S T A T E O F N E W Y O R K

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I N A S S E M B L Y

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Introduced by M. of A. SCHIMMINGER, ESPAILLAT, TOWNS, DelMONTE -- Multi-Sponsored by -- M. of A. COLTON, KOLB -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to providing banking corporations with a tax credit for investment in certified bank capital companies

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

Section 1. Statement of legislative intent. The legislature finds that, in order to promote the growth of the state economy, a need exists to further encourage the investment of private financial resources into the state's venture capital markets. This act creates incentives to increase investment by banking corporations into venture capital funds which invest in viable small business enterprises which have traditionally experienced difficulty in attracting institutional venture capital. In addition, this act promotes the formation and expansion of new and existing businesses, creating jobs, and resulting in the expansion of the state's economy.

S 2. Section 1456 of the tax law is amended by adding a new subsection (u) to read as follows:

(U) CREDIT FOR CERTAIN INVESTMENTS IN CERTIFIED BANK CAPITAL COMPANIES. (1) A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE. THE AMOUNT OF THE CREDIT SHALL BE EQUAL TO ONE HUNDRED PERCENT OF AN INVESTMENT OF CERTIFIED BANK CAPITAL MADE BY THE TAXPAYER PURSUANT TO SECTION THIRTY OF THIS CHAPTER.

(2) TEN PERCENT OF SUCH CREDIT SHALL BE ALLOWED IN THE TAXABLE YEAR TO WHICH SUCH INVESTMENT IS ALLOCATED PURSUANT TO SUBDIVISION (J) OF SECTION THIRTY OF THIS CHAPTER AND IN EACH OF THE NINE FOLLOWING TAXABLE YEARS. IN ADDITION, IN ANY TAXABLE YEAR SUBSEQUENT TO THE TAXABLE YEAR FOR WHICH SUCH INVESTMENT IS SO ALLOCATED, ANY AMOUNT CARRIED FORWARD

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

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UNDER PARAGRAPHS THREE AND FOUR OF THIS SUBSECTION MAY BE CARRIED FORWARD INDEFINITELY UNTIL SUCH CREDITS ARE UTILIZED.

(3) NO CREDIT ALLOWABLE PURSUANT TO THIS SUBSECTION SHALL REDUCE THE TAX PAYABLE UNDER THIS ARTICLE TO LESS THAN THE MINIMUM FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED FIFTY-FIVE OF THIS ARTICLE. IF, HOWEVER, THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT TAKEN IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(4) IF FOR ANY TAXABLE YEAR THE CREDIT ALLOWABLE UNDER PARAGRAPH TWO OF THIS SUBSECTION EXCEEDS SUCH MINIMUM TAX FOR SUCH TAXABLE YEAR, THEN THE AMOUNT BY WHICH SUCH CREDIT EXCEEDS SUCH MINIMUM TAX LIABILITY SHALL BE CARRIED FORWARD AS A CREDIT UNDER PARAGRAPH TWO OF THIS SUBSECTION TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS.

(5) DECERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY REQUIRES THE DISALLOWANCE AND THE RECAPTURE OF THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION, AS FOLLOWS:

(A) DECERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY WITHIN TWO YEARS OF ITS CERTIFICATION DATE AND PRIOR TO ITS MEETING THE REQUIREMENTS OF SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION THIRTY OF THIS CHAPTER SHALL CAUSE DISALLOWANCE OF ONE HUNDRED PERCENT OF THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION AND THE RECAPTURE OF ANY PORTION OF SUCH CREDIT THAT WAS PREVIOUSLY TAKEN.

(B) DECERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY WHICH, HAVING MET ALL REQUIREMENTS OF SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION THIRTY OF THIS CHAPTER, SUBSEQUENTLY FAILS TO MEET THE REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER THE PROVISIONS OF SUBPARAGRAPH (B) OF SUCH PARAGRAPH ONE REQUIRES THE DISALLOWANCE OF EIGHTY-FIVE PERCENT OF THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION AND THE RECAPTURE OF ANY PORTION OF SUCH CREDIT IN EXCESS OF FIFTEEN PERCENT THAT WAS PREVIOUSLY TAKEN.

(C) DECERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY WHICH, HAVING MET ALL REQUIREMENTS OF SUBPARAGRAPHS (A) AND (B) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION THIRTY OF THIS CHAPTER, SUBSEQUENTLY FAILS TO MEET THE REQUIREMENTS FOR CONTINUED CERTIFICATION UNDER THE PROVISIONS OF SUBPARAGRAPH (C) OF SUCH PARAGRAPH ONE REQUIRES THE DISALLOWANCE OF SEVENTY PERCENT OF THE CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION AND THE RECAPTURE OF ANY PORTION OF SUCH CREDIT IN EXCESS OF THIRTY PERCENT THAT WAS PREVIOUSLY TAKEN.

(D) DECERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY PURSUANT TO PARAGRAPH TWO OF SUBDIVISION (E) OF SECTION THIRTY OF THIS CHAPTER, OTHER THAN ON THE GROUNDS OF THE FAILURE OF SUCH CERTIFIED BANK CAPITAL COMPANY TO MEET THE REQUIREMENTS OF SUBPARAGRAPH (A), (B), OR (C) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SUCH SECTION, DOES NOT REQUIRE THE DISALLOWANCE OF ANY OF THE CREDITS ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION NOR THE RECAPTURE OF ANY PORTION OF SUCH CREDITS THAT WAS PREVIOUSLY TAKEN.

(6) REVOCATION OF CERTIFICATION PURSUANT TO SUBDIVISION (F) OF SECTION THIRTY OF THIS CHAPTER, BEFORE THE LATER OF (A) THE THIRD ANNIVERSARY OF THE CERTIFICATION OF THE CERTIFIED BANK CAPITAL COMPANY OR (B) THE DATE ON WHICH THE CERTIFIED BANK CAPITAL COMPANY SATISFIES THE REQUIREMENTS OF SUBPARAGRAPH (C) OF PARAGRAPH ONE OF SUBDIVISION (C) OF SECTION THIRTY OF THIS CHAPTER, REQUIRES DISALLOWANCE OF ONE HUNDRED PERCENT OF THE

CREDIT ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION AND THE RECAPTURE OF ANY PORTION OF SUCH CREDIT THAT WAS PREVIOUSLY TAKEN.

(7) NO CREDIT SHALL BE ALLOWED IN ANY TAX YEAR IN WHICH THE TAXPAYER IS, INDIVIDUALLY OR WITH OR THROUGH ONE OR MORE AFFILIATES, A MANAGING GENERAL PARTNER OF, OR EITHER UNDERWRITES OR CONTROLS THE DIRECTION OF INVESTMENTS OF, A CERTIFIED BANK CAPITAL COMPANY FOR WHICH THE CREDIT WAS ALLOWED UNDER PARAGRAPH ONE OF THIS SUBSECTION. THIS PROVISION SHALL NOT PRECLUDE A CERTIFIED BANK INVESTOR OR ANY OTHER PARTY FROM EXERCISING ITS LEGAL RIGHTS AND REMEDIES (WHICH MAY INCLUDE INTERIM MANAGEMENT OF A CERTIFIED BANK CAPITAL COMPANY) IN THE EVENT THAT A CERTIFIED BANK CAPITAL COMPANY IS IN DEFAULT OF ITS STATUTORY OBLIGATIONS OR ITS CONTRACTUAL OBLIGATIONS TO SUCH CERTIFIED BANK INVESTOR OR OTHER PARTY. FOR PURPOSES OF THIS PARAGRAPH, "AFFILIATE" MEANS A BUSINESS ENTITY IN WHICH THE TAXPAYER HOLDS AT LEAST A TEN PERCENT BENEFICIAL INTEREST.

S 3. The tax law is amended by adding a new section 30 to read as follows:

S 30. CERTIFIED BANK CAPITAL COMPANIES. (A) DEFINITIONS. FOR THE PURPOSE OF THIS SECTION AND SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "CERTIFICATION DATE" MEANS THE DATE ON WHICH A CERTIFIED BANK CAPITAL COMPANY IS SO DESIGNATED BY THE DEPARTMENT.

(2) "CERTIFIED BANK CAPITAL" MEANS AN INVESTMENT OF CASH BY A CERTIFIED BANK INVESTOR IN A CERTIFIED BANK CAPITAL COMPANY WHICH FULLY FUNDS THE PURCHASE PRICE OF EITHER OR BOTH ITS EQUITY INTEREST IN THE CERTIFIED BANK CAPITAL COMPANY OR A QUALIFIED DEBT INSTRUMENT ISSUED BY THE CERTIFIED BANK CAPITAL COMPANY.

(3) "CERTIFIED BANK CAPITAL COMPANY" MEANS A PARTNERSHIP, CORPORATION, TRUST, OR LIMITED LIABILITY COMPANY, ORGANIZED ON A FOR-PROFIT BASIS THAT IS LOCATED, HEADQUARTERED, AND LICENSED OR REGISTERED TO CONDUCT BUSINESS IN NEW YORK, THAT HAS AS ITS PRIMARY BUSINESS ACTIVITY THE INVESTMENT OF CASH IN QUALIFIED BUSINESSES, AND THAT IS CERTIFIED BY THE DEPARTMENT AS MEETING THE CRITERIA SET FORTH IN SUBDIVISION (B) OF THIS SECTION.

(4) "CERTIFIED BANK INVESTOR" MEANS ANY BANKING CORPORATION DEFINED PURSUANT TO SECTION FOURTEEN HUNDRED FIFTY-TWO OF THIS CHAPTER THAT CONTRIBUTES CERTIFIED BANK CAPITAL.

(5) "DEPARTMENT" MEANS THE BANKING DEPARTMENT.

(6) "QUALIFIED BUSINESS" MEANS AN INDEPENDENTLY OWNED AND OPERATED BUSINESS THAT MEETS ALL OF THE FOLLOWING CONDITIONS AS OF THE TIME OF THE FIRST INVESTMENT IN THE BUSINESS:

(A) IT IS HEADQUARTERED IN NEW YORK STATE, AND ITS PRINCIPAL BUSINESS OPERATIONS ARE LOCATED IN NEW YORK STATE, AND THE QUALIFIED INVESTMENT IT RECEIVES IS USED SOLELY TO SUPPORT ITS BUSINESS OPERATIONS IN THE STATE, EXCEPT FOR ADVERTISING, PROMOTIONS, AND SALES PURPOSES. IN CASES WHERE THE QUALIFIED INVESTMENT IS MADE IN A START-UP COMPANY, SUCH CAPITAL MUST BE USED SOLELY TO ESTABLISH AND SUPPORT ITS BUSINESS OPERATIONS IN NEW YORK STATE, EXCEPT FOR ADVERTISING, PROMOTIONS, AND SALES PURPOSES.

(B) IT HAS EITHER (I) NO MORE THAN ONE HUNDRED EMPLOYEES, AT LEAST EIGHTY PERCENT OF WHOM ARE EMPLOYED IN NEW YORK STATE, OR (II) NO MORE THAN TWO HUNDRED EMPLOYEES, AT LEAST EIGHTY PERCENT OF WHOM ARE EMPLOYED IN THIS STATE, AND DURING THE FISCAL YEAR IMMEDIATELY PRECEDING THE QUALIFIED INVESTMENT IT HAD, TOGETHER WITH ITS AFFILIATES, GROSS REVENUES OF NO MORE THAN FIVE MILLION DOLLARS, ON A CONSOLIDATED BASIS, AS DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(C) IT IS INVOLVED IN COMMERCE FOR THE PURPOSE OF DEVELOPING AND MANUFACTURING PRODUCTS AND SYSTEMS, INCLUDING BUT NOT LIMITED TO HIGH TECHNOLOGY PRODUCTS AND SYSTEMS SUCH AS COMPUTERS, COMPUTER SOFTWARE, MEDICAL EQUIPMENT, BIOTECHNOLOGY, TELECOMMUNICATIONS EQUIPMENT AND PRODUCTS, PROCESSING OR ASSEMBLING ALL TYPES OF PRODUCTS, CONDUCTING RESEARCH AND DEVELOPMENT ON ALL TYPES OF PRODUCTS, OR PROVIDING SERVICES, BUT EXCLUDING REAL ESTATE, REAL ESTATE DEVELOPMENT, INSURANCE, AND BUSINESSES PREDOMINATELY ENGAGED IN PROFESSIONAL SERVICES PROVIDED BY ACCOUNTANTS, LAWYERS, OR PHYSICIANS.

(7) "QUALIFIED DEBT INSTRUMENT" MEANS A DEBT INSTRUMENT ISSUED BY A CERTIFIED BANK CAPITAL COMPANY, AT PAR VALUE OR A PREMIUM, WITH AN ORIGINAL MATURITY DATE OF AT LEAST FIVE YEARS FROM DATE OF ISSUANCE, A REPAYMENT SCHEDULE WHICH IS NOT FASTER THAN A LEVEL PRINCIPAL AMORTIZATION, AND INTEREST, DISTRIBUTION, OR PAYMENT FEATURES WHICH ARE NOT RELATED TO THE PROFITABILITY OF THE CERTIFIED BANK CAPITAL COMPANY OR THE PERFORMANCE OF THE CERTIFIED BANK CAPITAL COMPANY'S INVESTMENT PORTFOLIO.

(8) "QUALIFIED DISTRIBUTION" MEANS ANY DISTRIBUTION OR PAYMENT TO EQUITY HOLDERS OF A CERTIFIED BANK CAPITAL COMPANY IN CONNECTION WITH THE FOLLOWING:

(A) REASONABLE COSTS AND EXPENSES OF SUCH EQUITY HOLDERS INCURRED BY SUCH EQUITY HOLDERS IN CONNECTION WITH FORMING, SYNDICATING, MANAGING, AND OPERATING THE CERTIFIED BANK CAPITAL COMPANY, INCLUDING AN ANNUAL MANAGEMENT FEE IN AN AMOUNT THAT DOES NOT EXCEED TWO AND ONE-HALF PERCENT OF THE CERTIFIED BANK CAPITAL OF THE CERTIFIED BANK CAPITAL COMPANY, PLUS REASONABLE AND NECESSARY FEES PAID FOR PROFESSIONAL SERVICES (SUCH AS LEGAL AND ACCOUNTING SERVICES) RELATED TO THE OPERATION OF THE CERTIFIED BANK CAPITAL COMPANY; AND

(B) ANY INCREASE OR PROJECTED INCREASE IN FEDERAL OR STATE TAXES, INCLUDING PENALTIES AND INTEREST RELATED TO STATE AND FEDERAL INCOME TAXES, OF THE EQUITY OWNERS OF A CERTIFIED BANK CAPITAL COMPANY RESULTING FROM THE EARNINGS OR OTHER TAX LIABILITY OF THE CERTIFIED BANK CAPITAL COMPANY, TO THE EXTENT THAT THE INCREASE IS RELATED TO THE OWNERSHIP, MANAGEMENT, OR OPERATION OF A CERTIFIED BANK CAPITAL COMPANY.

(9) "QUALIFIED INVESTMENT" MEANS THE INVESTMENT OF CASH BY A CERTIFIED BANK CAPITAL COMPANY IN A QUALIFIED BUSINESS FOR THE PURCHASE OF ANY DEBT, EQUITY, OR HYBRID SECURITY, OF ANY NATURE AND DESCRIPTION WHATEVER, INCLUDING A DEBT INSTRUMENT OR SECURITY WHICH HAS THE CHARACTERISTICS OF DEBT BUT WHICH PROVIDES FOR CONVERSION INTO EQUITY OR EQUITY PARTICIPATION INSTRUMENTS SUCH AS OPTIONS OR WARRANTS.

(10) "EARLY STAGE BUSINESS" MEANS A QUALIFIED BUSINESS WHICH IS INVOLVED, AT THE TIME OF INVESTMENT, IN ACTIVITIES RELATED TO THE DEVELOPMENT OF INITIAL PRODUCT OR SERVICE OFFERINGS, SUCH AS PROTOTYPE DEVELOPMENT OR ESTABLISHMENT OF INITIAL PRODUCTION OR SERVICE PROCESSES, OR WHICH IS LESS THAN TWO YEARS OLD AND DURING THE FISCAL YEAR IMMEDIATELY PRECEDING THE QUALIFIED INVESTMENT HAD, TOGETHER WITH ITS AFFILIATES, GROSS REVENUES OF NO MORE THAN TWO MILLION DOLLARS, ON A CONSOLIDATED BASIS, AS DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(11) "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF BANKS.

(B) CERTIFICATION. (1) THE SUPERINTENDENT SHALL ESTABLISH BY RULE OR REGULATION THE PROCEDURES FOR MAKING AN APPLICATION TO BECOME A CERTIFIED BANK CAPITAL COMPANY. THE APPLICANT SHALL PAY A NON-REFUNDABLE APPLICATION FEE OF FIVE HUNDRED DOLLARS AT THE TIME OF FILING THE APPLICATION WITH THE DEPARTMENT.

(2) THE SUPERINTENDENT MAY CERTIFY PARTNERSHIPS, CORPORATIONS, TRUSTS, OR LIMITED LIABILITY COMPANIES, ORGANIZED ON A FOR PROFIT BASIS, WHICH SUBMIT AN APPLICATION TO BE DESIGNATED AS A CERTIFIED BANK CAPITAL COMPANY IF SUCH APPLICANT IS LOCATED, HEADQUARTERED, AND LICENSED OR REGISTERED TO CONDUCT BUSINESS IN NEW YORK, HAS AS ITS PRIMARY BUSINESS ACTIVITY THE INVESTMENT OF CASH IN QUALIFIED BUSINESSES, AND MEETS THE OTHER CRITERIA SET FORTH IN THIS SUBDIVISION.

(3) A CERTIFIED BANK CAPITAL COMPANY'S INITIAL CAPITALIZATION, AT THE TIME OF SEEKING CERTIFICATION, MUST BE FIVE HUNDRED THOUSAND DOLLARS OR MORE.

(4) THE SUPERINTENDENT SHALL REVIEW THE ORGANIZATIONAL DOCUMENTS OF EACH APPLICANT FOR CERTIFICATION AND THE BUSINESS HISTORY OF THE APPLICANT, DETERMINE THAT THE APPLICANT'S CASH, MARKETABLE SECURITIES, AND OTHER LIQUID ASSETS ARE AT LEAST FIVE HUNDRED THOUSAND DOLLARS, AND DETERMINE THAT THE OFFICERS AND THE BOARD OF DIRECTORS, GENERAL PARTNERS, TRUSTEES, MANAGERS, OR MEMBERS ARE TRUSTWORTHY AND ARE THOROUGHLY ACQUAINTED WITH THE REQUIREMENTS OF THIS SUBDIVISION.

(5) THE SUPERINTENDENT SHALL VERIFY THAT AT LEAST TWO PRINCIPALS OF THE CERTIFIED BANK CAPITAL COMPANY OR ANY MANAGER OF THE CERTIFIED BANK CAPITAL COMPANY EACH HAVE NO LESS THAN FIVE YEARS OF EXPERIENCE IN THE VENTURE CAPITAL OR A VENTURE CAPITAL-RELATED INDUSTRY.

(6) ANY OFFERING MATERIAL INVOLVING THE SALE OF SECURITIES OF THE CERTIFIED BANK CAPITAL COMPANY SHALL INCLUDE THE FOLLOWING STATEMENT:

"THE AUTHORIZATION OF THE FORMATION OF A CERTIFIED BANK CAPITAL COMPANY DOES NOT CONSTITUTE THE ENDORSEMENT OF THE STATE OF NEW YORK AS TO EITHER THE QUALITY OF MANAGEMENT OR THE POTENTIAL FOR EARNINGS OF SUCH COMPANY. THE STATE OF NEW YORK IS NOT LIABLE FOR DAMAGES OR LOSSES TO A CERTIFIED BANK INVESTOR IN THE COMPANY. USE OF THE WORD 'CERTIFIED' IN AN OFFERING DOES NOT CONSTITUTE A RECOMMENDATION OR ENDORSEMENT OF THE INVESTMENT BY THE STATE OF NEW YORK.

INVESTMENTS IN A PROSPECTIVE CERTIFIED BANK CAPITAL COMPANY PRIOR TO THE TIME SUCH COMPANY IS CERTIFIED ARE NOT ELIGIBLE FOR TAX CREDITS. IN THE EVENT CERTAIN STATUTORY PROVISIONS (AS SPECIFIED IN SECTION 30 OF THE TAX LAW) ARE VIOLATED, THE STATE OF NEW YORK MAY REQUIRE FORFEITURE OF UNUSED TAX CREDITS AND REPAYMENT OF USED TAX CREDITS."

(7) WITHIN SIXTY DAYS OF APPLICATION, THE SUPERINTENDENT SHALL ISSUE THE CERTIFICATION OR SHALL REFUSE THE CERTIFICATION AND COMMUNICATE IN DETAIL TO THE APPLICANT THE GROUNDS FOR THE REFUSAL, INCLUDING SUGGESTIONS FOR THE REMOVAL OF THOSE GROUNDS.

(C) REQUIREMENTS FOR CONTINUANCE OF CERTIFICATION. (1) TO CONTINUE TO BE CERTIFIED, A CERTIFIED BANK CAPITAL COMPANY MUST MAKE QUALIFIED INVESTMENTS ACCORDING TO THE FOLLOWING SCHEDULE:

(A) WITHIN TWO YEARS AFTER THE CERTIFICATION DATE OF A CERTIFIED BANK CAPITAL COMPANY, AT LEAST TWENTY-FIVE PERCENT OF ITS CERTIFIED BANK CAPITAL MUST BE PLACED IN QUALIFIED INVESTMENTS.

(B) WITHIN THREE YEARS AFTER THE CERTIFICATION DATE OF A CERTIFIED BANK CAPITAL COMPANY, AT LEAST FORTY PERCENT OF ITS CERTIFIED BANK CAPITAL MUST BE PLACED IN QUALIFIED INVESTMENTS.

(C) WITHIN FOUR YEARS AFTER THE CERTIFICATION DATE OF A CERTIFIED BANK CAPITAL COMPANY, AT LEAST FIFTY PERCENT OF ITS CERTIFIED BANK CAPITAL MUST BE PLACED IN QUALIFIED INVESTMENTS, AT LEAST FIFTY PERCENT OF WHICH MUST HAVE BEEN PLACED IN EARLY STAGE BUSINESSES.

(D) A CERTIFIED BANK CAPITAL COMPANY, AT LEAST FIFTEEN WORKING DAYS PRIOR TO MAKING A PROPOSED INVESTMENT IN A SPECIFIC BUSINESS, SHALL CERTIFY IN WRITING TO THE SUPERINTENDENT THAT THE BUSINESS IN WHICH IT PROPOSES TO INVEST MEETS THE DEFINITION OF A QUALIFIED BUSINESS SET

FORTH IN PARAGRAPH SIX OF SUBDIVISION (A) OF THIS SECTION OR, IN THE CASE OF A FOLLOW-ON INVESTMENT, THAT SUCH BUSINESS CONTINUES TO MEET THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (A) AND (C) OF PARAGRAPH SIX OF SUBDIVISION (A) OF THIS SECTION AND, IN EITHER CASE, AN EXPLANATION OF ITS DETERMINATION THAT THE BUSINESS MEETS SUCH REQUIREMENTS. THE CERTIFICATION TO THE SUPERINTENDENT SHALL INCLUDE A SWORN STATEMENT FROM THE BUSINESS IN WHICH THE CERTIFIED BANK CAPITAL COMPANY PROPOSES TO INVEST, WHICH STATEMENT SHALL EVIDENCE THE INTENTION OF THE BUSINESS TO MAINTAIN ITS HEADQUARTERS IN NEW YORK AND CONDUCT ITS PRIMARY BUSINESS OPERATIONS IN THE STATE OF NEW YORK AFTER ITS RECEIPT OF THE INVESTMENT BY THE CERTIFIED BANK CAPITAL COMPANY. IF THE SUPERINTENDENT DETERMINES THAT THE BUSINESS DOES NOT MEET THE DEFINITION OF A QUALIFIED BUSINESS OR, IN THE CASE OF A FOLLOW-ON INVESTMENT, THAT SUCH BUSINESS DOES NOT MEET THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (A) AND (C) OF PARAGRAPH SIX OF SUBDIVISION (A) OF THIS SECTION, THEN HE OR SHE SHALL, WITHIN THE FIFTEEN WORKING DAY PERIOD PRIOR TO THE MAKING OF THE PROPOSED INVESTMENT, NOTIFY THE CERTIFIED BANK CAPITAL COMPANY OF HIS OR HER DETERMINATION AND PROVIDE AN EXPLANATION THEREOF.

(E) ALL CERTIFIED BANK CAPITAL NOT PLACED IN QUALIFIED INVESTMENTS BY THE CERTIFIED BANK CAPITAL COMPANY MAY BE HELD OR INVESTED IN SUCH MANNER AS THE CERTIFIED BANK CAPITAL COMPANY, IN ITS DISCRETION, DEEMS APPROPRIATE. THE PROCEEDS OF ALL CERTIFIED BANK CAPITAL RETURNED TO A CERTIFIED BANK CAPITAL COMPANY AFTER BEING ORIGINALLY PLACED IN QUALIFIED INVESTMENTS MAY BE PLACED AGAIN IN QUALIFIED INVESTMENTS AND SHALL COUNT TOWARD ANY REQUIREMENT IN THIS SUBDIVISION WITH RESPECT TO PLACING CERTIFIED BANK CAPITAL IN QUALIFIED INVESTMENTS.

(2) ANY BUSINESS WHICH IS CLASSIFIED AS A QUALIFIED BUSINESS AT THE TIME OF THE FIRST INVESTMENT IN SAID BUSINESS BY A CERTIFIED BANK CAPITAL COMPANY SHALL REMAIN CLASSIFIED AS A QUALIFIED BUSINESS AND MAY RECEIVE FOLLOW-ON INVESTMENTS FROM ANY CERTIFIED BANK CAPITAL COMPANY, AND ANY SUCH FOLLOW-ON INVESTMENTS SHALL BE QUALIFIED INVESTMENTS ALTHOUGH SUCH BUSINESS MAY NOT MEET THE DEFINITION OF A QUALIFIED BUSINESS AT THE TIME OF SUCH FOLLOW-ON INVESTMENTS; PROVIDED, HOWEVER, THAT SUCH BUSINESS CONTINUES TO MEET THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (A) AND (C) OF PARAGRAPH SIX OF SUBDIVISION (A) OF THIS SECTION AND REAFFIRMS ITS INTENTION TO MAINTAIN ITS HEADQUARTERS IN NEW YORK AND CONDUCT ITS PRIMARY BUSINESS OPERATIONS IN THE STATE OF NEW YORK AS REQUIRED IN SUBPARAGRAPH (D) OF PARAGRAPH ONE OF THIS SUBDIVISION.

(3) NO QUALIFIED INVESTMENT MAY BE MADE BY A CERTIFIED BANK CAPITAL COMPANY TO THE EXTENT THAT SUCH INVESTMENT WOULD CAUSE THE COMPANY'S TOTAL QUALIFIED INVESTMENT OUTSTANDING WITH RESPECT TO THE QUALIFIED BUSINESS RECEIVING SUCH INVESTMENT TO EXCEED FIFTEEN PERCENT OF THE TOTAL CERTIFIED BANK CAPITAL OF THE CERTIFIED BANK CAPITAL COMPANY AT THE TIME OF SUCH INVESTMENT.

(4) DOCUMENTS AND OTHER MATERIALS SUBMITTED BY CERTIFIED BANK CAPITAL COMPANIES OR BY BUSINESSES FOR PURPOSES OF THE CONTINUANCE OF CERTIFICATION SHALL NOT BE PUBLIC RECORDS IF SUCH RECORDS ARE DETERMINED BY THE SUPERINTENDENT TO BE TRADE OR BUSINESS SECRETS AND SHALL BE MAINTAINED IN A CONFIDENTIAL MANNER BY THE SUPERINTENDENT.

(5) THE AGGREGATE CUMULATIVE AMOUNT OF ALL QUALIFIED INVESTMENTS MADE BY A CERTIFIED BANK CAPITAL COMPANY FROM THE DATE OF ITS CERTIFICATION SHALL BE CONSIDERED IN THE CALCULATION OF THE PERCENTAGE REQUIREMENTS UNDER SUBPARAGRAPHS (A), (B), AND (C) OF PARAGRAPH ONE OF THIS SUBDIVISION.

(6) EACH CERTIFIED BANK CAPITAL COMPANY SHALL REPORT THE FOLLOWING TO THE SUPERINTENDENT:

(A) AS SOON AS PRACTICABLE AFTER THE RECEIPT OF CERTIFIED BANK CAPITAL OR AN IRREVOCABLE FUNDING COMMITMENT SUBJECT ONLY TO THE RECEIPT OF AN ALLOCATION PURSUANT TO SUBDIVISION (H) OF THIS SECTION, (I) THE NAME OF EACH CERTIFIED BANK INVESTOR FROM WHICH THE CERTIFIED BANK CAPITAL WAS RECEIVED, INCLUDING SUCH CERTIFIED BANK INVESTOR'S TAX IDENTIFICATION NUMBER; (II) THE AMOUNT OF EACH CERTIFIED BANK INVESTOR'S INVESTMENT OF CERTIFIED BANK CAPITAL; AND (III) THE DATE ON WHICH THE CERTIFIED BANK CAPITAL WAS RECEIVED; PROVIDED HOWEVER, THAT NO SUCH REPORT SHALL BE FILED WITH THE SUPERINTENDENT PRIOR TO MARCH FIRST, TWO THOUSAND TEN FOR CERTIFIED BANK CAPITAL INVESTED AFTER SUCH DATE.

(B) ON AN ANNUAL BASIS, ON OR BEFORE JANUARY THIRTY-FIRST OF EACH YEAR, (I) THE AMOUNT OF THE CERTIFIED BANK CAPITAL COMPANY'S CERTIFIED BANK CAPITAL AT THE END OF THE IMMEDIATELY PRECEDING YEAR; (II) WHETHER OR NOT THE CERTIFIED BANK CAPITAL COMPANY HAS INVESTED MORE THAN FIFTEEN PERCENT OF ITS TOTAL CERTIFIED BANK CAPITAL IN ANY ONE BUSINESS; AND (III) ALL QUALIFIED INVESTMENTS THAT THE CERTIFIED BANK CAPITAL COMPANY MADE DURING THE PREVIOUS CALENDAR YEAR, INCLUDING THE NUMBER OF EMPLOYEES OF EACH QUALIFIED BUSINESS IN WHICH IT HAS MADE INVESTMENTS AT THE TIME OF SUCH INVESTMENT.

(C) EACH CERTIFIED BANK CAPITAL COMPANY SHALL PROVIDE TO THE SUPERINTENDENT ANNUAL AUDITED FINANCIAL STATEMENTS, WHICH SHALL INCLUDE THE OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT, WITHIN NINETY DAYS OF THE CLOSE OF ITS FISCAL YEAR. THE AUDIT SHALL ADDRESS THE METHODS OF OPERATION AND CONDUCT OF THE BUSINESS OF THE CERTIFIED BANK CAPITAL COMPANY TO DETERMINE WHETHER OR NOT THE CERTIFIED BANK CAPITAL COMPANY IS COMPLYING WITH THE APPLICABLE STATUTES AND PROGRAM RULES AND WHETHER OR NOT THE FUNDS RECEIVED BY THE CERTIFIED BANK CAPITAL COMPANY HAVE BEEN INVESTED AS REQUIRED UNDER SUBPARAGRAPHS (A), (B), AND (C) OF PARAGRAPH ONE OF THIS SUBDIVISION.

(D) ON OR BEFORE APRIL FIRST OF EACH YEAR, EACH CERTIFIED BANK CAPITAL COMPANY SHALL PAY AN ANNUAL, NON-REFUNDABLE CERTIFICATION FEE OF FIVE HUNDRED DOLLARS TO THE SUPERINTENDENT; PROVIDED THAT NO SUCH FEE SHALL BE REQUIRED WITHIN SIX MONTHS OF THE INITIAL CERTIFICATION DATE OF A CERTIFIED BANK COMPANY.

(E) (1) WITHIN THIRTY DAYS OF THE DECISION ON AN APPLICATION FOR CERTIFICATION PURSUANT TO SUBDIVISION (B) OF THIS SECTION, THE SUPERINTENDENT SHALL SUBMIT A COPY OF SUCH APPLICATION AND THE RELATED DECISION TO THE DEPARTMENT OF TAXATION AND FINANCE. THE SUPERINTENDENT SHALL SUBMIT A COPY OF ALL FILINGS OF CERTIFICATIONS PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH ONE OF THIS SUBDIVISION, AND ANY DETERMINATION MADE THEREON, WITHIN FIFTEEN DAYS OF SUCH FILING TO THE DEPARTMENT OF TAXATION AND FINANCE.

(2) THE SUPERINTENDENT SHALL ANNUALLY, BY MARCH FIRST, SUBMIT TO THE DEPARTMENT OF TAXATION AND FINANCE A LIST OF CERTIFIED BANK INVESTORS WHO MAY CLAIM THE TAX CREDIT FOR THE PREVIOUS TAXABLE YEAR AND ANY OTHER INFORMATION NECESSARY TO ASSIST THE DEPARTMENT OF TAXATION AND FINANCE TO DETERMINE ELIGIBILITY FOR SUCH TAX CREDIT.

(D) DISTRIBUTIONS. (1) A CERTIFIED BANK CAPITAL COMPANY MAY MAKE QUALIFIED DISTRIBUTIONS AT ANY TIME. IN ORDER FOR A CERTIFIED BANK CAPITAL COMPANY TO MAKE A DISTRIBUTION OTHER THAN A QUALIFIED DISTRIBUTION, TO ITS EQUITY HOLDERS, EITHER (A) THE AGGREGATE CUMULATIVE AMOUNT OF ALL QUALIFIED INVESTMENTS MUST EQUAL OR EXCEED ONE HUNDRED PERCENT OF ITS CERTIFIED BANK CAPITAL ALLOCATED, OR (B) IT MUST HAVE RECEIVED WRITTEN AUTHORIZATION TO MAKE SUCH DISTRIBUTION FROM THE SUPERINTENDENT. IN NO EVENT, HOWEVER, SHALL ANY SUCH DISTRIBUTION, OTHER THAN A QUALIFIED DISTRIBUTION, BE MADE BY A CERTIFIED BANK CAPITAL COMPANY UNLESS AN

AMOUNT EQUAL CUMULATIVELY TO AT LEAST NINETY PERCENT OF ITS CERTIFIED BANK CAPITAL IS INVESTED IN COMPANIES THAT CONDUCT THEIR PRINCIPAL BUSINESS OPERATIONS IN NEW YORK STATE.

(2) IN THE EVENT THAT A BUSINESS IN WHICH A QUALIFIED INVESTMENT IS MADE RELOCATES ITS PRINCIPAL BUSINESS OPERATIONS TO ANOTHER STATE DURING SUCH INVESTMENT, OR WITHIN THREE MONTHS AFTER THE TERMINATION OF SUCH INVESTMENT, THE CUMULATIVE AMOUNT OF QUALIFIED INVESTMENT SHALL BE REDUCED BY THE AMOUNT OF SUCH QUALIFIED INVESTMENT, FOR THE PURPOSES OF THIS SUBDIVISION ONLY, UNLESS (A) THE CERTIFIED BANK CAPITAL COMPANY INVESTS AN AMOUNT, AT LEAST EQUAL TO THE INVESTMENT OF CERTIFIED BANK CAPITAL IN THE RELOCATED BUSINESS IN A QUALIFIED BUSINESS LOCATED IN NEW YORK STATE WITHIN SIX MONTHS OF THE RELOCATION OR (B) UNLESS THE BUSINESS DEMONSTRATES THAT IT HAS RETURNED ITS PRINCIPAL BUSINESS OPERATIONS TO NEW YORK STATE WITHIN THREE MONTHS OF SUCH RELOCATION. A BUSINESS SHALL BE DEEMED TO HAVE RELOCATED ITS PRINCIPAL BUSINESS OPERATIONS OUTSIDE NEW YORK STATE IF THE PRIMARY WORKPLACE OF MORE THAN FIFTY PERCENT OF THE EMPLOYEES OF SUCH BUSINESS EMPLOYED WITHIN THE STATE ARE RELOCATED TO ANOTHER STATE.

(3) PAYMENTS TO DEBT HOLDERS OF A CERTIFIED BANK CAPITAL COMPANY MAY BE MADE WITHOUT RESTRICTION WITH RESPECT TO REPAYMENTS OF PRINCIPAL AND INTEREST ON INDEBTEDNESS OWED TO THEM BY A CERTIFIED BANK CAPITAL COMPANY, INCLUDING INDEBTEDNESS OF THE CERTIFIED BANK CAPITAL COMPANY ON WHICH CERTIFIED BANK INVESTORS EARNED TAX CREDITS. A DEBT HOLDER THAT IS ALSO A CERTIFIED BANK INVESTOR OR EQUITY HOLDER OF A CERTIFIED BANK CAPITAL COMPANY MAY RECEIVE PAYMENTS WITH RESPECT TO SUCH DEBT WITHOUT ANY RESTRICTION WHATSOEVER.

(E) DECERTIFICATION. (1) THE SUPERINTENDENT SHALL CONDUCT AN ANNUAL REVIEW OF EACH CERTIFIED BANK CAPITAL COMPANY TO DETERMINE WHETHER OR NOT THE CERTIFIED BANK CAPITAL COMPANY IS ABIDING BY THE REQUIREMENTS OF CERTIFICATION, TO ADVISE THE CERTIFIED BANK CAPITAL COMPANY AS TO THE ELIGIBILITY STATUS OF ITS QUALIFIED INVESTMENTS, AND TO ENSURE THAT NO INVESTMENT HAS BEEN MADE IN VIOLATION OF THIS SUBDIVISION. THE COST OF THE ANNUAL REVIEW SHALL BE PAID BY EACH CERTIFIED BANK CAPITAL COMPANY ACCORDING TO A REASONABLE FEE SCHEDULE ADOPTED BY THE SUPERINTENDENT.

(2) ANY MATERIAL VIOLATION OF SUBDIVISION (C) OF THIS SECTION SHALL BE GROUNDS FOR DECERTIFICATION OF THE CERTIFIED BANK CAPITAL COMPANY. IF THE SUPERINTENDENT DETERMINES THAT A CERTIFIED BANK CAPITAL COMPANY IS NOT IN COMPLIANCE WITH THE REQUIREMENTS OF SUBDIVISION (C) OF THIS SECTION, HE OR SHE SHALL, BY WRITTEN NOTICE, INFORM THE OFFICERS OF THE CERTIFIED BANK CAPITAL COMPANY THAT THE CERTIFIED BANK CAPITAL COMPANY WILL BE SUBJECT TO DECERTIFICATION IN ONE HUNDRED TWENTY DAYS FROM THE DATE OF THE MAILING OF THE NOTICE, UNLESS THE DEFICIENCIES ARE CORRECTED AND THE CERTIFIED BANK CAPITAL COMPANY IS AGAIN IN COMPLIANCE WITH ALL REQUIREMENTS FOR CERTIFICATION.

(3) AT THE END OF THE ONE HUNDRED TWENTY DAY GRACE PERIOD, IF THE CERTIFIED BANK CAPITAL COMPANY IS STILL NOT IN COMPLIANCE WITH SUBDIVISION (C) OF THIS SECTION, THE SUPERINTENDENT SHALL SEND A NOTICE OF DECERTIFICATION TO THE CERTIFIED BANK CAPITAL COMPANY AND TO ALL OTHER APPROPRIATE STATE AGENCIES.

(4) ONCE A CERTIFIED BANK CAPITAL COMPANY HAS INVESTED AN AMOUNT CUMULATIVELY EQUAL TO ONE HUNDRED PERCENT OF ITS CERTIFIED BANK CAPITAL IN QUALIFIED INVESTMENTS AND HAS MET ALL OTHER REQUIREMENTS UNDER THIS SUBDIVISION, THE CERTIFIED BANK CAPITAL COMPANY SHALL NO LONGER BE SUBJECT TO REGULATION BY THE SUPERINTENDENT AND SHALL NO LONGER BE SUBJECT TO THE REQUIREMENTS OF SUBDIVISION (C) OF THIS SECTION.

(5) THE SUPERINTENDENT SHALL SEND WRITTEN NOTICE OF SUCH DECERTIFICATION TO THE ADDRESS OF EACH CERTIFIED BANK INVESTOR WHOSE TAX CREDIT HAS BEEN SUBJECT TO RECAPTURE OR FORFEITURE, USING THE ADDRESS SHOWN ON THE LAST FILING SUBMITTED TO THE SUPERINTENDENT.

(F) REVOCATION OF CERTIFICATION. THE SUPERINTENDENT MAY REVOKE THE CERTIFICATION OF A CERTIFIED BANK CAPITAL COMPANY IF ANY MATERIAL REPRESENTATION TO THE SUPERINTENDENT IN CONNECTION WITH THE APPLICATION PROCESS PROVES TO HAVE BEEN FALSELY MADE OR IF THE APPLICATION MATERIALLY VIOLATES ANY REQUIREMENT ESTABLISHED BY THE SUPERINTENDENT PURSUANT TO THIS SECTION.

(G) REGISTRATION REQUIREMENTS. ALL INVESTMENTS FOR WHICH TAX CREDITS ARE ALLOWABLE UNDER THE PROVISIONS OF SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER SHALL SATISFY THE CONDITIONS OF BEING REGISTERED OR SPECIFICALLY EXEMPT FROM REGISTRATION BY PROVISIONS OR REGULATIONS UNDER SECTIONS THREE HUNDRED FIFTY-NINE-E THROUGH THREE HUNDRED FIFTY-NINE-FF OF ARTICLE TWENTY-THREE-A OF THE GENERAL BUSINESS LAW.

(H) MAXIMUM PERMITTED CREDITS. THE AGGREGATE AMOUNT OF CERTIFIED BANK CAPITAL FOR WHICH TAXPAYERS MAY BE ALLOCATED AND ALLOWED TAX CREDITS PURSUANT TO THIS SECTION AND SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER MAY NOT EXCEED FIFTY MILLION DOLLARS FOR CALENDAR YEAR TWO THOUSAND ELEVEN, WHICH CERTIFIED BANK CAPITAL MAY BE INVESTED IN CERTIFIED BANK CAPITAL COMPANIES BEGINNING IN CALENDAR YEAR TWO THOUSAND TEN. IN CALENDAR YEAR TWO THOUSAND TWELVE OR THEREAFTER, TAX CREDITS MAY BE ALLOWED PURSUANT TO THIS SECTION AND SUCH SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER FOR AN ADDITIONAL FIFTY MILLION DOLLARS OF CERTIFIED BANK CAPITAL, WHICH CERTIFIED BANK CAPITAL MAY BE INVESTED IN CERTIFIED BANK CAPITAL COMPANIES BEGINNING IN CALENDAR YEAR TWO THOUSAND ELEVEN, IF NOT ALLOCATED TO CALENDAR YEAR TWO THOUSAND TEN IN ACCORDANCE WITH THIS SUBDIVISION. THEREFORE, THE TOTAL AMOUNT OF CERTIFIED BANK CAPITAL FOR WHICH TAX CREDITS MAY BE ALLOWED PURSUANT TO THIS SECTION AND SUCH SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX SHALL BE ONE HUNDRED MILLION DOLLARS.

DURING ANY CALENDAR YEAR IN WHICH THE LIMITATION DESCRIBED IN THIS SUBDIVISION WILL LIMIT THE AMOUNT OF CERTIFIED BANK CAPITAL, CERTIFIED BANK CAPITAL SHALL BE ALLOCATED IN ORDER OF PRIORITY BASED UPON THE DATE OF FILING OF INFORMATION DESCRIBED IN SUBPARAGRAPH (A) OF PARAGRAPH SIX OF SUBDIVISION (C) OF THIS SECTION. CERTIFIED BANK CAPITAL LIMITED IN ANY CALENDAR YEAR BY THE APPLICATION OF THE PROVISIONS OF THIS SUBDIVISION SHALL BE ALLOWED AND ALLOCATED IN THE IMMEDIATELY SUCCEEDING CALENDAR YEAR IN ORDER OF PRIORITY SET FORTH IN THIS SUBDIVISION. THE SUPERINTENDENT SHALL ADVISE ANY CERTIFIED BANK CAPITAL COMPANY, IN WRITING, WITHIN FIFTEEN DAYS AFTER RECEIVING SUCH FILING, WHETHER OR NOT THE LIMITATIONS OF THIS SUBDIVISION THEN IN EFFECT WILL BE APPLICABLE WITH RESPECT TO THE INVESTMENTS AND CREDITS DESCRIBED IN SUCH FILING WITH THE SUPERINTENDENT.

CERTIFIED BANK CAPITAL MAY BE RAISED BY EACH CERTIFIED BANK CAPITAL COMPANY AT ANY TIME SUBSEQUENT TO ITS CERTIFICATION DATE, AND CREDITS SHALL BE ALLOCATED TO AND VESTED IN CERTIFIED BANK INVESTORS AT THE TIME OF EACH SUCH INVESTMENT AS PROVIDED IN THIS SUBDIVISION, ALTHOUGH SUCH CREDITS SHALL NOT BE FIRST ALLOWED OR INCURRED FOR STATE TAX PURPOSES, UNTIL, AT THE EARLIEST, TAX YEARS BEGINNING IN TWO THOUSAND ELEVEN WITH RESPECT TO THE FIRST FIFTY MILLION DOLLARS OF CREDITS AND TAX YEARS BEGINNING IN TWO THOUSAND TWELVE WITH RESPECT TO THE NEXT SUCH FIFTY MILLION DOLLARS OF CREDITS.

(I) MAXIMUM CERTIFIED BANK CAPITAL. THE MAXIMUM AMOUNT OF CERTIFIED BANK CAPITAL INVESTED IN ONE OR MORE CERTIFIED BANK CAPITAL COMPANIES ALLOWED IN ANY ONE YEAR TO ANY ONE CERTIFIED BANK INVESTOR SHALL NOT EXCEED TEN MILLION DOLLARS FOR SUCH YEAR; PROVIDED, HOWEVER, THAT IF THE AGGREGATE AMOUNT OF CERTIFIED BANK CAPITAL FOR SUCH YEAR, AS SET FORTH IN SUBDIVISION (H) OF THIS SECTION, HAS NOT BEEN REACHED SIXTY DAYS PRIOR TO THE END OF THE YEAR TO WHICH SUCH AGGREGATE AMOUNT APPLIES, THE PROVISIONS OF THIS SUBDIVISION SHALL CEASE TO APPLY FOR THE REMAINDER OF SUCH YEAR. IN ADDITION, THE AGGREGATE AMOUNT OF TAX CREDITS ALLOWED IN ANY TAXABLE YEAR TO ANY AFFILIATED GROUP OF TAXPAYERS IN RELATION TO CERTIFIED BANK CAPITAL MAY NOT EXCEED TEN MILLION DOLLARS, WHETHER OR NOT SUCH TAXPAYERS FILE A COMBINED RETURN PURSUANT TO SUBSECTION (F) OF SECTION FOURTEEN HUNDRED SIXTY-TWO OF THIS CHAPTER. FOR PURPOSES OF THE PRECEDING SENTENCE, THE TERM "AFFILIATED GROUP" SHALL HAVE THE SAME MEANING AS DESCRIBED IN SECTION 1504 OF THE INTERNAL REVENUE CODE, EXCEPT THAT THE REFERENCES TO "AT LEAST EIGHTY PERCENT" IN SUCH SECTION 1504 SHALL BE READ AS "MORE THAN FIFTY PERCENT".

(J) REPORTS. THE SUPERINTENDENT SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY, ON OR BEFORE JUNE FIRST OF EACH YEAR BEGINNING IN THE YEAR TWO THOUSAND TWELVE, THE NUMBER OF CERTIFIED BANK CAPITAL COMPANIES HOLDING CERTIFIED BANK CAPITAL; THE AMOUNT OF CERTIFIED BANK CAPITAL INVESTED IN EACH CERTIFIED BANK CAPITAL COMPANY; THE CUMULATIVE AMOUNT THAT EACH CERTIFIED BANK CAPITAL COMPANY HAS INVESTED AS OF JANUARY FIRST OF THE YEAR TWO THOUSAND TWELVE AND THE CUMULATIVE TOTAL EACH YEAR THEREAFTER; THE TOTAL AMOUNT OF TAX CREDITS GRANTED UNDER THIS SECTION EACH YEAR THAT CREDITS HAVE BEEN AWARDED UNDER THIS SECTION AND SUBSECTION (U) OF SECTION FOURTEEN HUNDRED FIFTY-SIX OF THIS CHAPTER; THE PERFORMANCE OF EACH CERTIFIED BANK CAPITAL COMPANY WITH REGARD TO THE REQUIREMENTS FOR RECERTIFICATION SET FORTH IN SUBDIVISION (C) OF THIS SECTION; THE CLASSIFICATION OF COMPANIES IN WHICH EACH CERTIFIED BANK CAPITAL COMPANY HAS INVESTED ACCORDING TO INDUSTRIAL SECTOR AND SIZE OF COMPANY; THE TOTAL NUMBER OF JOBS CREATED BY INVESTMENTS MADE BY EACH CERTIFIED BANK CAPITAL COMPANY USING CERTIFIED BANK CAPITAL; AND THOSE CERTIFIED BANK CAPITAL COMPANIES THAT HAVE BEEN DECERTIFIED, OR HAVE HAD THEIR CERTIFICATIONS REVOKED, INCLUDING THE REASONS FOR DECERTIFICATION OR REVOCATION.

(K) RULES AND REGULATIONS. THE SUPERINTENDENT, IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, SHALL PRESCRIBE SUCH RULES AND REGULATIONS AS HE OR SHE SHALL DEEM NECESSARY IN ORDER TO IMPLEMENT THE PROVISIONS OF THIS SECTION WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

S 4. This act shall take effect immediately.