

[First Reprint]
ASSEMBLY, No. 607

STATE OF NEW JERSEY

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AFI committee amendments adopted February 15, 1996.

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

3 (1) The United States;

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

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

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

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

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

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

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

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

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

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

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

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

1 Management Fund;

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

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

4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 ¹[(22)] (21)¹ "Home state" means:

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

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

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

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

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

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

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

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

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

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

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

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

29

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

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

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

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

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

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

3 (3) (Deleted by amendment.)

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

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

21 E. (Deleted by amendment.)

22 F. (Deleted by amendment.)

23 G. (Deleted by amendment.)

24 H. (Deleted by amendment.)

25 I. (Deleted by amendment.)

26 J. (Deleted by amendment.)

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

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

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

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

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

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

31 b. The commissioner shall have the authority to request from any
32 insured depository institution information with respect to its activities
33 as an agent, including a request for a copy of any agreement of an
34 insured depository institution to act as an agent for an affiliate.
35 (cf: P.L.1989, c.245, s.1)

36
37 5. Section 20 of P.L.1948, c.67 (C.17:9A-20) is amended to read
38 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37
38 6. Section 21 of P.L.1948, c.67 (C.17:9A-21) is amended to read
39 as follows:

40 21. A. The failure of a bank, out-of-State bank or savings bank to
41 open and operate a branch office within [six months] one year after the
42 commissioner approves the application therefor shall automatically
43 terminate the right of the bank, out-of-State bank or savings bank to
44 open the branch office, and it shall make no further application to
45 establish a branch office at such location, or in the area which would
46 be served by a bank, out-of-State bank or savings bank doing business

1 at such location, until after the expiration of one year from the date of
2 such approval; except that, for good cause shown, the commissioner
3 may, in [his] the commissioner's discretion, on application of the bank,
4 out-of-State bank or savings bank made before the expiration of [such
5 six months] the one year period, extend for additional periods, not in
6 excess of six months each, the time within which such branch office
7 may be opened.

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

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

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

32
33 7. Section 22 of P.L.1948, c.67 (C.17:9A-22) is amended to read
34 as follows:

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

1 location in this State, and a bank or savings bank with a branch office
2 located outside this State may change the location of a branch office
3 to another location in that state.

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

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

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

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

33

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

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

1 change in location shall be made under this section without prior
2 written approval of the commissioner which the commissioner shall
3 not withhold unless [he] the commissioner shall find that such change
4 will not be in the public interest.

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

6

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

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

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

25

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

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

33 b. No branch office established pursuant to this act shall be
34 removed to a location outside the installation on which it has been
35 established.

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

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

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

1 f. A branch office maintained pursuant to this act shall not be
2 deemed to be a branch as an adjunct of which an auxiliary office may
3 be established.

4 (cf: P.L.1961, c.67, s.3.)
5

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

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

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

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

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

31 c. A national bank without a branch office in this State may
32 establish a de novo branch office in this State by application to the
33 Comptroller of the Currency so long as the national bank is adequately
34 capitalized as of the date of the application, will be adequately
35 capitalized and managed after the branch is established, has published
36 notice of the application in accordance with procedural rules and
37 regulations of the department, and has achieved satisfactory
38 compliance with the Community Reinvestment Act of 1977, 12 U.S.C.
39 §2901 et seq.]¹
40

41 ¹[13.] 12.¹ (New section) An out-of-State bank that opens,
42 occupies or maintains a branch office in this State shall have in this
43 State only the powers a bank chartered in this State has.
44

45 ¹[14.] 13.¹ (New section) a. An out-of-State bank with at least one
46 branch office in this State, and a national bank with at least one branch

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

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

10
11 ¹[15.] 14.¹ Section 1 of P.L.1968, c.149 (C.17:9A-23.50) is
12 amended to read as follows:

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

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

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

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

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

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

36 (f) "Person" includes natural persons, corporations, partnerships
37 and associations.

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

39
40 ¹[16.] 15.¹ Section 9 of P.L.1981, c.153 (C.17:9A-24a) is amended
41 to read as follows:

42 9. The commissioner shall have the power to make, amend, and
43 repeal regulations permitting banks to exercise any power, right,
44 benefit, or privilege permitted to national or state banks, provided that
45 such power, right, benefit, or privilege is not contrary to law. Such
46 regulations shall be in substantial conformity with similar rules or

1 regulations of the Comptroller of the Currency, the Federal Reserve
2 Board, and the Federal Deposit Insurance Corporation, as applicable.
3 (cf: P.L.1981, c.153, s.9)

4

5 ¹[17.] 16.¹ (New section) a. One or more banks or savings banks
6 may, with the approval of the commissioner, enter into an interstate
7 merger transaction with an out-of-State bank or banks pursuant to
8 section 11 of P.L.1982, c.9 (C.17:9A-8.11), article 21 of "The
9 Banking Act of 1948," P.L.1948, c.67 (C.17:9A-132 et seq.) or article
10 31 of "The Banking Act of 1948," P.L.1948, c.67 (C.17:9A-199 et
11 seq.), as applicable.

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

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

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

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

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

45 g. Any out-of-State bank which shall be the resulting bank in an
46 interstate merger transaction shall file with the commissioner in a

1 manner consistent with regulations promulgated by the commissioner
2 for this purpose.

3

4 ¹[18.] 17.¹ Section 148 of P.L.1948, c.67 (C.17:9A-148) is
5 amended to read as follows:

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

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

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

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

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

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

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

46 G. A national banking association without a principal or branch

1 office in New Jersey may acquire a branch office of a bank, and the
2 branch shall be treated, for the purposes of this section, as a bank. A
3 bank may acquire an out-of-State branch office of a national banking
4 association, and the branch shall be treated, for purposes of this
5 section, as a national banking association.

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

7
8 ¹[19.] 18.¹ Section 256 of P.L.1948, c.67 (C.17:9A-256) is
9 amended to read as follows:

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

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

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

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

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

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

38
39 ¹[20.] 19.¹ Section 258 of P.L.1948, c.67 (C.17:9A-258) is
40 amended to read as follows:

41 258. A summary of [each report filed pursuant to subsection A of
42 section 256, in such form as the commissioner shall prescribe, shall be
43 published once by the bank in a newspaper published and circulated in
44 the municipality in which the bank maintains its principal office, or, if
45 there be no such newspaper, then in one published in the county in
46 which the bank maintains its principal office, or in an adjoining

1 county, and which has a general circulation in such municipality. The
2 publication shall be made within two weeks after the filing of the
3 report, and the cost thereof shall be paid by the bank. Proof of
4 publication shall be made and filed in the department] the report of
5 assets and liabilities as of the end of the most recent fiscal year,
6 required to be submitted to the department pursuant to the section 256
7 of P.L.1948, c.67 (C.17:9A-256), shall be readily available to
8 customers of the bank.

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

10
11 ¹[21.] 20.¹ Section 260 of P.L.1948, c.67 (C.17:9A-260) is
12 amended to read as follows:

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

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

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

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

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

43
44 ¹[22.] 21.¹ Section 264 of P.L.1948, c.67 (C.17:9A-264) is
45 amended to read as follows:

46 264. Every report and copy of a report of examination of a bank or

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

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

22

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

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

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

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

40

41 ¹[24.] 23.¹ Section 268 of P.L.1948, c.67 (C.17:9A-268) is
42 amended to read as follows:

43 268. A bank, or out-of-State bank with a branch in this State,
44 which continues to violate the provisions of its certificate of
45 incorporation or which continues to conduct its business in violation
46 of any law of this State, or another state where it is transacting

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

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

12

13 ¹[25.] 24. ¹ Section 316 of P.L.1948, c.67 (C.17:9A-316) is
14 amended to read as follows:

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

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

31 C. No foreign bank shall maintain an office in this State, except
32 that a foreign bank may maintain one or more service facilities in this
33 State, provided that the foreign bank performs only back office
34 operations at the service facility and does not transact business with
35 its customers or the public at the service facility. Prior to opening a
36 service facility in this State, a foreign bank shall register the service
37 facility with the commissioner, which registration shall include the
38 address of the proposed service facility and the name and address of
39 the foreign bank's agent in this State for service of process. No
40 foreign bank organized under the laws of a foreign government which
41 has an office licensed as a representative office pursuant to sections ¹[56
42 and 57] 55 and 56¹ of P.L. , c. (C.) (pending before the
43 Legislature as this bill), shall be required to register under this
44 subsection as a service facility. Each service facility shall comply with
45 the requirements and pay the fees that the commissioner establishes by
46 regulation. Each service facility shall be subject to examination by the

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

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

23 E. (1) For the purposes of Article 44 of "The Banking Act of
 24 1948," P.L.1948, c.67 (C.17:9A-315 through 17:9A-332), a foreign
 25 bank, including one organized under the laws of a foreign country,
 26 shall not be deemed to transact business or maintain an office in this
 27 State by virtue of conducting business in this State through an agent
 28 in this State which is an insured depository institution affiliate or other
 29 agent.

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

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

38

39 ¹[26.] 25.¹ Section 334 of P.L.1948, c.67 (C.17:9A-334) is
 40 amended to read as follows:

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

45

46

Minimum	Maximum
---------	---------

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

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

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

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

34
 35 ¹[27.] 26.¹ Section 2 of P.L.1969, c.118 (C.17:9A-356) is amended
 36 to read as follows:

37 2. (1) An acquiring corporation may [, subject to the provisions
 38 of "An act concerning the ownership of bank stock in certain cases,
 39 defining certain terms in relation thereto, imposing certain restrictions
 40 on such ownership, providing for the enforcement of the act and for
 41 punishment of violations thereof," approved June 5, 1957 (P.L.1957,
 42 c. 70),] acquire ownership of all the outstanding shares of the capital
 43 stock of one or more banks in the manner provided by this act.

44 (2) Shares of capital stock of an acquiring corporation, or other
 45 securities convertible into such shares, may be issued or delivered in
 46 exchange for shares of capital stock of one or more participating banks

1 pursuant to a plan of acquisition without first being offered to existing
2 shareholders of the acquiring corporation, (i) except, in the case of an
3 acquiring corporation organized on or after January 1, 1969, as
4 otherwise provided in its certificate of incorporation, or (ii) if, in the
5 case of an acquiring corporation organized prior to January 1, 1969,
6 its certificate of incorporation, as amended, so provides.

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

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

11
12 ¹[28.] 27¹ (New section) The commissioner is authorized to enter
13 into contracts with bank supervisors of other states for the purpose of
14 establishing effective and efficient supervisory and regulatory
15 structures and practices with respect to the provisions of sections 1
16 through ¹[27] 26¹ of this ¹[1995] 1996¹ amendatory and
17 supplementary act.

18
19 ¹[29.] 28¹ (New section) As used in sections ¹[29 through 37] 28
20 through 36¹ of P.L. , c. (C.)(pending before the Legislature as
21 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 ¹[30.] 29¹ (New section) Sections ¹[29 through 37] 28 through
43 36¹ of P.L. , c. (C.)(pending before the Legislature as this
44 bill) set forth the conditions under which a person may acquire a New
45 Jersey bank or New Jersey bank holding company. Sections ¹[29
46 through 37] 28 through 36¹ are intended not to discriminate against

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

5
6 ¹[31.] 30.¹ (New section) a. Except as otherwise expressly
7 permitted by federal law, no person may acquire a New Jersey bank
8 holding company or a New Jersey bank without the prior approval of
9 the 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 ¹[32.] 31.¹ (New section) a. A person that proposes to make an
26 acquisition under sections ¹[29 through 37] 28 through 36¹ of P.L. ,
27 c. (C.) (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 ¹[29 through 37] 28 through 36¹ of P.L. , c. (C.)(pending
35 before the Legislature as this bill) for application and reporting shall
36 conform to those established by the Board of Governors of the Federal
37 Reserve System under the federal "Bank Holding Company Act of
38 1956," 12 U.S.C. §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 N.J.S.
3 14A:13-4, requiring registration by foreign corporations doing
4 business in this State.

5
6 ¹[33.] 32.¹ (New section) a. In deciding whether to approve an
7 application for a proposed acquisition under sections ¹[29 through 37]
8 28 through 36¹ of P.L. , c. (C.)(pending before the Legislature
9 as this bill), the commissioner shall consider whether the acquisition
10 may:

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

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

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

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

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

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

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

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

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

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

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

1

2 ¹[35.] 34.¹ (New section) a. To the extent specified by the
3 commissioner by regulation, order or written request:

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

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

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

19

20 ¹[36.] 35.¹ (New section) The commissioner may enforce the
21 provisions of sections ¹[29 through 37] 28 through 36¹ of P.L. ,
22 c. (C.)(pending before the Legislature as this bill) by any
23 appropriate action in the Superior Court of this State, including an
24 action for civil money penalties, injunctive relief or divestment.

25

26 ¹[37.] 36.¹ (New section) In order to carry out the purposes of
27 sections ¹[29 through 37] 28 through 36¹ of P.L. , c.
28 (C.)(pending before the Legislature as this bill) the commissioner
29 may:

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

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

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

41 d. Enter into joint examinations or joint enforcement actions with
42 any other bank supervisory agency having concurrent jurisdiction over
43 any New Jersey bank holding company or New Jersey bank; provided,
44 however, that the commissioner may take any such action
45 independently if the commissioner determines that the action is
46 necessary or appropriate to carry out the commissioner's

1 responsibilities under sections ¹[29 through 37] 28 through 36¹ of P.L.
2 , c. (C.)(pending before the Legislature as this bill) and to
3 ensure compliance with the laws of this State; and

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

14

15 ¹[38.]37.¹ (New section) a. Sections ¹[38 through 87] 37 through
16 86¹ of P.L. , c. (C.)(pending before the Legislature as this
17 bill) shall govern the establishment and operation in New Jersey of
18 offices and certain commercial lending company affiliates of banks
19 organized under the laws of a foreign country except that the
20 operation of such foreign banks through subsidiary banks or
21 depository institutions organized under the laws of the United States
22 or any state of the United States, the deposits of which are insured by
23 the Federal Deposit Insurance Corporation or any successor thereto,
24 shall be governed by the other provisions of "The Banking Act of
25 1948," P.L. 1948, c. 67 (C. 17:9A-1 et seq.).

26 b. For purposes of sections ¹[38 through 87] 37 through 86 ¹of
27 P.L. , c. (C.)(pending before the Legislature as this bill),
28 unless the context clearly requires otherwise, the following terms shall
29 be interpreted and applied in the same manner as the Federal Reserve
30 interprets and applies the terms with respect to foreign banks and
31 foreign banking organizations: "agency;" "branch;" "commercial
32 lending company;" "to establish;" "foreign bank;" "foreign banking
33 organization;" "office or office of a foreign bank;" "representative
34 office;" and "subsidiary."

35 c. The provisions of sections ¹[38 through 87] 37 through 86¹ of
36 P.L. , c. (C.)(pending before the Legislature as this bill) are
37 intended to authorize foreign banks to establish and operate branches,
38 agencies, commercial lending company affiliates and representative
39 offices in this State and generally to ensure that interstate branches of
40 foreign banks may be established and operated in this State to the
41 extent consistent with the provisions of section 5 of the "International
42 Banking Act of 1978," 12 U.S.C. §3103, and the regulations of the
43 Federal Reserve promulgated thereunder, 12 CFR §211.20 et seq., and
44 under terms and conditions that are generally comparable to and no
45 less favorable than those applicable to the establishment of interstate
46 federal branches in this State by foreign banks.

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

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

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

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

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

31 (a) to acquire an individual branch of any "insured bank," as that
32 term is defined in the "Federal Deposit Insurance Act," 12 U.S.C.
33 §1813(h), or of any other depository institution, including another
34 foreign bank, without acquiring the entire bank or other institution;

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

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

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

44

45 ¹[39.] 38¹ (New section) As used in sections ¹[38 through 87] 37
46 through 86¹ of P.L. , c. (C.)(pending before the Legislature

1 as this bill):

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

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

9 (2) To serve a specific purpose;

10 (3) Not solicited from the general public;

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

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

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

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

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

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

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

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

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

42 "Commissioner" means the Commissioner of Banking of New
43 Jersey.

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

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

1 "To establish" or "establish" means to:

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

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

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

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

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

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

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

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

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

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

27 "Federal Reserve" means the Board of Governors of the Federal
28 Reserve System.

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

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

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

45 "License" means a license issued under sections ¹[38 through 87]
46 37 through 86¹ of P.L. , c. (C.) (pending before the Legislature

1 as this bill), authorizing a foreign bank or a commercial lending
2 company to establish and to maintain an office; to be "licensed" means
3 to be issued or to hold a license; and to be "licensed to transact
4 business in this State," when used with respect to a foreign bank or a
5 commercial lending company, means that the bank is licensed to
6 establish an agency or branch office or commercial lending company.

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

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

13 "Organization" means a corporation, government, partnership,
14 association, or any other entity.

15 "Person" means an individual or an organization.

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

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

24 "State of the United States" means any state of the United States or
25 the District of Columbia.

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

32
33 ¹[40.] 39.¹ (New section) a. For purposes of sections ¹[38 through
34 87] 37 through 86¹ of P.L. , c. (C.)(pending before the
35 Legislature as this bill), offices of foreign banks are divided into
36 classes and ranked in ascending order, as follows:

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

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

- 43
44 (1) Changing a lower class office into a higher class office shall be
45 treated as establishing the higher class office, but not as closing the
46 lower class office.

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

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

10
11 ¹[41.] 40.¹ (New section) Fees shall be paid to, and collected by,
12 the commissioner as follows:

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

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

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

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

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

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

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

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

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

42
43 ¹[42.] 41.¹ (New section) a. Each application filed with the
44 commissioner under sections ¹[38 through 87] 37 through 86¹
45 of P.L. , c. (C.)(pending before the Legislature as this bill) or
46 under any regulation or order issued under sections ¹[38 through 87]

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

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

14

15 ¹[43.] 42.¹ (New section) a. In this section, "act" includes, without
16 limitation, omission.

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

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

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

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

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

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

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

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

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

9
10 ¹[44.] 43.¹ (New section) a. Each foreign bank and commercial
11 lending company which is licensed to establish an office shall file with
12 the commissioner reports as and when the commissioner may by
13 regulation or order require.

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

20
21 ¹[45.] 44.¹ (New section) Each foreign bank and commercial
22 lending company which is licensed to establish an office shall make,
23 keep, and preserve at an office or at any other place as the
24 commissioner may by regulation or order approve, the books,
25 accounts, and other records relating to the business of the office, in the
26 form, manner, and for the time the commissioner may by regulation or
27 order provide.

28
29 ¹[46.] 45.¹ (New section) a. No foreign bank which is licensed to
30 establish an agency or branch office shall concurrently establish a
31 federal agency or federal branch in this State.

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

35
36 ¹[47.] 46.¹ (New section) A foreign bank or commercial lending
37 company may open one or more offices in this State. Each office shall
38 be separately licensed and each office of a separate class shall be
39 separately maintained.

40
41 ¹[48.] 47.¹ (New section) a. (1) No foreign bank, other than a
42 foreign bank which is licensed to establish an agency or branch office,
43 shall be issued a license to establish a representative office or
44 commercial lending company unless it shall have first filed with the
45 commissioner, in the form as the commissioner may by regulation or
46 order require, an appointment irrevocably appointing the commissioner

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

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

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

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

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

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

6
7 ¹[49.] 48.¹ (New section) No license shall be transferable or
8 assignable.

9
10 ¹[50.] 49.¹ (New section) Each foreign bank and commercial
11 lending company which is licensed to establish an office shall post its
12 license in a conspicuous place at that office.

13
14 ¹[51.] 50.¹ (New section) a. Each foreign bank and commercial
15 lending company which is licensed to establish an office shall assign to
16 that office a popular name which consists of a specific designation by
17 name, number or both, and shall post the popular name and the name
18 of the bank in a conspicuous place at the office.

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

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

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

31
32 ¹[52.] 51.¹ (New section) Whenever a foreign bank is licensed to
33 establish two or more offices it shall designate one of those offices as
34 its primary office.

35
36 ¹[53.] 52.¹ (New section) Each foreign bank and commercial
37 lending company which is licensed to establish an office shall conduct
38 all of the business of that office in a single building or in a single
39 building and adjoining buildings. However, for good cause and with
40 the approval of the commissioner, the bank may conduct part of the
41 business of the office elsewhere in the same vicinity.

42
43 ¹[54.] 53.¹ (New section) a. The department shall have the right
44 to examine each office which the commissioner licenses under section
45 ¹[38 through 87] 37 through 86¹ of P.L. , c. (C.)(pending
46 before the Legislature as this bill). The department shall insure that

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

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

32
33 ¹[55.] 54.¹ (New section) A foreign bank or commercial lending
34 company which makes a loan or extends credit from an office in this
35 State, or books a loan or extension of credit in this State, shall comply
36 with any applicable interest rate limitations imposed by the laws of this
37 State or the United States which would be applicable to that loan if
38 made by a commercial bank organized under the Banking Act. When
39 transacting business in this State, an office of a foreign bank shall
40 comply with all other laws and regulations of the State governing the
41 business in which the office is engaged, unless the commissioner, for
42 good cause shown, exempts the office by regulation or order from
43 compliance.

44
45 ¹[56.] 55.¹ (New section) a. No foreign bank shall establish a
46 representative office in this State unless it is licensed to establish a

1 representative office at that place.

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

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

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

14

15 ¹[57.] 56¹ (New section) a. (1) No foreign bank shall establish a
16 representative office unless the commissioner shall have first approved
17 the establishment of that office and issued a license authorizing the
18 foreign bank to establish the office.

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

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

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

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

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

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

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

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

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

42 c. Whenever an application by a foreign bank to establish a
43 representative office has been approved and all conditions precedent
44 to the issuance of a license authorizing the foreign bank to establish

1 the representative office have been fulfilled, the commissioner shall
2 issue the license.

3

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

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

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

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

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

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

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

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

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

33

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

39

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

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

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

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

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

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

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

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

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

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

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

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

1 authorizing the bank to establish the office.

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

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

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

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

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

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

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

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

20

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ¹[66.] 65.¹ (New section) a. Whenever the commissioner calls for
2 a report of condition or income from commercial banks organized
3 under the laws of this State, the commissioner shall call for a like
4 report from each foreign bank which is licensed to transact business in
5 this State.

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

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

14

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

20

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

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

42

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

46 b. The creditors of the business in this State of a foreign bank

1 which is licensed to transact business in this State shall be entitled to
2 priority over other creditors with respect to the assets of the foreign
3 banks's business in this State.

4
5 ¹[70.] 69.¹ (New section) a. In this section:

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

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

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

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

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

33 (a) Cash.

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

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

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

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

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

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

11 b. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41
42 ¹[71.] 70.¹ (New section) a. In this section:

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

1 of this State, or majority-owned subsidiary of the bank; and (c) such
2 other liabilities as the commissioner may by regulation or order
3 exclude.

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

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

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

26 d. If the commissioner finds, with respect to a foreign bank
27 licensed to establish an agency or a branch office in this State, that
28 such action is necessary for the establishment of sound financial
29 condition, for the protection of the public interest, the commissioner
30 may order the bank to place all or part of the eligible assets which the
31 bank is required to hold under subsection c. of this section in the
32 custody of a bank organized under the laws of this State or a national
33 bank headquartered in this State that the commissioner may designate.
34

35 ¹[72.] 71¹ (New section) a. (1) No foreign bank which is licensed
36 to establish an agency or branch office shall close its office unless the
37 commissioner shall have first approved the closing.

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

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

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

1 office; and

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

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

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

13

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

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

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

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

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

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

39

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

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

1 commercial lending company, the commissioner shall approve that
2 application:

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

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

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

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

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

19 If the commissioner finds otherwise, the commissioner shall deny
20 the application. The commissioner may, in approving any application,
21 condition the issuance of the license upon the compliance by the
22 commercial lending company with any provisions of sections ¹[62
23 through 72] 61 through 71¹ or sections ¹[80 through 86] 79 through
24 85¹ of P.L. , c. (C.)(pending before the Legislature as this
25 bill) applicable to branches and agencies.

26

27 ¹[75.] 74.¹ (New section) a. No commercial lending company
28 which is licensed to establish a commercial lending office shall
29 relocate that office unless the commissioner shall have first approved
30 that relocation and issued a license authorizing the commercial lending
31 company to establish the office at the new site.

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

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

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

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

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

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

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

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

10
11 ¹[76.] 75.¹ (New section) A commercial lending company which is
12 licensed to establish a commercial lending office may, subject to such
13 regulations or orders as the commissioner may prescribe, engage in
14 representational functions at the commercial lending office for a
15 foreign bank but shall not solicit or accept deposits or credit balances
16 or otherwise transact business at the office on behalf of a foreign bank.

17
18 ¹[77.] 76.¹ (New section) a. (1) No commercial lending company
19 which is licensed to establish a commercial lending office shall close
20 its office unless the commissioner shall have first approved the closing.

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

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

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

37
38 ¹[78.] 77.¹ (New section) The powers of a commercial lending
39 company in this State shall be limited as provided in section ¹[65] 64¹
40 and elsewhere in sections ¹[38 through 87] 37 through 86¹ of P.L. ,
41 c. (C.)(pending before the Legislature as this bill).

42
43 ¹[79.] 78.¹ (New section) The commissioner shall have the power
44 to grant to any organization which is organized under the laws of this
45 State, including but not limited to a corporation, limited partnership,
46 limited liability company, joint venture or partnership, the right to

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

12

13 ¹[80.] 79.¹ (New section) a. Except as provided in subsection b.
14 of this section, any foreign bank which holds a license to establish an
15 office may voluntarily surrender that license by filing the license and
16 a report with the commissioner. However, any foreign bank which
17 holds licenses to establish two or more offices may not voluntarily
18 surrender less than all of those licenses.

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

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

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

38

39 ¹[81.] 80.¹ (New section) If, after notice and a hearing, the
40 commissioner finds that any person has violated any provision of
41 sections ¹[38 through 87] 37 through 86 of P.L. , c.
42 (C.)(pending before the Legislature as this bill) or of any regulation
43 or order issued thereunder, the commissioner may order that person
44 to pay to the commissioner a civil penalty in an amount as the
45 commissioner may specify; except that the amount of the civil penalty
46 shall not exceed \$100,000 for each violation or, in the case of a

1 continuing violation, \$100,000 for each day for which the violation
2 continues.

3

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

9 a. That the bank or commercial lending company has violated any
10 provision of sections ¹[38 through 87] 37 through 86¹ of P.L. ,

11 c. (C.) (pending before the Legislature as this bill) or of any
12 regulation or order issued thereunder or any provision of any other
13 applicable law, regulation, or order;

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

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

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

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

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

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

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

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

1 j. That any fact or condition exists which, if it had existed at the
2 time when the bank or commercial lending company applied for its
3 license to transact business in this State, would have been grounds for
4 denying the application.

5
6 ¹[83.] 82¹ (New section) a. If the commissioner finds that any of
7 the factors set forth in section ¹[82] 81¹ of P.L. , c.
8 (C.)(pending before the Legislature as this bill) is true with respect
9 to any foreign bank or commercial lending company which is licensed
10 to establish an office and that it is necessary, for the protection of the
11 interests of creditors of the bank's or company's business in this State,
12 or for the protection of the public interest, that the commissioner
13 immediately suspend or revoke the license of the bank or commercial
14 lending company, the commissioner may issue an order suspending or
15 revoking the license of the bank or commercial lending company.

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

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

30
31 ¹[84.] 83¹ (New section) Any foreign bank or commercial lending
32 company whose license to establish an office is suspended or revoked
33 shall immediately surrender its license to the commissioner.

34
35 ¹[85.] 84¹ (New section) a. Any foreign bank or commercial
36 lending company to which an order is issued under section ¹[82 or 83]
37 81 or 82¹ of P.L. , c. (C.)(pending before the Legislature as
38 this bill), may apply to the commissioner to modify or rescind the
39 order. The commissioner shall not grant the application unless he
40 finds that it is in the public interest to do so and that it is reasonable
41 to believe that the bank or commercial lending company will, if and
42 when it is again licensed to establish an office, comply with all
43 applicable provisions of sections ¹[80 through 86] 79 through 85¹ of
44 P.L. , c. (C.)(pending before the Legislature as this bill) and
45 of any regulation or order issued thereunder.

46 b. The right of any foreign bank or commercial lending company

1 to which an order is issued under section ¹[82 or 83] 81 or 82¹ of P.L.
2 , c. (C.)(pending before the Legislature as this bill) to petition
3 for judicial review of that order shall not be affected by the failure of
4 that bank or commercial lending company to apply to the
5 commissioner pursuant to subsection a. of this section to modify or
6 rescind the order.

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

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

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

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

45 d. When the commissioner has completed the liquidation of the
46 property and business of a foreign bank, the commissioner shall

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

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

16

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

23

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

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

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

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

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

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

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

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

- 1 (7) "Member" shall mean a person who holds an account or a
2 savings deposit in a mutual association as a savings member or as a
3 borrowing member.
- 4 (8) "Savings member" shall mean a member who holds an account
5 or a savings deposit representing savings in an association.
- 6 (9) "Borrowing member" shall mean a member to whom money of
7 the association is loaned or one who is the owner of property upon
8 which the association holds a mortgage.
- 9 (10) "Account" shall mean the record of the financial transactions
10 of a member or depositor as shown on the books of the association.
- 11 (11) "Direct reduction loan" shall mean a loan the principal of
12 which is repayable in periodical installments.
- 13 (12) "Sinking fund loan" shall mean a loan, the principal of which
14 is contracted to be repaid with the participation value of an installment
15 account pledged as collateral security for the payment of the loan.
- 16 (13) "Straight mortgage loan" shall mean a loan, the principal of
17 which is repayable upon a fixed day and upon which no interim
18 amortization is required.
- 19 (14) "Account loan" shall mean a loan secured by the pledge of an
20 account and the shares, if any, issued in connection therewith.
- 21 (15) "Capital" of a mutual State association shall mean the
22 aggregate participation value of all savings members' accounts. It shall
23 not be limited and shall be accumulated only by payments by savings
24 members, plus dividends credited to their accounts.
- 25 (16) "Participation value" of an account shall mean the amount
26 paid by a savings member on such account, plus dividends or interest
27 credited thereto, less payments of withdrawals and retirements
28 therefrom and any other amounts lawfully deductible therefrom.
- 29 (17) "Withdrawal value" of an account shall mean the participation
30 value of such an account, at the time application for withdrawal of the
31 account is filed, less such part, if any, of the dividends or interest then
32 credited to such account as the association is authorized to retain upon
33 withdrawal.
- 34 (18) "Gross income" shall have the meaning ascribed to it in
35 section 6 of this act.
- 36 (19) "Net income" shall have the meaning ascribed to it in section
37 7 of this act.
- 38 (20) "Federal Savings and Loan Insurance Corporation" shall mean
39 the corporation so named, organized pursuant to an Act of Congress,
40 or any Federal corporation, instrumentality or agency which succeeds
41 to the powers and functions of the Federal Savings and Loan Insurance
42 Corporation or undertakes to discharge the purposes for which said
43 corporation was created.
- 44 (21) "Federal Home Loan Bank Board" shall mean the board so
45 named, organized pursuant to an Act of Congress, or any Federal
46 corporation, instrumentality or agency which succeeds to the powers

1 and functions of the Federal Home Loan Bank Board, or which is
2 formed to carry out the purposes for which such board was created.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (C.17:16C-62 et seq.); or (c) is the result of the private sale of a
 2 dwelling if title to the dwelling is in the name of the seller and the
 3 seller has resided in said dwelling for at least 1 year if the buyer is
 4 purchasing said dwelling for his own residence and, as part of the
 5 purchase price, executes a secondary mortgage in favor of the seller,
 6 shall not be included within the definition of "secondary mortgage
 7 loan."

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

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

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

24 ¹[(39)] (38) "Out-of-State association" means a savings and loan
 25 association or building and loan association insured by the Federal
 26 Deposit Insurance Corporation and chartered under the laws of a state
 27 other than New Jersey, but not a bank as defined in 12 U.S.C.
 28 §1813(a)(2).

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

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

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

37

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

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

46 (1) An association operating a branch office approved prior to the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 c. An out-of-State association without a branch office in this State
36 may not establish a de novo branch office in New Jersey unless the
37 home state of the out-of-State association has in effect, as of the date
38 of approval of such application, a law that permits de novo branching
39 into that state by an association whose home state is New Jersey.]¹
40

41 ¹[91.] 89.¹ (New section) a. Upon filing an application therefor
42 in the department, and upon obtaining the approval of the
43 commissioner thereto a State association may change the location of
44 its principal office or of a branch office located in this State to another
45 location in this State. Upon filing an application therefor in the
46 department, and upon obtaining the approval of the commissioner

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

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

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

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

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

40 30. [Each auxiliary office shall be located in the same municipality
41 as that in which the State association operates the office to which such
42 auxiliary office is an adjunct.] No auxiliary office shall be established
43 or operated at a location which is outside this State or more than
44 [1,500 feet] one mile from the office of the State association to which
45 such auxiliary office is an adjunct; nor shall any such auxiliary office
46 be established within [1,500] 1,000 feet of the principal office or a

1 branch office of another association, without the written consent of
2 such association. Such consent, once given, shall thereafter be
3 irrevocable, regardless whether it was given gratuitously or for a
4 valuable consideration. No State association shall be required to
5 discontinue an auxiliary office for the reason that, after its
6 establishment pursuant to this act, another association has established
7 its principal office or a branch office within [1,500] 1,000 feet of such
8 auxiliary office.

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

10

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

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

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

16 (b) the payment of withdrawals;

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

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

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

20

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

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

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

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

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

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

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

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

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

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

10

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

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

18

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

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

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

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

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

32

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

35 172. Every State association and every out-of-State association
36 with a branch office in this State shall be subject to the examination,
37 inspection and supervision of the department[, and the]. The

38 commissioner shall, either personally or by a person appointed by
39 [him] the commissioner, visit and examine every State association at
40 least once every 2 years, or [oftener] more often if deemed expedient.

41 When deemed advisable, the examiner shall verify the liabilities of the
42 State association to its members by an inspection and verification of
43 their accounts. The commissioner shall promptly communicate the
44 result of every examination to the president of the State association
45 examined, who shall present the same to the board at the next regular
46 meeting, or a special meeting, if deemed advisable, or if so directed by

1 the commissioner. The action taken thereon by the board shall
2 thereupon be promptly communicated by the president to the
3 commissioner.

4 Every report and copy of a report of examination of a State
5 association and out-of-State association made by or under the
6 supervision of the commissioner, shall be confidential, and shall not be
7 made public by any officer, director or employee of a State association
8 or out-of-State association, and shall not be subject to subpoena or to
9 admission into evidence in any action or proceeding in any court,
10 except pursuant to an order of the court made upon notice to 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 apply to any action or
18 proceeding instituted by the commissioner or Attorney General
19 pursuant to any law of this State.

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

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

32

33 ¹[98.] 96.¹ Section 173 of P.L.1963, c.144 (C.17:12B-173) is
34 amended to read as follows:

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

46 If any person shall fail to obey the subpoena, give testimony,

1 answer questions or produce any books, papers or documents as
2 required, the Superior Court may, upon ex parte application, make an
3 order compelling him to do so.

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

5

6 ¹[99.] 97.¹ Section 178 of P.L.1963, c.144 (C.17:12B-178) is
7 amended to read as follows:

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

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

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

25

26 ¹[100.] 98.¹ (New section) a. One or more State associations may,
27 with the approval of the commissioner, merge with an out-of-State
28 association or associations, or with a federal association or
29 associations, each with their principal office outside of this State,
30 pursuant to sections 198 through 212 of P.L.1963, c.144
31 (C.17:12B-198 through 17:12B-212).

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

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

41

42 ¹[101.] 99.¹ Section 214 of P.L.1963, c.144 (C.17:12B-214) is
43 amended to read as follows:

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

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

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

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

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

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

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

3

4 ¹[102.] 100.¹ Section 226 of P.L.1963, c.144 (c.17:12B-226) is
5 amended to read as follows:

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

10

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

1	(11) Application to change		
2	location of principal office		
3	pursuant to subsection (2) of		
4	section 40 of P.L.1963, c.144		
5	(C.17:12B-40).....	500.00	2,000.00
6	(12) Application to change		
7	location of branch office beyond		
8	1,500 feet and in same municipality		
9	pursuant to subsection (1) of		
10	section 4 of P.L.1965, c.127		
11	(C.17:12B-27.1).....	250.00	1,000.00
12	(13) Application to change		
13	location of branch office		
14	pursuant to subsection (2) of		
15	section 4 of P.L.1965, c.127		
16	(C.17:12B-27.1).....	500.00	2,000.00
17	(14) Conversions.....	3,500.00	10,000.00
18	(15) Sharing Facilities.....	100.00	500.00
19	(16) Application for approval		
20	of savings and loan holding		
21	company.....	2,000.00	5,000.00
22	(17) Filing of any other		
23	certificate.....	50.00	250.00
24	(18) For issuance of any other		
25	approval by the commissioner,		
26	plus a per diem.....	100.00	250.00
27	(19) For filing plans of		
28	acquisition, stock, savings and		
29	loan and existing holding		
30	companies.....	1,500.00	4,000.00
31	(20) In addition to the above		
32	fees, a per diem charge may be		
33	assessed when a special investigation		
34	of a filing is required.		

35 B. Every State association shall defray all expenses incurred in
36 making an examination of its affairs as provided in this act, and the
37 commissioner may maintain an action, in the name of the State, against
38 the association, for the recovery of such expenses, in a court of
39 competent jurisdiction.

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

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

1 ¹[103.] 101.¹ (New section) The Commissioner is authorized to
2 enter into contracts with association supervisors of other states for the
3 purpose of establishing effective and efficient supervisory and
4 regulatory structures and practices with respect to the provisions of
5 sections ¹[88 through 102] 87 through 100¹ of this ¹[1995] 1996¹
6 amendatory and supplementary act.

7

8 ¹[104.] 102.¹ The following are repealed:

9 Section 1 of P.L.1963, c.88 (C.17:9A-22.1);

10 Section 1 of P.L.1971, c.26 (C.17:9A-23.14);

11 Sections 259 and 315 of P.L.1948, c.67 (C.17:19A-259 and
12 17:9A-315);

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

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

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

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

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

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

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

21

22 ¹[105.] 103.¹ This act shall take effect immediately.

23

24

25

26

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