

4193--A

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I N S E N A T E

March 23, 2011

Introduced by Sens. GRIFFO, FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Banks -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the banking law, in relation to certain provisions relating to foreign banking corporations

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (g) of subdivision 1 of section 601-a of the
2 banking law, as amended by chapter 152 of the laws of 1993, is amended
3 to read as follows:
4 (g) ONE OR MORE BANKS, TRUST COMPANIES, STOCK-FORM SAVINGS BANKS OR
5 STOCK-FORM SAVINGS AND LOAN ASSOCIATIONS, WITH ONE OR MORE OUT-OF-STATE
6 BANKS AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED TWENTY-TWO OF THIS
7 CHAPTER.
8 (H) One or more banking institutions by another banking institution
9 [to the extent permitted under regulations of the banking board] AS THE
10 SUPERINTENDENT MAY AUTHORIZE. FOR PURPOSES OF THIS PARAGRAPH, A BRANCH
11 OR AGENCY OF A FOREIGN BANKING CORPORATION LICENSED PURSUANT TO ARTICLE
12 TWO OF THIS CHAPTER AND SEEKING APPROVAL FOR A TRANSFER OF FIDUCIARY
13 RELATIONSHIPS PURSUANT TO SECTION SIX HUNDRED FOUR-A OF THIS CHAPTER
14 SHALL BE CONSIDERED A BANKING INSTITUTION. THE SUPERINTENDENT MAY
15 PROMULGATE SUCH REGULATIONS AS HE OR SHE DEEMS NECESSARY AND PROPER TO
16 IMPLEMENT AND DEFINE THE PROVISIONS OF THIS PARAGRAPH.
17 S 2. Section 604-a of the banking law, as added by chapter 743 of the
18 laws of 1958, the section heading and subdivision 1 as amended by chap-
19 ter 297 of the laws of 1993, subdivision 2 as amended by chapter 489 of
20 the laws of 1963 and subdivision 3 as amended by chapter 115 of the laws
21 of 1981, is amended to read as follows:
22 S 604-a. Transfer of fiduciary relationships [of a banking institu-
23 tion]. 1. If any banking institution, including a bank or trust company,
24 national banking association, savings bank, savings and loan associ-
25 ation, federally chartered savings bank, federally chartered savings

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 [and loan] association, OR A BRANCH OR AGENCY OF A FOREIGN BANKING
2 CORPORATION LICENSED PURSUANT TO ARTICLE TWO OF THIS CHAPTER, located in
3 this state, shall have transferred all or substantially all of its
4 assets to another banking institution in a transaction subject to this
5 chapter pursuant to a written agreement between the transferor and
6 transferee [corporations] whereby the transferee [corporation] has
7 assumed the deposit liabilities, if any, of the transferor [corporation]
8 and has agreed to assume all fiduciary relationships of the transferor
9 [corporation], the transferee [corporation] may file in the office of
10 the superintendent a certificate in its name and under its [corporate]
11 seal, signed by its president, secretary or cashier, setting forth a
12 copy of such agreement and stating that the transferee [corporation]
13 assumes all of the fiduciary relationships of the transferor [corpo-
14 ration] pursuant to the provisions of this section; provided, however,
15 that such certificate shall not be filed unless the approval of the
16 superintendent shall have been endorsed thereon or annexed thereto
17 before filing. IN THE CASE OF A BRANCH OR AGENCY LICENSED PURSUANT TO
18 ARTICLE TWO OF THIS CHAPTER THAT SEEKS TO PARTICIPATE IN A TRANSACTION
19 DESCRIBED IN THIS SECTION, SUCH BRANCH OR AGENCY SHALL BE SUBJECT TO THE
20 APPLICATION AND APPROVAL REQUIREMENTS GOVERNING ACQUISITION TRANSACTIONS
21 SET FORTH IN SECTIONS SIX HUNDRED ONE-A AND SIX HUNDRED ONE-B OF THIS
22 CHAPTER.

23 2. Upon the filing of such certificate in the office of the super-
24 intendent, all of the property, rights, powers and franchises of the
25 transferor [corporation] as fiduciary shall vest in the transferee
26 [corporation] and the transferee [corporation] shall be deemed to have
27 assumed all of the debts, liabilities, obligations and duties of the
28 transferor [corporation] as fiduciary, and to have succeeded to all the
29 fiduciary relationships of the transferor [corporation], as fully and
30 with the same effect as is provided in sections one hundred thirty-six-c
31 and six hundred two in the case of a merger, and any reference to the
32 transferor [corporation] as fiduciary in any capacity, contained in any
33 contract, will or document, whether executed or taking effect before or
34 after the filing of such certificate in the office of the superinten-
35 dent, shall be considered a reference to the transferee [corporation] if
36 not inconsistent with the other provisions of the contract, will or
37 document.

38 3. For [the] purposes of this section, the fiduciary relationships of
39 the transferor shall include all relationships as agent, trustee, guard-
40 ian, receiver, committee, conservator, executor, administrator, or other
41 fiduciary in any capacity or for any purpose mentioned in section one
42 hundred, and all relationships of the transferor as bailee or depositary
43 of personal property.

44 4. This section shall not be deemed to authorize a transferee [corpo-
45 ration] to assume any fiduciary relationship of a kind which it would
46 not otherwise have power to undertake and perform. Nothing in this
47 section shall be deemed to authorize any such transferee [corporation]
48 to maintain as its own office any office previously maintained by the
49 transferor [corporation], and authority, if any, to maintain any such
50 office shall be governed by the applicable provisions of law other than
51 this section. This section shall not be deemed to apply to contracts of
52 the transferor for the leasing of safe deposit boxes or vaults.

53 S 3. This act shall take effect immediately.