

ASSEMBLY, No. 607

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen LUSTBADER and BATEMAN

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

2

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

5

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

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

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

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

18 "Commissioner" means the Commissioner of Banking;

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

21 "Eligible collateral" means:

22 (a) Obligations of any of the following:

23 (1) The United States;

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

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

31 (4) Any other governmental unit; or

32 (b) Obligations guaranteed or insured by any of the following, to

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

Matter underlined thus is new matter.

1 the extent of that insurance or guaranty:

2 (1) The United States;

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

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

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

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

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

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

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

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

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

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

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

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

1 "Valuation date" means December 31 and June 30.
2 (cf: P.L.1986, c.161, s.1)
3
4 2. Section 1 of P.L.1948, c.67 (C.17:9A-1) is amended to read as
5 follows:
6 1. As used in this act, and except as otherwise expressly provided
7 in this act:
8 (1) "Bank" shall include the following:
9 (a) Every corporation heretofore organized pursuant to the act
10 entitled "An act concerning banks and banking (Revision of 1899),"
11 approved March 24, 1899;
12 (b) Every corporation heretofore organized pursuant to the act
13 entitled "An act concerning trust companies (Revision of 1899),"
14 approved March 24, 1899;
15 (c) Every corporation heretofore organized pursuant to chapter 4
16 of Title 17 of the Revised Statutes;
17 (d) Every corporation, other than a savings bank, heretofore
18 authorized by any general or special law of this State to transact
19 business as a bank or as a trust company, or as both;
20 (e) Every corporation hereafter organized pursuant to article 2 of
21 this act;
22 (2) "Banking institution" shall mean a bank, an out-of-State bank
23 having a branch office in this State, an out-of-country bank having a
24 branch office in this State, savings bank, and a national banking
25 association having its principal or a branch office in this State;
26 (3) "Board of managers" of a savings bank shall include the board
27 of trustees of a savings bank;
28 (4) "Capital stock" shall include both common stock and preferred
29 stock;
30 (5) "Certificate of incorporation," unless the context requires
31 otherwise, shall mean:
32 (a) The certificate of incorporation, together with all amendments
33 thereto, of every bank and savings bank organized pursuant to any
34 general law of this State;
35 (b) The charter, together with all amendments thereto, of every
36 bank and savings bank organized pursuant to any special law of this
37 State;
38 (6) "Commissioner" shall mean the Commissioner of Banking of
39 New Jersey;
40 (7) "Department" shall mean the Department of Banking of New
41 Jersey;
42 (8) "Fiduciary" shall include trustee, executor, administrator,
43 receiver, guardian, assignee, and every other person occupying any
44 other lawful office or employment of trust;
45 (9) "Manager" of a savings bank shall include a trustee of a savings
46 bank;

- 1 (10) "Municipality" shall mean a city, town, township, village, and
2 borough of this State;
- 3 (11) "Population" shall mean the population as determined by the
4 latest federal census or as determined by the commissioner from other
5 information which he may deem reliable;
- 6 (12) "Qualified bank" shall mean:
- 7 (a) A bank or an out-of-State bank with a branch office in New
8 Jersey which has heretofore been authorized or which shall hereafter
9 be authorized to exercise any of the powers authorized by section 28
10 of P.L.1948, c.67 (C.17:9A-28);
- 11 (b) A savings bank which has heretofore been authorized or which
12 shall hereafter be authorized to exercise any of the powers authorized
13 by section 28 of P.L.1948, c.67 (C.17:9A-28); and
- 14 (c) A national banking association having its principal or a branch
15 office in this State authorized to act as a fiduciary;
- 16 (13) "Savings bank" shall include the following:
- 17 (a) Every corporation heretofore organized pursuant to the act
18 entitled "An act concerning savings banks," approved April 12, 1876;
- 19 (b) Every corporation heretofore organized pursuant to the act
20 entitled "An act concerning savings banks," approved May 2, 1906;
- 21 (c) Every corporation heretofore organized pursuant to chapter 6
22 of Title 17 of the Revised Statutes;
- 23 (d) Every corporation, other than a bank, authorized by any
24 general or special law of this State to carry on the business of a
25 savings bank or institution or society for savings;
- 26 (e) Every corporation hereafter organized pursuant to article 3 of
27 [this act] P.L.1948, c.67 (C.17:9A-7 and 17:9A-8) or P.L.1982, c.9
28 (C.17:9A-8.1 et seq.);
- 29 (14) "Branch office" of a bank or savings bank shall mean an office,
30 unit, station, facility, terminal, space or receptacle at a fixed location
31 other than a principal office, however designated, at which any
32 business that may be conducted in a principal office of a bank or
33 savings bank may be transacted. "Branch office" includes full branch
34 offices, minibranch offices and communication terminal branch offices;
- 35 (15) "Full branch office" means a branch office of a bank or savings
36 bank not subject to the limitations or restrictions imposed upon
37 minibranch offices or communication terminal branch offices;
- 38 (16) "Minibranch office" means a branch office of a bank or savings
39 bank which does not occupy more than 500 square feet of floor space
40 and which does not contain more than four teller stations, manned by
41 employees of the bank or savings bank;
- 42 (17) "Communication terminal branch office" means a branch office
43 of a bank or savings bank which is either manned by a bona fide third
44 party under contract to a bank or savings bank or unmanned and which
45 consists of equipment, structures or systems, by means of which
46 information relating to financial services rendered to the public is

1 transmitted and through which transactions with banks and savings
2 banks are consummated, either instantaneously or otherwise;

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

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

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

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

41 (22) "Home state" means:

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

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

46 (23) "Host state" means, with respect to a bank, a state, other than

1 the home state of the bank, in which the bank maintains, or seeks to
2 establish and maintain, a branch office.

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

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

9 (25) "Out-of-country bank" means a bank chartered under the laws
10 of a country other than the United States.

11 (26) "Interstate merger transaction" means:

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

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

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

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

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

27

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

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

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

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

42 (2) When each proposed branch will be established at a location
43 occupied by the principal office or a branch office of a banking
44 institution in liquidation or in contemplation of liquidation.] (Deleted
45 by amendment, P.L. , c. .)(pending before the Legislature as this
46 bill.)

1 (3) (Deleted by amendment.)

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

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

19 E. (Deleted by amendment.)

20 F. (Deleted by amendment.)

21 G. (Deleted by amendment.)

22 H. (Deleted by amendment.)

23 I. (Deleted by amendment.)

24 J. (Deleted by amendment.)

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

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

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

43

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

46 1. [A banking] a. An insured depository institution located in this

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

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

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

33

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

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

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

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

46 [(3)] (c) That conditions in the locality in which the proposed full

1 branch office is to be established afford reasonable promise of
2 successful operation; and

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

6 the commissioner shall, within 90 days after the filing of the
7 application, approve such application.

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

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

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

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

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

44 C. Before any communication terminal branch office shall be
45 established, the bank or savings bank shall file in the department
46 written notice of the proposed establishment [which shall consist of a

1 resolution duly adopted by the board of directors or board of
2 managers] and such other information as the commissioner shall
3 require. [No hearing shall be held by the commissioner in connection
4 with such application. Within 45 days after receipt of the application,
5 the commissioner shall approve the application unless he finds that the
6 establishment is contrary to the interest of the public.]

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

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

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

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 branch offices not inconsistent with the
28 provisions of this act. The regulations so made shall also be directed
29 toward the creation, operation and maintenance of a substantial
30 competitive parity between banking institutions and other financial
31 institutions in all matters relating to the establishment, operation, and
32 maintenance of branch offices.

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

34

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

37 21. A. The failure of a bank, out-of-State bank or savings bank to
38 open and operate a branch office within [six months] one year after the
39 commissioner approves the application therefor shall automatically
40 terminate the right of the bank, out-of-State bank or savings bank to
41 open the branch office, and it shall make no further application to
42 establish a branch office at such location, or in the area which would
43 be served by a bank, out-of-State bank or savings bank doing business
44 at such location, until after the expiration of one year from the date of
45 such approval; except that, for good cause shown, the commissioner
46 may, in [his] the commissioner's discretion, on application of the bank,

1 out-of-State bank or savings bank made before the expiration of [such
2 six months] the one year period, extend for additional periods, not in
3 excess of six months each, the time within which such branch office
4 may be opened.

5 B. A bank, out-of-State bank or savings bank may discontinue a
6 branch office upon resolution of its board of directors or board of
7 managers. Upon the adoption of such a resolution, the bank,
8 out-of-State bank or savings bank shall file a certificate in the
9 department specifying the location of the branch office to be
10 discontinued, and the date upon which the discontinuance shall be
11 effective.

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

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

29

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

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

1 B. If it shall appear from the application, or if the commissioner
2 shall find from such proof as [he] the commissioner may require, or
3 from such investigation as [he] the commissioner may cause to be
4 made, that the area which would be served by such office after its
5 change in location would not be substantially different from the area
6 theretofore served by such office, [he] the commissioner shall approve
7 the application.

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

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

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

30
31 8. Section 23 of P.L.1948, c.67 (C.17:9A-23) is amended to read
32 as follows:

33 23. A bank or savings bank may, without satisfying the
34 requirements of section 22 of P.L.1948, c.67 (C.17:9A-22), change
35 the location of its principal office to a location in this State then
36 occupied by a branch office maintained by it. After such a change, the
37 bank or savings bank may maintain a branch office at the location
38 formerly occupied by its principal office, or it may discontinue
39 business at such location. Such bank or savings bank shall file a
40 certificate of such change in the department within 1 week from the
41 date such change is made. A change in location effected pursuant to
42 this section shall not be subject to the limitations imposed by
43 subsections C or D of section 19 of P.L.1968, c.67 (C.17:9A-19). No
44 change in location shall be made under this section without prior
45 written approval of the commissioner which the commissioner shall
46 not withhold unless [he] the commissioner shall find that such change

1 will not be in the public interest.

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

3

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

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

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

22

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

25 3. a. A branch office established pursuant to this act may be
26 located [in a municipality other than the municipality in which the
27 applying bank maintains its principal office, but no bank shall establish
28 any such branch office outside the county in which it maintains its
29 principal office] anywhere in this State.

30 b. No branch office established pursuant to this act shall be
31 removed to a location outside the installation on which it has been
32 established.

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

35 d. [In determining whether a banking institution maintains its
36 principal office or a branch office in a municipality within the meaning
37 of section 19B(3) of the act to which this act is a supplement, a branch
38 office established pursuant to this act shall be disregarded.](Deleted
39 by amendment, P.L. , c. .) (pending before the Legislature as this
40 bill.)

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

44 f. A branch office maintained pursuant to this act shall not be
45 deemed to be a branch as an adjunct of which an auxiliary office may
46 be established.

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

2

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

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

11 c. A bank or savings bank which establishes a branch office outside
12 this State shall have such additional powers in that state as permitted
13 to banks or savings banks, as applicable, in the state in which the
14 branch is located.

15

16 12. (New section) a. An out-of-State bank without a branch office
17 in this State may apply to establish a de novo branch office in this
18 State by filing with the department a copy of the application the
19 out-of-State bank filed with the regulator in its home state and the
20 application it filed with the responsible federal bank supervisory
21 agency .

22 b. The commissioner shall approve the application if the
23 out-of-State bank is adequately capitalized as of the date of the
24 application, will be adequately capitalized and managed after the
25 branch is established, and has achieved sufficient compliance, as
26 defined by the commissioner by regulation, with the Community
27 Reinvestment Act of 1977, 12 U.S.C. §2901 et seq.

28 c. A national bank without a branch office in this State may
29 establish a de novo branch office in this State by application to the
30 Comptroller of the Currency so long as the national bank is adequately
31 capitalized as of the date of the application, will be adequately
32 capitalized and managed after the branch is established, has published
33 notice of the application in accordance with procedural rules and
34 regulations of the department, and has achieved satisfactory
35 compliance with the Community Reinvestment Act of 1977, 12 U.S.C.
36 §2901 et seq.

37

38 13. (New section) An out-of-State bank that opens, occupies or
39 maintains a branch office in this State shall have in this State only the
40 powers a bank chartered in this State has

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

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

12
13 15. Section 1 of P.L.1968, c.149 (C.17:9A-23.50) is amended to
14 read as follows:

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

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

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

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

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

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

38 (f) "Person" includes natural persons, corporations, partnerships
39 and associations.

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

41
42 16. Section 9 of P.L.1981, c.153 (C.17:9A-24a) is amended to
43 read as follows:

44 9. The commissioner shall have the power to make, amend, and
45 repeal regulations permitting banks to exercise any power, right,
46 benefit, or privilege permitted to national or state banks, provided that

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

6

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

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

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

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

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

43 f. A bank or savings bank may, with the approval of the
44 commissioner, acquire an out-of-State branch office of a bank, savings
45 bank or an out-of-State bank, and the branch shall be treated, for
46 purposes of this section, as an out-of-State bank.

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

5
6 18. Section 148 of P.L.1948, c.67 (C.17:9A-148) is amended to
7 read as follows:

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

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

39 C. One or more national banking associations, or one or more
40 national banking associations together with one or more banks may,
41 with the approval of the commissioner as provided by section 136 of
42 P.L.1948, c.67 (C.17:9A-136), merge into a bank, or may consolidate
43 with a bank under the charter of such bank. Each bank which is a
44 party to such a merger or consolidation as a merging bank or as the
45 receiving bank shall, in all respects, comply with and be subject to the
46 provisions of sections 134 through 147 of P.L.1948, c.67

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

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

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

36 F. Before June 1, 1997, a merger involving a bank and a national
37 banking association without a branch office in New Jersey shall not be
38 not permitted unless the home state of each institution involved in the
39 transaction has in effect, as of the date of the approval of that
40 transaction, a law that applies equally to all out-of-state banks and
41 expressly permits interstate merger transactions with all out-of-state
42 banks. On or after June 1, 1997, a merger involving a bank and a
43 national banking association without a branch office in New Jersey,
44 shall not be not permitted if the home state of any institution involved
45 in the transaction has enacted a law after September 29, 1994 and
46 before June 1, 1997, that applies equally to all out-of-state banks and

1 expressly prohibits merger transactions involving out-of-state banks.

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

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

9

10 19. Section 256 of P.L.1948, c.67 (C.17:9A-256) is amended to
11 read as follows:

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

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

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

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

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

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

40

41 20. Section 258 of P.L.1948, c.67 (C.17:9A-258) is amended to
42 read as follows:

43 258. A summary of [each report filed pursuant to subsection A of
44 section 256, in such form as the commissioner shall prescribe, shall be
45 published once by the bank in a newspaper published and circulated in
46 the municipality in which the bank maintains its principal office, or, if

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

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

12

13 21. Section 260 of P.L.1948, c.67 (C.17:9A-260) is amended to
14 read as follows:

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

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

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

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

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

45

46 22. Section 264 of P.L.1948, c.67 (C.17:9A-264) is amended to

1 read as follows:

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

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

24

25 23. Section 267 of P.L.1948, c.67 (C.17:9A-267) is amended to
26 read as follows:

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

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

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

42

43 24. Section 268 of P.L.1948, c.67 (C.17:9A-268) is amended to
44 read as follows:

45 268. A bank, or out-of-State bank with a branch in this State,
46 which continues to violate the provisions of its certificate of

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

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

14

15 25. Section 316 of P.L.1948, c.67 (C.17:9A-316) is amended to
16 read as follows:

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

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

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

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

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

25 E. (1) For the purposes of Article 44 of "The Banking Act of
26 1948," (C.17:9A-315 through 17:9A-332), a foreign bank, including
27 one organized under the laws of a foreign country, shall not be deemed
28 to transact business or maintain an office in this State by virtue of
29 conducting business in this State through an agent in this State which
30 is an insured depository institution affiliate or other agent.

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

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

39

40 26. Section 334 of P.L.1948, c.67 (C.17:9A-334) is amended to
41 read as follows:

42 334. A foreign bank shall pay to the commissioner for the use of
43 the State a fee, to be prescribed by the commissioner by regulation, in
44 an amount not less than or not more than, the following minimum and
45 maximum amounts:

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

The commissioner may by rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) impose other fees and charges, including assessments and fees for application and examinations, on out-of-State banks establishing branch offices or agency offices in this State.
(cf: P.L.1988, c.73, s.2)

27. Section 2 of P.L.1969, c.118 (C.17:9A-356) is amended to read as follows:

2. (1) An acquiring corporation may[, subject to the provisions of An act concerning the ownership of bank stock in certain cases, defining certain terms in relation thereto, imposing certain restrictions on such ownership, providing for the enforcement of the act and for punishment of violations thereof, approved June 5, 1957 (P.L.1957, c. 70),]acquire ownership of all the outstanding shares of the capital stock of one or more banks in the manner provided by this act.

(2) Shares of capital stock of an acquiring corporation, or other

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

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

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

13
14 28. (New section) The commissioner is authorized to enter into
15 contracts with bank supervisors of other states for the purpose of
16 establishing effective and efficient supervisory and regulatory
17 structures and practices with respect to the provisions of sections 1
18 through 27 of this 1995 amendatory and supplementary act.

19
20 29. (New section) As used in sections 29 through 37 of P.L. ,
21 c. (C.)(pending before the Legislature as this bill):

22 "Acquire" means:

23 (1) That a company merges or consolidates with a bank holding
24 company;

25 (2) That a company assumes direct or indirect ownership or control
26 of:

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

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

33 (c) all or substantially all of the assets of a bank holding company
34 or a bank; or

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

38 "Affiliate," "bank," "company," and "subsidiary" have the meanings
39 set forth in section 2 of the federal "Bank Holding Company Act of
40 1956," 12 U.S.C. §1841.

41 "Bank holding company" has the meaning set forth in subsection (a)
42 of section 2 of the federal "Bank Holding Company Act of 1956," 12
43 U.S.C. §1841(a) and, unless the context requires otherwise, includes
44 a New Jersey bank holding company, an out-of-State bank holding
45 company and a foreign bank holding company.

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

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

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

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

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

11 "Commissioner" means the Commissioner of Banking.

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

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

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

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

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

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

25 "New Jersey bank holding company" means a bank holding
26 company that:

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

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

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

31 (1) a bank holding company that is not a New Jersey bank holding
32 company; and

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

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

36 "Principal place of business" of a bank holding company means the
37 state in which the total deposits of its bank subsidiaries are the
38 greatest.

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

41

42 30. (New section) Sections 29 through 37 of P.L. , c.
43 (C.)(pending before the Legislature as this bill) set forth the
44 conditions under which a person may acquire a New Jersey bank or
45 New Jersey bank holding company. Sections 29 through 37 are
46 intended not to discriminate against out-of-State bank holding

1 companies or against foreign bank holding companies in any manner
2 that would violate subsection (d) of section 3 of the federal "Bank
3 Holding Company Act of 1956," 12 U.S.C. §1842(d), as amended
4 effective September 29, 1995.

5

6 31. (New section) a. Except as otherwise expressly permitted by
7 federal law, no person may acquire a New Jersey bank holding
8 company or a New Jersey bank without the prior approval of the
9 commissioner.

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

12 (1) in a transaction arranged by the commissioner or another bank
13 supervisory agency to prevent the insolvency or closing of the
14 acquired bank; or

15 (2) in a transaction in which a bank forms its own bank holding
16 company, if the ownership rights of the former bank shareholders are
17 substantially similar to those of the shareholders of the new bank
18 holding company.

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

24

25 32. (New section) a. A person that proposes to make an
26 acquisition under sections 29 through 37 of P.L. , c. (C.)
27 (pending before the Legislature as this bill) shall:

28 (1) file with the commissioner an application in the form that the
29 commissioner requires; and

30 (2) pay to the commissioner an application fee prescribed by the
31 commissioner.

32 b. To the extent consistent with the effective discharge of the
33 commissioner's responsibilities, the forms established under sections
34 29 through 37 of P.L. , c. (C.)(pending before the Legislature
35 as this bill) for application and reporting shall conform to those
36 established by the Board of Governors of the Federal Reserve System
37 under the federal "Bank Holding Company Act of 1956," 12 U.S.C.
38 §1841 et seq.

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

41 (1) require that prior notice of the application be published in a
42 daily newspaper of general circulation and provide an opportunity for
43 public comment; and

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

46 d. If the applicant is an out-of-State bank holding company it shall

1 submit with the application proof that the applicant has complied with
2 or is exempted from the requirements of N.J.S.14A:13-3 and
3 N.J.S.14A:13-4, requiring registration by foreign corporations doing
4 business in this State.

5
6 33. (New section) a. In deciding whether to approve an
7 application for a proposed acquisition under sections 29 through 37 of
8 P.L. , c. (C.)(pending before the Legislature as this bill), the
9 commissioner shall consider whether the acquisition may:

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

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

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

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

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

27
28 34. (New section) a. The commissioner shall decide whether to
29 approve an acquisition under sections 29 through 37 of P.L. , c.
30 (C.)(pending before the Legislature as this bill) within 60 days after
31 receipt of a completed application, provided, that if the commissioner
32 requests additional information from the applicant following receipt of
33 a completed application, the time limit for decision by the
34 commissioner shall be the later of:

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

36 (2) 30 days after the commissioner's receipt of the requested
37 additional information.

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

40 c. If the commissioner holds a public hearing in connection with an
41 application, the time limits specified in subsection a. of this section
42 shall be extended to 30 days after the conclusion of the public hearing.

43 d. An application shall be deemed approved if the commissioner
44 takes no action on the application within the time limits specified in
45 this section.

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

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

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

12 b. At the request of the commissioner, to the extent permitted by
13 applicable state and federal law, each bank holding company or person
14 that controls a New Jersey bank or a New Jersey bank holding
15 company shall provide to the commissioner copies of the reports of
16 examination of any New Jersey bank or New Jersey bank holding
17 company.

18
19 36. (New section) The commissioner may enforce the provisions
20 of sections 29 through 37 of P.L. , c. (C.) (pending before the
21 Legislature as this bill) by any appropriate action in the Superior
22 Courts of this State, including an action for civil money penalties,
23 injunctive relief or divestment.

24
25 37. (New section) In order to carry out the purposes of sections
26 29 through 37 of P.L. , c. (C.)(pending before the legislature as
27 this bill) the commissioner may:

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

30 b. Enter into cooperative, coordinating or information-sharing
31 agreements with any other bank supervisory agency or any
32 organization affiliated with or representing one or more bank
33 supervisory agencies;

34 c. Accept any report of examination or investigation by another
35 bank supervisory agency having concurrent jurisdiction over a New
36 Jersey bank holding company or any New Jersey bank in lieu of
37 conducting the commissioner's own examination or investigation of
38 that bank holding company or bank;

39 d. Enter into joint examinations or joint enforcement actions with
40 any other bank supervisory agency having concurrent jurisdiction over
41 any New Jersey bank holding company or New Jersey bank; provided,
42 however, that the commissioner may take any such action
43 independently if the commissioner determines that the action is
44 necessary or appropriate to carry out the commissioner's
45 responsibilities under sections 29 through 37 of P.L. , c.

46 (C.)(pending before the Legislature as this bill) and to ensure

1 compliance with the laws of this State; and

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

11

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

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

31 c. The provisions of sections 38 through 87 of P.L. , c.
32 (C.)(pending before the Legislature as this bill) are intended to
33 authorize foreign banks to establish and operate branches, agencies,
34 commercial lending company affiliates and representative offices in this
35 State and generally to ensure that interstate branches of foreign banks
36 may be established and operated in this State to the extent consistent
37 with the provisions of section 5 of the "International Banking Act of
38 1978," 12 U.S.C. §3103, and the regulations of the Federal Reserve
39 promulgated thereunder, 12 CFR §211.20 et seq., and under terms and
40 conditions that are generally comparable to and no less favorable than
41 those applicable to the establishment of interstate federal branches in
42 this State by foreign banks.

43 d. As provided in subsection e. of this section, a foreign bank may
44 establish a branch or agency in this State in the same manner
45 (including by merger or other transactions under the Federal Deposit
46 Insurance Act, 12 U.S.C. §1831u, and comparable provisions of the

1 laws of this State, with New Jersey banks or other institutions) as, and
2 subject generally to the same criteria, standards, conditions,
3 requirements and procedures applicable to the establishment of
4 interstate branches in this State by an out-of-State bank having the
5 same home state in the United States as the foreign branch or agency,
6 notwithstanding any provisions of the laws or regulations of this State
7 to the contrary.

8 e. In interpreting the provisions of sections 38 through 87 of
9 P.L. , c. (C.)(pending before the Legislature as this bill), the
10 commissioner:

11 (1) generally shall apply to the establishment of an initial office of
12 a foreign bank whether or not the initial office is an interstate branch,
13 and any subsequent intrastate offices of a foreign bank, the same
14 criteria, standards, conditions, requirements and procedures applicable
15 to the establishment of an initial branch in New Jersey by an
16 out-of-State bank, and of subsequent intrastate branches in this State
17 by an out-of-State bank;

18 (2) may apply any other criterion, standard, condition, requirement
19 or provision of the laws or regulations of this State that is determined
20 by the commissioner to be substantially equivalent to or consistent
21 with a criterion, standard, condition, requirement or provision of
22 federal law or regulation generally applicable to the establishment of
23 offices in the United States by foreign banks or specifically applicable
24 to the establishment of an office in the United States by the applicant
25 foreign bank;

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

27 (a) to acquire an individual branch of any "insured bank," as that
28 term is defined in the "Federal Deposit Insurance Act," 12 U.S.C.
29 §1813(h), or of any other depository institution, including another
30 foreign bank, without acquiring the entire bank or other institution;

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

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

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

40

41 39. (New section) As used in sections 38 through 87 of P.L. ,
42 c. (C.)(pending before the Legislature as this bill):

43 "Agency" means any place of business of a foreign bank at which
44 credit balances are maintained, checks are paid, money is lent, or, to
45 the extent not prohibited by federal law, deposits are accepted from a
46 person or entity that is not a citizen or resident of the United States.

1 Obligations shall not be considered credit balances unless they are:

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

4 (2) To serve a specific purpose;

5 (3) Not solicited from the general public;

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

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

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

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

14 "Banking subsidiary," with respect to a specified foreign bank,
15 means a bank that is a subsidiary as the terms "bank" and "subsidiary"
16 are defined in section 2 of the federal "Bank Holding Company Act of
17 1956," 12 U.S.C. §1841.

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

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

25 "Change the status of an office" means convert a representative
26 office into a branch or agency, or an agency into a branch, or the
27 reverse of the foregoing, but does not include renewal of the license
28 of an existing office.

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

37 "Commissioner" means the Commissioner of Banking of New
38 Jersey.

39 "Controlling person," when used with respect to a foreign bank,
40 means any person who, directly or indirectly, controls that bank.

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

42 "To establish" or "establish" means to:

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

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

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

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

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

7 "Executive officer," when used with respect to a foreign bank or a
8 controlling person of a foreign bank, means the chief executive officer,
9 the chief operating officer, the chief financial officer, and any other
10 person who participates or has authority to participate in major
11 policy-making functions of such bank or controlling person.

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

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

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

19 "FDIC" means the Federal Deposit Insurance Corporation
20 established pursuant to "Federal Deposit Insurance Act," 12 U.S.C.
21 §1811 et seq.

22 "Federal Reserve" means the Board of Governors of the Federal
23 Reserve System.

24 "Foreign country" means any nation other than the United States,
25 including, without limitation, any subdivision, territory, trust territory,
26 dependency, or possession of any such nation. With respect to banks
27 which do not have deposit insurance with the FDIC, "foreign country"
28 also includes Puerto Rico, Guam, American Samoa, the Virgin Islands,
29 and any territory, trust territory, dependency, or insular possession of
30 the United States.

31 "Foreign bank" means an organization that is organized under the
32 laws of a foreign country and that engages directly in the business of
33 banking outside of the United States. The term "foreign bank" does
34 not include a central bank of a foreign country that does not engage in
35 a commercial banking business in the United States through an office.

36 "Foreign banking organization" means a foreign bank that operates
37 a branch, agency or commercial lending company subsidiary in the
38 United States or that controls a bank in the United States and any
39 company of which such foreign bank is a subsidiary.

40 "License" means a license issued under sections 38 through 87 of
41 P.L. ____, c. __ (C. __) (pending before the Legislature as this bill),
42 authorizing a foreign bank or a commercial lending company to
43 establish and to maintain an office; to be "licensed" means to be issued
44 or to hold a license; and to be "licensed to transact business in this
45 State," when used with respect to a foreign bank or a commercial
46 lending company, means that the bank is licensed to establish an

1 agency or branch office or commercial lending company.

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

5 "Office" or "office of a foreign bank" means any branch, agency,
6 representative office, or commercial lending company subsidiary of a
7 foreign bank in the United States.

8 "Organization" means a corporation, government, partnership,
9 association, or any other entity.

10 "Person" means an individual or an organization.

11 "Primary office," when used with respect to a foreign bank which
12 is licensed to establish a single office, means that office and, when
13 used with respect to a foreign bank which is licensed to establish two
14 or more offices, means one of those offices which that bank has
15 designated as its primary office in accordance with section 52 of
16 P.L. , c. (C.)(pending before the Legislature as this bill).

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

19 "State of the United States" means any state of the United States or
20 the District of Columbia.

21 "Subsidiary" means an organization, 25 percent or more of whose
22 voting shares is directly or indirectly owned, controlled, or held with
23 the power to vote by a company, including a foreign bank or foreign
24 banking organization, or any organization that is otherwise controlled
25 or capable of being controlled by a foreign bank or foreign banking
26 organization.

27

28 40. (New section) a. For purposes of sections 38 through 87 of
29 P.L. , c. (C.)(pending before the Legislature as this bill),
30 offices of foreign banks are divided into classes and ranked in
31 ascending order, as follows:

32 (1) Representative office.

33 (2) Commercial lending company.

34 (3) Agency.

35 (4) Branch.

36 b. For purposes of sections 38 through 87 of P.L. , c.
37 (C.)(pending before the Legislature as this bill):

38 (1) Changing a lower class office into a higher class office shall be
39 treated as establishing the higher class office, but not as closing the
40 lower class office.

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

44 c. In the case of changing a higher class office into a lower class
45 office, when the application for approval to close the higher class
46 office has been approved and all conditions precedent to the closing

1 have been fulfilled, the foreign bank may change the higher class office
2 into the lower class office, and the commissioner shall issue a license
3 authorizing the bank to establish the lower class office.

4
5 41. (New section) Fees shall be paid to, and collected by, the
6 commissioner as follows:

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

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

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

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

21 e. The fee for filing with the commissioner an application by a
22 foreign bank for approval to establish a representative office shall be
23 \$1,500.

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

28 g. The fee for filing with the commissioner an application by a
29 foreign bank which is licensed to establish a representative office for
30 approval to relocate or to close that representative office shall be
31 \$500.

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

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

36
37 42. (New section) a. Each application filed with the commissioner
38 under sections 38 through 87 of P.L. , c. (C.)(pending before
39 the Legislature as this bill) or under any regulation or order issued
40 under sections 38 through 87 of P.L. , c. (C.)(pending before
41 the Legislature as this bill) shall be in such form, shall contain the
42 information, be signed in the manner, and, if the commissioner so
43 requires, be verified in the manner the commissioner may by regulation
44 or order require.

45 b. Without limiting the foregoing, the commissioner shall require
46 as part of the application all of the information submitted to the

1 Federal Reserve in connection with any application and may require
2 only the information in the form submitted to the Federal Reserve as
3 these are required pursuant to the "Bank Holding Company Act of
4 1956," 12 U.S.C. §1841 et seq., the "International Banking Act of
5 1978," 12 U.S.C. §3101 et seq. and regulation K, 12 CFR §211.20 et
6 seq., issued by the Federal Reserve.

7

8 43. (New section) a. In this section, "act" includes, without
9 limitation, omission.

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

13 (1) The commissioner may, in the absence of credible evidence to
14 the contrary, presume find that the directors, executive officers, and
15 any controlling person of the bank and the directors and executive
16 officers of any controlling person of the bank are each of good
17 character and sound financial standing.

18 (2) The commissioner may find that the bank, a director, executive
19 officer, or a controlling person of the bank, or director or executive
20 officer of a controlling person of the bank is not of good character if
21 that person:

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

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

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

29 (d) Has willfully made or caused to be made in any application or
30 report filed with the commissioner or in any proceeding before the
31 commissioner, any statement which was at the time and in the light of
32 the circumstances under which it was made false or misleading with
33 respect to any material fact, or has willfully omitted to state in any
34 such application or report any material fact which was required to be
35 stated therein; or

36 (e) Has willfully committed any violation of, or has willfully aided,
37 abetted, counseled, commanded, induced, or procured the violation by
38 any other person of, any provision of this section or of any regulation
39 or order issued under this section.

40 c. Paragraph (2) of subsection b., of this section shall not be
41 deemed to be an exclusive list of the grounds upon which the
42 commissioner may find, for purposes of making findings on an
43 application by a foreign bank or commercial lending company for
44 approval to establish an office, that such bank or company, a director,
45 executive officer, or controlling person of the bank, or a director or
46 executive officer of a controlling person of the bank or company, is

1 not of good character.

2

3 44. (New section) a. Each foreign bank and commercial lending
4 company which is licensed to establish an office shall file with the
5 commissioner reports as and when the commissioner may by
6 regulation or order require.

7 b. Each report filed with the commissioner under sections 38
8 through 87 of P.L. , c. (C.)(pending before the Legislature as
9 this bill) or under any regulation or order issued thereunder shall be in
10 the form, contain the information, be signed in the manner, and, if the
11 commissioner so requires, be verified in the manner the commissioner
12 may by regulation or order require.

13

14 45. (New section) Each foreign bank and commercial lending
15 company which is licensed to establish an office shall make, keep, and
16 preserve at an office or at any other place as the commissioner may by
17 regulation or order approve, the books, accounts, and other records
18 relating to the business of the office, in the form, manner, and for the
19 time the commissioner may by regulation or order provide.

20

21 46. (New section) a. No foreign bank which is licensed to
22 establish an agency or branch office shall concurrently establish a
23 federal agency or federal branch in this State.

24 b. No foreign bank which establishes a federal agency or federal
25 branch in this State shall concurrently be licensed to establish an
26 agency or branch office in this State.

27

28 47. (New section) A foreign bank or commercial lending company
29 may open one or more offices in this State. Each office shall be
30 separately licensed and each office of a separate class shall be
31 separately maintained.

32

33 48. (New section) a. (1) No foreign bank, other than a foreign
34 bank which is licensed to establish an agency or branch office, shall be
35 issued a license to establish a representative office or commercial
36 lending company unless it shall have first filed with the commissioner,
37 in the form as the commissioner may by regulation or order require, an
38 appointment irrevocably appointing the commissioner to be the bank's
39 or commercial lending company's attorney to receive service of any
40 lawful process in any noncriminal judicial or administrative proceeding
41 against the bank or any of its successors which arises out of the
42 activities in this State of the representative office or commercial
43 lending company after the appointment has been filed, with the same
44 force and validity as if served personally on the bank or its successor,
45 as the case may be.

46 (2) Any foreign bank, other than a foreign bank which is licensed

1 to establish an agency or branch office or which establishes a federal
2 agency or federal branch in this State, which establishes a
3 representative office or commercial lending company and which has
4 not filed with the commissioner an appointment pursuant to paragraph
5 (1) of this subsection a., shall be deemed by the establishment of that
6 office to have appointed the commissioner as its attorney to receive
7 service of any lawful process in any noncriminal judicial or
8 administrative proceeding against the bank or any of its successors
9 which arises out of the activities in this State of the representative
10 office or commercial lending company with the same force and validity
11 as if served personally on the bank or its successor, as the case may
12 be.

13 b. (1) No foreign bank shall be issued a license to establish an
14 agency or branch office unless it shall have first filed with the
15 commissioner, in a form as the commissioner may by regulation or
16 order require, an appointment irrevocably appointing the commissioner
17 to be the bank's attorney to receive service of any lawful process in
18 any noncriminal judicial or administrative proceeding against the bank
19 or any of its successors which arises after the appointment has been
20 filed, with the same force and validity as if served personally on the
21 bank or its successor, as the case may be.

22 (2) Any foreign bank which establishes an agency or branch office,
23 other than a federal agency or federal branch, and which has not filed
24 with the commissioner an appointment pursuant to paragraph (1) of
25 this subsection b. shall be deemed by the establishment of that office
26 to have appointed the commissioner as its attorney to receive service
27 of any lawful process in any noncriminal judicial or administrative
28 proceeding against the bank or any of its successors with the same
29 force and validity as if served personally on the bank or its successor,
30 as the case may be.

31 c. Service may be made on a foreign bank which has appointed or
32 is deemed to have appointed the commissioner as its attorney for
33 service of process by leaving a copy of the process at any office of the
34 commissioner. However, this service is not effective unless (1) the
35 party making the service, who may be the commissioner, forthwith
36 sends notice of the service and a copy of the process by registered or
37 certified mail to the foreign bank at its last address on file with the
38 commissioner at any of its offices in this State or at its primary office
39 wherever located, and (2) an affidavit of compliance with this
40 subsection c. by the party making service is filed in the case on or
41 before the return date, if any, or within such further time as the court,
42 in the case of a judicial proceeding, or the administrative agency, in the
43 case of an administrative proceeding, allow.

44

45 49. (New section) No license shall be transferable or assignable.

1 50. (New section) Each foreign bank and commercial lending
2 company which is licensed to establish an office shall post its license
3 in a conspicuous place at that office.

4
5 51. (New section) a. Each foreign bank and commercial lending
6 company which is licensed to establish an office shall assign to that
7 office a popular name which consists of a specific designation by
8 name, number or both, and shall post the popular name and the name
9 of the bank in a conspicuous place at the office.

10 b. The popular name that a foreign bank assigns to a representative
11 office which it is licensed to establish shall include the term
12 "representative office."

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

17 d. Each foreign bank which is licensed to establish a commercial
18 lending company shall select a popular name that includes the term
19 "commercial lending company" and shall post with that popular name
20 a clear expression of whether the foreign bank is liable for the debts
21 and obligations of the commercial lending company.

22
23 52. (New section) Whenever a foreign bank is licensed to establish
24 two or more offices it shall designate one of those offices as its
25 primary office.

26
27 53. (New section) Each foreign bank and commercial lending
28 company which is licensed to establish an office shall conduct all of the
29 business of that office in a single building or in a single building and
30 adjoining buildings. However, for good cause and with the approval
31 of the commissioner, the bank may conduct part of the business of the
32 office elsewhere in the same vicinity.

33
34 54. (New section) a. The department shall have the right to
35 examine each office which the commissioner licenses under section 38
36 through 87 of P.L. , c. (C.)(pending before the Legislature as
37 this bill). The department shall insure that each office which is
38 licensed hereunder is examined by either the Federal Reserve or the
39 department as often as the commissioner deems it advisable. The costs
40 of any examination by the department shall be assessed to the bank or
41 commercial lending company which is the holder of the license. The
42 examination fees shall be assessed in the same manner and on the same
43 basis as examination fees are assessed for banks or trust companies
44 organized under the Banking Act.

45 b. The commissioner may contract with the Federal Reserve or the
46 bank examination officials in any other state of the United States or in

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

23

24 55. (New section) A foreign bank or commercial lending company
25 which makes a loan or extends credit from an office in this State, or
26 books a loan or extension of credit in this State, shall comply with any
27 applicable interest rate limitations imposed by the laws of this State or
28 the United States which would be applicable to that loan if made by a
29 commercial bank organized under the Banking Act. When transacting
30 business in this State, an office of a foreign bank shall comply with all
31 other laws and regulations of the State governing the business in which
32 the office is engaged, unless the commissioner, for good cause shown,
33 exempts the office by regulation or order from compliance.

34

35 56. (New section) a. No foreign bank shall establish a
36 representative office in this State unless it is licensed to establish a
37 representative office at that place.

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

41 (2) For purposes of sections 38 through 87 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), if any person establishes
43 an office in this State as representative of a foreign bank, that foreign
44 bank shall be deemed to establish the office as a representative office.

45 c. Neither subsection a. nor subsection b. of this section shall
46 prohibit a foreign bank which establishes a federal agency or federal

1 branch in this State from establishing one or more representative
2 offices in this State.

3

4 57. (New section) a. (1) No foreign bank shall establish a
5 representative office unless the commissioner shall have first approved
6 the establishment of that office and issued a license authorizing the
7 foreign bank to establish the office.

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

11 b. If the commissioner finds the following with respect to an
12 application by a foreign bank to establish a representative office, the
13 commissioner shall approve the application:

14 (1) That the bank, any controlling person of the bank, the directors
15 and executive officers of the bank or of any controlling person of the
16 bank, and the proposed management of the office are each of good
17 character and sound financial standing;

18 (2) That the financial history and condition of the bank are
19 satisfactory;

20 (3) That the management of the bank and the proposed
21 management of the office are adequate;

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

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

27 (6) Such other standards as the commissioner may by regulation
28 require.

29 If the commissioner finds otherwise, the commissioner shall deny
30 the application.

31 c. Whenever an application by a foreign bank to establish a
32 representative office has been approved and all conditions precedent
33 to the issuance of a license authorizing the foreign bank to establish
34 the representative office have been fulfilled, the commissioner shall
35 issue the license.

36

37 58. (New section) a. No foreign bank which is licensed to
38 establish a representative office shall relocate its office unless the
39 commissioner shall have first approved the relocation and issued a
40 license authorizing the foreign bank to establish the office at the new
41 site.

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

45 (1) If the new site of the office is in the same vicinity as the old site,
46 that the relocation of the office will not be substantially detrimental to

1 the public convenience and advantage; or

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

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

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

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

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

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

20

21 59. (New section) A foreign bank which is licensed to establish a
22 representative office may, subject to regulations the commissioner may
23 prescribe, engage in representational functions at that office but shall
24 not solicit or accept deposits or credit balances or otherwise transact
25 business at the office.

26

27 60. (New section) a. (1) No foreign bank which is licensed to
28 establish a representative office shall close its office unless the
29 commissioner shall have first approved the closing.

30 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
31 bank which is licensed to establish a representative office from closing
32 the office in accordance with sections 80 through 86 of P.L. , c.

33 (C.)(pending before the Legislature as this bill).

34 b. If the commissioner finds, with respect to an application by a
35 foreign bank to close a representative office, that the closing of that
36 office will not be substantially detrimental to the public convenience
37 and advantage, the commissioner shall approve the application. If the
38 commissioner finds otherwise, the commissioner shall deny the
39 application.

40 c. Whenever an application by a foreign bank to close a
41 representative office has been approved and all conditions precedent
42 to the closing have been fulfilled, that bank may close the office and
43 shall promptly thereafter surrender to the commissioner the license
44 which authorized it to establish the office.

45

46 61. (New section) Any office of a foreign bank existing in this

1 State on the effective date of sections 38 through 87 of P.L. , c.
2 (C.)(pending before the Legislature as this bill) which had been
3 previously approved by the commissioner shall be granted a license by
4 the commissioner as a representative office for purposes of that act.

5
6 62. (New section) a. No foreign bank shall transact business in
7 this State except at an agency or branch office which it is licensed to
8 establish and at which it is permitted by sections 38 through 87 of P.L.
9 , c. (C.)(pending before the Legislature as this bill) to transact
10 that business.

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

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

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

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

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

29
30 63. (New section) a. (1) No foreign bank shall establish an agency
31 or branch office unless the commissioner shall have first approved the
32 establishment of that office and issued a license authorizing the bank
33 to establish the office.

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

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

39 (1) That the bank, any controlling person of the bank, the directors
40 and executive officers of the bank or of any controlling person of the
41 bank, and the proposed management of the office are each of good
42 character and sound financial standing;

43 (2) That the financial history and condition of the bank are
44 satisfactory;

45 (3) That the management of the bank and the proposed
46 management of the office are adequate;

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

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

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

8 If the commissioner finds otherwise, the commissioner shall deny
9 the application.

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

14
15 64. (New section) a. No foreign bank which is licensed to
16 establish an agency or branch office shall relocate that office unless the
17 commissioner shall have first approved the relocation and issued a
18 license authorizing the bank to establish the office at the new site.

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

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

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

26 (b) That the relocation of the office will not be substantially
27 detrimental to the public convenience and advantage, or that the
28 relocation is necessary in the interests of the safety and soundness of
29 the bank; or

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

32 (a) That the bank's plan to relocate the office and to establish the
33 office at the new site affords reasonable promise of successful
34 operation;

35 (b) That the relocation of the office from the old site will not be
36 substantially detrimental to the public convenience and advantage in
37 the area which is primarily served by the office at the old site, or that
38 the relocation is necessary in the interests of the safety and soundness
39 of the bank; and

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

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

44 c. Whenever an application by a foreign bank to relocate an agency
45 or branch office has been approved and all conditions precedent to the
46 issuance of a license authorizing the bank to establish the office at the

1 new site have been fulfilled, the commissioner shall issue the license.

2 d. Promptly after a foreign bank which is licensed to establish an
3 agency or branch office relocates the office, the bank shall surrender
4 to the commissioner the license which authorized it to establish the
5 office at the old site.

6

7 65. (New section) a. A foreign bank which is licensed to establish
8 an agency or branch office may transact banking business at that
9 office, subject to the following:

10 (1) If the office is an agency, the bank shall not transact the
11 business of accepting deposits, other than deposits of: (a) a foreign
12 nation; (b) an agency or instrumentality of a foreign nation; or (c) a
13 person which resides, is domiciled, and maintains its principal place
14 of business in a foreign nation. For purposes of this paragraph
15 "person" means any individual, proprietorship, joint venture,
16 partnership, trust, business trust, syndicate, association, joint stock
17 company, corporation, or any other organization or any branch or
18 division thereof.

19 (2) If the office is a branch office, the bank shall not transact the
20 business of accepting any deposits other than: (a) deposits of the kind
21 described in paragraph (1) of this subsection a.; (b) deposits of
22 \$100,000 or more; (c) deposits of less than \$100,000 which the branch
23 is permitted to accept under applicable federal law; or (d) deposits the
24 acceptance of which the commissioner determines by regulation or
25 order does not constitute engaging in domestic retail deposit activities
26 requiring deposit insurance protection.

27 (3) If the office is an agency or branch office or commercial
28 lending company, the bank or lending company may maintain credit
29 balances as those obligations are defined under the term "agency" in
30 section 39 of P.L. , c. (C.)(pending before the Legislature as
31 this bill).

32 (4) In any case, the bank or commercial lending company shall not
33 transact any business which it is not authorized to transact or is
34 prohibited from transacting under the laws of its domicile or which
35 banks organized under the laws of this State are not authorized to
36 transact or are prohibited from transacting.

37 b. No foreign bank which is licensed to establish an agency or
38 branch office shall transact any trust business at that office unless the
39 commissioner expressly authorizes the trust business by order upon a
40 finding by the commissioner that the agency or branch is qualified to
41 transact such business under standards similar to those required to
42 obtain a charter for a trust company under the Banking Act.

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

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

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

10 (a) "Approved by, or approval of, the board" means approved or
11 ratified by the board of the bank, by a committee of the board
12 authorized to exercise the powers of the board with respect to the
13 particular matter, or by an officer of the bank who is assigned to the
14 head office of the bank and who has authority over the bank's business
15 in this State, including authority to approve or ratify the particular
16 matter.

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

18 (c) "Shareholders' equity" means the shareholders' equity of the
19 bank or, if the bank has no shareholders' equity, the closest equivalent
20 account or accounts.

21 e. Whenever any provision of the Banking Act, which is applicable
22 to or with respect to a foreign bank or commercial lending company
23 licensed to transact business in this State limits the amount of any
24 assets or liabilities of the bank, including, by way of example, the
25 amount of borrowings of, obligations to, or investment of the bank or
26 commercial lending company, for purposes of calculating the amount
27 of such assets or liabilities, only assets or liabilities of the agencies or
28 branch offices of the bank or commercial lending company shall be
29 included, and the assets and liabilities of offices of the bank or
30 commercial lending company outside this State shall be excluded.

31
32 66. (New section) a. Whenever the commissioner calls for a
33 report of condition or income from commercial banks organized under
34 the laws of this State, the commissioner shall call for a like report from
35 each foreign bank which is licensed to transact business in this State.

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

40 c. The statement of condition shall be in the form, contain the
41 information, and be signed in the manner, and, if the commissioner so
42 requires by regulation or order, be verified in the manner the
43 commissioner may by regulation or order require.

44
45 67. (New section) Each foreign bank which is licensed to establish
46 an agency or branch office shall, in accordance with the regulations the

1 commissioner may prescribe, give notice that deposits in that office are
2 not insured by the Federal Deposit Insurance Corporation.

3
4 68. (New section) a. If a foreign bank is licensed to establish a
5 depository agency or branch office and such office is not subject to the
6 regulations of the Depository Institutions Deregulation Committee
7 established pursuant to the "Depository Institutions Deregulation Act
8 of 1980," 12 U.S.C. §3501 et seq., Regulation Q of the Federal
9 Reserve, 12 CFR §217 et seq., or Part 329 of the regulations of the
10 Federal Deposit Insurance Corporation, 12 CFR §329 et seq., the bank
11 shall, with respect to deposits accepted at the office, comply with the
12 regulations regarding maximum interest rates on deposits, prepayment
13 of time deposits, and related matters the commissioner may prescribe
14 as being necessary and appropriate to establish competitive equality
15 between foreign banks and banks organized under the laws of this
16 State which are subject to the regulations of the Depository
17 Institutions Deregulation Committee, Regulation Q of the Federal
18 Reserve, or Part 329 of the regulations of the Federal Deposit
19 Insurance Corporation.

20 b. Whenever the commissioner adopts a regulation or order of
21 repeal of a regulation under subsection a. of this section, the
22 commissioner may, without describing specific facts showing the need
23 for immediate action, make the regulation or order of repeal effective
24 immediately.

25
26 69. (New section) a. Each foreign bank which is licensed to
27 transact business in this State shall keep the assets of that business
28 separate and apart from the assets of its business outside this State.

29 b. The creditors of the business in this State of a foreign bank
30 which is licensed to transact business in this State shall be entitled to
31 priority over other creditors with respect to the assets of the foreign
32 banks's business in this State.

33
34 70. (New section) a. In this section:

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

40 (2) "Applicable minimum," when used with respect to eligible
41 assets deposited or to be deposited with an approved depository by a
42 foreign bank, means the amount as the commissioner may from time
43 to time by regulation or order determine to be necessary for the
44 establishment of sound financial condition, for the protection of the
45 interests of creditors of the bank's business in this State, or for the
46 protection of the public interest.

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

5 (3) "Approved depository," when used with respect to a foreign
6 bank, means a bank organized under the laws of this State or a
7 national bank headquartered in this State which has been selected by
8 such foreign bank and approved by the commissioner for the purpose
9 of acting as the approved depository of the foreign bank and which has
10 filed with the commissioner, in the form as the commissioner may by
11 regulation or order prescribe, an agreement to comply with all
12 applicable provisions of this section and of any regulation or order
13 issued under this section.

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

16 (a) Cash.

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

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

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

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

30 (f) Any other asset which the commissioner by regulation or order
31 determines to be eligible.

32 Notwithstanding the foregoing provisions of this paragraph,
33 "eligible asset," when used with respect to a foreign bank, does not
34 include any instrument the issuer of which: (i) is, or is affiliated with,
35 the foreign bank; (ii) is domiciled in, or controlled by a bank or other
36 person domiciled in, the same foreign nation as the foreign bank; or
37 (iii) is, or is controlled by, the foreign nation. For purposes of the
38 foregoing provision, to be "affiliated" means to control, to be
39 controlled by, or to be under common control with.

40 b. For purposes of this section:

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

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

45 c. (1) Before any foreign bank is licensed to transact business in
46 this State, the bank shall deposit, and each foreign bank which is

1 licensed to transact business in this State shall maintain on deposit,
2 with an approved depository, eligible assets having a value in an
3 amount not less than the applicable minimum.

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

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

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

19 e. Any foreign bank which establishes eligible assets on deposit
20 with an approved depository pursuant to this section shall be entitled
21 to receive any income paid on such eligible assets, unless the
22 commissioner shall have suspended or revoked its license to transact
23 business in this State or taken possession of its property and business
24 in this State.

25 f. (1) Whenever a foreign bank deposits eligible assets with, or
26 withdraws eligible assets from, an approved depository pursuant to
27 this section, the bank shall do so in accordance with the procedures
28 and requirements the commissioner may by regulation or order
29 prescribe.

30 (2) Whenever an approved depository receives, holds, or releases
31 eligible assets pursuant to this section, the approved depository shall
32 do so in accordance with the procedures and requirements the
33 commissioner may by regulation or order prescribe and shall file with
34 the commissioner reports as and when the commissioner may by
35 regulation or order require.

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

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

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

1 h. (1) If the commissioner takes possession of the property and
2 business of a foreign bank which establishes eligible assets on deposit
3 with an approved depository pursuant to this section, the approved
4 depository shall, upon order of the commissioner, release those eligible
5 assets to the commissioner, as liquidator of the property and business
6 of the bank.

7 (2) If a foreign bank which establishes eligible assets on deposit
8 with an approved depository pursuant to this section fails to pay any
9 judgement creditor of its business in this State and the commissioner
10 has not taken possession of the property and business of the bank, the
11 approved depository shall release the eligible assets to the
12 commissioner, and the commissioner shall make the disposition of the
13 eligible assets, as a court of competent jurisdiction of this State or of
14 the United States may order for the benefit of that judgement creditor.
15 For purposes of this paragraph, "judgement creditor of its business in
16 this State" means a person to whom the bank is required to pay money
17 under a judgement which: (a) arose out of the bank's business in this
18 State; (b) has been entered by a court of competent jurisdiction of this
19 State or of the United States; (c) has become final, in that all
20 possibility of direct attack on that judgement by way of appeal, motion
21 for new trial, motion to vacate, or petition for extraordinary writ has
22 been exhausted; and (d) has remained unpaid for a period of not less
23 than 60 days after becoming final.

24
25 71. (New section) a. In this section:

26 (1) "Adjusted liabilities," when used with respect to a foreign bank
27 which is licensed to establish an agency or a branch office this State,
28 means the liabilities of that bank's business in this State, excluding: (a)
29 accrued expenses; (b) any liability to an office, whether in or outside
30 of this State, or majority-owned subsidiary of the bank; and (c) such
31 other liabilities as the commissioner may by regulation or order
32 exclude.

33 (2) "Eligible assets" means any asset which the commissioner by
34 regulation or order determines to be eligible for purposes of this
35 section. However, "eligible asset," when used with respect to a
36 foreign bank which is licensed to establish an agency or a branch
37 office, includes: (a) any asset which the bank establishes on deposit
38 pursuant to section 70 of P.L. , c. (C.)(pending before the
39 Legislature as this bill); and (b) any reserves which the bank
40 establishes with respect to its business in this State in accordance with
41 requirements prescribed by the Federal Reserve.

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

1 c. A foreign bank licensed to establish an agency or a branch office
2 in this State shall hold at its agency or branch offices in this State or
3 at such other places as the commissioner may approve, eligible assets
4 in the amount, if any, as the commissioner may from time to time by
5 regulation or order determine to be necessary for the interests of
6 creditors of the bank's business in this State, or for the protection of
7 the public interest. However, in no event shall the amount exceed 108
8 percent of the adjusted liabilities of the bank's business in this State.

9 d. If the commissioner finds, with respect to a foreign bank
10 licensed to establish an agency or a branch office in this State, that
11 such action is necessary for the establishment of sound financial
12 condition, for the protection of the public interest, the commissioner
13 may order the bank to place all or part of the eligible assets which the
14 bank is required to hold under subsection c. of this section in the
15 custody of a bank organized under the laws of this State or a national
16 bank headquartered in this State that the commissioner may designate.

17

18 72. (New section) a. (1) No foreign bank which is licensed to
19 establish an agency or branch office shall close its office unless the
20 commissioner shall have first approved the closing.

21 (2) Paragraph (1) of this subsection a. shall not prohibit a foreign
22 bank which is licensed to establish an agency or branch office from
23 closing that office in accordance with sections 80 through 86 of
24 P.L. , c. (C.)(pending before the Legislature as this bill).

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

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

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

34 If the commissioner finds otherwise, the commissioner shall deny
35 the application.

36 c. Whenever an application by a foreign bank to close an agency or
37 branch office has been approved and all conditions precedent to the
38 closing have been fulfilled, the bank may close the office and shall
39 promptly thereafter surrender to the commissioner the license which
40 authorized it to establish the office.

41

42 73. (New section) a. No commercial lending company shall
43 transact business in this State except at an office it is licensed to
44 establish and at which it is permitted by sections 73 through 79 of
45 P.L. , c. (C.)(pending before the Legislature as this bill) to
46 transact such business.

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

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

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

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

13 c. No person shall establish an office in this State for a commercial
14 lending company unless the commercial lending company is licensed
15 to transact business in this State. For purposes of this section, if
16 anyone establishes an office to act on behalf of or solicit business for
17 a commercial lending company in this State, the office shall be deemed
18 to be the office of the commercial lending company regardless of
19 whether the business of the commercial lending company is transacted
20 at that office.

21

22 74. (New section) a. No foreign bank and no commercial lending
23 company shall establish an office of a commercial lending company in
24 this State unless the commissioner shall have first approved the
25 establishment of that office and issued a license authorizing the
26 commercial lending company to maintain the office.

27 b. If the commissioner finds the following with respect to an
28 application by a commercial lending company to establish a
29 commercial lending company, the commissioner shall approve that
30 application:

31 (1) That the commercial lending company, any controlling person
32 of the commercial lending company, the directors and executive
33 officers of the commercial lending company or of any controlling
34 person of the commercial lending company, and the proposed
35 management of the office are each of good character and sound
36 financial standing;

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

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

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

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

1 If the commissioner finds otherwise, the commissioner shall deny
2 the application. The commissioner may, in approving any application,
3 condition the issuance of the license upon the compliance by the
4 commercial lending company with any provisions of sections 62
5 through 72 or sections 80 through 86 of P.L. , c.
6 (C.)(pending before the Legislature as this bill) applicable to
7 branches and agencies.

8
9 75. (New section) a. No commercial lending company which is
10 licensed to establish a commercial lending office shall relocate that
11 office unless the commissioner shall have first approved that relocation
12 and issued a license authorizing the commercial lending company to
13 establish the office at the new site.

14 b. If the commissioner finds the following with respect to an
15 application by a commercial lending company to relocate a commercial
16 lending office, the commissioner shall approve the application

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

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

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

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

27 If the commissioner finds otherwise, the commissioner shall deny
28 the application.

29 c. Whenever an application by a commercial lending company for
30 approval to relocate a commercial lending office has been approved
31 and all conditions precedent to the issuance of a license authorizing the
32 commercial lending company to establish an office at the new site have
33 been fulfilled, the commissioner shall issue the license.

34 d. Promptly after a commercial lending company which is licensed
35 to establish a commercial lending office relocates its office, that
36 commercial lending company shall surrender to the commissioner the
37 license which authorized it to establish an office at the old site.

38
39 76. (New section) A commercial lending company which is
40 licensed to establish a commercial lending office may, subject to such
41 regulations or orders as the commissioner may prescribe, engage in
42 representational functions at the commercial lending office for a
43 foreign bank but shall not solicit or accept deposits or credit balances
44 or otherwise transact business at the office on behalf of a foreign bank.

45
46 77. (New section) a. (1) No commercial lending company which

1 is licensed to establish a commercial lending office shall close its office
2 unless the commissioner shall have first approved the closing.

3 (2) Paragraph (1) shall not prohibit a commercial lending company
4 which is licensed to establish a commercial lending office from closing
5 its office in accordance with section 80 through 86 of P.L. , c.
6 (C.)(pending before the Legislature as this bill).

7 b. If the commissioner finds, with respect to an application by a
8 commercial lending company to close a commercial lending office, that
9 the closing of the office will not be substantially detrimental to the
10 public convenience and advantage, the commissioner shall approve the
11 application. If the commissioner finds otherwise, the commissioner
12 shall deny the application.

13 c. Whenever an application by a commercial lending company to
14 close a commercial lending office has been approved and all conditions
15 precedent to that closing have been fulfilled, the commercial lending
16 company may close its office and shall promptly thereafter surrender
17 to the commissioner the license which authorized it to establish the
18 office.

19

20 78. (New section) The powers of a commercial lending company
21 in this State shall be limited as provided in section 65 and elsewhere
22 in sections 38 through 87 of P.L. , c. (C.)(pending before the
23 Legislature as this bill).

24

25 79. (New section) The commissioner shall have the power to grant
26 to any organization which is organized under the laws of this State,
27 including but not limited to a corporation, limited partnership, limited
28 liability company, joint venture or partnership, the right to operate as
29 a commercial lending company if the commercial lending company :

30 will be licensed under sections 73 through 78 of P.L. , c.
31 (C.)(pending before the Legislature as this bill); is a subsidiary of
32 a foreign bank; and agrees in its certificate of incorporation or
33 organization or similar document to limit its activities to those
34 permitted to a commercial lending company under sections 38 through
35 87 of P.L. , c. (C.)(pending before the Legislature as this bill)
36 and Regulation K promulgated by the Federal Reserve, 12 CFR §211
37 et seq. Any such grant shall be issued in connection with and as part
38 of a license for a commercial lending office hereunder.

39

40 80. (New section) a. Except as provided in subsection b. of this
41 section, any foreign bank which holds a license to establish an office
42 may voluntarily surrender that license by filing the license and a report
43 with the commissioner. However, any foreign bank which holds
44 licenses to establish two or more offices may not voluntarily surrender
45 less than all of those licenses.

46 b. If the commissioner has reason to doubt a foreign bank's ability

1 or willingness to pay in full the claims of its creditors, the
2 commissioner shall take action as provided pursuant to section 86 of
3 P.L. , c. (C.)(pending before the Legislature as this bill).

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

9 (2) If a proceeding to revoke or suspend a license is pending at the
10 time when that license and the report called for in subsection a. of this
11 section are filed with the commissioner or if a proceeding to revoke or
12 suspend a license or to impose conditions upon the surrender of a
13 license is instituted before the 30th day after the license and the report
14 called for in subsection a. of this section are filed with the
15 commissioner, the voluntary surrender of the license shall become
16 effective at the time and upon the conditions as the commissioner may
17 by order specify.

18

19 81. (New section) If, after notice and a hearing, the commissioner
20 finds that any person has violated any provision of sections 38 through
21 87 of P.L. , c. (C.)(pending before the Legislature as this bill)
22 or of any regulation or order issued thereunder, the commissioner may
23 order that person to pay to the commissioner a civil penalty in an
24 amount as the commissioner may specify; except that the amount of
25 the civil penalty shall not exceed \$100,000 for each violation or, in the
26 case of a continuing violation, \$100,000 for each day for which the
27 violation continues.

28

29 82. (New section) If, after notice and a hearing, the commissioner
30 finds any of the following with respect to a foreign bank or
31 commercial lending company which is licensed to establish an office,
32 the commissioner may issue an order suspending or revoking the
33 license of the bank or commercial lending company:

34 a. That the bank or commercial lending company has violated any
35 provision of sections 38 through 87 of P.L. , c. (C.)(pending
36 before the Legislature as this bill) or of any regulation or order issued
37 thereunder or any provision of any other applicable law, regulation, or
38 order;

39 b. That the bank or commercial lending company, in case it is
40 licensed to transact business in this State, is transacting that business
41 in an unsafe or unsound manner or, in any case, is transacting business
42 elsewhere in an unsafe or unsound manner;

43 c. That the bank or commercial lending company is in unsafe or
44 unsound condition;

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

- 1 e. That the bank or commercial lending company is insolvent in
2 that it has ceased to pay its debts in the ordinary course of business,
3 it cannot pay its debts as they become due, or its liabilities exceed its
4 assets;
- 5 f. That the bank or commercial lending company has suspended
6 payment of its obligations, has made an assignment for the benefit of
7 its creditors, or has admitted in writing its inability to pay its debts as
8 they become due;
- 9 g. That the bank or commercial lending company has applied for
10 an adjudication of bankruptcy, reorganization, arrangement, or other
11 relief under any bankruptcy, reorganization, insolvency, or moratorium
12 law, or that any person has applied for any such relief under any such
13 law against the bank or commercial lending company and the bank or
14 commercial lending company has by any affirmative act approved of
15 or consented to the action or the relief has been granted.
- 16 h. That a receiver, liquidator, or conservator has been appointed
17 for the bank or commercial lending company or that any proceeding
18 for such an appointment or any similar proceeding has been initiated
19 in the place where the bank or commercial lending company is
20 domiciled;
- 21 i. That the existence of the bank or commercial lending company
22 or the authority of the bank or commercial lending company to
23 transact banking business or lending under the laws of the place where
24 the bank or commercial lending company is domiciled has been
25 suspended or terminated; or
- 26 j. That any fact or condition exists which, if it had existed at the
27 time when the bank or commercial lending company applied for its
28 license to transact business in this State, would have been grounds for
29 denying the application.
- 30
- 31 83. (New section) a. If the commissioner finds that any of the
32 factors set forth in section 82 of P.L. , c. (C.)(pending before
33 the Legislature as this bill) is true with respect to any foreign bank or
34 commercial lending company which is licensed to establish an office
35 and that it is necessary, for the protection of the interests of creditors
36 of the bank's or company's business in this State, or for the protection
37 of the public interest, that the commissioner immediately suspend or
38 revoke the license of the bank or commercial lending company, the
39 commissioner may issue an order suspending or revoking the license
40 of the bank or commercial lending company.
- 41 b. (1) Within 30 days after an order is issued pursuant to
42 subsection a. of this section, the foreign bank or commercial lending
43 company to which the order is issued may file with the commissioner
44 an application for a hearing on the order. If the commissioner fails to
45 commence that hearing within 15 business days after that application
46 is filed with the commissioner, or within such longer period to which

1 the bank consents, the order shall be deemed rescinded. Within 30
2 days after the hearing, the commissioner shall affirm, modify, or
3 rescind the order; otherwise, the order shall be deemed rescinded.

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

9

10 84. (New section) Any foreign bank or commercial lending
11 company whose license to establish an office is suspended or revoked
12 shall immediately surrender its license to the commissioner.

13

14 85. (New section) a. Any foreign bank or commercial lending
15 company to which an order is issued under section 82 or 83 of P.L. ,
16 c. (C.)(pending before the Legislature as this bill), may apply to
17 the commissioner to modify or rescind the order. The commissioner
18 shall not grant the application unless he finds that it is in the public
19 interest to do so and that it is reasonable to believe that the bank or
20 commercial lending company will, if and when it is again licensed to
21 establish an office, comply with all applicable provisions of sections 80
22 through 86 of P.L. , c. (C.)(pending before the Legislature as
23 this bill) and of any regulation or order issued thereunder.

24 b. The right of any foreign bank or commercial lending company
25 to which an order is issued under section 82 or 83 of P.L. , c.
26 (C.)(pending before the Legislature as this bill) to petition for
27 judicial review of that order shall not be affected by the failure of that
28 bank or commercial lending company to apply to the commissioner
29 pursuant to subsection a. of this section to modify or rescind the order.

30

31 86. (New section) a. If the commissioner finds that any of the
32 factors set forth in section 82 of P.L. , c. (C.)(pending before
33 the Legislature as this bill) or in subsection b. of section 80 of P.L. ,
34 c. (C.)(pending before the Legislature as this bill) is true with
35 respect to any foreign bank which is licensed to transact business in
36 this State and that it is necessary for the protection of the interests of
37 the creditors of the bank's business in this State or for the protection
38 of the public interest that the commissioner take immediate possession
39 of the property and business of the bank, the commissioner may by
40 order forthwith take possession of the property and business of the
41 bank and retain possession until the bank resumes business in this
42 State or is finally liquidated. The bank may, with the consent of the
43 commissioner, resume business in this State upon such conditions as
44 the commissioner may prescribe.

45 b. (1) Whenever the commissioner takes possession of the
46 property and business of a foreign bank pursuant to subsection a. of

1 this section, that bank may, within 10 days apply to the Superior Court
2 in the county in which the primary office of the bank is located to
3 enjoin further proceedings. The court may, after ordering the
4 commissioner to show cause why further proceedings should not be
5 enjoined and after a hearing, dismiss the application or enjoin the
6 commissioner from further proceedings and order him to surrender the
7 property and business of the bank to the bank or make such further
8 order as may be just.

9 (2) The judgement of the court may be appealed by the
10 commissioner or by the bank in the manner provided by law for
11 appeals from the judgement of a Superior Court. In case the
12 commissioner appeals the judgement of the court, an appeal shall
13 operate as a stay of the judgement, and the commissioner shall not be
14 required to post any bond.

15 c. Whenever the commissioner takes possession of the property
16 and business of a foreign bank pursuant to subsection a. of this
17 section, the commissioner shall conserve or liquidate the property and
18 business of that bank pursuant to the receivership provisions of the
19 Banking Act, including Article 42 of "The Banking Act of 1948," P.L.
20 1948, c.67 (C.17:9A-266 et seq.), and these provisions shall apply as
21 if the bank were a bank organized under the Banking Act.

22 d. When the commissioner has completed the liquidation of the
23 property and business of a foreign bank, the commissioner shall
24 transfer any remaining assets to the bank in accordance with the orders
25 the court may issue. However, if the bank has an office in another
26 state of the United States which is in liquidation and the assets of that
27 office appear to be insufficient to pay in full the creditors of the office,
28 the court shall order the commissioner to transfer to the liquidator of
29 the office that amount of any such remaining assets as appears to be
30 necessary to cover the insufficiency; if there are two or more such
31 offices and the amount of remaining assets is less than the aggregate
32 amount of insufficiencies with respect to the offices, the court shall
33 order the commissioner to distribute the remaining assets among the
34 liquidators of those offices in any manner the court finds equitable.

35 e. The commissioner may apply the provisions of this section to a
36 commercial lending company, in which case these provisions shall take
37 precedence over any other provisions of state law applying to the
38 commercial lending company.

39
40 87. The commissioner shall, pursuant to the "Administrative
41 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), issue the rules,
42 regulations and orders the commissioner deems necessary in order to
43 perform the commissioner's duties and functions under sections 38 to
44 87 of P.L. , c. (C.)(pending before the Legislature as this bill.)
45

46 88. Section 5 of P.L.1963, c.144 (C.17:12B-5) is amended to read

1 as follows:

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

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

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

12 (3) "Association" shall mean [both] a State association [and] a
13 Federal association having its principal office or a branch office in this
14 State , and an out-of State association having a branch office in this
15 State.

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

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

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

23 (7) "Member" shall mean a person who holds an account or a
24 savings deposit in a mutual association as a savings member or as a
25 borrowing member.

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

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

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

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

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

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

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

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

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

5 (17) "Withdrawal value" of an account shall mean the participation
6 value of such an account, at the time application for withdrawal of the
7 account is filed, less such part, if any, of the dividends or interest then
8 credited to such account as the association is authorized to retain upon
9 withdrawal.

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

12 (19) "Net income" shall have the meaning ascribed to it in section
13 7 of this act.

14 (20) "Federal Savings and Loan Insurance Corporation" shall mean
15 the corporation so named, organized pursuant to an Act of Congress,
16 or any Federal corporation, instrumentality or agency which succeeds
17 to the powers and functions of the Federal Savings and Loan Insurance
18 Corporation or undertakes to discharge the purposes for which said
19 corporation was created.

20 (21) "Federal Home Loan Bank Board" shall mean the board so
21 named, organized pursuant to an Act of Congress, or any Federal
22 corporation, instrumentality or agency which succeeds to the powers
23 and functions of the Federal Home Loan Bank Board, or which is
24 formed to carry out the purposes for which such board was created.

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

27 (23) "Principal office," "branch office" and "auxiliary office" shall
28 have the meanings ascribed to them in section 8 of this Act.

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

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

33 (26) "Population." Where in this act the population of a
34 municipality, a county, or the State is mentioned, the population figure
35 shall be the last current population estimate as furnished to the
36 commissioner by any official agency of the State or Federal
37 Government.

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

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

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

46 (30) "Department" shall mean the Department of Banking of New

1 Jersey.

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

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

6 (33) "Capital stock" shall have the meaning ascribed to it in section
7 15 of P.L.1974, c.137 (C.17:12B-244).

8 (34) "Stockholder" shall have the meaning ascribed to it in section
9 15 of P.L.1974, c.137 (C.17:12B-244).

10 (35) "Secondary mortgage loan" means a loan made to an
11 individual, association, joint venture, partnership, limited partnership
12 association, or any other group of individuals however organized,
13 except a corporation, which is secured in whole or in part by a lien
14 upon any interest in real property created by a security agreement,
15 including a mortgage, indenture, or any other similar instrument or
16 document, which real property is subject to one or more prior
17 mortgage liens and which is used as a dwelling, including a dual
18 purpose or combination type dwelling which is also used as a business
19 or commercial establishment, and has accommodations for not more
20 than 6 families, except that a loan which: (a) is to be repaid in 90
21 days or less; (b) is taken as security for a home repair contract
22 executed in accordance with the provisions of P.L.1960, c.41
23 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a
24 dwelling if title to the dwelling is in the name of the seller and the
25 seller has resided in said dwelling for at least 1 year if the buyer is
26 purchasing said dwelling for his own residence and, as part of the
27 purchase price, executes a secondary mortgage in favor of the seller,
28 shall not be included within the definition of "secondary mortgage
29 loan."

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

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

42 (38) "Home state" with respect to an out-of-State association
43 means the state by which the association is chartered. "Home state"
44 with respect to a federal association means the state in which the
45 principal office is located.

46 (39) "Out-of-State association" means a savings and loan

1 association or building and loan association insured by the Federal
2 Deposit Insurance Corporation and chartered under the laws of a state
3 other than New Jersey, but not a bank as defined in 12 U.S.C.
4 §1813(a)(2).

5 (40) "State" means any state of the United States, the District of
6 Columbia, any territory of the United States, Puerto Rico, Guam,
7 American Samoa, the Trust Territory of the Pacific Islands, the Virgin
8 Islands and the Northern Mariana Islands.

9 (41) "Resulting association" means a state or federally chartered
10 association that has resulted from an interstate merger transaction
11 pursuant to P.L.1963, c.144 (C.17:12-1 et seq.).

12 (cf: P.L.1981, c.74, s.1)

13

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

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

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

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

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

42 B. An association may apply for a branch office regardless of the
43 number of branch applications it has pending before the commissioner.
44 Within 15 days after submission of any branch application to the
45 commissioner, the applying State association shall give notice of such
46 application by publication of a notice of such application in a

1 newspaper published within the municipality in which it is proposed to
2 locate the branch office if there be one or, if there be no such
3 newspaper, in a newspaper published in the county and having a
4 substantial circulation in the municipality. The notice shall be in a
5 form approved by the commissioner, and shall include the name of the
6 applying association and the location, as precisely as possible, in the
7 municipality where such branch office is to be located. For good
8 cause, the commissioner may dispense with the notice requirements of
9 this section.

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

16 C. [The commissioner shall approve an application only if, in his
17 opinion, the branch can be established without undue injury to
18 properly conducted existing local thrift and home financing
19 institutions; the policies, condition and operation of the applying State
20 association afford no basis for supervisory objection, and the proposed
21 branch will open within 12 months of approval unless otherwise
22 allowed by the commissioner. In addition, in considering whether to
23 approve an application, the commissioner shall take into account the
24 State association's record of helping to meet the credit needs of its
25 entire community, including low-to-moderate income neighborhoods
26 pursuant to Part 563e of the regulations promulgated by the Federal
27 Savings and Loan Insurance Corporation. Assessment of a State
28 association's record of performance may be the basis for denying an
29 application] The commissioner shall approve the application if the
30 commissioner finds that:

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

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

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

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

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

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

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

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

22 (c) Facts supporting the protest, including relevant economic or
23 financial data;

24 (d) Any adverse effects on the protestant which may result from the
25 approval of the application.

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

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

34 E. The commissioner shall conduct such investigation or hearing,
35 or both, as [he] the commissioner may deem advisable. The
36 commissioner may adopt, amend, alter or rescind regulations
37 prescribing the form of protest to applications and the procedures to
38 be followed in the event that the commissioner elects to hold a hearing
39 in connection with an application for a branch office, and such other
40 regulations as [he] the commissioner may deem necessary with respect
41 to the provisions of this section. [Such regulations shall be in
42 substantial conformity with similar rules and regulations promulgated
43 by the Federal Home Loan Bank Board.]

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

45

46 90. (New section) a. An out-of-State association without a branch

1 office in this State may apply to establish a de novo branch in this
2 State by filing with the department a copy of the application the
3 association filed with the regulator in its home state and the
4 application it filed with the Federal Deposit Insurance Corporation,
5 and any other information the commissioner may require.

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

12 c. An out-of-State association without a branch office in this State
13 may not establish a de novo branch office in New Jersey unless the
14 home state of the out-of-State association has in effect, as of the date
15 of approval of such application, a law that permits de novo branching
16 into that state by an association whose home state is New Jersey.

17
18 91. (New section) a. Upon filing an application therefor in the
19 department, and upon obtaining the approval of the commissioner
20 thereto a State association may change the location of its principal
21 office or of a branch office located in this State to another location in
22 this State. Upon filing an application therefor in the department, and
23 upon obtaining the approval of the commissioner thereto, an
24 out-of-State association with a branch office located in this State may
25 change the location of a branch office in this State to another location
26 in this State, and an association with a branch office located outside
27 this State may change the location of a branch office to another
28 location in that State.

29 b. If it shall appear from the application, or if the commissioner
30 shall find from such proof as the commissioner may require, or from
31 such investigation as the commissioner may cause to be made, that the
32 area which would be served by the principal or branch office after its
33 change in location would not be substantially different from the area
34 theretofore served by that office, the commissioner shall approve the
35 application.

36 c. If it shall appear to the commissioner, from the application, or
37 from such proof as the commissioner may require, or from such
38 investigation as the commissioner may cause to be made, that the
39 proposed location will be so far removed from the place then occupied
40 by the principal office or by the branch office that the area which
41 would be served by that office after its change in location would be
42 substantially different from the area theretofore served by it, the
43 commissioner shall not approve the application unless, after an
44 investigation or hearing, or both, as the commissioner may determine
45 to be advisable, the commissioner shall find that the interests of the
46 public will be served to advantage by the change in location, and that

1 conditions in the locality to which removal is proposed afford
2 reasonable promise of successful operation.

3 d. The failure to open and operate a relocated office within 12
4 months after the commissioner approves the application therefor, shall
5 automatically terminate the right to open the relocated office, except
6 that, for good cause shown, the commissioner may, at the
7 commissioner's discretion, extend for additional periods, not to exceed
8 12 months each time, the time within which the relocated office may
9 be opened, provided that the initial application shall be made before
10 the expiration of 12 months from the date authority is granted to
11 relocate the principal office and any subsequent application shall be
12 made before the expiration of any subsequent period for which
13 permission to extend has been granted by the commissioner.

14

15 92. Section 30 of P.L.1963, c.144 (C.17:12B-30) is amended to
16 read as follows:

17 30. [Each auxiliary office shall be located in the same municipality
18 as that in which the State association operates the office to which such
19 auxiliary office is an adjunct.] No auxiliary office shall be established
20 or operated at a location which is outside this State or more than
21 [1,500 feet] one mile from the office of the State association to which
22 such auxiliary office is an adjunct; nor shall any such auxiliary office
23 be established within [1,500] 1,000 feet of the principal office or a
24 branch office of another association, without the written consent of
25 such association. Such consent, once given, shall thereafter be
26 irrevocable, regardless whether it was given gratuitously or for a
27 valuable consideration. No State association shall be required to
28 discontinue an auxiliary office for the reason that, after its
29 establishment pursuant to this act, another association has established
30 its principal office or a branch office within [1,500] 1,000 feet of such
31 auxiliary office.

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

33

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

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

37 (a) the receipt of payments, deposits of currency, checks and other
38 items;

39 (b) the payment of withdrawals;

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

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

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

43

44 94. Section 1 of P.L.1968, c.150 (C.17:12B-46.1) is amended to
45 read as follows:

46 1. A. The following words as used in this act, unless a different

1 meaning is plainly required by the context, shall have the following
2 meaning:

3 (1) "Commissioner" means the Commissioner of Banking [and
4 Insurance] or any other person lawfully exercising the powers of such
5 commissioner;

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

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

13 (4) "Emergency" means any condition which makes the transaction
14 of business, at one or more or all of the offices of an association or
15 associations, contrary to the welfare and security of such office or
16 offices or contrary to the health, safety or security of persons working
17 in or making use of such office or offices. Without limiting the
18 generality of the foregoing, an emergency may arise when any
19 condition poses an imminent or existing threat to the welfare, safety
20 or security of persons or property or both, such as any one or more of
21 the following: forces of the natural elements, fire, explosions,
22 epidemics, power failures, labor disputes, transportation failures, war,
23 riots, civil commotions, and other acts of lawlessness or violence;

24 (5) "Office" means any place at which an association transacts
25 business or conducts operations related to the transaction of business;

26 (6) "Person" includes natural persons, corporations, partnerships
27 and associations.

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

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

33

34 95. (New section) a. An out-of-State association that opens,
35 occupies or maintains a branch office in this State shall have in this
36 State only the powers a State association has in this State.

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

41

42 96. Section 170 of P.L.1963, c.144 (C.17:12B-170) is amended to
43 read as follows:

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

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

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

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

9

10 97. Section 172 of P.L.1963, c.144 (C.17:12B-172) is amended to
11 read as follows:

12 172. Every State association and every out-of-State association
13 with a branch office in this State shall be subject to the examination,
14 inspection and supervision of the department[, and the]. The
15 commissioner shall, either personally or by a person appointed by
16 [him] the commissioner, visit and examine every State association at
17 least once every 2 years, or [oftener] more often if deemed expedient.
18 When deemed advisable, the examiner shall verify the liabilities of the
19 State association to its members by an inspection and verification of
20 their accounts. The commissioner shall promptly communicate the
21 result of every examination to the president of the State association
22 examined, who shall present the same to the board at the next regular
23 meeting, or a special meeting, if deemed advisable, or if so directed by
24 the commissioner. The action taken thereon by the board shall
25 thereupon be promptly communicated by the president to the
26 commissioner.

27 Every report and copy of a report of examination of a State
28 association and out-of-State association made by or under the
29 supervision of the commissioner, shall be confidential, and shall not be
30 made public by any officer, director or employee of a State association
31 or out-of-State association, and shall not be subject to subpoena or to
32 admission into evidence in any action or proceeding in any court,
33 except pursuant to an order of the court made upon notice to the
34 commissioner an opportunity to advise the court of reasons for
35 excluding from evidence such report or any portion thereof. The court
36 shall order the issuance of a subpoena for the production or admission
37 into evidence of any such report or portion thereof, only if it is
38 satisfied that (1) it is material and relevant to the issues in the
39 proceedings, and (2) the ends of justice and public advantage will be
40 subserved thereby. This section shall not apply to any action or
41 proceeding instituted by the commissioner or Attorney General
42 pursuant to any law of this State.

43 For associations or out-of-State associations with branch offices in
44 this State and also in one or more other states, the commissioner may
45 contract with the state regulator in the other state or states where
46 branch offices are located to conduct cooperative examinations.

1 Pursuant to those agreements, examiners of the department may
2 examine branch offices of associations and out-of-State associations
3 in New Jersey and in other states, and examiners of other state
4 regulators may examine branch offices of associations and out-of-state
5 associations in New Jersey and other states. The fees for these
6 examinations may be shared pursuant to a contract or agreement
7 among the regulators.

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

9

10 98. Section 173 of P.L.1963, c.144 (C.17:12B-173) is amended to
11 read as follows:

12 173. The officers, directors and employees of the State association
13 or an out-of-State association shall exhibit its books, papers and
14 securities to the commissioner or the person appointed by him to
15 conduct the examination, and otherwise facilitate the same so far as it
16 may be in their power so to do. The commissioner and every examiner
17 may administer an oath or affirmation to any person whose testimony
18 is required on any examination, and compel the appearance of any
19 person for the purpose of examination, and the production of books,
20 papers and documents, by subpoena. [The subpoena may be served by
21 any police officer or constable of the municipality in which such
22 person resides.]

23 If any person shall fail to obey the subpoena, give testimony,
24 answer questions or produce any books, papers or documents as
25 required, the Superior Court may, upon ex parte application, make an
26 order compelling him to do so.

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

28

29 99. Section 178 of P.L.1963, c.144 (C.17:12B-178) is amended to
30 read as follows:

31 178. If it shall appear to the commissioner that a State association
32 or an out-of-State association has violated any law of this State or of
33 its home state, or any of its by-laws, or is conducting its business in an
34 unsafe or unauthorized manner, he may order it in writing to
35 discontinue its illegal or unsafe practices. Such order shall be sent to
36 the State association's president, who shall present it to the board at
37 its next regular meeting, or at a special meeting, if he deems it
38 advisable, or if the commissioner so directs. The board's action
39 thereon shall be promptly communicated by the president to the
40 commissioner.

41 A State association or out-of-State association which fails or
42 refuses to comply with an order of the commissioner issued pursuant
43 to this section within the time limited in such order, shall be liable to
44 a penalty of \$500.00 to be recovered with costs by the State in any

1 court of competent jurisdiction in a civil action prosecuted by the
2 Attorney General.

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

4

5 100. (New section) a. One or more State associations may, with
6 the approval of the commissioner, merge with an out-of-State
7 association or associations, or with a federal association or
8 associations, each with their principal office outside of this State,
9 pursuant to sections 198 through 212 of P.L.1963, c.144
10 (C.17:12B-198 through 17:12B-212).

11 b. The commissioner may not permit a merger involving an
12 association and an out-of-State association or federal association
13 unless the home state of each out-of-State association and federal
14 association involved in the transaction has in effect, as of the date of
15 the approval of such transaction, a law that permits interstate merger
16 transactions with associations whose home state is this State.

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

20

21 101. Section 214 of P.L.1963, c.144 (C.17:12B-214) is amended
22 to read as follows:

23 214. a. Foreign associations shall not transact the business of a
24 savings and loan association within this State, or maintain an office
25 within this State, except as authorized pursuant to subsection b. of this
26 section, for the purpose of transacting such business. It shall be
27 unlawful for any person to transact business within this State on behalf
28 of such associations; provided, however, the purchase, acquisition,
29 holding, sale, assignment, transfer, servicing, collecting and
30 enforcement of obligations or any interest therein secured by real
31 estate mortgages or other instruments in the nature of a mortgage,
32 covering real property located in this State, or the foreclosure of such
33 instruments, or the acquisition of title to such property by foreclosure,
34 or otherwise, as a result of default under such instruments, or the
35 holding, protection, rental, maintenance and operation of said property
36 so acquired, or the disposition thereof by a foreign association, or
37 back office operations shall not be considered as transacting business
38 within the meaning of this article.

39 b. A foreign association may maintain one or more service facilities
40 in this State, provided that the foreign association performs only back
41 office operations at the service facility and does not transact business
42 with its customers or the public at the service facility. Prior to
43 opening a service facility in this State, a foreign association shall
44 register the service facility with the commissioner, which registration
45 shall include the address of the proposed service facility and the name
46 and address of the foreign association's agent in this State for service

1 of process. Each service facility shall comply with the requirements
 2 and pay the fees that the commissioner establishes by regulation. Each
 3 service facility shall be subject to examination by the department to
 4 determine whether the foreign association has operated the service
 5 facility in accordance with the provisions of this subsection, the costs
 6 of which examination shall be paid by the foreign association at the
 7 department's per diem rate for examinations of depository institutions.
 8 The commissioner may, upon notice and a hearing, order a foreign
 9 association to close any service facility operated in violation of the
 10 provisions of this subsection or of any other law. An entity which is
 11 affiliated, either directly or indirectly, with a foreign association and
 12 intends to engage in back office operations in this State shall register
 13 and be regulated pursuant to this subsection as if it were a foreign
 14 association.

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

24 d. For the purposes of this section, a foreign association shall not
 25 be deemed to transact business or maintain an office in this State based
 26 solely on the activities of an agent in this State.

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

28
 29 102. Section 226 of P.L.1963, c.144 (c.17:12B-226) is amended
 30 to read as follows:

31 226 A. Every State association shall pay to the commissioner for
 32 the use of the State a fee, to be prescribed by the commissioner by
 33 regulation in an amount not less than or not more than, the following
 34 minimum and maximum amounts:

	Minimum	Maximum
37 (1) Annual report or		
38 certificates where required.....	\$50.00	\$100.00
39 (2) Dissolution proceedings.....	250.00	1,500.00
40 (3) Any new corporation filing:		
41 (a) mutual association.....	5,000.00	10,000.00
42 (b) stock association	10,000.00	20,000.00
43 (4) Any proceeding under		
44 section 204 of P.L. 1963,		
45 c. 144 (C. 17:12B-204), pertaining		
46 to bulk sales.....	500.00	1,500.00

1	(5) Any proceeding under		
2	section 198 of P.L. 1963,		
3	c.144 (C.17:12B-198), pertaining		
4	to mergers, per association	1,500.00	4,000.00
5	(6) Any application for a		
6	branch office, except that no		
7	fee shall be paid under this		
8	paragraph with respect to a		
9	branch office acquired as a		
10	result of a merger or bulk		
11	purchase.....	1,000.00	3,000.00
12	(7) Application to interchange		
13	a principal and branch office		
14	when such interchange involves		
15	two separate municipalities.....	500.00	1,500.00
16	(8) Application for change		
17	of name	50.00	250.00
18	(9) Certifications by the		
19	commissioner, of papers or		
20	records on file with the department,		
21	plus \$2.00 per page for each		
22	certification	25.00	100.00
23	(10) Application to interchange		
24	a principal and a branch office		
25	within the same municipality.....	250.00	1,000.00
26	(11) Application to change		
27	location of principal office		
28	pursuant to subsection (2) of		
29	section 40 of P.L.1963, c.144		
30	(C.17:12B-40).....	500.00	2,000.00
31	(12) Application to change		
32	location of branch office beyond		
33	1,500 feet and in same municipality		
34	pursuant to subsection (1) of		
35	section 4 of P.L.1965, c.127		
36	(C.17:12B-27.1).....	250.00	1,000.00
37	(13) Application to change		
38	location of branch office		
39	pursuant to subsection (2) of		
40	section 4 of P.L.1965, c.127		
41	(C.17:12B-27.1).....	500.00	2,000.00
42	(14) Conversions.....	3,500.00	10,000.00
43	(15) Sharing Facilities.....	100.00	500.00
44	(16) Application for approval		
45	of savings and loan holding		
46	company.....	2,000.00	5,000.00

1	(17) Filing of any other		
2	certificate.....	50.00	250.00
3	(18) For issuance of any other		
4	approval by the commissioner,		
5	plus a per diem.....	100.00	250.00
6	(19) For filing plans of		
7	acquisition, stock, savings and		
8	loan and existing holding		
9	companies.....	1,500.00	4,000.00

10 (20) In addition to the above fees, a per diem charge may be
 11 assessed when a special investigation of a filing is required.

12 B. Every State association shall defray all expenses incurred in
 13 making an examination of its affairs as provided in this act, and the
 14 commissioner may maintain an action, in the name of the State, against
 15 the association, for the recovery of such expenses, in a court of
 16 competent jurisdiction.

17 C. The commissioner may by rule or regulation adopted pursuant
 18 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
 19 et seq.) impose other fees and charges, including assessments and fees
 20 for applications and examinations, on out-of-State associations
 21 establishing and operating a branch office in this State.

22 (cf: P.L.1988, c.73, s.3)

23

24 103. (New section) The Commissioner is authorized to enter into
 25 contracts with association supervisors of other states for the purpose
 26 of establishing effective and efficient supervisory and regulatory
 27 structures and practices with respect to the provisions of sections 88
 28 through 102 of this 1996 amendatory and supplementary act.

29

30 104. The following are repealed:

- 31 Section 1 of P.L.1963, c.88 (C.17:9A-22.1);
- 32 Section 1 of P.L.1971, c.26 (C.17:9A-23.14);
- 33 Sections 259 and 315 of P.L.1948, c.67 (C.17:19A-259 and
- 34 17:9A-315);
- 35 Sections 1 through 3, 6 and 11 of P.L.1957, c.70 (C.17:9A-344
- 36 through 17:9A-346; 17:9A-349; and 17:9A-354);
- 37 Section 3 of P.L.1981, c.484 (C.17:9A-345a);
- 38 Section 2 of P.L.1968, c.426 (C.17:9A-345.2);
- 39 Section 5 of P.L.1986, c.4 (C.17:9A-348.1);
- 40 P.L.1986, c.5 (C.17:9A-370 et seq.);
- 41 P.L.1986, c.6 (C.17:9A-373 et seq.); and
- 42 Section 4 of P.L.1965, c.127 (C.17:12B-27.1).

43

44 105. This act shall take effect immediately.

STATEMENT

1

2

3 This bill, in response to the provisions of the federal "Riegle-Neal
4 Interstate Banking and Branching Efficiency Act of 1994," provides
5 for: nationwide interstate banking; interstate branching by acquisition
6 and merger transactions between any combination of federally and
7 state chartered insured depository institutions in those states not
8 opting out of the provisions concerning interstate branching; interstate
9 branching by state and federally chartered insured depository
10 institutions de novo and by the purchase of a single branch of a bank;
11 foreign (country) bank entry into this State directly and by branching
12 from a home state other than New Jersey; and interstate branching by
13 State and out-of-State state chartered savings and loan associations
14 through merger and acquisition, de novo and purchase of a single
15 branch with associations chartered in other states also adopting
16 interstate branching. Branching by State chartered associations is
17 provided in order to give them parity with federally chartered savings
18 banks which already have such authority under regulations
19 promulgated by the Office of Thrift Supervision.

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

23 Under sections 2 through 28, the bill: provides for interstate
24 branching by State chartered banks and savings banks and out-of-State
25 banks (including savings banks) through merger and acquisition,
26 purchase of a single branch and de novo branching into this State by
27 banks in another state regardless of whether the other state also
28 permits banks in this State to branch de novo into that state;
29 establishes a cap of 30% on the percent of deposits of insured
30 depositories in this State a resulting bank, including all its federally
31 insured depository institution affiliates, can acquire and control and
32 provides that the commissioner, by regulation, may establish a
33 procedure whereby this cap can be waived; and permits an insured
34 depository institution located in this State to accept deposits and
35 conduct other banking business as agent for any affiliate, in-State or
36 out-of-State, without being required to obtain a license as a branch of
37 that affiliate.

38 Under sections 29 through 37, the bill: provides for bank holding
39 company acquisitions on an interstate basis consistent with the
40 provisions of the federal "Riegle-Neal Interstate Banking and
41 Branching Efficiency Act of 1994;" establishes a cap of 30% on the
42 percent of deposits of insured depositories in this State a bank holding
43 company can acquire and control and provides that the commissioner,
44 by regulation, may establish a procedure whereby this cap can be
45 waived; requires a person who controls a bank or bank holding
46 company that does not file with any other bank regulatory agency, to

1 file reports with the commissioner; and authorizes the commissioner
2 to enter into contracts with bank supervisors of other states for the
3 purpose of establishing effective and efficient supervisory and
4 regulatory structures and practices with respect to interstate branching
5 and agency.

6 Under sections 38 through 87, the bill provides for foreign bank
7 entry through four types of offices: representative; commercial lending
8 company; agency; and branch. Under sections 38 through 55, general
9 requirements for entry and operation of offices are provided,
10 including, but not limited to, requirements with respect to:
11 applications; fees; reports; books and records; federal versus State
12 offices; location of offices; names of companies; examinations; and
13 appointment of the commissioner to receive service of any lawful
14 process.

15 Sections 56 through 62 of the bill establish the procedures for
16 obtaining a license to operate a representative office of a foreign bank;
17 set forth the activities in which a representative office is permitted to
18 engage; and provide for the relocation and closure of a representative
19 office.

20 Sections 63 through 72 of the bill establish the procedures for
21 obtaining a license to operate an agency or a branch of a foreign bank;
22 set forth the activities in which an agency or a branch is permitted to
23 engage; establish the requirements for asset maintenance and a
24 minimum asset pledge; provide for the relocation and closure of an
25 agency or branch office; and provide for the examination of and filing
26 of reports by agency and branch offices.

27 Sections 73 through 79 of the bill establish the procedures for
28 obtaining a license to operate a commercial lending company; set forth
29 the activities in which a commercial lending company is permitted to
30 engage; and provide for the relocation and closure of a commercial
31 lending office.

32 Sections 80 through 86 establish the procedures for the voluntary
33 relinquishment of a license and for action by the commissioner to
34 suspend or revoke a license; to take possession of the property and
35 business of a licensee; and to conserve or liquidate the property and
36 business of the foreign bank.

37 Sections 88 through 102 provide for interstate branching by in- and
38 out-of-State state chartered savings and loan associations and provide
39 the commissioner the authority to examine and supervise the branches
40 that result from such activities on the part of State and out-of-State
41 state chartered savings and loan associations.

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

- 1 _____
- 2
- 3 Provides for interstate banking and branching, permits insured
- 4 depositories to act as agents for affiliates and provides for certain
- 5 types of foreign bank entry.