.]¹ A filing
42 shall be deemed approved on the ¹[21st] ¹30th¹ day after ¹[a
43 determination] receipt¹ by the commissioner ¹[that a filing is
44 substantially complete]¹, unless approved or denied earlier by the
45 commissioner in writing. Upon approval pursuant to this section, the
46 certificate of incorporation shall thereupon be amended as set forth in

1 the certificate of amendment.

2 (cf: P.L.1953, c.141, s.4)

3

4 7. Section 198 of P.L.1948, c.67 (C.17:9A-198) is amended to
5 read as follows:

6 198. A. Whenever the board of managers of any savings bank shall
7 deem it advisable to amend the certificate of incorporation, it shall, by
8 a vote of not less than 2/3 of the managers then in office, adopt a
9 resolution setting forth the proposed amendment, and shall publish
10 notice of intention to apply to the commissioner for approval of such
11 amendment at least once a week for 4 successive weeks, in the manner
12 provided in section 10. A copy of the resolution, certified by 2
13 officers, together with proof of such publication and a certified
14 statement that the amendment was made for a purpose authorized by
15 law in the manner specified by this section shall be submitted to the
16 commissioner for approval. [If the commissioner shall find that the
17 amendment is for a purpose authorized by law, and that all the
18 requirements in this article and elsewhere in this act specified as
19 prerequisites to an amendment of a certificate of incorporation by a
20 savings bank have been satisfied, he shall indorse his approval upon
21 the certificate of amendment, and shall file it in the department, and]
22 ¹[An applicant shall be notified in writing by the commissioner within
23 five days of receipt of the certificate as to whether the filing of the
24 certificate of amendment is substantially complete. If an applicant is
25 notified that a filing is not substantially complete, the commissioner
26 shall respond in writing as to the substantial completeness of any
27 subsequent filings by the applicant within five days of receipt of the
28 filing.]¹ A filing shall be deemed approved on the ¹[21st] 30th¹ day
29 after ¹[a determination] receipt¹ by the commissioner ¹[that a filing
30 is substantially complete]¹, unless approved or denied earlier by the
31 commissioner in writing. Upon approval pursuant to this section, the
32 certificate of incorporation shall thereupon be amended as set forth in
33 the certificate of amendment.

34 B. When the amendment is for the purpose specified in paragraph
35 (2) of section 197, the commissioner shall give special consideration
36 to the following:

37 (1) the needs of the community for trust services, and the probable
38 volume of trust business which will be available to the savings bank;

39 (2) the condition of the savings bank, particularly the adequacy of
40 its capital deposits, if any and surplus in relation to its deposit
41 liabilities and other corporate responsibilities, including the proposed
42 exercise of fiduciary powers; but no savings bank shall be authorized
43 to make such an amendment unless its capital deposits, if any, and
44 surplus amount to at least \$500,000.00;

45 (3) the general character and ability of the management of the
46 savings bank;

1 (4) the nature of the supervision to be given to the proposed
2 fiduciary activities;

3 (5) the qualifications, experience and character of the proposed
4 officer or officers who will have control or supervision of the
5 proposed fiduciary activities;

6 (6) whether the savings bank has available competent legal counsel
7 to advise and pass upon trust matters whenever necessary; and

8 (7) any other matters which, in the discretion of the commissioner,
9 are relevant.

10 (cf: P.L.1965, c.171, s.19)

11

12 8. Section 21 of P.L.1987, c.201 (C.17:9A-402) is amended to
13 read as follows:

14 21. Whenever the board of directors of a subsidiary capital stock
15 savings bank deems it advisable to amend the certificate of
16 incorporation, it shall adopt a resolution setting forth the proposed
17 amendment, which amendment shall be approved, at a meeting of the
18 stockholders entitled to vote, by at least 2/3 of the capital stock
19 entitled to vote. If the holders of 2/3 of the shares of capital stock
20 entitled to vote approve the amendment, a certificate of this approval
21 setting forth the amendment and certifying that the amendment was
22 made for a purpose authorized by law in the manner specified by this
23 section, shall be attested by two officers of the bank, one of whom
24 shall be the president or vice president, and shall be submitted to the
25 commissioner for approval. [If the commissioner finds that the
26 amendment is for a purpose authorized by law, and that all
27 requirements of law have been met regarding an amendment to a
28 certificate of incorporation, he shall endorse his approval upon the
29 certificate of amendment, and shall file it with the department, and the
30 certificate of incorporation shall thereupon be deemed to be
31 amended.] ¹[An applicant shall be notified in writing by the
32 commissioner within five days of receipt of the certificate as to
33 whether the filing of the certificate of amendment is substantially
34 complete. If an applicant is notified that a filing is not substantially
35 complete, the commissioner shall respond in writing as to the
36 substantial completeness of any subsequent filings by the applicant
37 within five days of receipt of the filings.]¹ A filing shall be deemed
38 approved on the ¹[21st] 30th¹ day after ¹[a determination] receipt¹
39 by the commissioner ¹[that a filing is substantially complete]¹, unless
40 approved or denied earlier by the commissioner in writing. Upon
41 approval pursuant to this section, the certificate of incorporation shall
42 thereupon be amended as set forth in the certificate of amendment.

43 (cf: P.L.1987, c.201, s.21)

44

45 9. Section 24 of P.L.1963, c.144 (C.17:12B-24) is amended to
46 read as follows:

1 24. A. No State association shall hereafter establish or operate a
2 branch office or offices, other than as provided by [the conditions and
3 limitations of sections 24 through 27 of this act] law without the prior
4 written approval of the commissioner; provided, however, that any
5 association operating an authorized branch office at the effective date
6 of this act may continue to do so.

7 (1) An association operating a branch office approved prior to the
8 effective date of this act with conditions or restrictions imposed on its
9 operation may upgrade such office by notifying the commissioner at
10 least 30 days before such upgrading. A branch office is considered
11 upgraded if the association is relieved of any of the conditions or
12 restrictions imposed on operation of the office when it opened. If
13 within 30 days of receipt of the notice, the commissioner does not
14 notify the association of his objection which would require the
15 association to submit an application or additional information before
16 upgrading, the association may upgrade the office.

17 (2) An approved, but unopened branch office as of the effective
18 date of this amendatory act may open and operate in the same manner
19 as a branch office approved subsequent to the effective date of this
20 amendatory act.

21 (3) Any application which deals with offices of a State association
22 filed with the commissioner prior to the effective date of this
23 amendatory act shall continue to be processed as any application filed
24 subsequent to the effective date of this amendatory act; however, the
25 commissioner may request such additional information as may be
26 necessary to comply with the requirements of this amendatory act.

27 B. An association may apply for a branch office regardless of the
28 number of branch applications it has pending before the commissioner.
29 Within ²[15 days after submission of any branch application to the
30 commissioner, the applying State association shall give notice of such
31 application by publication of a notice of such application in a
32 newspaper published within the municipality in which it is proposed to
33 locate the branch office if there be one or, if there be no such
34 newspaper, in a newspaper published in the county and having a
35 substantial circulation in the municipality. The notice shall be in a
36 form approved by the commissioner, and shall include the name of the
37 applying association and the location, as precisely as possible, in the
38 municipality where such branch office is to be located. For good
39 cause, the commissioner may dispense with the notice requirements of
40 this section.

41 No less than 30 days after filing with the commissioner the proof of
42 publication of the aforementioned notice within]² 90 days
43 ²[thereafter] after receipt of a branch application², the commissioner
44 shall announce his decision upon such application ²[and file in his
45 office a written memorandum stating the reasons therefor, which shall
46 be open to public inspection; and he shall forthwith thereafter give

1 written notice thereof to the applicant]².

2 C. The commissioner shall approve the application if the
3 commissioner finds that:

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

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

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

21 (4) that the applicant has achieved sufficient compliance as defined
22 by the commissioner by regulation with the provisions of the
23 "Community Reinvestment Act of 1977," 12 U.S.C. ²s. ²2901 et seq.

24 D. (Deleted by amendment, P.L.1996, c.17.)

25 E. The commissioner shall conduct such investigation or hearing,
26 or both, as the commissioner may deem advisable. The commissioner
27 may adopt, amend, alter or rescind regulations prescribing the form of
28 protest to applications and the procedures to be followed in the event
29 that the commissioner elects to hold a hearing in connection with an
30 application for a branch office, and such other regulations as the
31 commissioner may deem necessary with respect to the provisions of
32 this section.

33 F. (1) In lieu of the procedures set forth in subsections A through
34 C and E of this section, ²[or]² section 89 of P.L.1996, c.17
35 (C.17:12B-24.1), ²paragraph (2) of section 28 of P.L.1963, c. 144 (C.
36 17:12B-28), or paragraph (2) of section 40 of P.L. 1963, c. 144 (C.
37 17:12B-40),² a State association which, directly or through a
38 predecessor association by merger or other reorganization, has been
39 in business for at least three years, and which is well capitalized,
40 adequately managed, and, if applicable, has received in its most recent
41 examination under the "Community Reinvestment Act of 1977," 12
42 U.S.C.s.2901 et seq., a rating of not less than "satisfactory record of
43 meeting community credit needs," or its equivalent, may apply for
44 expedited branch office approval pursuant to this subsection. The
45 State association shall file written application of the proposed
46 establishment with the commissioner and with those other persons

1 designated by the commissioner by rule or regulation. The application
2 shall be accompanied by or be in the form of a certification that (a) all
3 applicable provisions of this subsection have been met, (b) the
4 applicant requests expedited processing under this subsection, and (c)
5 contains that other information, if any, as the commissioner may
6 require by rule or regulation to confirm that an establishment of the
7 branch will not adversely affect the safety and soundness of the State
8 association ²or the public interest².

9 (2) ¹[An applicant shall be notified by the commissioner within five
10 days of receipt of the filing of the application as to whether the
11 application is substantially complete. If an applicant is notified that a
12 filing is not substantially complete, the commissioner shall respond in
13 writing as to the substantial completeness of any subsequent filings
14 within five days of receipt of the filings.]¹ An application shall be
15 deemed approved on the ¹[21st] 30th ¹day after [determination]
16 receipt¹ by the commissioner ¹[that the application is substantially
17 complete]¹, unless approved or denied earlier by the commissioner in
18 writing.

19 (3) For purposes of this subsection, the term "well capitalized" has
20 the meaning given the term in 12 U.S.C. s.1831o and "well managed"
21 means, unless otherwise determined in writing by the commissioner,
22 (a) the achievement of a composite rating of 1 or 2 under the Uniform
23 Financial Institutions Rating System or an equivalent rating system in
24 connection with the most recent examination or subsequent review of
25 the State association, and (b) at least a rating of 2 for management, if
26 such rating is given. Nothing in this subsection shall be construed to
27 affect the confidentiality of any such rating under applicable law or
28 regulation.

29 (cf: P.L.1996, c.17, s.88)

30

31 10. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to
32 read as follows:

33 48. Without limiting the generality of the foregoing, every
34 association shall have power to:

35 (1) Have succession by its corporate name for the period limited
36 in its charter or certificate of incorporation, and when no period is
37 limited, perpetually.

38 (2) Sue and be sued in any court.

39 (3) Adopt and use a corporate seal and alter the same.

40 (4) Purchase and otherwise acquire, hold, mortgage, pledge, lease,
41 exchange, sell, convey and otherwise dispose of, any real and personal
42 property, necessary or incidental to its operations and consistent with
43 its powers and purposes.

44 (5) Insure its members' accounts with the Federal [Savings and
45 Loan] Deposit Insurance Corporation, and comply with conditions
46 necessary to obtain and maintain such insurance.

1 (6) Become a member of or stockholder in a Federal Home Loan
2 Bank and to that end to comply with all conditions of membership
3 therein.

4 (7) Act as agent for the United States or the State of New Jersey
5 or any instrumentality of either of them, when designated for that
6 purpose, and perform such reasonable duties as such agent as may be
7 required of it.

8 (8) Join any cooperative league organized for the purpose of
9 protecting and promoting the welfare of associations and their
10 members and comply with all conditions of membership therein.

11 (9) Borrow money from any source in or out of the State, on the
12 note, bond and mortgage or other obligation of the association upon
13 such terms and conditions as the board may from time to time
14 prescribe by resolution adopted by at least a majority of all the
15 members of the board and duly recorded on the minutes and to
16 pledge, assign or transfer mortgages, owned by the association and
17 the obligations secured by such mortgages, together with the shares,
18 if any, pledged as collateral security therefor, or any real or other
19 personal property, as security for the repayment of money so
20 borrowed. No association shall borrow money if by doing so the
21 aggregate of its indebtedness for borrowed money other than to the
22 Federal Home Loan Bank will exceed 20% of its capital, except with
23 the approval of the commissioner.

24 (10) (Deleted by amendment.)

25 (11) Require an advance payment of interest for a period of 1
26 month on any loan; and accept advance payments of interest, if made
27 at the option of the debtor, for any period on any loan. None of such
28 payments shall be deemed usurious.

29 (12) Where shares are issued, charge an admission fee, not to
30 exceed \$0.25 per share, which shall include the cost of membership or
31 share certificate and account book.

32 (13) Impose charges upon a member for failure to make any
33 payment to the association when due, but only as provided in this
34 paragraph. Where the association issues installment share accounts it
35 may impose such charge upon any member holding such an account or
36 any borrower upon a sinking fund mortgage not in excess of 1% a
37 month upon the amount in arrears, except for the first month's
38 arrearage or the amount by which such first month's arrearage may be
39 increased by subsequent arrearage, in which case a charge not in
40 excess of 5% may be imposed. Such charges shall be subject to the
41 further limitations that no such charge shall be deducted from any
42 amount actually paid by a member upon an account nor shall the total
43 of any such charges against any account in any fiscal year exceed the
44 amount that may be charged for failure to make any payments for a
45 6-month period nor shall any charge for default be made on a charge
46 for default. Otherwise an association may impose a charge for failure

1 to make any required payment to it when due upon any loan or
2 contract for the resale of real estate to a member, not to exceed 4% of
3 the amount of each payment in arrears, but no more than one such
4 charge may be made with respect to any one payment in arrears. An
5 association may impose a reasonable service charge against any
6 member who tenders to such association, for collection or as
7 payment, a check or other instrument of any type which subsequently
8 is not honored by the institution or person upon which such check or
9 other instrument is drawn. None of such charges shall be deemed
10 usurious.

11 (14) Compute interest upon any direct reduction loan, on
12 designated payment dates, and add the same to the unpaid balance of
13 such loan.

14 (15) Act as agent for any person where such agency will further the
15 interests of the association and its members, subject to such limitations
16 as may be prescribed by the commissioner.

17 (16) Upon application to and approval by the commissioner, to act
18 as custodian or trustee within the contemplation of the Federal
19 Self-Employed Individuals Tax Retirement Act of 1962, as amended
20 and supplemented, and the Employee Retirement Income Security Act
21 of 1974 as amended and supplemented, and as custodian, trustee or
22 manager of any such investment fund the authorized investments of
23 which include, but need not be limited to, savings accounts or real
24 estate loans, and the beneficial interests in which may be represented
25 by transferable shares or certificates. Associations exercising the
26 powers authorized by this subsection shall segregate all funds held in
27 such fiduciary capacities from the general assets of the association and
28 shall keep a separate set of books and records showing in detail all
29 transactions made under authority of this subsection. If individual
30 records are kept for each self-employed individual's retirement plan
31 and each such investment fund, then all such funds held in such
32 fiduciary capacities by an association may be commingled for
33 appropriate purposes of investment. No funds held in such fiduciary
34 capacities shall be used by an association in the conduct of its
35 business; however, such funds may be invested in savings accounts of
36 the association in the event that the custodial, trust or other plan does
37 not prohibit such investment. In granting or refusing the association's
38 application the commissioner shall take into consideration the
39 investment policies, amount, type and adequacy of reserves, fidelity
40 bonds and any legally required deposits of the applicant and other
41 pertinent facts and circumstances.

42 (17) Upon compliance with subsection (5) of this section, accept
43 from its members accounts to be repaid upon such terms, not
44 inconsistent with this act, as are approved by the Commissioner of
45 Banking and Insurance, by regulation or otherwise, provided that no
46 account shall exceed the limitations established by section 78 of

1 P.L.1963, c.144 (C.17:12B-78), and provided further that no account
2 shall be accepted or issued in the name of any corporation, association
3 or partnership or in the name of any individual for use in trade or
4 business. An association issuing such accounts may honor demands
5 for withdrawal of such accounts in the form of negotiable checks,
6 drafts or orders in the form of electronic fund transfers and may
7 become a member of a clearing facility and satisfy reasonable
8 conditions required for its qualification and pay reasonable expenses
9 therefor. Such accounts may be either interest-bearing or
10 noninterest-bearing; provided, however, that the payment of interest
11 on such accounts be permitted by federal law. An association
12 accepting accounts pursuant to this subsection shall, at all times,
13 maintain reserves against such accounts as shall be prescribed in
14 regulations issued by the commissioner in accordance with the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
16 but such reserves shall be equal in nature and amount to those required
17 of savings banks in this State against similar accounts. Such reserves
18 shall be maintained in cash or deposits in one or more reserve
19 depositories as authorized by the Commissioner of Banking and
20 Insurance. Regulations of the commissioner may also provide that
21 associations issuing such type of accounts maintain a general reserve
22 account, federal insurance reserve account and undivided profits of
23 specified minimum amounts and provide for minimum standards of
24 office facilities in connection therewith. An insured association may
25 impose a reasonable service charge for providing and maintaining such
26 accounts for the benefit of its members.

27 (18) Issue credit cards, extend credit in connection therewith, and
28 otherwise engage in or participate in credit card operations subject to
29 such regulations as the commissioner may prescribe. Any such
30 regulations shall be in substantial conformity with similar rules and
31 regulations of the [Federal Home Loan Bank Board] Office of Thrift
32 Supervision.

33 (19) (a) Apply to the commissioner for permission to act as
34 trustee, executor, administrator, guardian, or in any other fiduciary
35 capacity in which federal savings and loan associations doing business
36 in this State are permitted to act. Associations exercising any or all of
37 the powers enumerated in this section shall segregate all assets held in
38 any fiduciary capacity from the general assets of the association and
39 shall keep a separate set of books and records showing in proper detail
40 all transactions engaged in under authority of this section. No
41 association shall receive in its trust department deposits of current
42 funds subject to check or the deposit of checks, drafts, bills of
43 exchange, or other items for collection or exchange purposes. Funds
44 deposited or held in trust by the association awaiting investment shall
45 be carried in a separate account and shall not be used by the
46 association in the conduct of its business unless it shall first set aside

1 in the trust department United States bonds or other securities
2 approved by the commissioner. In the event of the failure of such
3 association, the owners of the funds held in trust for investment shall
4 have a lien on the bonds or other securities so set apart, in addition to
5 their claim against the estate of the association. Whenever the laws of
6 this State require corporations acting in a fiduciary capacity to deposit
7 securities with the State authorities for the protection of private or
8 court trusts, associations so acting shall be required to make similar
9 deposits and securities so deposited shall be held for the protection of
10 private or court trusts, as provided by New Jersey law. Associations
11 in such cases shall not be required to execute the bond usually required
12 of individuals if New Jersey corporations under similar circumstances
13 are exempt from this requirement. Associations shall have power to
14 execute such bond when so required by the laws of New Jersey. In
15 any case in which the laws of this State require that a corporation
16 acting as trustee, executor, administrator, or in any capacity specified
17 in this section shall take an oath or make an affidavit, any officer, as
18 defined in section 65 of P.L.1963, c.144 (C.17:12B-65), of such
19 association may take the necessary oath or execute the necessary
20 affidavit. It shall be unlawful for any association to lend any officer,
21 director, or employee any funds held in trust under the powers
22 conferred by this section. Any officer, director, or employee making
23 such loan, or to whom such loan is made, may be fined not more than
24 \$5,000.00, or imprisoned not more than 5 years, or may be both fined
25 and imprisoned, in the discretion of the court. In passing upon
26 applications for permission to exercise the powers enumerated in this
27 section, the commissioner may take into consideration the amount of
28 capital and surplus of the applying association, whether or not such
29 capital and surplus is sufficient under the circumstances of the case,
30 the needs of the community to be served, and any other facts and
31 circumstances that seem to him proper, and may grant or refuse the
32 application accordingly, except that approval shall not be granted to
33 any association having a capital and surplus less than the capital and
34 surplus required by New Jersey law of State banks, trust companies,
35 and corporations exercising such powers.

36 (b) Any association desiring to surrender its right to exercise the
37 powers granted under this section, in order to relieve itself of the
38 necessity of complying with the requirements of this section, or to
39 have returned to it any securities which it may have deposited with the
40 State authorities for the protection of private or court trusts, or for
41 any other purpose, may file with the commissioner a certified copy of
42 a resolution of its board of directors signifying such desire. Upon
43 receipt of such resolution, the commissioner, after satisfying himself
44 that such association has been relieved in accordance with State law
45 of all duties as trustee, executor, administrator, guardian or other
46 fiduciary, under court, private or other appointments previously

1 accepted under authority of this section, may, in its discretion, issue
2 to such association a certificate certifying that such association is no
3 longer authorized to exercise the powers granted by this section.
4 Upon the issuance of such a certificate by the commissioner, such
5 association (i) shall no longer be subject to the provisions of this
6 section or the regulations of the commissioner made pursuant thereto,
7 (ii) shall be entitled to have returned to it any securities which it may
8 have deposited with the State authorities for the protection of private
9 or court trusts, and (iii) shall not exercise thereafter any of the powers
10 granted by this section without first applying for and obtaining
11 approval to exercise such powers pursuant to the provisions of this
12 section.

13 (c) The commissioner is authorized and empowered to promulgate
14 such regulations as he may deem necessary to enforce compliance with
15 the provisions of this section and the proper exercise of the trust
16 powers granted by this section. Any such regulations shall be in
17 substantial conformity with similar rules and regulations of the
18 **[Federal Home Loan Bank Board] Office of Thrift Supervision.**

19 (20) In accordance with rules and regulations promulgated by the
20 commissioner, issue and sell directly to subscribers or through
21 underwriters mutual capital certificates. Such certificates shall
22 constitute part of the general reserve and net worth of the issuing
23 association. Such certificates--

24 (a) Shall be subordinate to all savings accounts, savings
25 certificates, and debt obligations;

26 (b) Shall constitute a claim in liquidation on the general reserves,
27 surplus, and undivided profits of the association remaining after the
28 payment in full of all savings accounts, savings certificates, and debt
29 obligations;

30 (c) Shall be entitled to the payment of dividends; and

31 (d) May have a fixed or variable dividend rate.

32 The commissioner is authorized and empowered to promulgate such
33 regulations as he may deem necessary with respect to the powers
34 granted by this section. Any such regulations shall be in substantial
35 conformity with similar rules and regulations of the **[Federal Home**
36 **Loan Bank Board] Office of Thrift Supervision.** The commissioner
37 shall provide in his regulations for charging losses to the mutual
38 capital certificates, reserves, and other net worth accounts.

39 (21) **[If authorized by regulation of the commissioner, exercise any**
40 **power, right, benefit, or privilege permitted to federal associations,**
41 **provided that such power, right, benefit or privilege is not specifically**
42 **prohibited by law, which regulation shall be in substantial conformity**
43 **with similar rules and regulations of the Federal Home Loan Bank**
44 **Board; and exercise any power, right, benefit or privilege under this**
45 **section, modified by regulation of the commissioner, where the Federal**
46 **Home Loan Bank Board has, by regulation, modified that power,**

1 right, benefit or privilege with respect to federal associations.]
2 Notwithstanding the provisions of P.L.1963, c.144 (C.17:12B-1 et
3 seq.) or any other law ¹, ¹ exercise those powers, rights, benefits or
4 privileges now or hereafter authorized for national or out-of-state
5 banks or for Federal or out-of-state savings banks or savings
6 associations either directly or through a financial subsidiary or other
7 subsidiary, to the same extent and subject to the same limitations as
8 national or out-of-state banks or Federal or out-of-state savings banks
9 or savings associations may exercise those powers, rights, benefits or
10 privileges, provided that before exercising any power, right, benefit or
11 privilege of any out-of-state bank or out-of-state savings bank or
12 savings association, ²the commissioner has adopted a regulation
13 approving an exercise of that power, right, benefit or privilege by state
14 associations generally or ²the State association provides notice to the
15 commissioner ²[.] ² and ¹on a case by case basis ¹ the commissioner
16 either approves the activity or does not provide notice before the
17 expiration of ¹[30] ⁴⁵¹ days that such power, right, benefit or
18 privilege is not appropriate for ¹[a] ¹ the State association on grounds
19 of safety and soundness ²or on other grounds designated by the
20 commissioner by regulation ². The commissioner shall have the
21 authority to adopt rules and regulations pursuant to this section, which
22 rules and regulations shall have as their objective the placing of State
23 associations on a substantial competitive parity with national and out-
24 of-state banks and Federal and out-of-state savings banks and savings
25 associations.

26 ²(22) Exercise any powers and activities that have been or are
27 hereafter approved by regulation of the Board of Governors of the
28 Federal Reserve System as being (i) financial in nature or incidental to
29 such financial activity, (ii) complementary to a financial activity and
30 not posing a substantial risk to the safety or soundness of depository
31 institutions or the financial system generally, or (iii) so closely related
32 to banking or managing or controlling savings associations as to be a
33 proper activity for a bank holding company or financial holding
34 company pursuant to the "Bank Holding Company Act of 1956," 70
35 Stat. 133 (12 U.S.C. s. 1841 et seq.) and regulations thereunder, to
36 the extent that federal law does not prohibit savings associations from
37 exercising those powers or activities.

38 (23) Apply to the commissioner for authority, and if granted, to
39 exercise any power or activity that has been or is hereafter deemed to
40 be (i) financial in nature or incidental to such financial activity, (ii)
41 complementary to a financial activity and not posing a substantial risk
42 to the safety or soundness of depository institutions or the financial
43 system generally, or (iii) closely related to banking under the "Bank
44 Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et
45 seq.) and which has been permitted on an individual basis by order of
46 the Board of Governors of the Federal Reserve System. ²
47 (cf: P.L.1983, c.5, s.1)

1 11. Section 21 of P.L.1989, c.165 (C.17:12B-312) is amended to
2 read as follows:

3 21. Whenever the board of directors of a subsidiary capital stock
4 state association deems it advisable to amend the certificate of
5 incorporation, it shall adopt a resolution setting forth the proposed
6 amendment, which amendment shall be approved, at a meeting of the
7 stockholders entitled to vote, by at least 2/3 of the capital stock
8 entitled to vote. If the holders of 2/3 of the shares of capital stock
9 entitled to vote approve the amendment, a certificate of this approval
10 shall be attested by two officers of the state association, one of whom
11 shall be the president or vice president, and shall be submitted to the
12 commissioner for approval. [If the commissioner finds that the
13 amendment is for a purpose authorized by law, and that all
14 requirements of law have been met regarding an amendment to a
15 certificate of incorporation, the commissioner shall approve it by
16 endorsing the certificate of amendment, and shall file it with the
17 department, and the certificate of incorporation shall thereupon be
18 deemed to be amended.] ¹[An applicant shall be notified in writing by
19 the commissioner within five days of receipt of the certificate as to
20 whether the filing of the certificate of amendment is substantially
21 complete. If an applicant is notified that a filing is not substantially
22 complete, the commissioner shall respond in writing as to the
23 substantial completeness of any subsequent filings by the applicant
24 within five days of receipt of the filings.] ¹ A filing shall be deemed
25 approved on the ¹[21st] 30th ¹day after ¹[a determination] receipt
26 by the commissioner ¹[that a filing is substantially complete] ¹, unless
27 approved or denied earlier by the commissioner in writing. Upon
28 approval pursuant to this section, the certificate of incorporation shall
29 thereupon be amended as set forth in the certificate of amendment.
30 (cf: P.L.1989, c.165, s.21)

31
32 ²12. Section 5 of P.L. 1982, c. 9 (C. 17:9A-8.5) is amended to
33 read as follows:

34 5. a. A capital stock savings bank may, in its original or amended
35 certificate of incorporation, make provision for authorized but
36 unissued stock. This stock may, with the approval of the
37 commissioner, be issued for those purposes, in addition to the
38 purposes expressly authorized by law, and for any consideration
39 which the board of directors may determine. So long as this stock
40 remains unissued, it shall not constitute capital stock for the purposes
41 of the act to which this act is a supplement.

42 b. Prior to the time when authorized but unissued shares are
43 issued by a capital stock savings bank, a certificate of amendment
44 made by two officers of the savings bank, one of whom shall be the
45 president or a vice-president, shall be filed with the department. The
46 certificate of amendment shall state: (1) the amount of the authorized
47 but unissued stock which will be issued; (2) the consideration which

1 will be received by the capital stock savings bank on the issuance of
2 the stock; (3) the date the stock will be issued; (4) the amount of the
3 capital stock which will be outstanding; and (5) the amount of
4 surplus after giving effect to the issue. [If the commissioner finds that
5 the original or amended certificate of incorporation provides for
6 authorized but unissued stock, and if he finds that the issuance of this
7 stock will not be in violation of law or contrary to the public interest,
8 he shall endorse his approval upon the certificate and file it with the
9 department.] A filing shall be deemed approved on the 30th day after
10 receipt by the commissioner, unless approved or disapproved earlier
11 by the commissioner in writing. Upon approval pursuant to this
12 section, the certificate of incorporation shall thereupon be amended as
13 set forth in the certificate of amendment. The commissioner may
14 disapprove a filing if the commissioner finds that the issuance of the
15 stock will be in violation of law or contrary to the public interest or
16 that the capital stock savings bank's original or amended certificate of
17 incorporation does not provide for authorized but unissued stock. A
18 certificate filed with the department pursuant to this section shall be
19 deemed for all purposes to be an amendment of the certificate of
20 incorporation.

21 c. A capital stock savings bank may issue preferred stock in
22 accordance with the provisions of Article 20 of P.L.1948, c. 67 (C.
23 17:9A-124 to 17:9A-130).²
24 (cf: P.L.1982, c.9, s.5)

25

26 ²13. Section 21 of P.L. 1974, c. 137 (C. 17:12B-250) is amended
27 to read as follows:

28 21. The powers contained in section 47 (C. 17:12B-47), section
29 48 (C. 17:12B-48) and section 130 (C. 17:12B-130) of this act shall
30 be available to capital stock associations (but the term "member" as
31 used therein shall be deemed to refer to "depositor" or "borrower,"
32 and the term "dividends" shall be deemed to refer to "interest" as may
33 be appropriate in the context), and in addition every capital stock
34 association shall have the power to:

35 a. Amend its certificate of incorporation in the following manner:

36 (1) The board shall approve the proposed amendment and direct
37 that it be submitted to a vote at a meeting of the stockholders.

38 (2) Written notice setting forth the proposed amendment or a
39 summary of the changes to be effected thereby shall be given to each
40 stockholder of record entitled to vote thereon within the time and in
41 the manner provided in this act for the giving of notice of meetings of
42 stockholders.

43 (3) At such meeting a vote of the stockholders entitled to vote
44 thereon shall be taken on the proposed amendment. The proposed
45 amendment shall be adopted upon receiving the affirmative vote of a
46 majority of the votes cast in person or by proxy by the stockholders.

47 (4) No amendment shall become effective until it shall have been

1 submitted to the commissioner and he shall either have approved it in
2 writing or failed to take action thereon for a period of 30 days after it
3 shall have been submitted to him. Approval shall not be withheld by
4 the commissioner unless an amendment is in conflict with the
5 provisions of this act.

6 b. Subject to amendment of its certificate of incorporation,
7 authorize issuance of additional capital stock for:

8 (1) Payment of a consideration other than cash in connection with
9 mergers with or purchase of assets of another association.

10 (2) The purpose of increasing the amount of its stated capital by
11 sale of such additional capital stock.

12 (3) Capital stock options, the aggregate of which shall not exceed
13 10% of the amount of authorized capital stock at the time of the
14 granting of such options and the establishment of one or more capital
15 stock purchase plans for officers and employees of the capital stock
16 association, which plan or plans may include provisions for partial
17 contribution by the association.

18 c. Declare and distribute stock dividends without the necessity of
19 an amendment to its certificate of incorporation, notwithstanding that
20 the payment of such dividends will effect an increase in the capital
21 stock of the capital stock association. In such a case, dividends may
22 be paid from time to time on the stock of the capital stock
23 association, at the discretion of the board, provided that prior to the
24 date of the payment of any such dividend, a certificate shall be filed
25 with the commissioner for the approval of the commissioner, stating:

26 (1) The date upon which the dividend is to be paid;

27 (2) The amount of such dividend; and

28 (3) The amount of the capital stock and the paid-in or contributed
29 surplus of the capital stock association after giving effect to the
30 payment of such dividend.

31 [If the commissioner finds that the payment of the stock dividend
32 is not contrary to law, he shall endorse his approval upon the
33 certificate and shall file it in the department.] A filing shall be deemed
34 approved on the 30th day after receipt by the commissioner, unless
35 approved or disapproved earlier by the commissioner in writing. Upon
36 approval pursuant to this section, the certificate of incorporation shall
37 thereupon be amended as set forth in the certificate of amendment. A
38 certificate filed in the department pursuant to this subsection shall be
39 deemed for all purposes to be an amendment to the certificate of
40 incorporation of the capital stock association with the same effect as
41 if it had been authorized, executed, approved and filed in the
42 department pursuant to subsection a. of this section.

43 A split-up or division of the issued shares of any class or series into
44 a greater number of shares of the same class or series without
45 increasing the amount of a capital stock association's stated capital
46 shall not be construed to be a stock dividend within the meaning of
47 this subsection and may be accomplished by amendment of the

1 certificate of incorporation as provided in this act.

2 d. Fix a record date for the purpose of determining the
3 stockholders entitled to notice of, or to vote, at any meetings of
4 stockholders or any adjournment thereof, or to express consent to, or
5 dissent from, any proposal without a meeting, or for the purpose of
6 determining stockholders entitled to receive payment of any dividend
7 or election of any right, or for the purpose of any other action, the
8 bylaws may provide for fixing, or in the absence of such provision, the
9 board may fix, in advance, a date as the record date for any such
10 determination of stockholders. Such date shall not be more than 60
11 nor less than 10 days before the date of such meeting, nor more than
12 60 days prior to any other action.

13 e. Borrow money provided that the aggregate indebtedness for
14 borrowed money, other than to the Federal Home Loan Bank, will not
15 exceed 20% of its depositors' accounts, except with the approval of
16 the commissioner.²

17 (cf: P.L.1974, c.137, s.21)

18

19 ²14. Section 35 of P.L. 1974, c. 137 (C. 17:12B-264) is amended
20 to read as follows:

21 35. a. Each capital stock association shall have power to create
22 and issue the number of shares of capital stock stated in its certificate
23 of incorporation. Such shares may consist of one class or may be
24 divided into two or more classes and any class may be divided into one
25 or more series. Each class and series may have such designation and
26 such relative dividend, liquidation and other rights, preferences and
27 limitations as shall be stated in the certificate of incorporation, except
28 that all shares of the same class shall be either without par value or
29 shall have the same par value. Each class and series shall be
30 designated so as to distinguish its shares from every other class and
31 series.

32 b. A capital stock association may, in its original or amended
33 certificate of incorporation, make provision for authorized but
34 unissued stock. Such stock may, with the approval of the
35 commissioner as hereinafter provided, be issued for such purposes, in
36 addition to the purposes expressly authorized by law, and for such
37 consideration as the board of directors may determine. So long as
38 such stock remains unissued, it shall not constitute capital stock for
39 the purposes of P.L. 1963, c. 144 (C. 17:12B-1 et seq.).

40 c. Prior to the time when authorized or unissued shares are issued
41 by a capital stock association, a certificate of amendment made by two
42 officers of the capital stock association, one of whom shall be the
43 president or a vice-president, shall be filed in the Department of
44 Banking and Insurance. The certificate of amendment shall state (1)
45 the amount of the authorized but unissued stock which will be issued;
46 (2) the consideration which will be received by the capital stock
47 association on the issuance of such stock; (3) the date upon which the

1 stock will be issued; and (4) the amount of the capital stock
2 association's capital stock which will be outstanding, and the amount
3 of its surplus after giving effect to such issue. A filing shall be deemed
4 approved on the 30th day after receipt by the commissioner, unless
5 approved or disapproved earlier by the commissioner in writing. Upon
6 approval pursuant to this section, the certificate of incorporation shall
7 thereupon be amended as set forth in the certificate of amendment.
8 The commissioner may disapprove a filing if the commissioner finds
9 that the issuance of the stock will be in violation of law or contrary to
10 the public interest or that the capital stock association's original or
11 amended certificate of incorporation does not provide for authorized
12 but unissued stock. A certificate filed in the department pursuant to
13 this section shall be deemed for all purposes to be an amendment of
14 the capital stock association's certificate of incorporation with the
15 same effect as if it had been authorized, executed, approved and filed
16 in the department pursuant to article 19 of P.L. 1963, c. 144 (C.
17 17:12B-1 et seq.).²

18 (cf: P.L.1974, c.137, s.35)

19

20 ²[12.] 15.² Sections 9 and 10 of P.L.1981, c.153 (C.17:9A-24a
21 and C.17:9A-24b) and section 2 of P.L.1981, c.163 (C.17:9A-24b.2)
22 are repealed.

23

24 ²[13.] 16.² This act shall take effect immediately.

25

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28

29 Provides for expedited approval process for certain applications by
30 financial institutions and updates parity provisions for financial
31 institutions.

CHAPTER 69

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

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

1. Section 2 of P.L. 1970, c. 294 (C. 17:9A-6.2) is amended to read as follows:

C.17:9A-6.2 Certificate of amendment, procedure, filing.

2. Prior to the time when authorized or unissued shares are issued by a bank, a certificate of amendment made by two officers of the bank, one of whom shall be the president or a vice-president, shall be filed in the Department of Banking and Insurance. The certificate of amendment shall state (a) the amount of the authorized but unissued stock which will be issued; (b) the consideration which will be received by the bank on the issuance of such stock; (c) the date upon which the stock will be issued; and (d) the amount of the bank's capital stock which will be outstanding, and the amount of its surplus after giving effect to such issue. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or disapproved earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment. The commissioner may disapprove a filing if the commissioner finds that the issuance of the stock will be in violation of law or contrary to the public interest or that the bank's original or amended certificate of incorporation does not provide for authorized but unissued stock. A certificate filed in the department pursuant to this section shall be deemed for all purposes to be an amending of the bank's certificate of incorporation with the same effect as if it had been authorized, executed, approved and filed in such department pursuant to article 19 of P.L.1948, c.67 (C.17:9A-116 et seq.).

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

C.17:9A-20 Application for establishment of full branch office, minibranch office, communication terminal facility.

20. A. (1) Before any full branch office shall be established, the bank or savings bank shall file written application in the department for the commissioner's approval thereof. If, after such investigation or hearings, or both, as the commissioner may determine to be advisable, the commissioner shall find:

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

(b) That the interests of the public will be served to advantage by the establishment of such full branch office;

(c) That conditions in the locality in which the proposed full branch office is to be established afford reasonable promise of successful operation; and

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

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

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

B. Before any minibranch office shall be established, the bank or savings bank shall file a written application on forms supplied by the commissioner. A duly adopted resolution of the board of directors or managers authorizing such application shall accompany the application. Notice of such application shall be published in accordance with procedural rules and regulations of the department. Within 20 days after said notice is published, any person or banking institution having objections to the application shall submit detailed written factual and legal

grounds for the objection to the commissioner. There shall be no hearing required to be held by the commissioner in connection with such application. The commissioner, after considering the application and written objections and such investigation as the commissioner deems advisable, shall approve the application, if the commissioner shall find

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

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

C. (Deleted by amendment, P.L.1999, c.252.)

D. (Deleted by amendment, P.L.1999, c.252.)

E. A bank or savings bank shall provide insurance protection under its bonding program for transactions involving a communication terminal facility.

F. (Deleted by amendment, P.L.1996, c.17.)

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

H. (1) In lieu of the procedures set forth in subsection A or B of this section, or in section 22 or 23 of P.L.1948, c.67 (C.17:9A-22 or C.17:9A-23), a bank or savings bank which directly or through a predecessor bank or savings bank by merger or other reorganization has been in business for at least three years, and which is well capitalized, adequately managed, and, if applicable, has received in its most recent examination under the "Community Reinvestment Act of 1977," 12 U.S.C. s.2901 et seq., a rating of not less than "satisfactory record of meeting community credit needs," or its equivalent, may apply for expedited branch office approval pursuant to this subsection. The bank or savings bank shall file written application of the proposed establishment with the commissioner and with those other persons designated by the commissioner by rule or regulation. The application shall be accompanied by or be in the form of a certification that (a) all applicable provisions of this subsection have been met, (b) the applicant requests expedited processing under this subsection, and (c) contains that other information, if any, as the commissioner may require by rule or regulation to confirm that an establishment of the branch will not adversely affect the safety and soundness of the bank or savings bank or the public interest.

(2) An application shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing.

(3) For purposes of this subsection, "well capitalized" has the meaning given the term in 12 U.S.C. s.1831o and "well managed" means, unless otherwise determined in writing by the commissioner, (a) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating system, in connection with the most recent examination or subsequent review of the bank or savings bank, and (b) at least a rating of 2 for management, if such a rating is given. Nothing in this subsection shall be construed to affect the confidentiality of any rating under applicable law or regulation.

3. Section 1 of P.L.1981, c.163 (C.17:9A-24b.1) is amended to read as follows:

C.17:9A-24b.1 Exercise of powers, rights, benefits, privileges.

1. Notwithstanding the provisions of P.L.1948, c.67 (C.17:9A-1 et seq.) or any other law, banks and savings banks may exercise those powers, rights benefits or privileges now or

hereafter authorized for national or out-of-State banks or for federal or out-of-State savings banks or savings associations either directly or through a financial subsidiary or other subsidiary, to the same extent and, subject to the same limitations as national or out-of-State banks or federal or out-of-State savings banks or savings associations, may exercise those powers, rights, benefits or privileges, provided that before exercising any power, right, benefit or privilege of an out-of-State bank or out-of-State savings bank or savings association, the commissioner has adopted a regulation approving an exercise of that power, right, benefit or privilege by banks and savings banks generally or the bank or savings bank provides notice to the commissioner and on a case-by-case basis the commissioner either approves the activity or does not provide notice before the expiration of 45 days that such power, right, benefit or privilege is not appropriate for the New Jersey bank or savings bank on the grounds of safety and soundness or on other grounds designated by the commissioner by regulation. The commissioner shall have the authority to adopt rules and regulations pursuant to this section, which rules and regulations shall have as their objective the placing of banks and savings banks on a substantially competitive parity with national and out-of-State banks and federal and out-of-State savings banks and savings associations.

4. Section 8 of P.L.1979, c.226 (C.17:9A-24.9) is amended to read as follows:

C.17:9A-24.9 Additional powers of banks and savings banks.

8. Additional powers of banks and savings banks. In addition to the powers which banks and savings banks may otherwise exercise, every bank and savings bank, as defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-1), shall have power

(1) To subscribe for, purchase and hold stock of one or more insurance companies organized under the laws of this State which have been or may hereafter be limited to insure banks, savings banks and other depository institutions

(a) Against loss from the defaults of persons in positions of trust, public or private, or against loss or damage on account of neglect or breaches of duty or obligations guaranteed by the insurer; and against loss of any bills of exchange, notes, checks, drafts, acceptances of drafts, bonds, securities, evidences of debt, deeds, mortgages, documents, gold or silver, bullion, currency, money, platinum and other precious metals, refined or unrefined, and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, and also against loss resulting from damage, except by fire, to the insured's premises, furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery, holdup, theft or larceny, or attempt thereat. No such indemnity indemnifying against loss of any property as specified herein shall indemnify against the loss of any such property occurring while in the mail or in the custody or possession of a carrier for hire for the purpose of transportation, except for the purpose of transportation by an armored motor vehicle accompanied by one or more armed guards; and

(b) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism or malicious mischief, or any one or more of such hazards; and against any and all kinds of loss or destruction of or damage to moneys, securities, currencies, scrip, coins, bullion, bonds, notes, drafts, acceptances of drafts, bills of exchange and other valuable papers or documents, except while in the custody or possession of and being transported by a carrier for hire or in the mail.

(2) To make loans and investments as authorized for associations by section 155 of the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-155).

(3) To make loans and investments as authorized for associations by, and subject to the limitations of, sections 157 through 160 and 162 through 164 of the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-157 through C.17:12B-160 and C.17:12B-162 through C.17:12B-164).

(4) To extend credit through the use of credit cards issued by it through an arrangement with participating vendors, and without limitation of the generality of the foregoing, to exercise all the powers permitted to associations pursuant to subsection (18) of section 48 of the "Savings and Loan Act (1963)," P.L.1963, c.144 (C.17:12B-48).

(5) To make any investment authorized for associations by section 165 of the "Savings and

Loan Act (1963)," P.L.1963, c.144 (C.17:12B-165), provided, however, that where reference is made to State associations or federal associations therein such reference for purposes of this act shall be deemed to refer to banking institutions as defined in section 1 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-1).

(6) To exercise any powers and activities that have been or are hereafter approved by regulation of the Board of Governors of the Federal Reserve System as being (i) financial in nature or incidental to such financial activity, (ii) complementary to a financial activity and not posing a substantial risk to the safety or soundness of depository institutions or the financial system generally, or (iii) so closely related to banking or managing or controlling banks as to be a proper activity for a bank holding company or financial holding company pursuant to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et seq.) and regulations thereunder, to the extent that federal law does not prohibit banks or savings banks from exercising those powers or activities.

(7) To apply to the commissioner for authority, and if granted, to exercise any power or activity that has been or is hereafter deemed to be (i) financial in nature or incidental to such financial activity, (ii) complementary to a financial activity and not posing a substantial risk to the safety or soundness of depository institutions or the financial system generally, or (iii) closely related to banking under the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et seq.) and which has been permitted on an individual basis by order of the Board of Governors of the Federal Reserve System.

(8) To make loans, as defined in this subsection, pursuant to which the parties may contract for and the bank or savings bank may receive interest or other compensation at a rate or rates or in an amount that the bank or savings bank and the borrower may agree upon, notwithstanding the provisions of any other law of this State, except N.J.S.2C:21-19, which limits the interest rate or finance charge which would otherwise be applicable to the loan. A loan, for the purposes of this subsection, includes loans in the amount of \$5,000.00 or more, payable on demand or in installments, and (a) which is for the purpose of acquiring or is secured by equipment used for business or commercial purposes or (b) is secured by (i) an interest in warehouse receipts, bills of lading, or other documents of title which are subject to chapter 7 of Title 12A of the New Jersey Statutes, or (ii) by an interest in negotiable instruments or commercial paper which are subject to chapter 3 of Title 12A of the New Jersey Statutes, or (iii) by an interest in stocks, bonds, certificates of deposit or other securities which are subject to chapter 8 of Title 12A of the New Jersey Statutes, or (iv) by an interest in any combination of the foregoing.

(9) To engage in the business of providing data processing and computer services.

(10) To acquire, by purchase or otherwise, and to sell warrants, options or other similar rights to any class or classes of equity securities issued or to be issued by a corporation, if, at the time the warrants, options or other similar rights are acquired, the issuer, or its parent company, affiliate or subsidiary, is a borrower of funds loaned by the bank or savings bank, and if the acquisition by purchase or otherwise, and the sale of the warrants, options or other similar rights neither adds to the bank's or saving bank's credit risk nor increases the bank's or savings bank's financial liabilities.

The commissioner may, by regulation, prescribe the manner in which and the extent to which the powers enumerated in this section may be exercised, including whether they are to be exercised through a subsidiary corporation and may, by regulation, prescribe other powers, not otherwise expressly authorized or prohibited by law, which banks and savings banks may exercise.

5. Section 52 of P.L.1948, c.67 (C.17:9A-52) is amended to read as follows:

C.17:9A-52 Dividends on capital stock.

52. A. Dividends on the capital stock of a bank may be paid from time to time wholly in cash, or wholly in stock of the bank, or partly in cash and partly in stock of the bank as the board of directors may in its discretion determine, subject to the limitations in this section contained.

B. No dividend shall be paid by a bank on its capital stock unless, following the payment of each such dividend, the capital stock of the bank will be unimpaired, and

- (1) the bank will have a surplus of not less than 50% of its capital stock, or, if not,
- (2) the payment of such dividend will not reduce the surplus of the bank.

C. The certificate of incorporation of a bank, or an amendment thereof, may provide that dividends may be paid in stock of the bank without an amendment of the bank's certificate of incorporation pursuant to article 19, notwithstanding the payment of such dividend effects an increase in the capital stock of the bank. In such a case, dividends may be paid from time to time in the stock of the bank, at the discretion of the board of directors, without compliance with article 19; provided that, prior to the date of the payment of any such dividend, a certificate made by two officers of the bank, one of whom shall be the president or a vice-president, shall be filed in the department for the approval of the commissioner, stating

- (1) the date upon which the dividend is to be paid; and
 - (2) the amount of such dividend;
 - (3) the amount of the capital stock and the surplus of the bank after giving effect to the payment of such dividend;
 - (4) the payment of the dividend will not violate the provisions of subsection B of this section;
- and

(5) the certificate of incorporation of the bank, or an amendment thereof, authorizes the payment of dividends in stock of the bank without an amendment of the bank's certificate of incorporation pursuant to article 19.

A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate shall thereupon be amended as set forth in the certificate of amendment. A certificate filed in the department pursuant to this subsection shall be deemed for all purposes to be an amendment of the certificate of incorporation of the bank with the same effect as if it had been authorized, executed, approved and filed in the department pursuant to article 19.

D. When the certificate of incorporation of a bank, or an amendment thereof, does not provide that dividends may be paid in stock of the bank without an amendment of the bank's certificate of incorporation pursuant to article 19, no such dividend which results in an increase in the capital stock of the bank shall be paid unless the necessary increase in capital stock is authorized pursuant to article 19.

E. Subsections C and D of this section shall not apply to a stock dividend paid pursuant to section 212.

F. This section shall not limit the power of a bank to pay dividends on shares of preferred stock issued prior to the effective date of this act, as provided in its certificate of incorporation.

6. Section 117 of P.L.1948, c.67 (C.17:9A-117) is amended to read as follows:

C.17:9A-117 Procedure for amending certificate of incorporation.

117. Whenever the board of directors shall deem it advisable to amend the certificate of incorporation, it shall adopt a resolution setting forth the proposed amendment and fixing a date for a meeting of stockholders to take action thereon, upon notice given pursuant to section 81. If, at such meeting or at any adjournment thereof, the holders of at least two-thirds of the capital stock entitled to vote shall vote in favor of the proposed amendment or any modification thereof, a certificate thereof, setting forth the amendment in full and certifying that the amendment was made for a purpose authorized by law in the manner required by this article, shall be made and acknowledged by two officers of the bank, one of whom shall be the president or vice-president, and shall be submitted to the commissioner for approval. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment.

7. Section 198 of P.L.1948, c.67 (C.17:9A-198) is amended to read as follows:
C.17:9A-198 Amendment procedure.

198. A. Whenever the board of managers of any savings bank shall deem it advisable to amend the certificate of incorporation, it shall, by a vote of not less than 2/3 of the managers then in office, adopt a resolution setting forth the proposed amendment, and shall publish notice of intention to apply to the commissioner for approval of such amendment at least once a week for four successive weeks, in the manner provided in section 10. A copy of the resolution, certified by two officers, together with proof of such publication and a certified statement that the amendment was made for a purpose authorized by law in the manner specified by this section shall be submitted to the commissioner for approval. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment.

B. When the amendment is for the purpose specified in paragraph (2) of section 197, the commissioner shall give special consideration to the following:

(1) the needs of the community for trust services, and the probable volume of trust business which will be available to the savings bank;

(2) the condition of the savings bank, particularly the adequacy of its capital deposits, if any and surplus in relation to its deposit liabilities and other corporate responsibilities, including the proposed exercise of fiduciary powers; but no savings bank shall be authorized to make such an amendment unless its capital deposits, if any, and surplus amount to at least \$500,000.00;

(3) the general character and ability of the management of the savings bank;

(4) the nature of the supervision to be given to the proposed fiduciary activities;

(5) the qualifications, experience and character of the proposed officer or officers who will have control or supervision of the proposed fiduciary activities;

(6) whether the savings bank has available competent legal counsel to advise and pass upon trust matters whenever necessary; and

(7) any other matters which, in the discretion of the commissioner, are relevant.

17:9A-402. Amendment of certificate of incorporation

21. Whenever the board of directors of a subsidiary capital stock savings bank deems it advisable to amend the certificate of incorporation, it shall adopt a resolution setting forth the proposed amendment, which amendment shall be approved, at a meeting of the stockholders entitled to vote, by at least 2/3 of the capital stock entitled to vote. If the holders of 2/3 of the shares of capital stock entitled to vote approve the amendment, a certificate of this approval setting forth the amendment and certifying that the amendment was made for a purpose authorized by law in the manner specified by this section, shall be attested by two officers of the bank, one of whom shall be the president or vice president, and shall be submitted to the commissioner for approval. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment.

9. Section 24 of P.L.1963, c.144 (C.17:12B-24) is amended to read as follows:

C.17:12B-24 Establishment, operation of branch offices by State association.

24. A. No State association shall hereafter establish or operate a branch office or offices, other than as provided by law without the prior written approval of the commissioner; provided, however, that any association operating an authorized branch office at the effective date of this act may continue to do so.

(1) An association operating a branch office approved prior to the effective date of this act with conditions or restrictions imposed on its operation may upgrade such office by notifying the commissioner at least 30 days before such upgrading. A branch office is considered upgraded if the association is relieved of any of the conditions or restrictions imposed on operation of the office when it opened. If within 30 days of receipt of the notice, the commissioner does not notify the association of his objection which would require the association to submit an

application or additional information before upgrading, the association may upgrade the office.

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

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

B. An association may apply for a branch office regardless of the number of branch applications it has pending before the commissioner. Within 90 days after receipt of a branch application, the commissioner shall announce his decision upon such application.

C. The commissioner shall approve the application if the commissioner finds that:

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

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

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

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

D. (Deleted by amendment, P.L.1996, c.17.)

E. The commissioner shall conduct such investigation or hearing, or both, as the commissioner may deem advisable. The commissioner may adopt, amend, alter or rescind regulations prescribing the form of protest to applications and the procedures to be followed in the event that the commissioner elects to hold a hearing in connection with an application for a branch office, and such other regulations as the commissioner may deem necessary with respect to the provisions of this section.

F. (1) In lieu of the procedures set forth in subsections A through C and E of this section, section 89 of P.L.1996, c.17 (C.17:12B-24.1), paragraph (2) of section 28 of P.L.1963, c.144 (C.17:12B-28), or paragraph (2) of section 40 of P.L.1963, c.144 (C.17:12B-40), a State association which, directly or through a predecessor association by merger or other reorganization, has been in business for at least three years, and which is well capitalized, adequately managed, and, if applicable, has received in its most recent examination under the "Community Reinvestment Act of 1977," 12 U.S.C.s.2901 et seq., a rating of not less than "satisfactory record of meeting community credit needs," or its equivalent, may apply for expedited branch office approval pursuant to this subsection. The State association shall file written application of the proposed establishment with the commissioner and with those other persons designated by the commissioner by rule or regulation. The application shall be accompanied by or be in the form of a certification that (a) all applicable provisions of this subsection have been met, (b) the applicant requests expedited processing under this subsection, and (c) contains that other information, if any, as the commissioner may require by rule or regulation to confirm that an establishment of the branch will not adversely affect the safety and soundness of the State association or the public interest.

(2) An application shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing.

(3) For purposes of this subsection, the term "well capitalized" has the meaning given the

term in 12 U.S.C. s.1831o and "well managed" means, unless otherwise determined in writing by the commissioner, (a) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System or an equivalent rating system in connection with the most recent examination or subsequent review of the State association, and (b) at least a rating of 2 for management, if such rating is given. Nothing in this subsection shall be construed to affect the confidentiality of any such rating under applicable law or regulation.

10. Section 48 of P.L.1963, c.144 (C.17:12B-48) is amended to read as follows:

C.17:12B-48 Powers of association.

48. Without limiting the generality of the foregoing, every association shall have power to:

(1) Have succession by its corporate name for the period limited in its charter or certificate of incorporation, and when no period is limited, perpetually.

(2) Sue and be sued in any court.

(3) Adopt and use a corporate seal and alter the same.

(4) Purchase and otherwise acquire, hold, mortgage, pledge, lease, exchange, sell, convey and otherwise dispose of, any real and personal property, necessary or incidental to its operations and consistent with its powers and purposes.

(5) Insure its members' accounts with the Federal Deposit Insurance Corporation, and comply with conditions necessary to obtain and maintain such insurance.

(6) Become a member of or stockholder in a Federal Home Loan Bank and to that end to comply with all conditions of membership therein.

(7) Act as agent for the United States or the State of New Jersey or any instrumentality of either of them, when designated for that purpose, and perform such reasonable duties as such agent as may be required of it.

(8) Join any cooperative league organized for the purpose of protecting and promoting the welfare of associations and their members and comply with all conditions of membership therein.

(9) Borrow money from any source in or out of the State, on the note, bond and mortgage or other obligation of the association upon such terms and conditions as the board may from time to time prescribe by resolution adopted by at least a majority of all the members of the board and duly recorded on the minutes and to pledge, assign or transfer mortgages, owned by the association and the obligations secured by such mortgages, together with the shares, if any, pledged as collateral security therefor, or any real or other personal property, as security for the repayment of money so borrowed. No association shall borrow money if by doing so the aggregate of its indebtedness for borrowed money other than to the Federal Home Loan Bank will exceed 20% of its capital, except with the approval of the commissioner.

(10) (Deleted by amendment.)

(11) Require an advance payment of interest for a period of one month on any loan; and accept advance payments of interest, if made at the option of the debtor, for any period on any loan. None of such payments shall be deemed usurious.

(12) Where shares are issued, charge an admission fee, not to exceed \$0.25 per share, which shall include the cost of membership or share certificate and account book.

(13) Impose charges upon a member for failure to make any payment to the association when due, but only as provided in this paragraph. Where the association issues installment share accounts it may impose such charge upon any member holding such an account or any borrower upon a sinking fund mortgage not in excess of 1% a month upon the amount in arrears, except for the first month's arrearage or the amount by which such first month's arrearage may be increased by subsequent arrearage, in which case a charge not in excess of 5% may be imposed. Such charges shall be subject to the further limitations that no such charge shall be deducted from any amount actually paid by a member upon an account nor shall the total of any such charges against any account in any fiscal year exceed the amount that may be charged for failure to make any payments for a six-month period nor shall any charge for default be made on a charge for default. Otherwise an association may impose a charge for failure to make any required payment to it when due upon any loan or contract for the resale of real estate to a member, not to exceed 4% of the amount of each payment in arrears, but no more than one such

charge may be made with respect to any one payment in arrears. An association may impose a reasonable service charge against any member who tenders to such association, for collection or as payment, a check or other instrument of any type which subsequently is not honored by the institution or person upon which such check or other instrument is drawn. None of such charges shall be deemed usurious.

(14) Compute interest upon any direct reduction loan, on designated payment dates, and add the same to the unpaid balance of such loan.

(15) Act as agent for any person where such agency will further the interests of the association and its members, subject to such limitations as may be prescribed by the commissioner.

(16) Upon application to and approval by the commissioner, to act as custodian or trustee within the contemplation of the Federal Self-Employed Individuals Tax Retirement Act of 1962, as amended and supplemented, and the Employee Retirement Income Security Act of 1974 as amended and supplemented, and as custodian, trustee or manager of any such investment fund the authorized investments of which include, but need not be limited to, savings accounts or real estate loans, and the beneficial interests in which may be represented by transferable shares or certificates. Associations exercising the powers authorized by this subsection shall segregate all funds held in such fiduciary capacities from the general assets of the association and shall keep a separate set of books and records showing in detail all transactions made under authority of this subsection. If individual records are kept for each self-employed individual's retirement plan and each such investment fund, then all such funds held in such fiduciary capacities by an association may be commingled for appropriate purposes of investment. No funds held in such fiduciary capacities shall be used by an association in the conduct of its business; however, such funds may be invested in savings accounts of the association in the event that the custodial, trust or other plan does not prohibit such investment. In granting or refusing the association's application the commissioner shall take into consideration the investment policies, amount, type and adequacy of reserves, fidelity bonds and any legally required deposits of the applicant and other pertinent facts and circumstances.

(17) Upon compliance with subsection (5) of this section, accept from its members accounts to be repaid upon such terms, not inconsistent with this act, as are approved by the Commissioner of Banking and Insurance, by regulation or otherwise, provided that no account shall exceed the limitations established by section 78 of P.L.1963, c.144 (C.17:12B-78), and provided further that no account shall be accepted or issued in the name of any corporation, association or partnership or in the name of any individual for use in trade or business. An association issuing such accounts may honor demands for withdrawal of such accounts in the form of negotiable checks, drafts or orders in the form of electronic fund transfers and may become a member of a clearing facility and satisfy reasonable conditions required for its qualification and pay reasonable expenses therefor. Such accounts may be either interest-bearing or noninterest-bearing; provided, however, that the payment of interest on such accounts be permitted by federal law. An association accepting accounts pursuant to this subsection shall, at all times, maintain reserves against such accounts as shall be prescribed in regulations issued by the commissioner in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) but such reserves shall be equal in nature and amount to those required of savings banks in this State against similar accounts. Such reserves shall be maintained in cash or deposits in one or more reserve depositories as authorized by the Commissioner of Banking and Insurance. Regulations of the commissioner may also provide that associations issuing such type of accounts maintain a general reserve account, federal insurance reserve account and undivided profits of specified minimum amounts and provide for minimum standards of office facilities in connection therewith. An insured association may impose a reasonable service charge for providing and maintaining such accounts for the benefit of its members.

(18) Issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations subject to such regulations as the commissioner may prescribe. Any such regulations shall be in substantial conformity with similar rules and regulations of the Office of Thrift Supervision.

(19) (a) Apply to the commissioner for permission to act as trustee, executor, administrator,

guardian, or in any other fiduciary capacity in which federal savings and loan associations doing business in this State are permitted to act. Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the commissioner. In the event of the failure of such association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart, in addition to their claim against the estate of the association. Whenever the laws of this State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by New Jersey law. Associations in such cases shall not be required to execute the bond usually required of individuals if New Jersey corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of New Jersey. In any case in which the laws of this State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section shall take an oath or make an affidavit, any officer, as defined in section 65 of P.L.1963, c.144 (C.17:12B-65), of such association may take the necessary oath or execute the necessary affidavit. It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$5,000.00, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court. In passing upon applications for permission to exercise the powers enumerated in this section, the commissioner may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to him proper, and may grant or refuse the application accordingly, except that approval shall not be granted to any association having a capital and surplus less than the capital and surplus required by New Jersey law of State banks, trust companies, and corporations exercising such powers.

(b) Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the commissioner a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the commissioner, after satisfying himself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may, in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the commissioner, such association (i) shall no longer be subject to the provisions of this section or the regulations of the commissioner made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining approval to exercise such powers pursuant to the provisions of this section.

(c) The commissioner is authorized and empowered to promulgate such regulations as he may deem necessary to enforce compliance with the provisions of this section and the proper exercise of the trust powers granted by this section. Any such regulations shall be in substantial conformity with similar rules and regulations of the Office of Thrift Supervision.

(20) In accordance with rules and regulations promulgated by the commissioner, issue and sell directly to subscribers or through underwriters mutual capital certificates. Such certificates shall constitute part of the general reserve and net worth of the issuing association. Such certificates--

- (a) Shall be subordinate to all savings accounts, savings certificates, and debt obligations;
- (b) Shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;
- (c) Shall be entitled to the payment of dividends; and
- (d) May have a fixed or variable dividend rate.

The commissioner is authorized and empowered to promulgate such regulations as he may deem necessary with respect to the powers granted by this section. Any such regulations shall be in substantial conformity with similar rules and regulations of the Office of Thrift Supervision. The commissioner shall provide in his regulations for charging losses to the mutual capital certificates, reserves, and other net worth accounts.

(21) Notwithstanding the provisions of P.L.1963, c.144 (C.17:12B-1 et seq.) or any other law, exercise those powers, rights, benefits or privileges now or hereafter authorized for national or out-of-State banks or for Federal or out-of-State savings banks or savings associations either directly or through a financial subsidiary or other subsidiary, to the same extent and subject to the same limitations as national or out-of-State banks or Federal or out-of-State savings banks or savings associations may exercise those powers, rights, benefits or privileges, provided that before exercising any power, right, benefit or privilege of any out-of-State bank or out-of-State savings bank or savings association, the commissioner has adopted a regulation approving an exercise of that power, right, benefit or privilege by state associations generally or the State association provides notice to the commissioner and on a case-by-case basis the commissioner either approves the activity or does not provide notice before the expiration of 45 days that such power, right, benefit or privilege is not appropriate for the State association on grounds of safety and soundness or on other grounds designated by the commissioner by regulation. The commissioner shall have the authority to adopt rules and regulations pursuant to this section, which rules and regulations shall have as their objective the placing of State associations on a substantial competitive parity with national and out-of-State banks and Federal and out-of-State savings banks and savings associations.

(22) Exercise any powers and activities that have been or are hereafter approved by regulation of the Board of Governors of the Federal Reserve System as being (i) financial in nature or incidental to such financial activity, (ii) complementary to a financial activity and not posing a substantial risk to the safety or soundness of depository institutions or the financial system generally, or (iii) so closely related to banking or managing or controlling savings associations as to be a proper activity for a bank holding company or financial holding company pursuant to the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et seq.) and regulations thereunder, to the extent that federal law does not prohibit savings associations from exercising those powers or activities.

(23) Apply to the commissioner for authority, and if granted, to exercise any power or activity that has been or is hereafter deemed to be (i) financial in nature or incidental to such financial activity, (ii) complementary to a financial activity and not posing a substantial risk to the safety or soundness of depository institutions or the financial system generally, or (iii) closely related to banking under the "Bank Holding Company Act of 1956," 70 Stat. 133 (12 U.S.C. s. 1841 et seq.) and which has been permitted on an individual basis by order of the Board of Governors of the Federal Reserve System.

11. Section 21 of P.L.1989, c.165 (C.17:12B-312) is amended to read as follows:

C.17:12B-312 Amendment of certificate of incorporation.

21. Whenever the board of directors of a subsidiary capital stock state association deems it advisable to amend the certificate of incorporation, it shall adopt a resolution setting forth the proposed amendment, which amendment shall be approved, at a meeting of the stockholders

entitled to vote, by at least 2/3 of the capital stock entitled to vote. If the holders of 2/3 of the shares of capital stock entitled to vote approve the amendment, a certificate of this approval shall be attested by two officers of the state association, one of whom shall be the president or vice president, and shall be submitted to the commissioner for approval. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or denied earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment.

12. Section 5 of P.L.1982, c.9 (C.17:9A-8.5) is amended to read as follows:

C.17:9A-8.5 Provision for authorized but unissued stock.

5. a. A capital stock savings bank may, in its original or amended certificate of incorporation, make provision for authorized but unissued stock. This stock may, with the approval of the commissioner, be issued for those purposes, in addition to the purposes expressly authorized by law, and for any consideration which the board of directors may determine. So long as this stock remains unissued, it shall not constitute capital stock for the purposes of the act to which this act is a supplement.

b. Prior to the time when authorized but unissued shares are issued by a capital stock savings bank, a certificate of amendment made by two officers of the savings bank, one of whom shall be the president or a vice-president, shall be filed with the department. The certificate of amendment shall state: (1) the amount of the authorized but unissued stock which will be issued; (2) the consideration which will be received by the capital stock savings bank on the issuance of the stock; (3) the date the stock will be issued; (4) the amount of the capital stock which will be outstanding; and (5) the amount of surplus after giving effect to the issue. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or disapproved earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment. The commissioner may disapprove a filing if the commissioner finds that the issuance of the stock will be in violation of law or contrary to the public interest or that the capital stock savings bank's original or amended certificate of incorporation does not provide for authorized but unissued stock. A certificate filed with the department pursuant to this section shall be deemed for all purposes to be an amendment of the certificate of incorporation.

c. A capital stock savings bank may issue preferred stock in accordance with the provisions of Article 20 of P.L.1948, c. 67 (C. 17:9A-124 to 17:9A-130).

13. Section 21 of P.L. 1974, c. 137 (C. 17:12B-250) is amended to read as follows:

C.17:12B-250 Powers available to capital stock association.

21. The powers contained in section 47 (C.17:12B-47), section 48 (C.17:12B-48) and section 130 (C.17:12B-130) of this act shall be available to capital stock associations (but the term "member" as used therein shall be deemed to refer to "depositor" or "borrower," and the term "dividends" shall be deemed to refer to "interest" as may be appropriate in the context), and in addition every capital stock association shall have the power to:

a. Amend its certificate of incorporation in the following manner:

(1) The board shall approve the proposed amendment and direct that it be submitted to a vote at a meeting of the stockholders.

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each stockholder of record entitled to vote thereon within the time and in the manner provided in this act for the giving of notice of meetings of stockholders.

(3) At such meeting a vote of the stockholders entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes cast in person or by proxy by the stockholders.

(4) No amendment shall become effective until it shall have been submitted to the commissioner and he shall either have approved it in writing or failed to take action thereon for

a period of 30 days after it shall have been submitted to him. Approval shall not be withheld by the commissioner unless an amendment is in conflict with the provisions of this act.

b. Subject to amendment of its certificate of incorporation, authorize issuance of additional capital stock for:

(1) Payment of a consideration other than cash in connection with mergers with or purchase of assets of another association.

(2) The purpose of increasing the amount of its stated capital by sale of such additional capital stock.

(3) Capital stock options, the aggregate of which shall not exceed 10% of the amount of authorized capital stock at the time of the granting of such options and the establishment of one or more capital stock purchase plans for officers and employees of the capital stock association, which plan or plans may include provisions for partial contribution by the association.

c. Declare and distribute stock dividends without the necessity of an amendment to its certificate of incorporation, notwithstanding that the payment of such dividends will effect an increase in the capital stock of the capital stock association. In such a case, dividends may be paid from time to time on the stock of the capital stock association, at the discretion of the board, provided that prior to the date of the payment of any such dividend, a certificate shall be filed with the commissioner for the approval of the commissioner, stating:

(1) The date upon which the dividend is to be paid;

(2) The amount of such dividend; and

(3) The amount of the capital stock and the paid-in or contributed surplus of the capital stock association after giving effect to the payment of such dividend.

A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or disapproved earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment. A certificate filed in the department pursuant to this subsection shall be deemed for all purposes to be an amendment to the certificate of incorporation of the capital stock association with the same effect as if it had been authorized, executed, approved and filed in the department pursuant to subsection a. of this section.

A split-up or division of the issued shares of any class or series into a greater number of shares of the same class or series without increasing the amount of a capital stock association's stated capital shall not be construed to be a stock dividend within the meaning of this subsection and may be accomplished by amendment of the certificate of incorporation as provided in this act.

d. Fix a record date for the purpose of determining the stockholders entitled to notice of, or to vote, at any meetings of stockholders or any adjournment thereof, or to express consent to, or dissent from, any proposal without a meeting, or for the purpose of determining stockholders entitled to receive payment of any dividend or election of any right, or for the purpose of any other action, the bylaws may provide for fixing, or in the absence of such provision, the board may fix, in advance, a date as the record date for any such determination of stockholders. Such date shall not be more than 60 nor less than 10 days before the date of such meeting, nor more than 60 days prior to any other action.

e. Borrow money provided that the aggregate indebtedness for borrowed money, other than to the Federal Home Loan Bank, will not exceed 20% of its depositors' accounts, except with the approval of the commissioner.

14. Section 35 of P.L.1974, c.137 (C.17:12B-264) is amended to read as follows:

C.17:12B-264 Power to create, issue capital stock; provision for authorized but unissued stock; certificate of amendment.

35. a. Each capital stock association shall have power to create and issue the number of shares of capital stock stated in its certificate of incorporation. Such shares may consist of one class or may be divided into two or more classes and any class may be divided into one or more series. Each class and series may have such designation and such relative dividend, liquidation

and other rights, preferences and limitations as shall be stated in the certificate of incorporation, except that all shares of the same class shall be either without par value or shall have the same par value. Each class and series shall be designated so as to distinguish its shares from every other class and series.

b. A capital stock association may, in its original or amended certificate of incorporation, make provision for authorized but unissued stock. Such stock may, with the approval of the commissioner as hereinafter provided, be issued for such purposes, in addition to the purposes expressly authorized by law, and for such consideration as the board of directors may determine. So long as such stock remains unissued, it shall not constitute capital stock for the purposes of P.L.1963, c.144 (C.17:12B-1 et seq.).

c. Prior to the time when authorized or unissued shares are issued by a capital stock association, a certificate of amendment made by two officers of the capital stock association, one of whom shall be the president or a vice-president, shall be filed in the Department of Banking and Insurance. The certificate of amendment shall state (1) the amount of the authorized but unissued stock which will be issued; (2) the consideration which will be received by the capital stock association on the issuance of such stock; (3) the date upon which the stock will be issued; and (4) the amount of the capital stock association's capital stock which will be outstanding, and the amount of its surplus after giving effect to such issue. A filing shall be deemed approved on the 30th day after receipt by the commissioner, unless approved or disapproved earlier by the commissioner in writing. Upon approval pursuant to this section, the certificate of incorporation shall thereupon be amended as set forth in the certificate of amendment. The commissioner may disapprove a filing if the commissioner finds that the issuance of the stock will be in violation of law or contrary to the public interest or that the capital stock association's original or amended certificate of incorporation does not provide for authorized but unissued stock. A certificate filed in the department pursuant to this section shall be deemed for all purposes to be an amendment of the capital stock association's certificate of incorporation with the same effect as if it had been authorized, executed, approved and filed in the department pursuant to article 19 of P.L.1963, c.144 (C.17:12B-1 et seq.).

Repealer.

15. Sections 9 and 10 of P.L.1981, c.153 (C.17:9A-24a and C.17:9A-24b) and section 2 of P.L.1981, c.163 (C.17:9A-24b.2) are repealed.

16. This act shall take effect immediately.

Approved July 13, 2000.

Office of the Governor
NEWS RELEASE

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RELEASE: July 13, 2000

Gov. Christie Whitman signed the following legislation:

A-135, sponsored by Assembly Members Arline M. Friscia (D-Middlesex) and Neil M. Cohen (D-Union), amends motor vehicle laws to require State and local law enforcement authorities to receive proof of valid automobile insurance before releasing a motor vehicle impounded pursuant to State law. Uninsured vehicles would, therefore, remain impounded until a valid insurance policy was obtained or proof of existing insurance was presented.

A-316, sponsored by Assemblywomen Charlotte Vandervalk (R-Bergen) and Joan M. Quigley (D-Bergen/Hudson) and Senator Peter A. Inverso (R-Mercer/Middlesex), directs the Department of Health and Senior Services to develop regulations to require licensed health care facilities to monitor pain in patients as a fifth vital sign. The four traditionally accepted medical vital signs include blood pressure, pulse, respiration and temperature. The bill is based on one of the recommendations issued by the New Jersey Legislative Commission for the Study of Pain Management Policy in its report to the Governor and the Legislature in March 1999. The purpose of this bill is to promote greater awareness of pain as a patient concern among physicians, physician assistants and nurses. Additionally, the bill is intended to facilitate communication between health care professionals and their patients about levels of pain intensity.

A-317, sponsored by Assemblywomen Charlotte Vandervalk (R-Bergen) and Rose Marie Heck (R-Bergen) and Senator Peter A. Inverso (R-Mercer/Middlesex), amends the "Cancer Research Act" and broadens the mandate of the statutorily created New Jersey State Commission on Cancer Research (Commission) to encourage the development of research projects on pain management and palliative care for cancer patients. The bill is based on one of the recommendations issued by the New Jersey Legislative Commission for the Study of Pain Management Policy in its report to the Governor and the Legislature in March 1999. The Commission currently receives \$1 million annually to fund research projects on the genetic, biochemical, viral, microbiological and environmental causes of cancer. This bill would specifically authorize the Commission to fund research projects that focus on pain management and palliative care for persons diagnosed with cancer.

A-318, sponsored by Assemblywomen Charlotte Vandervalk (R-Bergen) and Joan M. Quigley (D-Bergen/Hudson) and Senator Peter A. Inverso (R-Mercer/Middlesex), continues the work of the New Jersey Legislative Commission for the Study of Pain Management Policy (Commission), which was established by the Legislature in 1997 to study and make recommendations concerning acute and chronic pain management policy issues. The Commission expired in 1999 upon submission of its recommendations to the

Governor and the Legislature. This bill would temporarily establish the New Jersey Pain Management Policy Advisory Council (Council) in the Department of Health and Senior Services for another two years, as a follow-up entity to the Commission in order to continue to study and develop further policy recommendations concerning pain management. The bill calls for the Council to submit a report of its recommendations to the Legislature and the Governor at the end of two years.

A-319, sponsored by Assembly Members Charlotte Vandervalk (R-Bergen) and Samuel D. Thompson (R-Middlesex/Monmouth) and Senator Peter A. Inverso (R-Mercer/Middlesex), intends to focus the attention of hospital and nursing home management and health care professional staff on the need to address pain management as an integral component of patient care. The bill amends the statutory "bill of rights" for hospital and nursing home patients to explicitly include the right to expect and receive appropriate assessment, management and treatment of pain. The bill is based on one of the recommendations of the New Jersey Legislative Commission for the Study of Pain Management Policy in its report to the Governor and the Legislature.

A-2179, sponsored by Assemblymen Christopher Bateman (R-Morris/Somerset) and E. Scott Garrett (R-Sussex/Hunterdon/Morris) and Senator Gerald Cardinale (R-Bergen), eliminates the requirement that a minimum of two-thirds of a savings bank's board of managers be residents of New Jersey. The residency requirement is retained for the first five years of operation of a newly formed savings bank. The bill intends to allow New Jersey State chartered savings banks greater flexibility to attract and retain the best qualified managers and to provide parity with State chartered banks and savings and loan associations, which do not have residency requirements.

A-2180, sponsored by Assemblymen Christopher Bateman (R-Morris/Somerset) and E. Scott Garrett (R-Sussex/Hunterdon/Morris) and Senator Gerald Cardinale (R-Bergen), removes the requirement that a savings bank must use the word "savings" in its name. The change will help preserve the viability of the State savings bank charter and recognizes the blurring of distinction between banks and savings banks by consumers. Federal law does not require the use of the word savings in the title of a federally chartered savings bank.

A-2263, sponsored by Assemblymen Christopher Bateman (R-Morris/Somerset) and Neil M. Cohen (D-Union) and Senator Gerald Cardinale (R-Bergen), provides for an expedited approval process for certain applications by banks, savings banks and savings and loan associations, such as for branch office applications, certificate of incorporation amendments, and other corporate approvals. The bill sets forth eligibility requirements that banks must meet to qualify for the expedited approval process. Also, the bill consolidates and clarifies parity power provisions for financial institutions to be consistent with new powers granted by the federal "Graham-Leach-Bliley Act."

A-2264, sponsored by Assemblymen Christopher Bateman (R-Morris/Somerset) and Neil M. Cohen (D-Union) and Senator Gerald Cardinale (R-Bergen), outlines procedures to be followed in the event of mergers between financial institutions and their subsidiaries, as

allowed by new federal law. The bill requires the Department of Banking and Insurance Commissioner's approval prior to a merger and requires a financial institution's governing board to adopt a plan of merger that sets forth, among other things, the terms and conditions of the proposed merger and the manner in which shares will be converted or paid.