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

9064

2009-2010 Regular Sessions

I N A S S E M B L Y

July 10, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Banks

AN ACT to amend the banking law, the executive law, the public officers law, the state finance law, the tax law, the economic development law, the public authorities law, the general municipal law, the education law, the social services law, the general business law, the state administrative procedure act, the abandoned property law, the general construction law, the private housing finance law, the real property actions and proceedings law, the real property law, the real property tax law, the Defense Emergency Act of 1951, the Urban Development Corporation Act, the labor law, the retirement and social security law, the estates, powers and trusts law, the insurance law, the limited liability company law, the not-for-profit corporation law, the partnership law, the personal property law, the business corporation law, the penal law, the criminal procedure law, the surrogate's court procedure act and the civil practice law and rules, in relation to changing the name of the banking department

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

Section 1. Subdivisions 4, 8, 12 and 13 of section 2 of the banking law, subdivisions 4 and 8 as amended by chapter 1 of the laws of 1984 and subdivisions 12 and 13 as amended by chapter 638 of the laws of 1981, are amended and a new subdivision 1-a is added to read as follows:

1-A. FINANCIAL SERVICES. THE TERM "FINANCIAL SERVICES" REFERS TO SERVICES PROVIDED BY THE FINANCE INDUSTRY, ENCOMPASSING A BROAD RANGE OF ORGANIZATIONS THAT DEAL WITH THE MANAGEMENT OF MONEY. FINANCIAL SERVICES CAN BE DEFINED AS THE PRODUCTS AND SERVICES OFFERED BY BANKS, CREDIT CARD COMPANIES, INSURANCE COMPANIES, CONSUMER FINANCE COMPANIES, STOCK BROKERAGES, INVESTMENT FUNDS AND GOVERNMENT SPONSORED ENTERPRISES, DEALING WITH LOANS, INSURANCE, CREDIT CARDS, INVESTMENT OPPORTUNITIES AND

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

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MONEY MANAGEMENT AS WELL AS PROVIDING INFORMATION ON THE STOCK MARKET AND OTHER ISSUES LIKE MARKET TRENDS.

4. Savings bank. The term, "savings bank," when used in this chapter, means any corporation organized under or subject to the provisions of article six of this chapter. Such term shall include stock-form savings banks which shall be subject to the provisions of article six of this chapter to the extent not otherwise provided by the banking AND FINANCIAL SERVICES board pursuant to regulations promulgated under section fourteen-e of this chapter.

8. Savings and loan association. The term, "savings and loan association," when used in this chapter, means any corporation organized under or subject to the provisions of article ten of this chapter. Such term shall include stock-form savings and loan associations which shall be subject to the provisions of article ten of this chapter to the extent not otherwise provided by the banking AND FINANCIAL SERVICES board pursuant to regulations promulgated under section fourteen-e of this chapter.

12. Time deposits. The term, "time deposits," when used in this chapter, and except as provided otherwise by regulation of the banking AND FINANCIAL SERVICES board, means all deposits the payment of which cannot legally be required within fourteen days.

13. Demand deposits. The term, "demand deposits," when used in this chapter, and except as provided otherwise by regulation of the banking AND FINANCIAL SERVICES board, means deposits payment of which can legally be required within fourteen days.

S 1-a. Section 166 of the executive law, as amended by chapter 299 of the laws of 1995, is amended to read as follows:

S 166. Record of appearances. Every regulatory agency of the state shall keep a record of appearances before it or its appropriate divisions or bureaus of attorneys, agents and representatives appearing on behalf of any person, firm, corporation or association subject to its regulatory jurisdiction, for which they receive a fee, which record shall be open to public inspection. Each regulatory agency shall file the record with the New York temporary state commission on lobbying on forms prescribed by the commission. The record shall be filed quarterly on the fifteenth day of the month following the end of the quarter. The term "regulatory agency" as used in this section shall mean the [banking] department OF BANKING AND FINANCIAL SERVICES, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of this chapter.

S 2. Subdivisions 24 and 25 of section 292 of the executive law, subdivision 24 as amended by chapter 632 of the laws of 1976, subdivision 25 as added by chapter 173 of the laws of 1974 and as renumbered by chapter 632 of the laws of 1976, are amended to read as follows:

24. The term "regulated creditor", when used in this article, means any creditor, as herein defined, which has received its charter, license, or organization certificate, as the case may be, from the [banking] department OF BANKING AND FINANCIAL SERVICES or which is otherwise subject to the supervision of the [banking] department OF BANKING AND FINANCIAL SERVICES.

25. The term "superintendent", when used in this article, means the head of the [banking] department OF BANKING AND FINANCIAL SERVICES appointed pursuant to section twelve of the banking law.

S 3. Subdivision 9 of section 296-a of the executive law, as added by chapter 173 of the laws of 1974, is amended to read as follows:

9. Whenever any creditor makes application to the superintendent or the banking AND FINANCIAL SERVICES board to take any action requiring consideration by the superintendent or such board of the public interest and the needs and convenience thereof, or requiring a finding that the financial responsibility, experience, charter, and general fitness of the applicant, and of the members thereof if the applicant be a co-partnership or association, and of the officers and directors thereof if the applicant be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently, such creditor shall certify to the superintendent compliance with the provisions of this section. In the event that the records of the [banking] department OF BANKING AND FINANCIAL SERVICES show that such creditor has been found to be in violation of this section, such creditor shall describe what action has been taken with respect to its credit policies and procedures to remedy such violation or violations. The superintendent shall, in approving the foregoing applications and making the foregoing findings, give appropriate weight to compliance with this section.

S 4. Subdivision 9 of section 835 of the executive law, as amended by chapter 602 of the laws of 2008, is amended to read as follows:

9. "Qualified agencies" means courts in the unified court system, the administrative board of the judicial conference, probation departments, sheriffs' offices, district attorneys' offices, the state department of correctional services, the state division of probation, the department of correction of any municipality, the insurance frauds bureau of the state department of insurance, the office of professional medical conduct of the state department of health for the purposes of section two hundred thirty of the public health law, the child protective services unit of a local social services district when conducting an investigation pursuant to subdivision six of section four hundred twenty-four of the social services law, the office of Medicaid inspector general, the temporary state commission of investigation, the criminal investigations bureau of the [banking] department OF BANKING AND FINANCIAL SERVICES, police forces and departments having responsibility for enforcement of the general criminal laws of the state and the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties.

S 5. Paragraph (e) of subdivision 1 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

(e) The term "regulatory agency" shall mean the [banking] department OF BANKING AND FINANCIAL SERVICES, insurance department, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.

S 6. Clause (ii) of subparagraph (B) of paragraph (a) of subdivision 8 of section 5 of the state finance law, as amended by chapter 201 of the laws of 1997, is amended to read as follows:

(ii) is licensed or chartered by the [state banking] department OF BANKING AND FINANCIAL SERVICES,

S 7. Paragraphs (ii) of subdivisions 6 and 7 of section 201 of the state finance law, as amended by chapter 233 of the laws of 1992, are amended to read as follows:

(ii) is licensed or chartered by the [state banking] department OF BANKING AND FINANCIAL SERVICES,

(ii) is licensed or chartered by the [state banking] department OF BANKING AND FINANCIAL SERVICES,

S 8. Paragraph b of subdivision 1 of section 208 of the state finance law, as added by chapter 460 of the laws of 1982, is amended to read as follows:

b. The term "financial organization" as used in this section shall mean an organization which is authorized to do business in the state of New York, and is licensed or chartered by the state insurance department or the [state banking] department OF BANKING AND FINANCIAL SERVICES, is chartered by an agency of the federal government, or is subject to the jurisdiction of the securities and exchange commission.

S 9. Subdivision 2 of section 222 of the state finance law, as amended by chapter 25 of the laws of 1995, is amended to read as follows:

2. On or before February first, nineteen hundred ninety-five, and annually thereafter the commissioner of economic development shall submit to the governor, the temporary president of the senate and the speaker of the assembly a report regarding the activities of the program. Such report shall contain a statement of the cost of the program to the state and to the public authorities, considered as a whole, because of reduced rates on funds invested in linked deposits. Such report shall also include, but shall not be limited to, the number and type of linked loans under the program and the amount thereof; the number and types of lenders making linked loans and of firms receiving linked loans; the geographic distribution of such lenders and firms; the approximate number of jobs created or retained as a result of the program; actions taken by the department of economic development and the [banking] department OF BANKING AND FINANCIAL SERVICES to secure the increased participation of lenders in economic development regions in which fewer than ten linked loans have been made on or before April first, nineteen hundred ninety-five; actions taken by the department of economic development to secure the increased participation of public authorities and public benefit corporations pursuant to section ninety-two-v of this chapter; as well as any information the commissioner determines useful in evaluating the economic benefits of the program.

S 10. Section 223 of the state finance law, as amended by chapter 25 of the laws of 1995, is amended to read as follows:

S 223. Promotion of program. The department, through its regional offices and with the assistance of the [banking] department OF BANKING AND FINANCIAL SERVICES and other appropriate state agencies and public benefit corporations, shall actively market and promote awareness of the program in all geographical areas of the state among banks, banking organizations, manufacturing firms, manufacturing organizations, and regional and local economic development agencies. In soliciting lenders to participate in the program, on or before April first, nineteen hundred ninety-six, the commissioner of economic development shall give priority to the solicitation of lenders seeking to make linked loans in economic development regions in which fewer than ten linked loans have been made on or before April first, nineteen hundred ninety-five. Provided, however, that the granting of such priority shall in no way relieve the commissioner of economic development of the duty and obligation to solicit lenders from all economic development regions of the state.

S 11. Subsection (c) of section 1450 of the tax law, as amended by chapter 298 of the laws of 1985, is amended to read as follows:

(c) The term "international banking facility" shall mean an international banking facility located in New York state and shall have the same meaning as is set forth in the New York state banking law or regulations of the New York state [banking] department OF BANKING AND FINANCIAL SERVICES or as is set forth in the laws of the United States or regulations of the board of governors of the federal reserve system.

S 12. Subdivision 1 of section 161 of the executive law, as separately amended by chapters 430 and 636 of the laws of 1969, is amended to read as follows:

1. Each of the following officers, to wit: the secretary of state, the comptroller, the commissioner of taxation and finance, the attorney general, the public service commission, the commissioner of agriculture and markets, the commissioner of transportation, the industrial commissioner, the chairman of the state labor relations board, the chairman of the state liquor authority, the superintendent of banks AND FINANCIAL SERVICES, the superintendent of insurance, the state commissioner of human rights, the commissioner of general services and the commissioner of housing and community renewal may require search to be made, in the office of any of the others, or of a county clerk or of the clerk of a court of record, for any record, document, or paper, where he deems it necessary for the discharge of his official duties, and a copy thereof, or extracts therefrom, to be made and officially certified or exemplified, without the payment of any fee or charge.

S 13. Subdivision 1 of section 220 of the economic development law, as amended by chapter 291 of the laws of 1990, is amended to read as follows:

1. To coordinate the international economic activities of the state including any international economic activities of the department of agriculture and markets, the [banking] department OF BANKING AND FINANCIAL SERVICES, the insurance department, the education department, the state university of New York, the city university of New York, the New York state science and technology foundation, the New York state urban development corporation, the New York state job development authority, the port authority of New York and New Jersey, and other New York state agencies.

S 14. Paragraph (b) of subdivision 3 of section 1801 of the public authorities law, as amended by chapter 839 of the laws of 1992, is amended to read as follows:

(b) any agency or branch of a foreign banking corporation licensed by the [banking] department OF BANKING AND FINANCIAL SERVICES under article five of the banking law,

S 15. Section 1830 of the public authorities law, as amended by chapter 118 of the laws of 1990, is amended to read as follows:

S 1830. Cooperation and assistance from other state agencies. The department of economic development, the department of labor, the [banking] department OF BANKING AND FINANCIAL SERVICES, the department of state and all other state agencies shall cooperate with and assist the authority in the fulfillment of its corporate purposes and in the exercise of its corporate powers under this title and may render such services to the authority within their respective functions as may be requested by the authority.

S 16. Paragraph (b) of subdivision 3 of section 1835-a of the public authorities law, as added by chapter 508 of the laws of 1984, is amended to read as follows:

(b) any agency or branch of a foreign banking corporation licensed by the [banking] department OF BANKING AND FINANCIAL SERVICES under article five of the banking law,

S 17. Subdivision 4 of section 2405 of the public authorities law, as amended by chapter 915 of the laws of 1982, is amended to read as follows:

(4) In the case of individual borrowers, new mortgages made by banks that sell existing mortgages to the agency shall bear interest computed in accordance with section 5-501 of the general obligations law (whether or not insured or guaranteed by the United States of America or any agency thereof) at a rate which does not exceed the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable to individual borrowers on such new mortgages, notwithstanding the maximum interest rate, if any, fixed by section 5-501 of the general obligations law or any other law not specifically amending or applicable to this section, at the rate that the existing mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgages. Each such bank that sells existing mortgages to the agency shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest (which shall include all charges to individual and corporate borrowers that would be treated as interest under section 5-501 of the general obligations law and any regulations of the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such new mortgages would have yielded if the interest thereon had been at the maximum rate chargeable to individual borrowers on such new mortgages plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

S 18. Subdivision 4 of section 2405 of the public authorities law, as amended by chapter 1023 of the laws of 1971, is amended to read as follows:

(4) In the case of individual borrowers, such new mortgages shall bear interest computed in accordance with section 5-501 of the general obli-

gations law (whether or not insured or guaranteed by the United States of America or any agency thereof) at a rate which does not exceed the maximum interest rate, if any, set by the agency for such mortgages. The agency may set such a maximum interest rate chargeable individual borrowers on such new loans, notwithstanding the maximum interest rate fixed by section 5-501 of the general obligations law, at the rate that the mortgages purchased by the agency were discounted to yield plus an interest differential, not in excess of one percent per annum, which the agency from time to time shall determine to be adequate consideration to induce such banks to sell existing mortgages to the agency and to loan an amount equal to the proceeds on new mortgages in furtherance of the purposes of and subject to the conditions of this title. In the case of corporate borrowers, such new mortgages shall bear interest at a rate not substantially lower than the rate of interest that banks are charging at the time of commitment on comparable new mortgage loans. Each such bank shall annually account and pay over to the agency or to the New York state housing finance agency for deposit in and for the purposes of the low rent lease account as set forth in paragraphs (a) and (b) of subdivision four of section forty-four-a of the private housing finance law or any successor entity as the agency may direct, or to both the agency and the New York state housing finance agency for such deposit and purposes in such proportions as the agency may direct, an amount equal to the difference between (a) the total amount of interest (which shall include all charges to individual and corporate borrowers that would be treated as interest under section 5-501 of the general obligations law and any regulations of the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law) received by it during the preceding year on all such new mortgages and (b) the total amount of interest which such mortgages would have yielded if the interest thereon had been at the maximum rate chargeable individual borrowers on such new loans plus an additional interest differential, not in excess of one percent per annum, determined by the agency to be adequate consideration to induce participating banks to make new loans on multiple dwellings.

S 19. Subdivision 6 of section 2405-b of the public authorities law, as added by chapter 915 of the laws of 1982, is amended to read as follows:

(6) The agency shall require the submission to it by each bank from which the agency has purchased forward commitment mortgages evidence satisfactory to the agency of the making, and if applicable, the servicing, of such forward commitment mortgages in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the [banking] department OF BANKING AND FINANCIAL SERVICES, inspect the books and records of any such bank.

S 20. Paragraph (b) of subdivision 1 of section 169 of the executive law, as amended by section 1 of part F of chapter 56 of the laws of 2005, is amended to read as follows:

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of banks AND FINANCIAL SERVICES, commissioner of criminal justice services, superintendent of insurance, and commissioner of parks, recreation and historic preservation;

S 21. Subdivision 6 of section 2405-c of the public authorities law, as added by chapter 915 of the laws of 1982 and as renumbered by chapter 353 of the laws of 1984, is amended to read as follows:

(6) The agency shall require the submission to it by each bank from which the agency has purchased new housing loans evidence satisfactory to the agency of the making, and if applicable, the servicing, of such new housing loans in conformity with such bank's undertaking with the agency and in connection therewith may, through its employees or agents or those of the [banking] department OF BANKING AND FINANCIAL SERVICES, inspect the books and records of any such bank.

S 22. Paragraph (e) of subdivision 4 of section 10 of the general municipal law, as amended by chapter 623 of the laws of 1998, is amended to read as follows:

(e) A bank or trust company may, from time to time and as agreed upon with a local government, reimburse all or part of, but not more than, the actual cost incurred by the local government in transporting cash, negotiable instruments or other items for deposit through a courier service. Any such reimbursement agreement shall apply only to a specified deposit transaction, and may be subject to such terms, conditions and limitations as the bank or trust company deems necessary to ensure sound banking practices, including, but not limited to, any terms, conditions or limitations that may be required by the [banking] department OF BANKING AND FINANCIAL SERVICES or other federal or state authority.

S 23. Paragraph (iii) of subdivision 15 of section 215 of the general municipal law, as added by chapter 714 of the laws of 2006, is amended to read as follows:

(iii) licensed or chartered by the state [banking] department OF BANKING AND FINANCIAL SERVICES;

S 24. Paragraph (iii) of subdivision 14 of section 219-c of the general municipal law, as amended by chapter 514 of the laws of 1998, is amended to read as follows:

(iii) licensed or chartered by the state [banking] department OF BANKING AND FINANCIAL SERVICES;

S 25. Paragraph (c) of subdivision 19 of section 219-k of the general municipal law, as added by chapter 558 of the laws of 1998, is amended to read as follows:

(c) licensed or chartered by the state [banking] department OF BANKING AND FINANCIAL SERVICES;

S 26. Subparagraph (ii) of paragraph (b) of subdivision 4 of section 695-b of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

(ii) is licensed or chartered by the [banking] department OF BANKING AND FINANCIAL SERVICES,

S 27. Clause (iv) of subparagraph 2 of paragraph (b) of subdivision 2 of section 366 of the social services law, as amended by chapter 656 of the laws of 1997, is amended to read as follows:

(iv) The department shall promulgate such regulations as may be necessary to carry out the provisions of this subparagraph. Such regulations shall include provisions for: assuring the fulfillment of fiduciary obligations of the trustee with respect to the remainder interest of the department or state; monitoring pooled trusts; applying this subdivision to legal instruments and other devices similar to trusts, in accordance with applicable federal rules and regulations; and establishing procedures under which the application of this subdivision will be waived with respect to an applicant or recipient who demonstrates that such application would work an undue hardship on him or her, in accordance with standards specified by the secretary of the federal department of health and human services. Such regulations may require: notification of the department of the creation or funding of such a trust for the benefit of an applicant for or recipient of medical assistance; notification of the department of the death of a beneficiary of such a trust who is a current or former recipient of medical assistance; in the case of a trust, the corpus of which exceeds one hundred thousand dollars, notification of the department of transactions tending to substantially deplete the trust corpus; notification of the department of any transactions involving transfers from the trust corpus for less than fair market value; the bonding of the trustee when the assets of such a trust equal or exceed one million dollars, unless a court of competent jurisdiction waives such requirement; and the bonding of the trustee when the assets of such a trust are less than one million dollars, upon order of a court of competent jurisdiction. The department, together with the [banking] department OF BANKING AND FINANCIAL SERVICES, shall promulgate regulations governing the establishment, management and monitoring of trusts established pursuant to subclause (B) of clause (iii) of this subparagraph in which a not-for-profit corporation and a trust company serve as co-trustees.

S 28. Section 165 of the general business law, as added by chapter 354 of the laws of 1921, is amended to read as follows:

S 165. Application of article. This article shall not apply to any person, firm, corporation or association under the supervision of the [banking] department OF BANKING AND FINANCIAL SERVICES.

S 29. Subdivisions 1 and 2 of section 520-c of the general business law, as added by chapter 1 of the laws of 1994, are amended to read as follows:

1. The [banking] department OF BANKING AND FINANCIAL SERVICES shall establish a toll-free telephone number service at which information on annual percentage rates, annual fees, per-transaction charges, late payment fees, overlimit fees and grace periods for credit cards can be obtained. Every issuer of credit cards to natural persons residing in this state shall set forth on each solicitation, application and monthly billing statement mailed or otherwise presented to such persons, a notice stating "New York residents may contact the New York state [banking] department OF BANKING AND FINANCIAL SERVICES to obtain a comparative listing of credit card rates, fees and grace periods." Such notice shall be printed on the same side as the disclosure of rates, fees and charges, in case of the solicitations and applications, and on the same side as the notice of the balance of the account and the amount due are printed, in the case of the monthly billing statement. The superintendent of banks AND FINANCIAL SERVICES shall prescribe the address and telephone number to be printed next to the notice. The notice shall be in type no smaller than eight points. Issuers shall include such notice in materials sent to residents of this state as required under this section commencing October first, nineteen hundred ninety-four.

2. The superintendent of banks AND FINANCIAL SERVICES shall develop and distribute to all issuers of credit cards, no more than thirty days after the effective date of this section, a form which shall be used for the purpose of collecting information on annual percentage rates, annual fees, per-transaction charges, late payment fees, overlimit fees and grace periods governed by the terms of each type of credit card offered by such issuer to natural persons residing in this state. Issuers shall return the forms to the [banking] department OF BANKING AND FINANCIAL SERVICES no later than one hundred fifty days after the effective date of this section, and annually thereafter, but no later than April first of each year, commencing in nineteen hundred ninety-five. The super-

intendent of banks AND FINANCIAL SERVICES shall publish the information obtained from such forms and make it available to New York residents upon request, commencing not later than October first, nineteen hundred ninety-four, and annually thereafter but not later than July first of each year.

S 30. Subdivision 3 of section 63 of the executive law, as amended by chapter 766 of the laws of 2005, is amended to read as follows:

3. Upon request of the governor, comptroller, secretary of state, commissioner of transportation, superintendent of insurance, superintendent of banks AND FINANCIAL SERVICES, commissioner of taxation and finance, commissioner of motor vehicles, or the state inspector general, or the head of any other department, authority, division or agency of the state, investigate the alleged commission of any indictable offense or offenses in violation of the law which the officer making the request is especially required to execute or in relation to any matters connected with such department, and to prosecute the person or persons believed to have committed the same and any crime or offense arising out of such investigation or prosecution or both, including but not limited to appearing before and presenting all such matters to a grand jury.

S 31. The opening paragraph of subdivision 1 and subdivision 3 of section 5 of the banking law, the opening paragraph of subdivision 1 as amended by chapter 556 of the laws of 1951 and subdivision 3 as added by chapter 275 of the laws of 1946, are amended to read as follows:

Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper,

3. The foregoing provisions of this section shall not apply to loans insured pursuant to section five hundred eight of the "Servicemen's Readjustment Act of 1944," but the banking AND FINANCIAL SERVICES board shall have power to authorize banking organizations and the savings and loan bank of the state of New York to make and invest in such loans upon such terms and conditions as it shall prescribe. Nothing contained in this section shall prevent loans guaranteed or insured pursuant to the "Servicemen's Readjustment Act of 1944" from being made or invested in under, and subject to the limitations and restrictions of, other provisions of this chapter.

S 32. Section 6 of the banking law, as added by chapter 608 of the laws of 1948, is amended to read as follows:

S 6. Investment in obligations of housing corporations indirectly guaranteed pursuant to the "Servicemen's Readjustment Act of 1944". Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, any bank, trust company or savings bank may invest in obligations of any corporation organized under any law of this state for the purpose of acquiring, constructing, owning, maintaining, operating, selling or conveying a housing project or projects (not including hotels but including accommodations for retail stores, shops, offices and other community services reasonably incident to such projects) located within this state, which obligations are (a) secured by a first mortgage lien on such project, or such part thereof, as was or is to be constructed or acquired out of the proceeds of such obligations, either directly or by issue under an indenture of mortgage from such corporation to a corporate trustee having its principal office in this state, and (b) guaranteed indirectly through the pledge as security therefor of obligations directly guaranteed under title three of an act of congress entitled the "Servicemen's Readjustment Act of 1944", in an aggregate amount equal to at least thirty per centum of the principal amount of all sums advanced to such corporation under the loan instrument or indenture during the period of construction and, upon completion, to the extent of at least forty per centum of the principal amount of such obligations.

S 33. Subdivisions 1 and 3 of section 6-a of the banking law, subdivision 1 as amended and subdivision 3 as added by chapter 207 of the laws of 1982, are amended to read as follows:

1. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper and notwithstanding any inconsistent provision of this chapter to the contrary, any bank, trust company, savings bank, savings and loan association, or life insurance company authorized to do business in this state may make loans described in subdivision two of this section.

3. Subject to regulations of the banking AND FINANCIAL SERVICES board, banking institutions described in subdivision one of this section which make loans pursuant to this section may, pursuant to the loan agreement, utilize part or all of the proceeds of such loan to make direct payment of real property taxes, special ad valorem levies, and special assessments on the property which secures such loan. Any such institution which retains part or all of the proceeds of such loan for the purpose of making direct payment of such real property taxes, special ad valorem levies, and special assessments shall be liable to such borrower, upon failure to pay such taxes, levies, and assessments for the amount of such taxes, levies, and assessments plus penalties and interest imposed thereon.

S 34. Section 6-e of the banking law, as amended by chapter 550 of the laws of 1986, is amended to read as follows:

S 6-e. Graduated payment mortgages authorized. Notwithstanding any inconsistent provision of this chapter or other law and in addition to any other power exercisable by it, every banking organization, licensed mortgage banker, national banking association, federal savings bank, federal savings and loan association and federal credit union shall have the power to offer graduated payment mortgages and loans which conform to the provisions of section two hundred seventy-nine of the real property law, subject to the rules and regulations prescribed by the banking AND FINANCIAL SERVICES board.

S 35. Section 6-f of the banking law, as added by chapter 883 of the laws of 1980, subdivision 1 as amended by chapter 1 of the laws of 1983, is amended to read as follows:

S 6-f. Alternative mortgage instruments made by banks, trust companies, savings banks, savings and loan associations and credit unions. 1. Notwithstanding any inconsistent provision of this chapter or any other law of this state, the banking AND FINANCIAL SERVICES board is authorized to adopt such rules or regulations as shall permit banks, trust companies, foreign banking corporations licensed to maintain a branch or agency in this state, savings banks, savings and loan associations, credit unions and persons and entities engaging in the business described in section five hundred ninety of article [twelve-d] TWELVE-D of this chapter to make residential mortgage loans and cooperative apartment unit loans which provide for (a) periodic readjustments of the rate of interest charged for the loan or successive terms of the loan or (b) terms of loan which are shorter than the term of the mortgage or (c) repayment of the principal amount of the loan by regular payments which are not equal in amount throughout the term of the mortgage or (d) any combination of paragraphs (a), (b) and (c) [above] OF THIS SUBDIVISION, subject to the provisions of subdivision two of this section.

2. Any rules or regulations which are adopted by the banking AND FINANCIAL SERVICES board pursuant to subdivision one of this section:

(a) shall provide for disclosures and notices to the borrower with respect to the terms and conditions of the loan and the mortgage, and the banking AND FINANCIAL SERVICES board may require the adoption of uniform disclosure and notice forms for this purpose;

(b) shall provide for the conditions governing renewals of the term of the loan;

(c) shall not permit any uninsured loan secured by residential real property to be made in an amount exceeding ninety percent of the appraised value of the property; and

(d) shall not allow, with respect to any specific alternative mortgage instrument which permits a periodic readjustment of the rate charged on the loan, for a greater change in rate than that permitted under federal law or regulations to federally-chartered banking organizations located in this state for loans made pursuant to an equivalent alternative mortgage instrument.

S 36. Section 6-h of the banking law, as amended by chapter 613 of the laws of 1993, is amended to read as follows:

S 6-h. Reverse mortgage loans authorized. Notwithstanding any inconsistent provision of law, in addition to any other power exercised by it, every authorized lender, as defined by section two hundred eighty or two hundred eighty-a of the real property law, shall have the power to offer reverse mortgage loans (1) which conform to the provisions of section two hundred eighty or two hundred eighty-a of the real property law and the rules and regulations promulgated by the banking AND FINANCIAL SERVICES board; or (2) which conform to the requirements of the federal housing administration's home equity conversion mortgage insurance demonstration program for as long as such program exists as provided for in section 1715Z-20 of title 12 of the United States Code. "Reverse mortgage" shall mean the mortgage, deed of trust or other security instrument relating to a particular reverse mortgage loan transaction.

S 37. Section 6-i of the banking law, as added by chapter 571 of the laws of 1986, is amended to read as follows:

S 6-i. Mortgage loans. No person, partnership, corporation, banking organization, exempt organization as defined in section five hundred ninety of this chapter or other entity shall make a mortgage loan as defined in section five hundred ninety of this chapter except in conformity with the requirements of article twelve-D and in compliance with such rules and regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent under this section. Nothing in this section shall be construed to limit or otherwise modify any otherwise applicable requirement of state or federal law.

S 38. Paragraph (c) of subdivision 2 of section 6-k of the banking law, as added by chapter 563 of the laws of 1992, is amended to read as follows:

(c) Every mortgage investing institution shall deposit funds from a real property insurance escrow account of a mortgagor in a banking institution whose deposits are insured by a federal agency or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency. Notwithstanding the foregoing provisions of this subdivision, the banking AND FINANCIAL SERVICES board shall have the power, by a three-fifths vote of all its members, to exempt from the requirements of this subdivision any banking organization which does not receive deposits or share accounts from the general public.

S 39. Subparagraph (i) of paragraph (l) of subdivision 2 of section 6-l of the banking law, as added by chapter 626 of the laws of 2002, is amended to read as follows:

(i) No lending without counseling disclosure and list of counselors. A lender or mortgage broker must deliver, place in the mail, fax or electronically transmit the following notice in at least twelve point type to the borrower at the time of application: "You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the New York State [Banking] Department OF BANKING AND FINANCIAL SERVICES". In the event of a telephone application, the disclosures must be made immediately after receipt of the application by telephone. Such disclosure shall be on a separate form. In order to utilize an electronic transmission, the lender or broker must first obtain either written or electronically transmitted permission from the borrower. A list of approved counselors, available from the New York state [banking] department OF BANKING AND FINANCIAL SERVICES, shall be provided to the borrower by the lender or the mortgage broker at the time that this disclosure is given.

S 40. Subparagraph (ii) of paragraph (l) of subdivision 2 of section 6-l of the banking law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

(ii) A lender or mortgage broker shall not make or arrange a high-cost home loan unless either the lender or mortgage broker has given the following notice in writing to the borrower within three days after determining that the loan is a high-cost home loan, but no less than ten days before closing:

"CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE

If you obtain this loan, which pursuant to New York State Law is a High-Cost Home Loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.

You should shop around and compare loan rates and fees. Mortgage loan rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan-to-value requested, and the type of property that will secure your loan. The loan rate and fees could vary based on which lender or mortgage broker you select. Higher rates and fees may be related to the individual circumstances of a particular consumer's application.

You should consider consulting a qualified independent credit counselor or other experienced financial adviser regarding the rate, fees, and provisions of this mortgage loan before you proceed. The enclosed list of counselors is provided by the New York State [Banking] Department OF BANKING AND FINANCIAL SERVICES.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then subsequently incur significant new credit card charges or other debts. If you continue to accumulate debt after this loan is closed and then experience financial difficulties, you could lose your home and any equity you have in it if you do not meet your mortgage loan obligations.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors."

S 41. Subparagraph (ii) of paragraph (c) of subdivision 1 and paragraph (j) of subdivision 2 of section 6-m of the banking law, as added by chapter 472 of the laws of 2008, are amended to read as follows:

(ii) Notwithstanding the comparable rates set forth in this paragraph, and notwithstanding any other law, if the superintendent determines that by statute, rule or regulation, different thresholds for determining underwriting standards for subprime loans become applicable to nationally chartered lending institutions, or the provisions of this section have had an unduly negative effect upon the availability or price of mortgage financing in this state, the superintendent may from time to time designate such other threshold rates as may be necessary to achieve parity between such nationally chartered institutions and banking organizations, mortgage banks and mortgage brokers in this state or to alleviate such unduly negative effects. Such determination shall promptly be published on the website of the [banking] department OF BANKING AND FINANCIAL SERVICES.

(j) No lending without counseling disclosure and list of counselors. A lender or mortgage broker must deliver, place in the mail, fax or electronically transmit the following notice in at least twelve point type to the borrower of a subprime home loan at the time of application: "You should consider financial counseling prior to executing loan documents. The enclosed list of counselors is provided by the New York State [Banking] Department OF BANKING AND FINANCIAL SERVICES." In the event of a telephone application, the disclosures must be made immediately after receipt of the application by telephone. Such disclosure shall be on a separate form. In order to utilize an electronic transmission, the lender or broker must first obtain either written or electronically transmitted permission from the borrower. A list of approved counselors, available from the New York state [banking] department OF BANKING AND FINANCIAL SERVICES, shall be provided to the borrower by the lender or the mortgage broker at the time that this disclosure is given.

S 42. Subdivision 3 of section 7 of the banking law, as added by chapter 184 of the laws of 1978, is amended to read as follows:

3. The banking AND FINANCIAL SERVICES board may promulgate such regulations as it deems necessary and proper to implement and define the provisions of this section.

S 42-a. Section 9-d of the banking law, as added by chapter 173 of the laws of 1974, is amended to read as follows:

S 9-d. Enforcement of section two hundred ninety-six-a of the executive law. In addition to the powers conferred upon the superintendent of banks AND FINANCIAL SERVICES by this chapter, he OR SHE shall enforce section two hundred ninety-six-a of the executive law by taking such action as is therein authorized.

S 43. Paragraph (a) of subdivision 3 of section 9-f of the banking law, as amended by chapter 571 of the laws of 1986, is amended to read as follows:

(a) "prudent loan" means a loan upon the security of real property which is prudent by acceptable banking standards and is in compliance with all of the provisions of this chapter, regulations of the banking AND FINANCIAL SERVICES board and rules of the superintendent; and

S 44. Subdivision 2 of section 9-o of the banking law, as amended by chapter 415 of the laws of 1990, is amended to read as follows:

2. Every mortgage lending institution and mortgage banker which originates loans secured by real property used for residential purposes located in this state shall provide a separate disclosure form with each application that shall contain a provision stating whether the interest rate of such loan shall be the interest rate in effect at the time of application, the time of commitment, the time of closing or at such other period of time as shall be determined by the lending institution. The banking AND FINANCIAL SERVICES board shall promulgate rules and regulations to implement the provisions of this section.

S 45. Section 9-s of the banking law, as added by chapter 550 of the laws of 1998, is amended to read as follows:

S 9-s. Preauthorized electronic fund transfers. Every banking institution which provides preauthorized electronic fund transfers from consumer accounts shall, in accordance with regulations adopted by the banking AND FINANCIAL SERVICES board, provide consumers with the right to stop payment by giving written or oral notice within a specified period of time prior to such transfer. Any banking institution which complies with the stop payment provisions of the federal Electronic Funds Transfer Act, as such act may be amended from time to time, and any regulations adopted pursuant thereto, shall be deemed to be in compliance with the provisions of this section. For purposes of this section, "banking institution" shall mean any state or federally chartered bank, trust company, savings bank, savings and loan association or credit union, and "consumer account" shall mean an account used primarily for personal, family or household purposes.

S 46. Section 10 of the banking law, as amended by chapter 684 of the laws of 1938, is amended to read as follows:

S 10. Declaration of policy. It is hereby declared to be the policy of the state of New York that the business of all banking organizations shall be supervised and regulated through the [banking] department OF BANKING AND FINANCIAL SERVICES in such manner as to insure the safe and sound conduct of such business, to conserve their assets, to prevent hoarding of money, to eliminate unsound and destructive competition among such banking organizations and thus to maintain public confidence in such business and protect the public interest and the interests of depositors, creditors, shareholders and stockholders.

S 47. The section heading, subdivision 1, paragraph (b) of subdivision 3 and subdivision 4 of section 11 of the banking law, the section heading as amended by chapter 777 of the laws of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of 2004, and paragraph (b) of subdivision 3 as amended by chapter 276 of the laws of 1990, are amended to read as follows:

[Banking department] DEPARTMENT OF BANKING AND FINANCIAL SERVICES; official documents; destruction of documents; official communications. 1. The [banking] department OF BANKING AND FINANCIAL SERVICES shall be charged with the execution of the laws relating to the individuals, partnerships, corporations and other entities to which this chapter is applicable and shall exercise such powers and perform such duties as are conferred and imposed upon it by this chapter or by any law of this state. The principal office of the department shall be in the city of Albany.

(b) Reports made in accordance with section twenty-eight-b of this chapter or pursuant to the rules and regulations of the banking AND FINANCIAL SERVICES board promulgated in connection with assessing a banking organization's record of performance in meeting the credit needs of local communities within the meaning of section twenty-eight-b of this chapter, including reports expressly required to be rendered to the superintendent and reports of examinations may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law after three years from date of receipt thereof, provided any such report has first been photographed, microphotographed or otherwise reproduced. Each such reproduction shall be retained in the files of the department for a period of at least fifteen years from the date of the last received report, oath or declaration appearing thereon. After the expiration of such period, such reproduction may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law. Such reproduction thereof shall be deemed, for any purpose, the equivalent of the original of such report. Any such report not so reproduced shall be retained in the files of the department for a period of at least fifteen years from the date of receipt thereof, after which it may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law.

4. Any communication from the [banking] department OF BANKING AND FINANCIAL SERVICES to any person, partnership, corporation or other entity may contain a direction that such communication shall be presented to the controlling owners or principal management of such entity, members of such partnership or to the board of directors or trustees of such corporation. A communication containing such direction shall be for the purposes of this chapter an official communication. The superintendent may, in his or her discretion, notify in writing each owner or principal manager of such entity, every member of such partnership and every director or trustee of such corporation of the sending of such a communication and, in that event the notification shall state the date of such communication.

S 48. Section 12 of the banking law, as added by chapter 684 of the laws of 1938, subdivision 1 as amended by chapter 460 of the laws of 1971, subdivision 2 as amended by chapter 300 of the laws of 1994 and subdivision 3 as amended by chapter 146 of the laws of 1960, is amended to read as follows:

S 12. Superintendent of banks AND FINANCIAL SERVICES; acting superintendent; discretion. 1. The superintendent of banks AND FINANCIAL SERVICES shall be the head of the [banking] department OF BANKING AND FINANCIAL SERVICES. He OR SHE shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office until the end of the term of the governor by whom he OR SHE was appointed and until his OR HER successor is appointed and has qualified. Within fifteen days from the time of notice of his OR HER appointment, the superintendent shall take and subscribe the constitutional oath of office.

2. The superintendent may, in his OR HER discretion, designate one of his OR HER deputies to act as superintendent during the superintendent's absence or inability to act. If the office of superintendent is vacant, or if the superintendent's absence or inability to act continues for a period of more than thirty successive days, the governor may designate a deputy to act as superintendent until the filling of the vacancy or the return or recovery of the superintendent.

3. Whenever in this chapter the superintendent is authorized but not required to take any action or his OR HER approval is required as a condition precedent to the doing of any act, the taking of such action and the giving of such approval shall be within his sound discretion. In taking any action with respect to any banking organization, and in

approving or disapproving any application made by a banking organization, the superintendent shall give due consideration to the policy of the state of New York as declared in section ten of this chapter.

S 49. Subdivisions 3, 4 and 5 of section 12-a of the banking law, as added by chapter 322 of the laws of 2007, are amended to read as follows:

3. Except with respect to a federally permitted power approved pursuant to subdivision four of this section, prior to any state chartered banking institution initially exercising any federally permitted power pursuant to this section, such banking institution shall make an application individually or with one or more state chartered banking institutions to the superintendent indicating that such institution or institutions intend to exercise such federally permitted power and the basis on which such institution or institutions believe such power is a federally permitted power. The superintendent shall post such application upon the bulletin board of the department pursuant to section forty-two of this article. After promptly reviewing such application, the superintendent shall determine, consistent with the standards set forth in subdivision five of this section, whether to recommend to the banking AND FINANCIAL SERVICES board approval of such application subject to such terms and conditions as he or she may deem appropriate, in his or her sole discretion. Such determination, and any recommendation to the banking AND FINANCIAL SERVICES board to approve an application, shall be made by the superintendent within forty-five days after the posting of such application by the superintendent, provided however that the superintendent may notify the applicant or applicants that the review of the application shall be extended for an additional period of time not exceeding one hundred twenty days after the posting of such application, and provided further that such period of time may be extended for an additional period of time with the written consent of the applicant or applicants. The banking AND FINANCIAL SERVICES board shall not act upon the superintendent's recommendation prior to thirty days after such application has been posted. If the superintendent shall determine not to recommend approval of such application, the superintendent shall notify the applicant or applicants in writing that the applicant or applicants may not exercise such federally permitted power. If the superintendent determines to recommend approval of such application, and the banking AND FINANCIAL SERVICES board approves such application by adoption of a resolution, the applicant or applicants may exercise such federally permitted power subject to such terms and conditions as the banking AND FINANCIAL SERVICES board may have approved. If the banking AND FINANCIAL SERVICES board declines to approve such application, the superintendent shall notify the applicant or applicants in writing thereof. Notwithstanding any other law, the banking AND FINANCIAL SERVICES board, upon the recommendation of the superintendent, may, by resolution, make the approval of an application under this section applicable to one or more additional state chartered banking institutions that are qualified to exercise the same federally permitted powers as the applicant or applicants pursuant to subdivision two of this section, subject to such terms and conditions as the superintendent shall find necessary and appropriate and as approved by the banking AND FINANCIAL SERVICES board.

4. Notwithstanding any other law, the superintendent, in his or her sole discretion, may, when he or she deems it necessary and appropriate after considering the standards set forth in subdivision five of this section, recommend to the banking AND FINANCIAL SERVICES board that it

adopt a resolution authorizing one or more state chartered banking institutions to exercise a federally permitted power, subject to such terms and conditions as the superintendent shall find necessary and appropriate and as approved by the banking AND FINANCIAL SERVICES board. Prior to making any such recommendation to the banking AND FINANCIAL SERVICES board, the superintendent shall post such recommendation upon the bulletin board of the department pursuant to section forty-two of this article, and the banking AND FINANCIAL SERVICES board shall not act upon such recommendation prior to thirty days after such recommendation has been posted.

5. Prior to approving any recommendation by the superintendent pursuant to subdivision three or four of this section, the banking AND FINANCIAL SERVICES board shall make a finding that the approval of such recommendation is:

(i) consistent with the policy of the state of New York as declared in section ten of this article and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers; and

(ii) necessary to achieve or maintain parity between state chartered banking institutions and their counterpart federally chartered banking institutions with respect to rights, powers, privileges, benefits, activities, loans, investments or transactions.

S 50. The section heading and subdivision 1 of section 13 of the banking law, as amended by chapter 360 of the laws of 1984, are amended to read as follows:

Banking AND FINANCIAL SERVICES board. 1. There shall be in the [banking] department OF BANKING AND FINANCIAL SERVICES a banking AND FINANCIAL SERVICES board which shall consist of seventeen members. The superintendent shall be a member of the board and its chairman and executive head. The other sixteen members shall be appointed by the governor by and with the advice and consent of the senate. Each member, other than the superintendent and the first person appointed to fill a new membership on the board, shall serve for a term of three years from the first day of March in the year in which he OR SHE was appointed and until his OR HER successor has been appointed and has qualified. Any member appointed pursuant to the provisions of this section may be removed from office by the governor whenever in his OR HER judgment the public interest may require. In case of such removal the governor shall file with the department of state a statement of the cause of such removal.

S 51. The section heading and the opening paragraph of subdivision 1 of section 14 of the banking law, the section heading as amended by chapter 684 of the laws of 1938 and the opening paragraph of subdivision 1 as amended by chapter 315 of the laws of 2008, are amended to read as follows:

Powers of the banking AND FINANCIAL SERVICES board.

For the purpose of effectuating the policy declared in section ten of this article, the banking AND FINANCIAL SERVICES board shall have power, by a three-fifths vote of all its members, to make, alter and amend resolutions, rules and regulations not inconsistent with law. Such rules, regulations and resolutions shall be brought to the attention of those affected thereby in a manner to be prescribed by the board. Without limiting the foregoing power, resolutions or rules or regulations may be so adopted for the following specific purposes:

S 52. The section heading and subdivisions 2, 3, 4 and 5 of section 14-a of the banking law, as added by chapter 883 of the laws of 1980, are amended to read as follows:

Rate of interest; banking AND FINANCIAL SERVICES board to adopt regulations.

2. The rate of interest as so prescribed under this section shall include as interest any and all amounts paid or payable, directly or indirectly, by any person, to or for the account of the lender in consideration for the making of a loan or forbearance as defined by the banking AND FINANCIAL SERVICES board pursuant to subdivision three of this section.

3. The banking AND FINANCIAL SERVICES board shall have the power, by a three-fifths vote of all its members, to adopt such regulations as it shall deem necessary or proper to implement the provisions of this section. The banking AND FINANCIAL SERVICES board shall make available to the public copies of all regulations adopted pursuant to this section.

4. Such regulations as shall have been adopted pursuant to the provisions of this chapter and in effect immediately prior to the effective date of this section, shall continue in effect until such time as new regulations shall have been adopted by the banking AND FINANCIAL SERVICES board and shall become effective.

5. Whenever reference is made in this chapter or in any other law, contract or document to the rate of interest prescribed or to be prescribed by the banking AND FINANCIAL SERVICES board or the superintendent pursuant to this section or any former section fourteen-a of this chapter, such reference shall be deemed a reference to the rate of interest prescribed in subdivision one of this section.

S 53. The section heading and subdivisions 1, 2 and 3 of section 14-b of the banking law, the section heading and subdivisions 2 and 3 as amended by chapter 342 of the laws of 1986 and subdivision 1 as amended by chapter 267 of the laws of 1987, are amended to read as follows:

Power of the banking AND FINANCIAL SERVICES board to prescribe minimum rate of interest on mortgage escrow accounts. 1. The banking AND FINANCIAL SERVICES board shall have the power to prescribe, from time to time but not more often than once in every three month period, by a three-fifths vote of all its members, by regulation a minimum rate of, and method or basis of computing, interest that a mortgage investing institution shall be required to pay on each escrow account maintained with respect to a mortgage on a one to six family residence occupied by the owner or on any property owned by a cooperative apartment corporation, as defined in subdivision twelve of section three hundred sixty of the tax law, (as such subdivision was in effect on December thirtieth, nineteen hundred sixty), and located in this state, which rate shall be greater than the rate of interest required to be paid under section 5-601 or 5-602 of the general obligations law.

2. In making such determination the banking AND FINANCIAL SERVICES board shall consider pertinent economic and cost factors including, but not limited to: (i) current yields on short term investments, (ii) current dividend rates paid on regular savings accounts throughout this state, (iii) currently prevailing interest rates on conventional and insured or guaranteed mortgage loans in this state, (iv) cost factors in maintaining escrow accounts and (v) such other pertinent economic or cost factors that the banking AND FINANCIAL SERVICES board shall deem to be appropriate. Prior to the banking AND FINANCIAL SERVICES board's prescription of any such minimum rate of interest, the superintendent shall make a written recommendation to the banking AND FINANCIAL SERVICES board as to such minimum rate of interest, reciting the economic and cost data and criteria upon which such recommendation is based.

Prior to making such recommendation, the superintendent may invite presentation, by interested persons, of information and data relating to economic and cost factors relevant to such minimum rate of interest.

3. The banking AND FINANCIAL SERVICES board may promulgate such regulations as it deems necessary and proper to implement and define the provisions of this section. The banking AND FINANCIAL SERVICES board may prescribe the minimum rate of interest from time to time, but not more often than once in any three-month period, and shall provide reasonable notice to the public of any change in the rate of interest, of the effective date of such change, which shall be not less than seven days following the adoption of such change by the banking AND FINANCIAL SERVICES board, and of any rule or regulation adopted pursuant to this subdivision.

S 54. The section heading, the opening paragraph of subdivision 1 and subdivision 2 of section 14-c of the banking law, as added by chapter 19 of the laws of 1978 and the opening paragraph of subdivision 1 as amended by chapter 9 of the laws of 1996, are amended to read as follows:

Power of the banking AND FINANCIAL SERVICES board to prescribe criteria for disclosure of information on savings and time accounts.

The banking AND FINANCIAL SERVICES board shall promulgate rules and regulations with respect to the disclosure of information on savings and time accounts by all banking organizations and out-of-state state banks authorized to operate and maintain branches pursuant to article five-C of this chapter. Such rules and regulations shall set forth guidelines for, but not be limited to the following:

2. The banking AND FINANCIAL SERVICES board may alter or amend rules and regulations or promulgate additional rules and regulations as it deems necessary and proper to effectuate the provisions of subdivision one.

S 55. The section heading and subdivisions 2, 3 and 6 of section 14-d of the banking law, the section heading, subdivisions 3 and 6 as added by chapter 234 of the laws of 1983, and subdivision 2 as amended by chapter 564 of the laws of 1987, are amended to read as follows:

Power of the banking AND FINANCIAL SERVICES board to prescribe a reasonable period of time permitting the drawing on items received for deposit in a customer's account.

2. The banking AND FINANCIAL SERVICES board shall promulgate regulations, which may be amended from time to time, establishing a reasonable period of time within which a banking institution must permit a banking customer to draw, as of right, on an item which has been received for deposit in the customer's account.

3. The superintendent is authorized to gather from banking institutions such information as may be required by the banking AND FINANCIAL SERVICES board for the promulgation of the regulations required by this section.

6. The banking AND FINANCIAL SERVICES board is empowered, upon a determination that the uniform application of a regulation adopted pursuant to this section would result in unsafe or unsound banking practices, to issue such further regulation or order with respect thereto as it deems appropriate.

S 56. Section 14-e of the banking law, as added by chapter 1 of the laws of 1984, subdivision 2 as amended by section 1 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

S 14-e. Power of the banking AND FINANCIAL SERVICES board to authorize the operation of savings banks and savings and loan associations in stock form. 1. Notwithstanding any other provision of law to the contrary, the banking AND FINANCIAL SERVICES board is authorized, by a three-fifths vote of all its members, to promulgate such rules and regulations as shall facilitate:

(a) The organization and operation of stock-form savings banks and stock-form savings and loan associations,

(b) The conversion of mutual savings banks and savings and loan associations to stock form, and

(c) Mergers and acquisitions of assets or of capital stock between and among all of the foregoing banking institutions and between and among such institutions and any other banking institution.

The banking AND FINANCIAL SERVICES board is authorized to define and implement, by general regulation, the terms and provisions of this section. In adopting such regulations, the banking AND FINANCIAL SERVICES board shall take into account the declaration of policy contained in section one of a chapter of the laws of nineteen hundred eighty-four entitled "An Act to amend the banking law, in relation to the organization and incorporation of stock-form savings banks and stock-form savings and loan associations and the conversion of mutual savings banks and mutual savings and loan associations to stock form". In connection with such regulations, the banking AND FINANCIAL SERVICES board is empowered to apply to such stock-form organizations any provision of this chapter, in whole or in part, as shall be applicable to any other stock-form banking organization and to vary any condition, requirement or provision of article two, fifteen or sixteen of this chapter.

2. Such applications as the banking AND FINANCIAL SERVICES board may prescribe under paragraph (a), (b) or (c) of subdivision one of this section shall each be accompanied by an investigation fee as prescribed pursuant to section eighteen-a of this article.

3. Without limiting the foregoing, the banking AND FINANCIAL SERVICES board, if it shall determine that unusual and extraordinary circumstances exist, shall be authorized, by resolution, special or general regulation, to apply or to deem inapplicable to any banking institution referred to in subdivision one of this section, such provisions of this chapter in whole or in part, as it shall find appropriate in connection with the organization, operation, conversion, merger or any other transaction involving a stock-form savings bank or stock-form savings and loan association, provided, however, that such actions are in harmony with the spirit of the law and are necessary because of the existence of such circumstances.

S 57. The section heading of section 14-f of the banking law, as added by chapter 1 of the laws of 1994, is amended to read as follows:

Power of the banking AND FINANCIAL SERVICES board to require the provision of basic banking services.

S 58. Subdivisions 4, 5 and subparagraph (ii) of paragraph (c) of subdivision 6 of section 18-a of the banking law, as added by section 1 of part D-1 of chapter 109 of the laws of 2006, are amended to read as follows:

4. The fee which shall be imposed for any application for an initial license, registration, incorporation or for the formation of any other entity pursuant to this chapter, or for a merger, acquisition, purchase or sale of assets, change of control, or for any other application requiring the approval of the superintendent or the banking AND FINANCIAL SERVICES board that may necessitate, as determined by the superintendent, a determination regarding the character or fitness and/or the

safety and soundness of such applicant or a similar investigative undertaking by the department, shall be:
(a) twelve thousand five hundred dollars when such application relates to a banking organization, bank holding company or, except as provided in paragraph (b) of this subdivision, a foreign banking corporation;
(b) seven thousand five hundred dollars when such application relates to licensing a branch, agency or representative office of a foreign banking corporation;
(c) one thousand five hundred dollars when the application relates to a mortgage broker; or
(d) three thousand dollars for all other such applications.
5. The fee for any application requiring the approval of the superintendent or the banking AND FINANCIAL SERVICES board, including, but not limited to, any application required to change the name of the applicant, open branches or offices or additional locations, or relocate an existing branch, office, or location, and any other application not subject to subdivision four of this section, shall be:
(a) seven hundred fifty dollars when the application relates to a banking organization, bank holding company, out-of-state state bank, foreign credit union, or foreign banking corporation;
(b) two thousand dollars when the application relates to the licensing of an additional location or change of location or the licensing of a mobile unit of a licensed casher of checks; or
(c) five hundred dollars for all other such applications.
(ii) facilitates the administration of the [banking] department OF BANKING AND FINANCIAL SERVICES; or
S 59. Subdivisions 1, 2 and 3 of section 24 of the banking law, subdivision 1 as amended by chapter 453 of the laws of 1960, subdivision 2 as amended by chapter 419 of the laws of 1996, and subdivision 3 as amended by chapter 52 of the laws of 1944, are amended to read as follows:
1. Within ninety days after the date when any organization certificate or private banker's certificate shall have been filed for examination, the superintendent, if he shall find after investigation and examination of what he deems to be the best sources of information at his command that the character, responsibility and general fitness of the person or persons named in such certificate are such as to command confidence and warrant belief that the business of the proposed corporation or private banker will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter, and that the public convenience and advantage will be promoted by allowing such proposed corporation or private banker to engage in business, shall submit such certificate to the banking AND FINANCIAL SERVICES board together with all papers, correspondence and other information in his possession relating thereto, including the results of his investigation and his recommendation in the matter. Such period of ninety days may be extended, by a written consent executed by a majority of the persons from whom the superintendent received such organization certificate or private banker's certificate, for such additional reasonable period of time as may be required for applicants to comply with conditions precedent stipulated by the superintendent as being a prerequisite to his recommendation to the banking AND FINANCIAL SERVICES board.
2. If three-fifths of the members of the board, after consideration of all relevant information available to them, shall vote for approval, the superintendent, if he is still satisfied, upon the considerations set forth in subdivision one of this section, that such proposed corporation or private banker should be permitted to engage in business, shall

approve such certificate and endorse upon each of the duplicates the date of such approval. He shall forthwith cause notice of such approval to be given to the proposed incorporators or private banker and one of the duplicate certificates to be filed in the office of the department and the other in the office of the clerk of the county in which the principal office of such proposed corporation or private banker is to be located. In a case in which a private banker certificate is submitted to the superintendent for the purpose of continuing the business in connection with a change in its partnership, the superintendent shall approve the private banker certificate without any action by the banking AND FINANCIAL SERVICES board upon making a determination that the private banker should be permitted to continue its business based upon the considerations set forth in subdivision one of this section.

3. If three-fifths of the members of the banking AND FINANCIAL SERVICES board shall not vote for approval, or if the superintendent, either prior or subsequent to the submission of such certificate to the board, is not satisfied, upon the considerations set forth in subdivision one of this section, that such proposed corporation or private banker should be permitted to engage in business, the superintendent shall refuse such certificate and shall endorse thereon the date of such refusal and return one of the duplicates to the proposed incorporators or private banker from whom such certificate was received.

S 60. Section 26 of the banking law, as amended by chapter 315 of the laws of 2008, is amended to read as follows:

S 26. Licenses to foreign banking corporations; renewal. Upon receipt of an application in proper form of any foreign banking corporation for leave to do business in this state under the provisions of article five of this chapter, the superintendent, if he or she shall find after investigation and examination of what he or she deems to be the best sources of information that the character, responsibility and general fitness of the person or persons named in such application are such as to command confidence and warrant belief that the business of such foreign banking corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and that the public convenience and advantage will be promoted by granting such foreign banking corporation leave to do business in this state, shall submit such application to the banking AND FINANCIAL SERVICES board together with a summary of the results of such investigation. If three-fifths of the members of the board shall vote for approval of such application, the superintendent shall execute and issue a license under the official seal of the department authorizing such applicant to carry on such business at the place designated in the license. Such license shall be executed in triplicate and the superintendent shall cause one copy to be transmitted to the applicant, another to be filed in the office of the department and the third to be filed in the office of the clerk of the county in which the place of business designated in such license is located. A license issued to such foreign banking corporation pursuant to this section shall remain in full force and effect until surrendered or revoked.

S 61. Paragraph (a) of subdivision 3 and subdivision 5 of section 28-b of banking law, paragraph (a) of subdivision 3 as amended by chapter 315 of the laws of 2008 and subdivision 5 as added by chapter 361 of the laws of 1984, are amended to read as follows:

(a) When taking any action on an application made by a banking institution under section one hundred five, two hundred twenty-four, two hundred forty, or three hundred ninety-six of this chapter for a branch office or under section one hundred ninety-one of this chapter for a public accommodation office or under section six hundred one-b of this chapter for approval or disapproval of a merger or purchase of assets, or taking any action on a notice submitted by a banking institution under section one hundred five-a, two hundred forty-a or three hundred ninety-six-a of this chapter for the use or installation of an automated teller machine, point-of-sale terminal or similar electronic facility or on any other application to which the banking AND FINANCIAL SERVICES board shall by rule or regulation make applicable the provisions of this section, the superintendent shall take into account, among other factors, an assessment, in writing, of the record of performance of the banking institution in helping to meet the credit needs of its entire community, including low and moderate-income neighborhoods, consistent with safe and sound operation of the banking institution. Such assessment and any written communications from the [banking] department OF BANKING AND FINANCIAL SERVICES to a banking institution relating to such assessment shall be made available to the public upon request, provided that nothing contained in this subdivision shall be deemed to alter, amend or affect the provisions of subdivision ten of section thirty-six of this chapter. In making such assessment the superintendent shall review all reports and documents filed pursuant to subdivision one of this section and any signed, written comments received by the superintendent which specifically relate to the banking institution's performance in helping to meet the credit needs of its community. In addition, the superintendent shall consider the following factors in assessing a banking institution's record of performance:

(1) Activities conducted by the banking institution to ascertain credit needs of its community, including the extent of the banking institution's efforts to communicate with members of its community regarding the credit services being provided by the banking institution;

(2) The extent of the banking institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the banking institution;

(3) The extent of participation by the banking institution's board of directors or board of trustees in formulating the banking institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(4) Any practices intended to discourage application for types of credit set forth in the banking institution's Community Reinvestment Act Statement(s);

(5) The geographic distribution of the banking institution's credit extensions, credit applications and credit denials;

(6) Evidence of prohibited discriminatory or other illegal credit practices;

(7) The banking institution's record of opening and closing offices and providing services at offices;

(8) The banking institution's participation, including investments, in local community development and redevelopment projects or programs;

(9) The banking institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans and small business or small farm loans within its community or the purchase of such loans originated in its community;

(10) The banking institution's participation in governmentally-insured, guaranteed or subsidized loan programs for housing, small businesses or small farms;

(11) The banking institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition and other factors;

(11-a) The geographic distribution, availability and use of automated teller machines, point-of-sale terminals, personal computer banking, debit cards or similar electronic facilities or services; and any training of customers thereon among every branch of the banking institution, if the institution offers such services to any of its customers; and

(12) Other factors that, in the judgment of the superintendent and banking AND FINANCIAL SERVICES board, reasonably bear upon the extent to which a banking institution is helping to meet the credit needs of its entire community, including, without limitation, the banking institution's participation in credit counseling services.

5. The banking AND FINANCIAL SERVICES board is hereby authorized and empowered, by a three-fifths vote of all its members, to promulgate rules and regulations effectuating the provisions of this section, including any rules and regulations providing that the assessment of banking institutions referred to in subdivision three of this section shall be made on a graduated numerical basis.

S 62. Paragraph (b) of subdivision 5 of section 28-c of the banking law, as amended by chapter 315 of the laws of 2008, is amended to read as follows:

(b) "branch office", "branch", or "office" shall not include electronic facilities as defined by general regulation of the banking AND FINANCIAL SERVICES board, but shall include a public accommodation office;

S 62-a. Subdivision 1 of section 30 of the banking law, as amended by chapter 44 of the laws of 1950, is amended to read as follows:

1. After the completion of the voluntary or involuntary liquidation of the business and property of any banking organization or of the business and property in this state of any foreign banking corporation, the superintendent may take and hold as trustee for the owners thereof any amounts which remain due to and unclaimed by any creditor, depositor, stockholder, shareholder, bailor or depositor of property for hire or otherwise, or lessee of any safe, vault or box. Whenever such amounts are received by the superintendent and he is not in possession of the business and property of such banking organization or corporation, he shall give his receipt for such amounts and shall forthwith deposit them in one or more banks, trust companies, or savings banks, to the credit of the superintendent of banks AND FINANCIAL SERVICES in trust for the persons entitled thereto. In a liquidation by the superintendent he OR SHE shall deposit such amounts in like manner at the times provided in article thirteen of this chapter.

S 63. Subdivision 3 of section 32 of the banking law, as added by chapter 618 of the laws of 1976, is amended to read as follows:

3. Notwithstanding the foregoing provisions of this section, the banking AND FINANCIAL SERVICES board shall have the power, by a three-fifths vote of all its members, to promulgate such general or specific regulations as it deems necessary and proper (a) to implement and define the provisions of this section, (b) to exempt from the requirements of this section any banking organization which does not receive deposits or share accounts from the general public, and (c) for good cause shown, to extend for up to two years the period within which any banking organization must comply with the requirements of subdivision one of this section.

S 64. Subparagraph (i) of paragraph (a) of subdivision 2 of section 36 of the banking law, as amended by chapter 464 of the laws of 2006, is amended to read as follows:

(i) such investment company has been authorized by the banking AND FINANCIAL SERVICES board to receive deposits, in accordance with the terms of subdivision three of section five hundred eight of this chapter,

S 65. Subdivision 3 of section 39 of the banking law, as amended by section 1 of part FF of chapter 59 of the laws of 2004, is amended to read as follows:

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent or the banking AND FINANCIAL SERVICES board on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent or banking AND FINANCIAL SERVICES board on any licensed lender, registered mortgage broker, licensed mortgage banker, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, he or she may, in his or her discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

S 66. Subdivision 1 of section 40 of the banking law, as amended by chapter 496 of the laws of 1993, is amended to read as follows:

1. If the superintendent shall find that (i) any of the reasons for taking possession of the business and property of a banking organization or of the business and property in this state of a foreign banking corporation enumerated in section six hundred six of this chapter, shall exist with respect to a private banker to which the superintendent has issued an authorization certificate or a foreign banking corporation to which the superintendent has issued a license or (ii) any fact or condition exists which would be grounds for denial of an application for such a license issued to a foreign banking corporation, as defined by the banking AND FINANCIAL SERVICES board by regulation, he OR SHE may, after notice and hearing thereon, revoke such license or authorization certificate. Notice of such revocation, under the superintendent's hand and the official seal of the department, shall be executed in triplicate and one copy shall be transmitted to such private banker or foreign corporation, another shall be filed in the office of the department and the third shall be filed in the office of the clerk of the county in which the authorization certificate or license of such private banker or foreign corporation has been filed. The superintendent may, in his OR HER discretion, publish a copy of such notice, with such other facts as he OR SHE may deem proper, in the state register.

S 67. Subdivision 1 of section 41 of the banking law, as amended by chapter 146 of the laws of 1961, is amended to read as follows:

1. Whenever the superintendent shall find that any director, trustee or officer of any corporate banking organization or bank holding company (as such term "bank holding company" is defined in article three-A of this chapter) has violated any law or duly enacted regulation of the banking AND FINANCIAL SERVICES board relating to such corporation, or has continued unauthorized or unsafe practices in conducting the business of such corporation after having been ordered or warned by the superintendent to discontinue such practices, the superintendent may, in his OR HER discretion, certify the facts to the board. The board shall cause notice to be served upon such director, trustee or officer either personally or, upon a finding that he OR SHE cannot be served personally within the state, by registered mail, at his OR HER address last known to the superintendent, to appear before such board to show cause why he OR SHE should not be removed from office. A copy of such notice shall be sent by registered mail to each director or trustee of the corporation affected. If, after granting the accused director, trustee or officer a reasonable opportunity to be heard, the board by a three-fifths vote of all its members finds that he OR SHE has violated any law or duly enacted regulation of the board relating to such corporation, or has continued unauthorized or unsafe practices in conducting the business of such corporation after having been ordered or warned by the superintendent to discontinue such practices, the board, in its discretion, by a three-fifths vote of all its members, may order that such director, trustee or officer be removed from office.

S 68. Paragraph b of subdivision 19 of section 42 of the banking law, as added by chapter 322 of the laws of 2007, is amended to read as follows:

b. Every recommendation to be made to the banking AND FINANCIAL SERVICES board pursuant to subdivision four of section twelve-a of this article, which shall include a description of the recommended federally permitted power, a reference to the state chartered banking institutions which shall be permitted to exercise such power, and the date of the meeting of the banking AND FINANCIAL SERVICES board at which such recommendation is expected to be considered.

S 69. Paragraph (a) of subdivision 2 of section 44 of the banking law, as amended by chapter 702 of the laws of 2006, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and hearing, require any banking organization, bank holding company out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to maintain a branch, agency or representative office in this state to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent or banking AND FINANCIAL SERVICES board in connection with the grant of any application or request, or any written agreement entered into with the superintendent. For purposes of this section, any reference to a "banking organization" shall be deemed to exclude a safe deposit company and any reference to a "foreign bank licensee" shall be deemed to include an out-of-state state bank that maintains a branch or branches or representative or other offices in this state and a foreign banking corporation licensed to maintain a branch, agency or representative office in this state.

S 70. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, registered mortgage broker, authorized mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent or banking AND FINANCIAL SERVICES board in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

S 71. Subparagraph 5 of paragraph (d) of subdivision 3 of section 75-c of the banking law, as added by chapter 9 of the laws of 1996, is amended to read as follows:

(5) complaints concerning security in the automated teller machine facility should be directed to the banking institution's security department or the [banking] department OF BANKING AND FINANCIAL SERVICES, together with telephone numbers for such complaints, and that the nearest available public telephone should be used to call the police if emergency assistance is needed.

S 72. Subdivisions 10 and 12 of section 96 of the banking law, subdivision 10 as amended by chapter 259 of the laws of 1994, subdivision 12 as amended by chapter 541 of the laws of 1988, are amended to read as follows:

10. To exercise, subject to such regulations as may be issued from time to time by the banking AND FINANCIAL SERVICES board, through any foreign branch office (other than one opened or occupied in another state of the United States, the District of Columbia, any territory of the United States, Guam, American Samoa, the United States Virgin Islands, and the Northern Mariana Islands) opened and occupied with the approval of the superintendent and the banking AND FINANCIAL SERVICES board as provided in section one hundred five of this chapter, such further powers as may be usual in connection with the transaction of the business of banking in the place where such foreign branch office shall transact business, provided that no such foreign branch office shall engage in the general business of producing, distributing, buying or selling goods, wares, or merchandise, nor, except with respect to securities issued by any foreign nation or any political subdivision, agency or instrumentality thereof, engage or participate, directly or indirectly, in the business of underwriting, selling or distributing securities.

12. To acquire and lease personal property, or to acquire personal property subject to an existing lease together with the lessor's interest therein, subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may from time to time prescribe by general regulation.

S 72-a. Section 96-c of the banking law, as added by chapter 193 of the laws of 1975, is amended to read as follows:

S 96-c. Power to act as trustee under self-employed retirement trust or individual retirement trust. Every bank without fiduciary powers may, subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, act as trustee under a retirement plan established pursuant to the provisions of the act of congress entitled "Self-employed Individuals Tax Retirement Act of 1962" as such provisions may be amended from time to time, and under an individual retirement account plan established pursuant to the amendments to the provisions of the Internal Revenue Code contained in the act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time, provided that the provisions of such retirement or individual retirement account plan require the funds of such trust to be invested exclusively in deposits in banks, trust companies, savings banks, savings and loan associations or federal savings and loan associations whose principal offices are located in this state. In the event that any such retirement or individual retirement account plan, which in the judgment of the bank, constituted a qualified plan under the provisions of the applicable act of congress hereinabove mentioned and the regulations promulgated thereunder at the time the trust was established and accepted by the bank is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the bank may, nevertheless, continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No bank, in respect to deposits made under this section, shall be required to segregate such deposits from other deposits of such bank, provided, however, that the bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

S 73. The opening paragraph of subdivision 1 and paragraph (b) of subdivision 5 of section 96-d of the banking law, the opening paragraph of subdivision 1 as amended and paragraph (b) of subdivision 5 as added by chapter 526 of the laws of 1998, are amended to read as follows:

There is hereby created a banking development district program, the purpose of which is to encourage the establishment of bank branches in geographic locations where there is a demonstrated need for banking services. The banking AND FINANCIAL SERVICES board shall, in consultation with the department of economic development, promulgate rules and regulations, after public hearing and comment, which set forth the criteria for the establishment of banking development districts. Such criteria shall include, but not be limited to, the following:

(b) Notwithstanding any other provision of law, the banking AND FINANCIAL SERVICES board shall promulgate rules and regulations to authorize the participation of savings banks, savings and loan associations, federal savings banks and federal savings and loan associations in the program established pursuant to this section.

S 74. The opening paragraph of subdivision 1 of section 96-d of the banking law, as added by chapter 204 of the laws of 1997, is amended to read as follows:

There is hereby created a banking development district program, the purpose of which is to encourage the establishment of commercial bank branches in geographic locations where there is a demonstrated need for banking services. The banking AND FINANCIAL SERVICES board shall, in consultation with the department of economic development, promulgate rules and regulations, after public hearing and comment, which set forth the criteria for the establishment of banking development districts. Such criteria shall include, but not be limited to, the following:

S 75. The opening paragraph of subdivision 4-a and subdivisions 4-c and 5 of section 97 of the banking law, the opening paragraph of subdivision 4-a and subdivision 5 as amended and subdivision 4-c as added by chapter 566 of the laws of 2004, are amended to read as follows:

Subject to such restrictions as the banking AND FINANCIAL SERVICES board may prescribe, stock or other equity investments in subsidiary corporations, partnerships, unincorporated associations, limited liability companies, or other entities engaged in, or to be organized to engage in the following activities:

4-c. Subject to such restrictions as the banking AND FINANCIAL SERVICES board may prescribe, stock or other equity interest in one or more small business investment companies, as authorized pursuant to the provisions of an act of congress entitled "Small Business Investment Act of 1958," as amended, or in any entity established to invest solely in such small business investment companies, except that in no event shall the total amount of such investments exceed five percent of the capital stock, surplus fund and undivided profits of such bank or trust company.

5. So much of the capital stock of, or any other equity interest in, any other corporations, partnerships, unincorporated associations, limited liability companies, or other entities as may be specifically authorized by the laws of this state or by resolution of the banking AND FINANCIAL SERVICES board, or by regulations promulgated by the banking AND FINANCIAL SERVICES board, upon a three-fifths vote of all its members.

The superintendent is authorized to adopt such rules and regulations as shall permit banks and trust companies to make a loan which provides for receipt of shares of stock of or any other equity interest in, or a share of the profits, income or earnings of, a borrower in consideration for making the loan.

A bank or trust company may acquire stock or any other equity interest in settlement or reduction of a loan, or advance of credit or in exchange for an investment previously made in good faith and in the ordinary course of business, where such acquisition of stock or any other equity interest is necessary in order to minimize or avoid loss in connection with any such loan, advance of credit or investment previously made in good faith. A trust company may acquire stock or any other equity interest from any estate, trust or fund with respect to which such trust company is acting in a fiduciary capacity, if a claim is asserted or may be asserted against it with respect to the purchase or retention of such stock or equity interest for such estate, trust or fund, (a) where such acquisition by the trust company has been authorized or directed by a court, or (b) where such trust company has been advised by its counsel in writing that it has incurred a contingent or potential liability with respect to the purchase or retention of such stock or equity interest and such trust company desires to relieve itself from such liability. Stocks or any other equity interest acquired pursuant to the provisions of this paragraph may be held for such period as the board of directors deems advisable.

A bank or trust company may continue to hold any bonds or other securities or stock which it holds in accordance with the provisions of law at the time this [act] ARTICLE takes effect.

No bank or trust company shall purchase, acquire, or hold any stock of, or any other equity interest in, any corporation or any other entity, except as provided in this section.

S 76. Paragraph (d) of subdivision 1 and subdivision 2 of section 98 of the banking law, paragraph (d) of subdivision 1 as amended by chapter 512 of the laws of 1977 and subdivision 2 as amended by chapter 37 of the laws of 1969, are amended to read as follows:

(d) Such as may be specifically authorized by resolution of the banking AND FINANCIAL SERVICES board upon a three-fifths vote of all its members, provided, however, that the banking AND FINANCIAL SERVICES board upon a three-fifths vote of all its members may delegate to the superintendent the authority to approve the purchase, lease, conveyance or other acquisition or sale of real property which is located outside the United States, its territories and possessions, and which is used principally as the residence of one or more directors, officers, or employees of the bank or trust company.

2. All real estate purchased by any bank or trust company or taken by it in settlement of debts due it, shall be conveyed to it in its name or, subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, may be taken in the name of a duly authorized nominee. All such conveyances shall be immediately recorded or registered in the office of the proper recording officer of the county in which such real estate is located.

S 77. Subparagraph (ii) of paragraph (a) of subdivision 9 and subdivision 10 of section 100-c of the banking law, as added by chapter 239 of the laws of 1986, are amended to read as follows:

(ii) "Short term investment" means bonds, notes or other evidences of indebtedness which are payable upon demand (including variable amount notes) or which have a maturity date of one year or less from the date of purchase, or which may be prescribed, from time to time, by rules or regulations promulgated by the banking AND FINANCIAL SERVICES board, and which are acquired or held by a trust company in a short term investment common trust fund.

10. The banking AND FINANCIAL SERVICES board shall promulgate such regulations and rules as it considers appropriate to govern the administration of common trust funds and short term investment common trust funds.

S 78. Subdivisions 1 and 3 of section 102-a of the banking law, as added by chapter 248 of the laws of 1997, are amended to read as follows:

1. Trust companies which (a) do not receive deposits from the general public and (b) have been exempted by the banking AND FINANCIAL SERVICES board from the requirements of section thirty-two of this chapter, may be formed and operated as limited liability trust companies. Such limited liability trust companies shall be formed in accordance with, shall operate in compliance with, and shall meet all of the requirements of the limited liability company law and this chapter, except that to the extent any provision of the limited liability company law shall be inconsistent with the provisions of this chapter, the provisions of this chapter shall govern; provided, however, that limited liability trust companies shall not have perpetual existence.

3. Trust companies which have been formed and are operating pursuant to this article and article fifteen of this chapter on the effective date of this section, and which meet the requirements of subdivision one of this section, may, with the approval of the banking AND FINANCIAL SERVICES board, convert into limited liability trust companies, provided that they meet all of the other requirements of this chapter as if they were newly formed companies.

S 79. Paragraphs (a), (b), (c), (i), (j) and (k) of subdivision 1, subdivisions 4, 4-a and 5 of section 103 of the banking law, paragraphs (a), (c), and (i) of subdivision 1 and subdivision 4-a as amended by chapter 1 of the laws of 1983, paragraph (b) of subdivision 1 as amended by chapter 360 of the laws of 1984, paragraphs (j) and (k) of subdivision 1 as added by chapter 367 of the laws of 1997, subdivision 4 as amended by chapter 313 of the laws of 2001 and subdivision 5 as amended by chapter 534 of the laws of 1976, are amended to read as follows:

(a) The limitations in this subdivision shall not apply to (1) any loan to the extent that the United States, this state or any city, county, town, village or school district of this state, any federal intermediate credit bank, Federal National Mortgage Association, any federal land bank, any bank for cooperatives organized under the laws of the United States, any national mortgage association, any federal home loan bank, the Small Business Administration or any other department, agency or instrumentality of the United States or this state designated by the banking AND FINANCIAL SERVICES board by general or specific regulation upon a three-fifths vote of all its members, has agreed to pay the principal and interest thereof, or has guaranteed payment (by guaranty or commitment to purchase or otherwise) of such principal and interest, or is committed to supply, by loan, subsidy or otherwise, funds sufficient to pay such principal and interest, or has otherwise pledged its faith and credit for the payment of such principal and interest; or (2) any loan secured by not less than a like amount of direct obligations (based on their principal amount or market value, whichever is lower, at the time the loan is made) of the United States or of this state or of any city, county, town, village or school district of this state or of any such department, agency or instrumentality of the United States or this state; or (3) when authorized by the superintendent, any loan to a savings bank of this state or a corporation all of the capital stock of which is owned by not less than twenty savings banks of this state.

(b) The limitations in this subdivision shall not apply to any loan to the extent such loan is secured by cash collateral which is not subject to withdrawal.

In addition, the limitations in this subdivision shall not apply (i) to loans arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse; (ii) to loans to the student loan marketing association; (iii) to loans to any financial institution or to any receiver, conservator, superintendent of banks AND FINANCIAL SERVICES, or other agent in charge of the business and property of such financial institutions when such loans are approved by the superintendent; (iv) to the purchase of bankers' acceptances of the kind described in section 13 of an act of congress entitled the "Federal Reserve Act" and issued by other banking corporations; and (v) to loans made to facilitate prompt clearance or settlement arising from the purchase or sale of readily marketable securities which loans (A) are secured by readily marketable securities having a market value or a principal face amount (whichever is less) at the time the loan is made of not less than the principal amount of said loan, and (B) shall be required to be repaid upon settlement of such purchase or sale.

(c) Loans (exclusive of any loan described in paragraph (a) of this subdivision) to any state other than the state of New York, or to any foreign nation, the New York State thruway authority, the Triborough bridge and tunnel authority, The Port of New York Authority, a railroad corporation, a municipal corporation of this state, a corporation subject to the jurisdiction of a public service commission of this state, or any international lending facility or public benefit corporation designated by the banking AND FINANCIAL SERVICES board by general or specific regulation upon a three-fifths vote of all its members, may equal but not exceed twenty-five per centum of the capital stock, surplus fund and undivided profits of such bank or trust company.

(i) The limitations in this subdivision shall not apply to the investment of such bank or trust company in the bonds, debentures, notes or other obligations of any person, provided: (i) such bonds, debentures, notes or other obligations mature not less than one year after their respective dates of issuance, and, at the time of such investment, are rated in one of the three highest rating grades by an independent rating service designated by the banking AND FINANCIAL SERVICES board; (ii) such investment does not exceed fifteen per centum of the capital stock, surplus fund and undivided profits of such bank or trust company; and (iii) such investment complies with such additional limitations and conditions as the banking AND FINANCIAL SERVICES board from time to time may prescribe by general regulation.

(j) In the case of a trust company which (1) does not receive deposits from the general public and (2) has been exempted by the banking AND FINANCIAL SERVICES board from the requirements of section thirty-two of this chapter, the limitations of this subdivision shall not apply to the investment of such trust company in the bonds, debentures, notes or other obligations of, any foreign nation, or any political subdivision, agency or instrumentality thereof, provided: (i) at the time of such investment, such bonds, debentures, notes or other obligations are rated in one of the three highest rating grades by an independent rating service designated by the banking AND FINANCIAL SERVICES board; (ii) for any such bonds, debentures, notes or other obligations, the foreign nation, or any political subdivision, agency or instrumentality thereof, has guaranteed payment (by guaranty or commitment to purchase or otherwise) of such principal and interest, or is committed to supply, by loan, subsidy or otherwise, funds sufficient to pay such principal and interest, or has otherwise pledged its faith and credit for the payment of such principal and interest; (iii) such investments do not exceed the per centum applicable to such obligor of the capital stock, surplus fund and undivided profits of such bank or trust company as the superintendent shall approve, and (iv) such investments comply with such limitations and conditions as the superintendent may from time to time prescribe.

(k) In the case of a trust company which (1) does not receive deposits from the general public and (2) has been exempted by the banking AND FINANCIAL SERVICES board from the requirements of section thirty-two of this chapter, the limitations of this subdivision shall not apply to the purchase of securities under repurchase agreement provided that the repurchase agreement relates to not less than a like amount of direct obligations (based on their principal amount or market value, whichever is lower, at the time the purchase occurs) of any foreign nation, or any political subdivision, agency or instrumentality thereof, provided: (i) at the time of such purchase, such direct obligations are rated in one of the three highest rating grades by an independent rating service designated by the banking AND FINANCIAL SERVICES board; (ii) for any such direct obligations, the foreign nation, or any political subdivision, agency or instrumentality thereof, has guaranteed payment (by guaranty or commitment to purchase or otherwise) of the principal and interest thereof, or is committed to supply, by loan, subsidy or otherwise, funds sufficient to pay such principal and interest, or has otherwise pledged its faith and credit for the payment of such principal and interest; (iii) the purchase price of such securities does not exceed the per centum applicable to the obligor of such securities of the capital stock, surplus fund and undivided profits of such bank or trust company as the superintendent shall approve; and (iv) such purchase complies with such limitations and conditions as the superintendent may from time to time prescribe.

The banking AND FINANCIAL SERVICES board shall be empowered to promulgate rules and regulations as shall be appropriate to carry out the purposes of this subdivision.

4. Make a loan upon the security of real estate within or without this state which does not comply with any such rules or regulations as the banking AND FINANCIAL SERVICES board may prescribe.

No loan shall be made under the provisions of this subdivision except upon the written and signed certificate of an appraiser appointed pursuant to policies established by the board of directors, certifying to the value of the premises according to his judgment.

The provisions of this subdivision shall not constitute the authority to make a loan to a natural person upon the security of a mortgage which is not a first lien.

Where the collateral for any loan consists partly of real estate security and partly of other security, including a guarantee or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security, as found in good faith by a duly authorized officer of such bank or trust company, at the time of the making of the loan or commitment therefor, shall be considered a loan upon the security of real estate, provided, that in no event shall a loan be considered a loan upon the security of real estate (i) where the principal amount of any real estate security taken therefor is less than fifteen per centum of the amount of such loan or (ii) where the loan is payable in monthly or quarterly installments over a period not to exceed one hundred twenty-one months and does not exceed twenty thousand dollars and is for the purpose of paying the cost of any repairs, alterations or improvements upon, or in connection with, or, as the superintendent may authorize, the equipping of existing structures or the building of new structures by the owners thereof or by the lessees under a lease expiring not less than six months after the maturity of the loan or (iii) where the loan is fully guaranteed or insured by the United States or a state, or any department, agency or instrumentality thereof, and for the payment of which loan the full faith and credit of the United States or of such state is pledged and if under the terms of the guaranty or insurance agreement the bank or trust company will be assured of repayment in accordance with the terms of the loan or (iv) where there is a binding and valid commitment or agreement by a financially responsible lender, purchaser or other financially responsible party either directly with the lending bank or trust company or which is for the benefit of, or has been assigned to, the lending bank or trust company and pursuant to which commitment, agreement or assignment, the lender, purchaser or other party is required to advance to the lending bank or trust company within thirty months from the date of such commitment or agreement the full amount of the loan to be made by the lending bank or trust company upon the security of real estate improved by a building or buildings, or to be improved by a building or buildings in the process of construction, the major portion of which building is used, or in the case of a building under construction is to be used, for residential, business, manufacturing or agricultural purposes, and where pursuant to the terms and provisions of such commitment or agreement such advance shall be made prior to or upon the maturity of the loan by the lending bank or trust company.

Real estate security for purposes of this section shall not include (a) an assignment of rents under a lease, (b) a mortgage or other lien upon a leasehold, (c) a mortgage or other lien upon leasehold, royalty or other rights in oil, gas, minerals, standing timber, or other products of land, (d) a mortgage or other lien made or given upon real estate and taken as collateral security for loans to a borrower, provided, that at the time of the making of the loan or commitment therefor, repayment thereof is reasonably expected to be made out of the operations of such borrower or of the mortgagor, or (e) such mortgages or other liens on property as may be specifically exempted from the limitations and restrictions of this subdivision by the banking AND FINANCIAL SERVICES board by general or specific regulations adopted by a three-fifths vote of all its members. Nothing in this paragraph shall be construed to imply that security of a kind not mentioned herein is to be deemed real estate security.

The limitations and restrictions contained in this subdivision shall not prevent the acceptance of any real estate security to secure the payment of a debt previously contracted in good faith. Every mortgage and every assignment of a mortgage taken or held by such bank or trust company shall immediately be recorded or registered in its name in the office of the clerk or the proper recording officer of the county in which the real estate described in the mortgage is located, except that where the underlying real estate is located outside the state of New York such mortgage or assignment may be recorded or registered in the name of a duly authorized nominee, and except that if such mortgage or assignment of mortgage or of an interest therein shall be taken from a corporation organized under the banking law or all of the capital stock of which is owned by not less than twenty savings banks of this state, the bank or trust company may hold such mortgage or assignment unrecorded unless the superintendent shall direct the bank or trust company to record the same. The recording or registering of assignments of mortgages shall not be required when not less than ten mortgages are assigned as security for a loan, the term of which does not exceed twelve months.

Any bank or trust company may renew from time to time any loan upon the security of real estate lawfully made by it prior to June thirtieth, nineteen hundred thirty-seven.

None of the prohibitions and restrictions contained in this subdivision shall apply to any corporation all of the capital stock of which is owned by not less than twenty savings banks of this state.

4-a. A bank or trust company may, in addition to the authority granted under any other provisions of this article, make a loan to a natural person upon the security of a mortgage which is not a first lien at the rate or rates agreed to by the bank or trust company and the borrower, subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe. Such regulations by the banking AND FINANCIAL SERVICES board may include such restrictions as the banking AND FINANCIAL SERVICES board finds necessary or proper, including without limitation, a restriction as to the percentage of total assets which may be invested in such loans or a restriction on the loan to appraisal value of property securing such loan.

For purposes of this subdivision, the term mortgage shall include a lien on an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate.

5. Make any loan for the purpose of financing the purchase of or refinancing an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate, unsecured except to the extent of an assignment or transfer of the stock certificates or other evidence of ownership interest of the borrower and the proprietary lease within ninety days from the making of the loan, which shall exceed the maximum per cent of the loan permitted to be made on real estate improved by a single family residence occupied by the owner, provided that for purposes of this section the amount of the purchase price shall be deemed to equal the appraised value of such certificate of stock or other evidence of an ownership interest, or, in the case of a refinancing, the appraised value of such certificates of stock or other evidence of an ownership interest and which shall fail to provide for full repayment of principal and interest within the same number of years as a conventional mortgage loan previously described in this subdivision, provided that all real estate owned by such corporation or partnership shall be located within the state; and provided, further, that such loan shall be subject to such regulations as the banking AND FINANCIAL SERVICES board may from time to time promulgate. The maximum rate of interest which may be charged, taken or received upon any loan or forbearance made pursuant to this subdivision may exceed the rate of interest prescribed by the banking AND FINANCIAL SERVICES board in accordance with section fourteen-a by no more than one and one-half per centum per annum.

S 80. Subdivisions 2 and 4 of section 104 of the banking law, subdivision 2 as amended by chapter 664 of the laws of 1958 and subdivision 4 as amended by chapter 360 of the laws of 1984, are amended to read as follows:

2. The stocks, bonds and other interest-bearing securities purchased by a bank or trust company shall be entered on its books at the actual cost thereof, and shall not thereafter be carried upon the books at a valuation exceeding their cost as adjusted by amortization for the purpose of bringing them to par at maturity except that the same may be carried at cost if appropriate amortization reserve is set up for the purpose of bringing them to par at maturity. Where securities purchased at a premium are callable prior to maturity, the rate of amortization thereof shall be increased where necessary to such extent as shall reduce the amount at which such securities are carried upon the books to the call price at the date or dates upon which a call may be made; provided, however, that no adjustment for amortization or amortization reserve shall be required to be made on the books except when net profits are computed. The banking AND FINANCIAL SERVICES board may by general regulation adopted by a three-fifths vote of all its members vary the requirements of this subdivision to permit the amortization of premiums at the same rate as that required by federal tax statutes or regulations.

4. Real estate acquired by a bank or trust company, other than that acquired for use as a place of business, shall be entered on the books of the bank or trust company in conformity with the method of accounting for troubled debt restructurings approved by the financial accounting standards boards or such other method of accounting as may be authorized

or required by rules and regulations of the banking AND FINANCIAL SERVICES board.

The provisions of this subdivision shall not, except as the superintendent may otherwise require, apply to any parcel of real estate as to which the bank or trust company has exercised its option to transfer or convey such real estate to the veterans administration or the federal housing commissioner pursuant to insurance or guaranty.

S 81. Section 105-a of the banking law, as amended by chapter 613 of the laws of 1995, is amended to read as follows:

S 105-a. Electronic facilities. A bank or trust company may conduct a banking business, at automated teller machines, point-of-sale terminals, and similar facilities subject to regulations which may be promulgated by the banking AND FINANCIAL SERVICES board. Such facilities shall not be deemed to be branches and shall not be subject to any of the provisions of this chapter applicable to branches; provided however that notwithstanding the foregoing, for purposes of clause (ii) of subdivision one of section one hundred five of this chapter, such facilities shall be deemed to be branches, and such facilities shall be subject to the terms and conditions of section one hundred five, and for purposes of section twenty-eight-b of this chapter, such facilities shall be deemed to be branches.

S 82. Subdivisions 1 and 2 of section 107 of the banking law, subdivision 1 as amended by chapter 766 of the laws of 1975 and subdivision 2 as amended by chapter 144 of the laws of 1963, are amended to read as follows:

1. Every bank and trust company shall maintain total reserves against its demand and time deposits in such ratios as the banking AND FINANCIAL SERVICES board shall by regulation impose. If the principal office or any branch of such bank or trust company is located in a special requirement area, as designated in or pursuant to subdivision two of this section said bank or trust company shall maintain such additional reserves as may be prescribed by the banking AND FINANCIAL SERVICES board.

2. The cities of Albany and Buffalo and the boroughs of Brooklyn, Manhattan and The Bronx are hereby designated as special requirement areas. The banking AND FINANCIAL SERVICES board may at any time add to the number of cities or boroughs designated as special requirement areas, or may terminate the designation of any city or borough as such.

S 83. Subdivision 1, paragraphs (b) of subdivisions 4 and 5, paragraph 9 of subdivision 5-a and subdivision 8 of section 108 of the banking law, subdivision 1 as amended by chapter 360 of the laws of 1984, paragraph (b) of subdivision 4 as amended by chapter 92 of the laws of 1986, the opening paragraph of paragraph (b) of subdivision 4 as amended by chapter 577 of the laws of 1987, clause (C) of subparagraph (ii) of the opening paragraph of paragraph (b) of subdivision 4 as amended by chapter 119 of the laws of 1992, paragraph (b) of subdivision 5 as amended by chapter 5 of the laws of 1992, the third undesignated paragraph and the closing paragraph of paragraph (b) of subdivision 5 as added by chapter 1 of the laws of 1994, paragraph 9 of subdivision 5-a as added by chapter 320 of the laws of 1973 and subdivision 8 as added by chapter 344 of the laws of 1974 and renumbered by chapter 512 of the laws of 1977, are amended to read as follows:

1. Except as otherwise provided in this section, no bank or trust company shall take, receive, reserve or charge on any loan or discount made, or upon any note, bill of exchange or other evidence of debt, negotiable or otherwise, interest, as computed pursuant to this subdivi-

sion, at a rate greater than the rate prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of this chapter, or, if no rate has been so prescribed, six per centum per annum, or two dollars if the interest so computed is less than that amount. Such interest may be taken in advance, reckoning the days for which the note, bill or evidence of debt has to run. If interest is so taken in advance and the maturity of the debt is accelerated and judgment is obtained, or the debt is otherwise paid prior to its normal date of maturity, the bank or trust company shall refund to the obligor or his legal representative, as the case may be, the unearned interest previously deducted and the unused portion of any premiums charged for insuring the obligor under a group credit insurance policy, such refund to be calculated in accordance with the method described in paragraph (e) of subdivision four of this section. A reasonable charge by a bank or trust company for the collection of a bona fide bill of exchange, note or other evidence of debt payable at a place other than the place where purchased, discounted or sold, in addition to the interest, shall not be considered interest for the purpose of any law regulating the maximum rate of interest which may be charged, taken or received.

Anything contained in this subdivision to the contrary notwithstanding, the charging of interest or discount on a loan or discount made outside this state at a rate allowed by the laws of the jurisdiction where such loan is made, or the acquisition by a bank or trust company of a part interest or the entire interest in any loan or discount heretofore or hereafter made by a bank or trust company or any other banking institution, shall not be a violation of this section.

(b) A bank or trust company which operates a personal loan department may make loans and charge interest thereon, which may be calculated on the actual unpaid principal balances of the loan or in the case of a loan commitment from the date of each advance thereunder for the actual time outstanding, according to a generally accepted actuarial method at a fixed or variable rate in accordance with the provisions of the evidence of the indebtedness, or taken in advance, computed from the date of the loan, or in the case of a loan commitment from the date of each advance thereunder, to the date of the last installment payable thereunder, at the rate or rates agreed to by the bank or trust company and the borrower, with respect to any loan which is repayable at regular periodic intervals of not more than one month over a period from the date of the loan not exceeding (i) thirty-seven months, if the face amount of the loan is for not more than twelve hundred dollars, or (ii) any number of months agreed to by the bank or trust company and the borrower, (A) if the face amount of the loan is for more than twelve hundred dollars, (B) if the loan is for more than twelve hundred dollars, and is made for a commercial or business use or purpose or for investment in or purchase of an unincorporated business or commercial enterprise, (C) if the loan or loan commitment is made for educational purposes as specified in subdivision five-b of this section, or (D) if the loan or advance of credit is made for the purpose of financing alterations, repairs and improvements upon or in connection with, or as the superintendent may authorize the equipping of existing structures, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit or by lessees under proprietary leases from corporations or partnerships formed for the purpose of the cooperative ownership of real estate. The total unpaid principal balances of any one or more loans made by such bank or trust company to the borrower pursuant to this subdivision shall be determined by agreement between such bank or trust company and the borrower. If the loan is made for a period of one year or more, provision may be made in the note, instrument or other evidence of debt, for the omission of payments during not more than any three specified months in any twelve-month period, but the maximum period of thirty-seven months, shall not be exceeded. On any loan with a variable rate of interest made pursuant to this paragraph, the rate shall be determined at regular intervals as set forth in the evidence of indebtedness and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the bank or trust company and (d) approved by the superintendent.

The banking AND FINANCIAL SERVICES board shall adopt regulations, including but not limited to: (a) providing for disclosure to the borrower by the bank or trust company of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (b) providing for disclosure to the borrower by the bank or trust company of a history of the fluctuations of the index over a reasonable period of time; and (c) providing for notice to the borrower from the bank or trust company prior to any rate increase or change in the terms of payment.

(b) Such agreement may provide for interest on the unpaid aggregate principal amount of such loans and advances from time to time outstanding at the rate or rates agreed to by the bank or trust company and the borrower, as computed pursuant to this section, including, in accordance with the provisions of the agreement, rates that may vary from time to time reckoned on each loan or advance from the date thereof, calculated on any of the following bases: (i) on the unpaid principal amount of such loans and advances from time to time outstanding, or (ii) for each month on an average balance outstanding determined by dividing by two the sum of the balances of unpaid principal of such loans and advances outstanding on two dates during such month, as specified in such agreement; the first of which dates being not later than the fifteenth day of such month and the second being not earlier than the sixteenth day of such month and not less than ten nor more than twenty days after the first date, or (iii) for each month on a fixed amount selected from a schedule, which fixed amount may exceed the average daily balance under (i) above, or the average balance if determined under (ii) above, by a differential of not more than five dollars, provided the same fixed amount is also used for computing interest for any month for which such balance exceeds said fixed amount by any amount up to at least the same differential. For purposes of this subdivision, a month may but need not be a calendar month, and a bank or trust company computing interest on a daily basis may charge for each day one thirtieth of the monthly interest rate. No amendment to any agreement shall take effect unless at least [30] THIRTY days prior to the effective date of such amendment, imposition or increase, a written notice has been mailed or delivered to the borrower that clearly and conspicuously describes such amendment, imposition or increase and the indebtedness to which it applies and if the amendment has the effect of increasing the rate of interest, either (a) the notice states that the incurrence by the borrower or another person authorized by him of any further indebtedness under the plan to which the agreement relates on or after the effective date of such change specified in the notice shall constitute acceptance of such change, and either the borrower agrees in writing to such change or the borrower or another person authorized by him incurs such further indebtedness on or after the effective date of the change stated in the notice, or (b) the notice advises the borrower that he has thirty days from the earlier of the mailing or delivery of the notice to advise the bank or trust company in writing that he does not accept such amendment, provided that such notice contains an address to which the borrower may send notice of his election not to accept the amendment and also provided that the notice specifies that the amendment will take effect absent receipt of the borrower's written objection to the amendment. Any borrower who has received a notice pursuant to clause (a) who does not agree in writing to the amendment and no further indebtedness is incurred under the plan to which the agreement relates, and any borrower who gives a timely notice, pursuant to clause (b), electing not to accept the amendment shall be permitted to pay his outstanding indebtedness in accordance with the terms of the agreement but the bank or trust company may terminate the amount of credit available to the borrower and may require the borrower to return all credit cards and checks issued in connection with the agreement. If such a borrower subsequently obtains credit under the agreement, such use shall constitute acceptance of the change of terms and shall be deemed to have been accepted and shall become effective as to the borrower as of the date such change would have become effective but for the giving of notice by the borrower. If notice is given pursuant to clause (b) and the borrower does not timely object in writing to the amendment, such amendment shall become effective without action on the part of the borrower; provided that in no event shall any such amendment or increase take effect with respect to (i) the unpaid aggregate principal amount of loans or advances representing indebtedness outstanding prior to January 1, 1981 and (ii) the unpaid aggregate principal amount of loans or advances representing indebtedness incurred, under or pursuant to an agreement in effect on December 1, 1980, between January 1, 1981, and the effective date of such amendment or increase specified in the first notice mailed or delivered pursuant to clause (a). Indebtedness outstanding prior to January 1, 1981, for purpose of clause (i) above and indebtedness outstanding prior to the effective date of an increase for purposes of clause (ii) above shall be determined on the basis of crediting payments and other credits first to that portion of any such indebtedness representing interest charges, insurance premiums, service charges and fines and then to that portion representing the principal amount of loans or advances in the order in which made. The provisions of this paragraph permitting an increase in a rate of interest shall not apply in the case of an agreement which expressly prohibits changing of interest rates or which provides limitations on changing of interest rates which are more restrictive than the requirements of this paragraph. An amendment to an agreement deleting a provision that the rate of interest may vary from time to time may not become effective within one year from the later of the effective date of the agreement or the effective date of an amendment to an agreement adding a variable rate provision. On any loans or advances with rates of interest that may vary from time to time made pursuant to this paragraph, such variable rates of interest shall be determined at regular intervals as set forth in the agreement and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the bank or trust company and (d) approved by the superintendent, (e) such loan rate shall be based on the index values, or the index numbers plus or minus additional percentage points provided, however, that variations in the rate must correspond directly to the movements of the index values plus or minus additional percentage points only. Once such rate is established no lending institution may add any factors to increase the rate other than variations in the established index without the prior approval of the banking AND FINANCIAL SERVICES board. For purposes of this paragraph, an adjustment in the rate of interest as a consequence of movement in the selected index shall not constitute an amendment to that agreement. A reduction in the grace period for the assessment of a fee on any installment not paid when due, shall be considered an amendment to an agreement as set forth in this paragraph.

The banking AND FINANCIAL SERVICES board shall adopt regulations with respect to agreements that provide for a variable rate of interest, including but not limited to: (a) providing for disclosure to the borrower by the bank or trust company of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (b) providing for disclosure to the borrower by the bank or trust company of a history of the fluctuations of the index over a reasonable period of time; and (c) providing for notice to the borrower from the bank or trust company prior to any rate increase or change in the terms of payment. The regulations shall allow a bank or trust company after choosing an approved index to choose a spread and a minimum and maximum rate of interest at its discretion.

A written agreement, whether it provides for a fixed or variable interest rate, may provide for an introductory rate of interest at either a fixed or a variable rate, provided that the terms of such introductory rate, including, if applicable, the date on which the introductory rate shall terminate, are disclosed to the borrower. Such disclosure shall be contained on an application form or pre-approved written solicitation as specified pursuant to subdivisions one and one-a of section five hundred twenty of the general business law. A change in the interest rate upon expiration of an introductory rate shall not be considered a variable rate or a change in terms. The interest rate in effect after expiration of an introductory rate may apply to all amounts due under the agreement regardless of when incurred and disclosure of the same shall be provided to the borrower in the written agreement.

Any interest charge, whether assessed by a fixed or variable rate, may be reduced on such terms as the bank or trust company may determine, provided that the terms of such reduction, including, if applicable, the date on which the reduction will terminate, are disclosed to the borrower on the written notice announcing the reduction, prior to the effective date of the reduction. A new method of determining an interest charge is a reduction in the interest charge if the charge determined under the new method never exceeds the charge under the original method. The original interest charge or original method of determining the interest charge may be applied after the reduction ends to the entire outstanding indebtedness, including any indebtedness incurred when a reduced interest charge applied and disclosure of the same shall be provided to the borrower in the written notice announcing the reduction. A reduction to an interest charge, including the resumption of the original interest charge or the original method of determining the interest charge, shall not be considered an amendment of the agreement for purposes of this paragraph.

(9) Subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may prescribe by general regulation, a bank or trust company may make a loan pursuant to this subdivision which the federal housing administrator has insured or has made a commitment to insure and may receive and hold such debentures as are issued by the federal housing administrator in payment of such insurance, or which is guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of 1944." No law of this state prescribing or limiting the interest rate upon loans or advances of credit or prescribing a penalty for violation thereof or prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made or limiting the amount of any class of loans, advances of credit or purchases which may be made shall be deemed to apply to loans, advances of credit or purchases made or to loans acquired by purchase pursuant to this paragraph.

8. (a) The banking AND FINANCIAL SERVICES board shall have the power, by a three-fifths vote of all its members, to prescribe by regulation (i) the maximum charge which may be imposed in this state by a bank or trust company in connection with a check or other written order drawn upon it on insufficient funds, irrespective of whether the instrument is paid, accepted, or returned by the bank, and (ii) the maximum charge which may be imposed in this state by a bank or trust company in connection with a check or other written order received by it for deposit or collection and subsequently dishonored and returned for any reason by the drawee.

(b) No bank or trust company shall, in connection with the payment, acceptance or return of such check or order, impose any fee, fine, commission or other charge, however designated, in addition to the maximum charge established [therefore] THEREFOR by the banking AND FINANCIAL SERVICES board pursuant to paragraph (a) of this subdivision, except that nothing herein expressed shall prevent a bank or trust company from taking, receiving, reserving or charging interest, as authorized by law in connection with credit extended in connection with the payment of such check or order or from imposing any charge in accordance with a written agreement established in accordance with the provisions of subdivision five of this section. A bank or trust company may, as an accommodation to its customers, pay, accept, or return a check or order without charge, or at a lesser charge than the maximum charge established by the banking AND FINANCIAL SERVICES board.

(c) In prescribing a maximum charge pursuant to paragraph (a) of this subdivision, the banking AND FINANCIAL SERVICES board shall consider the following factors: (i) the cost of processing an overdraft or returned check or order, as the case may be, (ii) the charge necessary to deter overdrafts or returned checks or orders, as the case may be, and (iii) such other economic or cost factors that the banking AND FINANCIAL SERVICES board shall deem to be appropriate. Prior to the banking AND FINANCIAL SERVICES board's prescribing any such maximum charge, the superintendent shall make a written recommendation to the banking AND

FINANCIAL SERVICES board as to such maximum charge, reciting the cost and other data upon which his recommendation is based.

(d) The banking AND FINANCIAL SERVICES board may promulgate such regulations as it deems necessary and proper to implement and define the provisions of this subdivision. The banking AND FINANCIAL SERVICES board may prescribe maximum charges from time to time, but not more often than once in any six month period, and shall provide reasonable notice to the public of any change in such maximum charges, of the effective date of such change, which shall not be less than seven days following the adoption of such change by the banking AND FINANCIAL SERVICES board, and of any rule or regulation adopted pursuant to this subdivision.

S 84. Section 111 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

S 111. Profits; credits to surplus fund and to undivided profits. In any case where the combined capital stock, surplus fund and undivided profits of a bank or trust company do not equal ten per centum of its net deposit liabilities, the banking AND FINANCIAL SERVICES board may in its discretion require such bank or trust company at the close of each accounting period to credit its surplus fund with a portion of its net profits for such period, not to exceed ten per centum thereof, until its combined capital stock, surplus fund and undivided profits equal ten per centum of its net deposit liabilities. For the purposes of this section, the term "net deposit liabilities" shall mean total deposits including all amounts due to national banks, banks, bankers, trust companies and savings banks, the amounts due on certified and cashier's checks, and for unpaid dividends less the amounts of balances due from national banks, banks, bankers, and trust companies and cash items in process of collection payable immediately upon presentation in the United States.

S 85. Section 124 of the banking law, as amended by chapter 684 of the laws of 1938, is amended to read as follows:

S 124. Communications from [banking] department OF BANKING AND FINANCIAL SERVICES to be submitted to directors and noted in minutes. Any officer of a bank or trust company who receives from the office of the superintendent an official communication as defined in article two of this chapter shall submit such communication to the board of directors at the next meeting of such board, and such communication shall be duly noted in the minutes of the meetings of such board.

S 86. Subdivision 1 of section 125 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

1. Within fifteen days after service upon it of the notice provided for by section thirty-seven of this chapter, every bank and every trust company shall make a written report of its financial condition to the superintendent, which report shall be in such form and contain such information as the banking AND FINANCIAL SERVICES board may prescribe.

S 87. Section 128 of the banking law, as amended by chapter 24 of the laws of 1958, is amended to read as follows:

S 128. Preservation of books and records. Every bank and every trust company shall preserve all its records of final entry, including cards used under the card system and deposit tickets, for a period of at least six years from the date of making the same or from the date of the last entry thereon; provided, however, that preservation of photographic reproductions thereof or records in photographic form shall constitute compliance with the requirements of this section. Notwithstanding the foregoing, the banking AND FINANCIAL SERVICES board may prescribe by regulation such period of time longer or shorter than six years during which all records kept by banks and trust companies as fiduciary shall be preserved in original form.

S 88. Paragraphs (a) and (b) of subdivision 3 and paragraph (c) of subdivision 7 of section 130 of the banking law, paragraphs (a) and (b) of subdivision 3 as added by chapter 255 of the laws of 1973 and paragraph (c) of subdivision 7 as added by chapter 299 of the laws of 1969, are amended to read as follows:

(a) No executive officer of a bank or trust company may be an executive officer, director or trustee of another bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to the provisions of subparagraph (b) of this subdivision, except that (1) an executive officer of a bank or trust company which is a subsidiary of a bank holding company may be (i) an executive officer and (ii) a director of the bank holding company and of one or more banking institutions which are subsidiaries of such bank holding company; and (2) an executive officer of a bank or trust company owned by savings banks pursuant to subdivision eighteen of section two hundred thirty-five, or by savings and loan associations or federal savings and loan associations located in this state pursuant to section three hundred seventy-nine-a, may be (i) an executive officer and (ii) a director or trustee of one of the stockholders of such a bank or trust company of which he is an executive officer; provided, however, that except as stated in the foregoing exceptions, an executive officer of a bank or trust company, who on the effective date of this act is an executive officer, director or trustee of another bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

(b) The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a bank or trust company to be an executive officer, director or trustee or both an executive officer and director or a trustee of another bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company, or foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

(c) The banking AND FINANCIAL SERVICES board shall have power by three-fifths vote of all its members to adopt such regulations as it shall deem necessary or proper to implement the provisions of this section.

S 89. Subdivision 2 of section 136-b of the banking law, as amended by chapter 55 of the laws of 1965, is amended to read as follows:

2. Notwithstanding the provisions of subdivision one of this section, the approval of the superintendent shall not be required with respect to such merger or acquisition, if any of the corporations which are to merge, or if the selling or acquiring corporation, is a banking subsidiary of a bank holding company, and the banking AND FINANCIAL SERVICES board pursuant to section one hundred forty-two of this chapter has granted its approval for such bank holding company, or any trustee or trustees who hold voting stock of such banking subsidiary for the benefit of the stockholders or members of such bank holding company, to vote the stock of such banking subsidiary in favor of the proposed merger or acquisition. The superintendent shall file the plan of merger or acquisition and the certificate submitted to him pursuant to section one hundred thirty-six or section one hundred thirty-six-a of this chapter, together with a certified copy of the resolution of the banking AND FINANCIAL SERVICES board granting such approval, in the office of the superintendent, and, in the case of a merger, a duplicate of the plan and of each of such certificates, together with a certified copy of such resolution, shall be filed in the office of the clerk of the county in which the receiving corporation is located. Upon such filing in the office of the superintendent, the merger or acquisition shall become effective, unless a later date is specified in the plan, in which event the merger or acquisition shall become effective upon such later date. For purposes of this subdivision, the terms "bank holding company" and "banking subsidiary" shall have the meanings stated in section one hundred forty-one of this chapter.

S 90. Subdivision 2-a of section 138 of the banking law, as amended by chapter 265 of the laws of 1994, is amended to read as follows:

2-a. Notwithstanding the provisions of any law to the contrary, a bank or trust company or national bank located in this state shall not be required to repay any deposit made at a foreign branch of any such bank if the branch cannot repay the deposit due to (i) an act of war, insurrection, or civil strife; or (ii) an action by a foreign government or instrumentality, whether de jure or de facto, in the country in which the branch is located preventing such repayment, unless such bank has expressly agreed in writing to repay the deposit under such circumstances. The banking AND FINANCIAL SERVICES board may promulgate regulations necessary to effectuate the provisions of this subdivision, including regulations providing for adequate disclosure to retail depositors in the United States of the restrictions on repayment contained in this subdivision. The provisions of this subdivision shall not alter or diminish the liability of a custodian of assets of a fund under section one hundred seventy-eight-a of the retirement and social security law.

S 91. Section 140-a of the banking law, as amended by chapter 291 of the laws of 1987, is amended to read as follows:

S 140-a. Stock option plans. Subject to such regulations and restrictions as may be prescribed by the banking AND FINANCIAL SERVICES board by a three-fifths vote of all the members thereof, every bank and every trust company may grant options to purchase authorized and unissued shares of its capital stock to officers, directors and employees, for a consideration as authorized by section five thousand four of this chapter of not less than one hundred [per cent] PERCENT of the fair market value of the shares on the date the option is granted, pursuant to the terms of a stock option plan which has previously been adopted by the board of directors of the bank or trust company and approved by the holders of a majority of the outstanding shares of capital stock of the bank or trust company and by the superintendent. Stock options issued hereunder shall not extend beyond a period of ten years from date of issuance.

S 92. Subdivision 4 of section 141 of the banking law, as added by chapter 146 of the laws of 1961, is amended to read as follows:

4. The term "successor" shall include any company which acquired, directly or indirectly, from a bank holding company, stock of any banking institution, when and if the relationship between such company and the bank holding company is such that the transaction effects no substantial change in the control of the banking institution or beneficial ownership of the stock thereof. The banking AND FINANCIAL SERVICES board may, by regulation adopted by a three-fifths vote of all the members thereof, further define the term "successor" to the extent necessary to effectuate, or to prevent evasion of, the purposes of this article.

S 93. Subdivision 1 of section 142 of the banking law, as amended by section 18 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

1. It shall be unlawful except with the prior approval of the banking AND FINANCIAL SERVICES board by a three-fifths vote of all the members thereof (a) for any action to be taken that causes any company to become a bank holding company; (b) for any action to be taken that causes a banking institution to become, or to be merged or consolidated with, a subsidiary of a bank holding company; (c) for any bank holding company, or for any trustee or trustees acting for the benefit of the stockholders or members of any bank holding company, to acquire direct or indirect ownership or control of any voting stock of any banking institution if, after such acquisition, such company or such trustee or trustees or both will directly or indirectly own, control or hold more than five per centum of the voting stock of such banking institution; (d) for any bank holding company or subsidiary thereof to acquire all or substantially all of the assets of a banking institution; or (e) for any bank holding company to merge or consolidate with another bank holding company. For the purposes of this section, the term "bank holding company" shall be deemed to include any successor thereof. Any company desiring to take any action requiring approval under this subdivision shall submit an application therefor, in writing, to the superintendent and pay to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. If such action includes the acquisition of all the capital stock of one or more corporations organized under or subject to the provisions of article three, six or ten of this chapter, there shall be submitted in duplicate together with such application a written plan of acquisition of such stock in a form satisfactory to the superintendent and containing the information required by subdivision one of section one hundred forty-three-a of this article and a certificate which complies with the provisions of subdivision two of said section one hundred forty-three-a. Upon receipt of such application, the superintendent shall post notice of the receipt thereof upon the bulletin board of the [banking] department OF BANKING AND FINANCIAL SERVICES. The superintendent shall submit such application together with his or her recommendations in regard thereto and all papers, correspondence and other information in his or her possession and relating thereto, to the banking AND FINANCIAL SERVICES board which shall by order grant or deny the application and shall state the reasons for such grant or denial. An order granting such

application may be made only by three-fifths vote of all the members thereof. An order shall be issued within one hundred twenty days after the date of the submission of the application to the superintendent and a copy thereof shall be posted upon the bulletin board of the [banking] department OF BANKING AND FINANCIAL SERVICES. In determining whether or not to approve any such application, the banking AND FINANCIAL SERVICES board shall take into consideration (i) the declaration of policy contained in section ten of this chapter, (ii) whether the effect of such action shall be either to result in the formation of a bank holding company or to expand the size or extent of the resulting or acquiring bank holding company beyond limits consistent with adequate or sound banking and the preservation thereof, or result in a concentration of assets beyond limits consistent with effective competition, (iii) whether such formation, merger, consolidation or acquisition may result in such a lessening of competition as to be injurious to the interest of the public or tend toward monopoly, and (iv) primarily, the public interest and the needs and convenience thereof.

S 94. Paragraphs (a) and (b) of subdivision 3 of section 143 of the banking law, paragraph (a) as amended by chapter 702 of the laws of 2006 and paragraph (b) as added by chapter 255 of the laws of 1973, are amended to read as follows:

(a) No executive officer of a bank holding company may be an executive officer or director of another bank holding company or of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to the provisions of paragraph (b) of this subdivision, except that an executive officer of a bank holding company may be (i) an executive officer and (ii) a director of one or more banking institutions or bank holding companies which are subsidiaries of such bank holding company; provided, however, that an executive officer of a bank holding company, who on the effective date of this act is an executive officer or director of another bank holding company or of a bank or trust company, or of a savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

(b) The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a bank holding company to be at the same time an executive officer, director or trustee or both an executive officer and a director or a trustee of another bank holding company or of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state or foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after a reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

S 95. Subdivisions 3 and 5 of section 143-a of the banking law, subdivision 3 as amended by chapter 702 of the laws of 2006 and subdivision 5 as added by chapter 1 of the laws of 1984, are amended to read as follows:

3. If no action to be taken pursuant to the plan of acquisition requires the prior approval of the banking AND FINANCIAL SERVICES board pursuant to section one hundred forty-two or one hundred forty-three-b of this article, the superintendent shall approve or disapprove of a proposed plan of acquisition within one hundred twenty days after the submission of such plan of acquisition to him, and in determining whether or not to approve any such plan the superintendent shall take into consideration the declaration of policy contained in section ten of this chapter. If any action to be taken pursuant to the plan of acquisition requires such prior approval of the banking AND FINANCIAL SERVICES board, the superintendent shall submit such plan of acquisition together with his recommendations in regard thereto and all papers, correspondence and other information in his possession and relating thereto, to the banking AND FINANCIAL SERVICES board for its approval or disapproval as part of the application submitted to it pursuant to said section one hundred forty-two or one hundred forty-three-b. If the superintendent or the banking AND FINANCIAL SERVICES board shall approve such plan of acquisition, the superintendent shall file the plan, together with such certificates and the original of the approval of the superintendent or a certified copy of the approving resolution of the banking AND FINANCIAL SERVICES board, in the office of the superintendent. Upon such filing in the office of the superintendent, the plan, and the acquisitions provided for therein, shall become effective, unless a later date is specified in the plan, in which event the plan and such acquisitions shall become effective upon such later date.

5. Notwithstanding the provisions of subdivisions one, two, three and four of this section, the banking AND FINANCIAL SERVICES board, by general regulation, may establish particular procedures enabling the acquisition of all the capital stock of a stock-form savings bank or stock-form savings and loan association by a company having capital stock divided into shares, provided that such acquisition occurs as part of a transaction in which such savings bank or savings and loan association is converted from mutual to stock form.

S 96. Subdivisions 1, 2 and 3 of section 143-b of the banking law, subdivisions 1 and 3 as amended by chapter 793 of the laws of 1980 and subdivision 2 as amended by section 20 of part O of chapter 59 of the laws of 2006, are amended to read as follows:

1. It shall be unlawful except with the prior approval of the banking AND FINANCIAL SERVICES board by a three-fifths vote of all the members thereof for any company to acquire control of any banking institution, directly or indirectly, provided, however, that the provisions of this section shall not apply to a bank holding company, a company which has submitted to the superintendent a plan of acquisition pursuant to section one hundred forty-three-a or stock described in subdivision two of section one hundred forty-two. As used in this section, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a banking institution, whether through the ownership of voting stock of such

banking institution, the ownership of voting stock of any company which possesses such power or otherwise. Control shall be presumed to exist if any company, directly or indirectly, owns, controls or holds with the power to vote ten per centum or more of the voting stock of any banking institution or of any company which owns, controls or holds with power to vote ten per centum or more of the voting stock of such banking institution, but no person shall be deemed to control a banking institution solely by reason of his being an officer or director of such banking institution or company. The superintendent may in his discretion, upon the application of a banking institution or any company which, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such banking institution, determine whether or not the ownership, control or holding of such voting stock would constitute control of such banking institution for purposes of this section.

2. A company desiring to acquire control of a banking institution may file application therefor, in writing, with the superintendent and pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. The application shall contain such information as the superintendent or banking AND FINANCIAL SERVICES board, by rule or regulation, may prescribe as necessary or appropriate for the purpose of making the determination required by subdivision three of this section.

3. Upon receipt of such application, the superintendent shall post notice of the receipt thereof upon the bulletin board of the [banking] department OF BANKING AND FINANCIAL SERVICES. The superintendent shall submit such application together with his recommendation in regard thereto and all papers, correspondence and other information in his possession and relating thereto, to the banking AND FINANCIAL SERVICES board which shall by order grant or deny the application and shall state the reasons for such grant or denial. An order granting such application may be made only by three-fifths votes of all the members thereof. An order shall be issued within one hundred twenty days after the date of the submission of the application to the superintendent and a copy thereof shall be posted upon the bulletin board of the [banking] department OF BANKING AND FINANCIAL SERVICES. In determining whether or not to approve any such application, the banking AND FINANCIAL SERVICES board shall take into consideration (i) the declaration of policy contained in section ten of the chapter, (ii) whether the effect of such action shall be consistent with adequate or sound banking and the preservation thereof, or result in a consolidation of assets beyond limits consistent with effective competition, (iii) whether such acquisition of control may result in such a lessening of competition as to be injurious to the interest of the public or tend toward monopoly, and (iv) primarily, the public interest and the needs and convenience thereof.

S 97. Section 144 of the banking law, as added by chapter 146 of the laws of 1961, is amended to read as follows:

S 144. Administration. 1. Within one hundred eighty days after the date of enactment of this act, or within one hundred eighty days after becoming a bank holding company, whichever is later, a bank holding company shall register with the superintendent, on forms prescribed by the banking AND FINANCIAL SERVICES board, such information with respect to the inter-company relationships and stock holdings in banking institutions of such bank holding company and its subsidiaries, and related matters, as the banking AND FINANCIAL SERVICES board may deem necessary or appropriate to carry out the purposes of this chapter. The banking

AND FINANCIAL SERVICES board may, in its discretion, by a three-fifths vote of all the members thereof, extend the time within which a bank holding company shall register and file the requisite information.

2. The banking AND FINANCIAL SERVICES board from time to time may require from a bank holding company and its non-banking subsidiaries reports under oath to keep such board informed as to whether the provisions of this chapter have been complied with.

S 98. Subdivision 4 of section 150 of the banking law, as amended by chapter 547 of the laws of 2008, is amended to read as follows:

4. When used in this article, an "affiliated bank" or "affiliated trust company" of a subsidiary trust company means any bank, trust company, savings bank, savings and loan association, national bank, federal savings bank, federal savings association, or out-of-state state bank (as such term is defined in section two hundred twenty-two of this chapter), or such other banking institution as the banking AND FINANCIAL SERVICES board may permit specifically or by general rule or regulation, which is a subsidiary of the bank holding company which owns such subsidiary trust company.

S 99. Section 155 of the banking law, as added by chapter 514 of the laws of 1977, is amended to read as follows:

S 155. Applicable laws and regulations. To the extent not inconsistent with provisions of this article, a subsidiary trust company shall be subject to the laws of the state of New York generally applicable to trust companies. Nothing in this article shall be deemed to affect in any way the powers of the banking AND FINANCIAL SERVICES board to adopt, alter or amend rules and regulations with respect to trust companies, provided that no such rule or regulation shall be applicable to a subsidiary trust company to the extent it is inconsistent with, or purports to limit the powers or rights of a subsidiary trust company expressly granted by, the provisions of this article.

S 100. Subdivision 1 of section 173 of the banking law, as separately amended by chapters 349 and 1072 of the laws of 1968, is amended to read as follows:

1. No private banker shall take, receive, reserve or charge on any loan or discount made, or upon any note, bill of exchange or other evidence of debt, interest as computed pursuant to this section, at a rate greater than the rate prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of this chapter, or, if no rate has been so prescribed, six per centum per annum, or two dollars if the interest so computed is less than that amount. Such interest may be taken in advance, reckoning the days for which the note, bill or evidence of debt has to run. The knowingly taking, receiving, reserving or charging a greater rate of interest shall be held and adjudged a forfeiture of the entire interest which the note, bill of exchange or other evidence of debt carries with it, or which has been agreed to be paid thereon. If a greater rate of interest has been paid, the person paying the same or his legal representatives may recover twice the entire amount of the interest thus paid from the private banker. The purchase, discount or sale of a bona fide bill of exchange, note or other evidence of debt payable at another place than the place of such purchase, discount or sale at not more than the current rate of exchange for sight draft, or a reasonable charge for the collection of the same, in addition to the interest, shall not be considered interest for the purpose of any law regulating the maximum rate of interest which may be charged, taken or received.

Anything contained in this subdivision to the contrary notwithstanding, the charging of interest or discount on a loan or discount at an office of a private banker located outside of the states of the United States of America and the District of Columbia at a rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession or other political subdivision where such office is located, or the acquisition by a private banker of a part interest or the entire interest in any loan or discount heretofore or hereafter made by a bank or trust company or any other banking institution at an office located outside of the states of the United States of America and the District of Columbia, shall not be a violation of this section.

S 101. Section 176 of the banking law, as amended by chapter 547 of the laws of 1938, the opening paragraph as amended by chapter 232 of the laws of 1957 and the closing paragraph as amended by section 22 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

S 176. Reports required by superintendent; penalty for failure to make. Within fifteen days after service upon any private banker of the notice provided for by section thirty-seven of this chapter, he OR SHE shall make a written report to the superintendent of the financial condition of his OR HER business as a private banker, which report shall be in such form and shall contain such information as the banking AND FINANCIAL SERVICES board may prescribe. Such report shall be published by such private banker in such manner as the banking AND FINANCIAL SERVICES board may prescribe in a newspaper published in the place where the office of such private banker is located or if no newspaper is published there, in a newspaper of general circulation in such place.

Every private banker shall also make such other special reports to the superintendent as he OR SHE may from time to time require in such form and on such dates as may be prescribed by the superintendent, which reports shall if required by the superintendent be verified in such form as he OR SHE may prescribe.

If any private banker shall fail to make any report required by this section on or before the date designated for the making thereof or shall fail to include therein any prescribed matter, such private banker shall forfeit to the people of the state an amount as determined pursuant to section forty-four-a of this chapter for every day that such report shall be delayed or withheld and for every day that he or she shall fail to report any such omitted matter, unless the time therefor shall have been extended by the superintendent, as provided in article two of this chapter.

S 102. Section 195 of the banking law, as added by chapter 1064 of the laws of 1960, is amended to read as follows:

S 195. Rules, regulations and orders. The banking AND FINANCIAL SERVICES board by a three-fifths vote of all the members thereof shall have power to adopt, amend and enforce such rules, regulations and orders as it may deem necessary to enable it to administer and carry out the provisions of this article and to prevent evasions thereof.

S 103. Subdivision 1 of section 201-a of the banking law, as amended by chapter 120 of the laws of 1968, is amended to read as follows:

1. When the superintendent shall have issued a license as provided in section twenty-six of this chapter to any such foreign banking corporation, it may engage in the business specified in sections two hundred and two hundred one of this article either as an agency or as a branch at the location specified in such license for a period not exceeding one year from the date of such license or, if such license so provides, until such license is surrendered or revoked. A license issued for a

period not exceeding one year may, upon the approval of the superintendent and the banking AND FINANCIAL SERVICES board, be renewed as provided in section twenty-six of this chapter. No such license shall be transferable or assignable. Every such license shall be at all times conspicuously displayed in the place of business specified therein. In the event that such license shall have been revoked by the superintendent, as provided in article two of this chapter, it shall be surrendered to the superintendent within twenty-four hours after such corporation has received written notice of such revocation.

S 104. Subdivisions 1 and 3 of section 202-a of the banking law, subdivision 1 as amended by chapter 360 of the laws of 1984 and subdivision 3 as added by chapter 288 of the laws of 1987, are amended to read as follows:

1. A foreign banking corporation licensed pursuant to article two of this chapter to maintain one or more agencies in this state shall not engage in the business of receiving deposits in this state; provided (a) that such foreign banking corporation may maintain for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers; and (b) that the banking AND FINANCIAL SERVICES board is authorized to adopt regulations that permit a foreign banking corporation, licensed pursuant to article two of this chapter to maintain one or more agencies in this state, to issue to a corporation, partnership, trust, unincorporated association, joint stock association or similar association obligations each in a principal amount of not less than one hundred thousand dollars; and (c) that such foreign banking corporation may accept deposits other than from citizens or residents of the United States as the superintendent shall define by regulation.

3. The banking AND FINANCIAL SERVICES board shall have power to prescribe, by specific or general regulation, to the extent to which and the conditions upon which, the deposits and credit balances in agencies and branches in this state of foreign banking corporations may be established, maintained and paid out.

S 105. Subdivisions 1 and 2 of section 202-b of the banking law, subdivision 1 as amended by chapter 131 of the laws of 2002 and subdivision 2 as amended by chapter 496 of the laws of 1993, are amended to read as follows:

1. Upon opening a branch or agency and thereafter, a foreign banking corporation licensed pursuant to article two of this chapter shall keep on deposit, in accordance with such rules and regulations as the banking AND FINANCIAL SERVICES board shall from time to time promulgate by a three-fifths vote of all the members thereof, with such banks or trust companies or private bankers or national banks in the state of New York as such foreign banking corporation may designate and the superintendent may approve, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or obligations of the International Bank for Reconstruction and Development, or obligations issued by the Inter-American Development Bank, or obligations of the Asian Development Bank, or obligations issued by the African Development Bank, or obligations issued by the International Finance Corporation, or bonds, notes, debentures, or other obligations issued by or guaranteed by the Federal Home Loan Mortgage Corporation (Freddie Mac) or by the Federal National Mortgage Corporation (Fannie Mae), or bonds, notes, debentures, or other obligations issued by or guaranteed by the

Student Loan Marketing Association (SALLIE MAE) or all bonds, notes, debentures, or other obligations issued by or guaranteed by a federal home loan bank, or bonds, notes, debentures or other obligations of any unaffiliated issuer provided that, at the time of such investment, the obligation has received the highest rating of an independent rating service designated by the banking AND FINANCIAL SERVICES board or, if the obligation is rated by more than one such service, the highest rating of at least two such services, or such other assets as the superintendent shall by rule or regulation permit, to an aggregate amount to be determined by the superintendent, based upon principal amount or market value, whichever is lower, in the case of the above-described securities, and subject to such limitations as he or she shall prescribe; provided, however, that the superintendent may determine, in his or her discretion, that any such bonds, notes, debentures or other obligations of a particular issuer are not acceptable for purposes of meeting the requirements of this subdivision. The superintendent may from time to time require that the assets deposited pursuant to this subdivision may be maintained by the foreign banking corporation at such amount, in such form and subject to such conditions as he or she shall deem necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of such branch or branches or such agency or agencies. The superintendent may give credit to reserves required to be maintained with a federal reserve bank in or outside the state of New York pursuant to federal law, subject to such rules and regulations as the superintendent may from time to time promulgate. So long as it shall continue business in the ordinary course, such foreign banking corporation shall be permitted to collect interest on the securities so deposited and from time to time exchange, examine and compare such securities.

2. Each foreign banking corporation shall hold in this state currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness, including loan participation agreements or certificates, or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, or such other assets as the superintendent shall by rule or regulation permit, in an amount which shall bear such relationship as the banking AND FINANCIAL SERVICES board shall by regulation prescribe to liabilities of such foreign banking corporation appearing in the books, accounts or records of its agency, agencies, branch or branches in this state as liabilities of such agency, agencies, branch or branches, including acceptances and such other liabilities (including contingent liabilities) as the superintendent shall determine, but excluding amounts due and other liabilities to other offices, agencies or branches of, and affiliates of, such foreign banking corporation. As used in this subdivision, (i) "affiliate" shall mean any person or entity, or group of persons or entities acting in concert, that controls, is controlled by or is under common control with such foreign banking corporation and (ii) "control" means any person, or group of persons acting in concert, directly or indirectly, owning, controlling or holding with power to vote, more than fifty percent of the voting stock of a company, or having the ability in any manner to elect a majority of the directors of a company, or otherwise exercising a controlling influence over the management and policies of a company as defined by the superintendent by regulation. For purposes of this subdivision, the term "person" shall mean a corporation, unincorporated asso-

ciation, partnership, or any other entity or individual. For the purposes of this subdivision [two], the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any non-marketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, including loan participation agreements or certificates, or of any other asset or obligation held by or owed to the foreign banking corporation or its agency, agencies, branch or branches within the state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude in whole or in part any particular asset. If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems it necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest, and to maintain public confidence in the business of the agency, agencies, branch or branches of a foreign banking corporation, he may, subject to such terms and conditions as he may prescribe, require such foreign banking corporation to deposit the assets required to be held in this state pursuant to this subdivision [two] with such banks or trust companies or private bankers or national banks located in this state, as the superintendent may designate.

S 106. Section 202-c of the banking law, as amended by chapter 883 of the laws of 1980, is amended to read as follows:

S 202-c. Reserves against deposits. Each such foreign banking corporation which is authorized to maintain a branch or branches in this state shall maintain such reserves against the deposits of such branch or branches as may be required from time to time by the laws of this state to be maintained by banks and trust companies. Such reserves shall be maintained, subject to call, as provided by sections thirty-three and one hundred seven of this chapter; provided, however, that any such foreign banking corporation which maintains reserves with a federal reserve bank pursuant to federal law shall be exempt from the preceding provisions of this section so long as it shall comply with the requirements of such law with reference to reserves, and provided further that the banking AND FINANCIAL SERVICES board may determine that it is necessary or appropriate to require such a foreign banking corporation to maintain additional reserves against the deposits of its branch or branches in this state, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such branches and banks organized under the laws of this state. As to any such additional reserves which are required to be maintained pursuant to this section, to the extent permitted by the superintendent, amounts carried on the books of any such branch or branches as credits to the account of another office or branch or wholly owned (except for a nominal number of directors' shares) subsidiary of such foreign banking corporation shall not be deemed to be deposits.

S 107. Section 202-j of the banking law, as added by chapter 631 of the laws of 1981, is amended to read as follows:

S 202-j. Power to act as trustee under self-employed retirement trust or individual retirement trust. Each such foreign banking corporation which is authorized to maintain a branch or branches in this state the deposits of which are insured by the federal deposit insurance corporation or any successor may, subject to any regulations prescribed by the banking AND FINANCIAL SERVICES board, act through any such branch as trustee under a retirement plan established pursuant to the provisions of the act of congress entitled "Self-employed Individuals Tax Retirement Act of 1962" as such provisions may be amended from time to time, and under an individual retirement account plan established pursuant to the amendments to the provisions of the Internal Revenue Code contained in the act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time, provided that the provisions of such retirement or individual retirement account plan require the funds of such trust to be invested exclusively in deposits of branches of foreign banking corporations located in this state the deposits of which are insured by the federal deposit insurance corporation or any successor and in deposits of banks, trust companies, savings banks, savings and loan associations, federal mutual savings or federal savings banks or federal savings and loan associations whose principal offices are located in this state. In the event that any such retirement or individual retirement account plan, which in the judgment of the foreign banking corporation constituted a qualified plan under the provisions of the applicable act of congress hereinabove mentioned and the regulations promulgated thereunder at the time the trust was established and accepted by the foreign banking corporation is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the foreign banking corporation may, nevertheless, continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No foreign banking corporation, in respect to deposits made under this section, shall be required to segregate such deposits from other deposits of such foreign banking corporation, provided, however, that the foreign banking corporation shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this section.

S 108. Paragraph (c) of subdivision 3 of section 204-a of the banking law, as amended by chapter 265 of the laws of 1994, is amended to read as follows:

(c) Notwithstanding the provisions of any law to the contrary, a foreign banking corporation operating a branch or branches or an agency or agencies in this state shall not be required to repay, at any such branch, branches, agency or agencies in this state, any deposit made at a foreign office of any such foreign banking corporation if such office cannot repay the deposit due to (i) an act of war, insurrection, or civil strife; or (ii) an action by a foreign government or instrumentality, whether de jure or de facto, in the country in which the office is located preventing such repayment, unless the foreign banking corporation operating in this state has expressly agreed in writing to repay the deposit under such circumstances. The banking AND FINANCIAL SERVICES board may promulgate regulations necessary to effectuate the provisions of this paragraph, including regulations providing for adequate disclosure to retail depositors in the United States of the restrictions on repayment contained in this subdivision. The provisions of this paragraph shall not alter or diminish the liability of a custodian of assets of a fund under section one hundred seventy-eight-a of the retirement and social security law.

S 109. Paragraph (b) of subdivision 2 and subdivision 6 of section 207 of the banking law, as added by chapter 849 of the laws of 1964, are amended to read as follows:

(b) Sent by or on behalf of the plaintiff to such foreign banking corporation by registered mail with return receipt requested, at the post office address specified for the purpose of mailing process, on file in the [banking] department OF BANKING AND FINANCIAL SERVICES, or with any official or body performing the equivalent function, in the jurisdiction of its incorporation, or if no such address is there specified, to its registered or other office there specified, or if no such office is there specified, to the last address of such foreign banking corporation known to the plaintiff.

6. The [banking] department OF BANKING AND FINANCIAL SERVICES shall keep a record of each process served upon the superintendent under this section, including the date of service. It shall, upon request made within ten years of such service, issue a certificate under its seal certifying as to the receipt of the service by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served upon the superintendent under this section shall be destroyed [by him] after a period of ten years from such service.

S 110. Subdivisions 1, 2 and 3 of section 209 of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

1. No executive officer of a foreign banking corporation maintaining a branch in this state may be an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or another foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to the provisions of subdivision three of this section, except that an executive officer of a foreign banking corporation maintaining a branch in this state which is a subsidiary of a bank holding company may be (i) an executive officer and (ii) a director of the bank holding company of which such foreign banking corporation is a subsidiary, and of one or more of the banking institutions which are subsidiaries of such bank holding company; and provided, however, that, except as stated in the foregoing exceptions, an executive officer of a foreign banking corporation maintaining a branch in this state, who on the effective date of this act is an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or another foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

2. No executive officer of a national bank located in this state may be an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to the provisions of subdivision three of this section, except that (1) an executive officer of a national bank located in this state, which is a subsidiary of a bank holding company may be (i) an executive officer and (ii) a director of the bank holding company and of one or more banking institutions which are subsidiaries of such bank holding company; provided, however, that, except as stated in the

foregoing exceptions, an executive officer of a national bank located in this state, who on the effective date of this act is an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

3. The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a foreign banking corporation maintaining a branch in this state and to an executive officer of a national bank located in this state, to be at the same time an executive officer, trustee or director or both an executive officer and a trustee or director of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company, and foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

S 111. The first opening paragraph of section 218 of the banking law, as amended by chapter 384 of the laws of 1985, is amended to read as follows:

Such corporation shall be subject to the supervision, examination and control of the superintendent of banks AND FINANCIAL SERVICES in the same manner as banking organizations are so supervised, examined and controlled by him OR HER pursuant to this chapter, and shall be examined by him OR HER annually, but such corporation shall not be deemed to be a banking organization nor be required to pay a fee for such an examination. Such corporation shall make an annual report of its condition to the governor, legislature and superintendent of banks AND FINANCIAL SERVICES, on or before January first of each year.

S 112. Section 221-d of the banking law, as added by chapter 493 of the laws of 1979, is amended to read as follows:

S 221-d. Conditions precedent to issuing license; procedure where application denied. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the foreign banking corporation and its representative are such as to command the confidence of the community and to warrant belief that the representative will operate honestly, fairly, and efficiently within the purpose and intent of this article, a license shall thereupon be issued in duplicate to conduct the activity described in section [221-a] TWO HUNDRED TWENTY-ONE-A of this article in accordance with the provisions of this article. If the superintendent shall not so find, the license shall not be issued, and the applicant shall be notified of the denial. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the [banking] department OF BANKING AND FINANCIAL

SERVICES. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided. The superintendent shall approve or deny every application for a license hereunder within ninety days from the filing thereof provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

S 113. Subdivision 1 of section 229 of the banking law, as amended by chapter 1 of the laws of 1984, is amended to read as follows:

1. This article applies to every savings bank and shall not apply to any other banking organization except to such extent, if any, as may be specified in any article of this chapter governing such banking organization; provided, however, that in the case of stock-form savings banks, this article applies to every such organization except that the banking AND FINANCIAL SERVICES board, consistent with the declaration of policy described in section fourteen-e of this chapter, shall be empowered to deem inapplicable to stock-form savings banks, sections two hundred thirty, two hundred thirty-one, two hundred thirty-two, two hundred thirty-three, subdivisions one and two of section two hundred thirty-four, two hundred forty-three, two hundred forty-four, two hundred forty-five, two hundred forty-six, two hundred forty-six-a, two hundred forty-seven, two hundred forty-eight, two hundred forty-nine, two hundred fifty, two hundred fifty-one and two hundred fifty-two of this chapter.

S 114. Subdivisions 1, 1-a, 5-a, 5-b, 16 and 24 of section 234 of the banking law, subdivision 1 as amended by chapter 63 of the laws of 1992, subdivisions 1-a and 5-a as amended by chapter 360 of the laws of 1984, subdivision 5-b as amended by chapter 638 of the laws of 1981, subdivision 16 as amended by chapter 1150 of the laws of 1969 and subdivision 24 as added by chapter 1 of the laws of 1983, are amended to read as follows:

1. To receive and repay deposits, including demand deposits; invest its funds; pay interest on deposits; and exercise all such incidental powers as shall be necessary to conduct the business of a savings bank, including, subject to regulation by the banking AND FINANCIAL SERVICES board, the power to charge for maintaining a demand deposit account or for honoring checks drawn on or accepting deposits made to such an account.

1-a. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, to contract to receive time deposits, including deposits upon which the savings bank contracts to pay interest at a fixed rate.

5-a. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, to borrow money for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans.

5-b. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper and notwithstanding any other provisions of law, to issue notes, bonds, debentures, or other obligations or other securities subordinated to deposits in such savings bank; provided that, unless the superintendent has given prior approval otherwise, the aggregate principal amount thereof at the time of issuance shall not exceed twenty-five [per cent] PERCENT of the net worth of such savings bank, exclusive of all such notes, bonds, debentures, or other obligations or other securities. The proceeds or other consideration derived by a savings bank from the issuance pursuant to this subdivision of any such notes, bonds, debentures, or other obligations or other securities shall be deemed for purposes of this chapter to constitute a part of the net worth of such savings bank.

16. To service mortgages for others, and to render investment advice incidental to the purchase of and investment in mortgages by others, provided, however, that the superintendent of banks AND FINANCIAL SERVICES shall have power to prescribe, by specific or general regulation, the extent to which and the conditions upon which such mortgages may be serviced and such investment advice may be rendered.

24. Subject to such regulations as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, and notwithstanding any other provision of law, to accept federal tax and loan accounts, the balances of which are payable on demand without previous notice of intended withdrawal and to pledge collateral to secure such accounts.

S 115. Section 234-b of the banking law, as added by chapter 883 of the laws of 1980, is amended to read as follows:

S 234-b. Trust powers. 1. The banking AND FINANCIAL SERVICES board is authorized and empowered to grant permission to a savings bank to exercise any or all of the powers specified in sections one hundred, one hundred-a, one hundred-b and one hundred-c of this chapter. In passing upon applications for permission to exercise any such powers, the banking AND FINANCIAL SERVICES board may take into consideration the amount of surplus of the applying savings bank, whether or not such surplus is sufficient under the circumstances of the case, the needs of the community to be served and any other facts and circumstances that seem to it proper, and may grant or refuse it permission accordingly.

2. Whenever the laws of this state require a trust company acting in a fiduciary capacity to deposit securities with the state authorities for the protection of private or court trusts, a savings bank, so acting, is empowered to make similar deposits of securities.

[4] 3. The banking AND FINANCIAL SERVICES board is authorized to promulgate such regulations as it may deem necessary or proper to implement the provisions of this section and the proper exercise of the powers granted by this section.

S 116. Subdivision 5-a of section 235 of the banking law, as added by chapter 457 of the laws of 1966 and the opening paragraph as amended by chapter 1 of the laws of 1983, is amended to read as follows:

5-a. Bonds and mortgages and notes and mortgages on unimproved real property in this state or outside this state, subject to such limitations as the banking AND FINANCIAL SERVICES board may prescribe.

S 117. The opening paragraph and paragraph (h) of subdivision 6 and subdivision 6-a of section 235 of the banking law, as amended by chapter 1 of the laws of 1983, are amended to read as follows:

Bonds and mortgages and notes and mortgages on improved real property, including leasehold estates, in this state, and, subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may prescribe by general regulation, in any other location outside this state. The provisions of this subdivision shall not constitute the authority to make a loan to a natural person upon the security of a mortgage which is not a first lien.

(h) A savings bank may, subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, participate and invest in (1) loans of a type that it is authorized to invest in pursuant to subparagraph (a) of paragraph four of subdivision eight of section two hundred thirty-five of this chapter and (2) in any bond and mortgage or note and mortgage on improved and unencumbered real property including leasehold estates, in which it is individually authorized to invest, which said mortgage is duly recorded or registered in the office of the proper recording officer of the county in which the real property described in the mortgage is located, provided that no such investment shall be made by a savings bank in any part interest in such mortgage which is junior or subordinate to any other part interest nor if the aggregate amount of all part interests in such mortgage when added together will exceed any percentage of the appraised value of such real property by which the authority of a savings bank to invest individually in such mortgage is limited. Investments made by any savings bank in mortgage loans pursuant to this subdivision and pursuant to subdivision twenty-eight of this section shall be included in the computation of permissive investment in mortgage loans pursuant to paragraph (d) of subdivision six of this section.

6-a. A savings bank may, in addition to the authority granted under any other subdivisions of this section, make a loan to a natural person upon the security of a mortgage which is not a first lien at the rate or rates agreed to by the savings bank and the borrower, subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe. Such regulations by the banking AND FINANCIAL SERVICES board may include such restrictions as the banking AND FINANCIAL SERVICES board finds necessary or proper, including without limitation, a restriction as to the percentage of total assets which may be invested in such loans or a restriction on the loan to appraisal value of property securing such loan.

For purposes of this subdivision, the term mortgage shall include a lien on an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate.

S 118. Subparagraph (e) of paragraph 3 of subdivision 7 of section 235 of the banking law, as amended by chapter 837 of the laws of 1958, the tenth undesignated item as amended by chapter 407 of the laws of 1959, is amended to read as follows:

(e) fixed interest-bearing mortgage bonds other than those described in paragraphs (a) or (b) hereof, income mortgage bonds, collateral trust bonds or obligations other than those described in paragraph (d) hereof, or unsecured bonds or obligations, issued, assumed or guaranteed as to principal and interest by endorsement by, or so guaranteed which guaranty has been assumed by, such railroad corporation, provided that (a) the annual fixed charges and contingent interest charges of such railroad at the time of investment shall not exceed thirty per cent of the average annual income available for such charges for the five fiscal years next preceding, and (b) the net income of such railroad after all taxes and charges shall have averaged not less than fifteen million dollars annually in such period.

The amount of income available for fixed charges shall be the amount obtained by deducting from gross income all items deductible in ascertaining net income other than federal income taxes, contingent income interest and those constituting fixed charges. Fixed charges shall be: rent for leased roads, miscellaneous rents, fixed interest on funded debt, interest on unfunded debt and amortization of discount on funded debt.

Accounting terms used in the preceding paragraph shall be deemed to refer to those used in the accounting reports prescribed by the accounting regulations for common carriers subject to the provisions of the interstate commerce act. If the interstate commerce commission shall prescribe accounting regulations wherein shall be defined the term income available for fixed charges and the term fixed charges, the definitions thereof as so prescribed shall be taken and used in lieu of the definitions set forth in the preceding paragraph of this subdivision for all purposes hereof, except that federal income taxes shall not be deducted, nor shall federal income tax credits be included, in computing income available for fixed charges. In determining income available for fixed charges and fixed charges pursuant to this paragraph or the immediately preceding paragraph interest, dividends and rentals paid by a railroad corporation and included in both such amounts shall be eliminated.

For all purposes of this subdivision [seven], the revenues, earnings, income and fixed charges of, and dividends paid by, any railroad corporation prior to the acquisition of all or substantially all of its railroad lines by another railroad corporation, through merger, consolidation, conveyance or lease, shall, while such lines remain in the possession of the acquiring corporation, be deemed to have been revenues, earnings, income and fixed charges of, and dividends paid by, such acquiring corporation.

Whenever a railroad corporation shall own (directly or through a subsidiary all of the stock of which, except directors' qualifying shares, is owned by such corporation) at least ninety per cent of the capital stock of one or more other railroad corporations, the property of which is operated by it under lease, the consolidated statements of all such railroad corporations may be used in determining the amount of income available for fixed charges and the amount of fixed charges.

Obligations of a railroad corporation the railroad lines of which have been so leased prior to April fifth, nineteen hundred twenty-nine, for the payment of which the lessee is not obligated, that are outstanding and officially listed by the [banking] department OF BANKING AND FINANCIAL SERVICES of the state of New York as authorized investments prior to that date, shall be and remain authorized investments hereunder; provided, that such railroad lines shall be in the possession of and be operated by a railroad corporation such as is described in and meets the requirements of the provisions of this subdivision preceding paragraph (a).

Notwithstanding any other provisions of this subdivision, equipment obligations described in paragraph (c) which shall have been issued, assumed or guaranteed by any railroad corporation classified by the interstate commerce commission as a class one railroad and which are not in default, shall be authorized investments hereunder.

Notwithstanding any of the provisions of this subdivision, fixed interest-bearing obligations of railroad corporations, excluding terminal, depot and tunnel corporations, which are eligible for purchase by savings banks on December thirty-first, nineteen hundred fifty-two under the provisions of [subdivisions seven] THIS SUBDIVISION or SUBDIVISION nineteen of this section, or which shall thereafter become eligible pursuant to the provisions of this subdivision [seven], as amended, if not in default, shall be and remain eligible hereunder, provided that the income available for fixed charges, as herein defined, of the railroad corporation which has issued, assumed or guaranteed such obligations, or which operates under lease the railroad lines of the corporation which has issued, assumed or guaranteed such obligations, shall have averaged for the five fiscal years next preceding the time of investment not less than twice the interest charges for the last such fiscal year on all equipment obligations, and other obligations eligible hereunder, of such railroad corporation which remain outstanding at time of investment.

Fixed interest-bearing bonds of terminal, depot and tunnel companies which are eligible for purchase by savings banks on December thirty-first, nineteen hundred fifty-two under the provisions of [subdivisions seven] THIS SUBDIVISION or SUBDIVISION nineteen of this section, or which shall thereafter become eligible pursuant to the provisions of this subdivision [seven], as amended, shall be and remain eligible hereunder, provided that the principal and interest thereof be guaranteed by endorsement by, or guaranteed by endorsement which guaranty has been assumed by, a railroad corporation which meets the requirements of the preceding paragraph for continuing the eligibility of its own fixed interest-bearing obligations.

Not more than twenty-five per centum of the assets of any savings bank shall be loaned or invested in the bonds, notes, certificates, conditional sale agreements, assignments of conditional sale agreements and participations therein in this subdivision [seven] defined, and not more than ten per centum of such assets shall be invested in such bonds, notes, certificates, conditional sale agreements, assignments of conditional sale agreements and participations therein for which any one railroad corporation of this state shall be obligated, and not more than five per centum of such assets shall be invested in the bonds, notes, certificates, conditional sale agreements, assignments of conditional sale agreements and participations therein for which any one railroad corporation not of this state shall be obligated.

Street railroad corporations shall not be considered railroad corporations within the meaning of this subdivision.

S 119. Item 8 of subparagraph (c) of paragraph 4 of subdivision 8 of section 235 of the banking law, as amended by chapter 19 of the laws of 1991, is amended to read as follows:

(8) Subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may prescribe by general regulation, a savings bank may make a loan pursuant to this subparagraph which the federal housing administrator has insured or has made a commitment to insure and may receive and hold such debentures as are issued by the federal housing administrator in payment of such insurance, or which is guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of 1944." No law of this state prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made or limiting the amount of any class of loans, advances of credit or purchases which may be made shall be deemed to apply to loans, advances of credit or purchases made or to loans acquired by purchase pursuant to this item.

S 120. Subdivision 8-a of section 235 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

8-a. Promissory notes representing loans for the purpose of financing the purchase of or refinancing an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of real estate within or without this state, as provided in this subdivision.

A savings bank may, subject to such regulations as the banking AND FINANCIAL SERVICES board finds necessary and proper, invest to an amount not exceeding the maximum per cent of the loan permitted to be made on real estate improved by a single family residence occupied by the owner, provided that for purposes of this section the amount of the purchase price shall be deemed to equal the appraised value of such certificate of stock or other evidence of an ownership interest, or, in the case of a refinancing, the appraised value of certificates of stock or other evidence of an ownership interest in and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate within or without this state, for the purpose of financing a purchase of or refinancing an existing ownership interest in such a corporation or partnership, provided (a) such investment is secured within ninety days from the making of the loan by an assignment or transfer of the stock or other evidence of an ownership interest of the borrower and a proprietary lease; and (b) repayment of principal and interest shall be effected within the same number of years as a conventional mortgage loan previously described in this subdivision. The maximum rate of interest which may be charged, taken or received upon any loan or forbearance made pursuant to this subdivision may exceed the rate of interest prescribed by the banking AND FINANCIAL SERVICES board in accordance with section fourteen-a of this chapter by no more than one and one-half per centum per annum.

S 121. Subdivision 8-b of section 235 of the banking law, as added by chapter 883 of the laws of 1980, the opening paragraph as amended by chapter 360 of the laws of 1984, is amended to read as follows:

8-b. Personal loan departments. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, a savings bank may operate a personal loan department under the same terms and conditions as are provided under the provisions of subdivisions four and five of section one hundred eight of this chapter.

The banking AND FINANCIAL SERVICES board shall be empowered (a) to prescribe the terms and conditions governing the conduct and operation of personal loan departments including, the maximum amount, expressed as a percentage of assets or otherwise, which a savings bank may invest pursuant to the provisions of this subdivision or in the aggregate, taking into account such other provisions of law authorizing investments by savings banks, and (b) to prescribe such terms and conditions as may be appropriate to effect or facilitate the transfer of accounts operated pursuant to the provisions of any other section of this chapter to the personal loan departments authorized to be operated hereunder.

In pursuance of the authority granted hereunder savings banks shall be empowered to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations, and to act as financing agency as defined in subdivision nine of section three hundred one and subdivision eighteen of section four hundred one of the personal property law.

S 122. Subdivision 8-c of section 235 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

8-c. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, promissory notes and other evidences of indebtedness representing commercial, corporate or business loans, provided that the aggregate amount of all such loans outstanding at any time to any borrower shall, if unsecured, not exceed fifteen per centum of the net worth of such savings bank or, if secured, subject to the same limitations as to amount in relation to net worth as are applicable to banks and trust companies pursuant to article three of this chapter. For purposes of this section the term "net worth" shall have the meaning ascribed to it by subdivision four of section two hundred forty-four of this chapter.

S 123. Subdivision 8-d of section 235 of the banking law, as added by chapter 25 of the laws of 1995, is amended to read as follows:

8-d. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe and subject to the limits of subdivision eight-c of this section and any other applicable limits or requirements imposed by law or regulation, promissory notes and other evidence of indebtedness that represent linked loans, each authorized and approved pursuant to article fifteen of the state finance law and each in an amount equal to a corresponding linked deposit made pursuant to such article.

S 124. Subdivision 8-e of section 235 of the banking law, as added by chapter 262 of the laws of 2007, is amended to read as follows:

8-e. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe and subject to the limits of subdivision eight-c of this section and any other applicable limits or requirements imposed by law or regulation, promissory notes and other evidence of indebtedness that represent linked loans, each authorized and approved pursuant to article sixteen of the state finance law and each in an amount equal to a corresponding linked deposit made pursuant to such article.

S 125. Paragraph (b) of subdivision 9 of section 235 of the banking law, as amended by chapter 37 of the laws of 1969, is amended to read as follows:

(b) Every parcel of real estate acquired by a savings bank shall be conveyed to it directly by name, or, subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, may be taken in the name of a duly authorized nominee, and the conveyance shall be immediately recorded or registered in the office of the proper recording officer of the county in which such real estate is located.

S 126. Subdivision 12-a of section 235 of the banking law, as added by chapter 674 of the laws of 1968, paragraph (b) as amended by chapter 134 of the laws of 2002, is amended to read as follows:

12-a. (a) Obligations of any corporation organized under the laws of any state of the United States maturing within two hundred seventy days, provided that such obligations receive the highest rating of an independent rating service designated by the banking AND FINANCIAL SERVICES board.

(b) Subject to such regulations as the banking AND FINANCIAL SERVICES board may impose, certificates of deposit issued by or accounts of (1) a bank, trust company or national bank having a principal, branch or trust office in this state, (2) a banking corporation organized under the laws of the United States or of any state thereof whose deposits are insured by an agency of the United States, or (3) an agency or branch located within the United States of a foreign banking corporation with total worldwide bank assets in excess of one billion dollars.

S 127. Subdivisions 17 and 19 of section 235 of the banking law, as added by chapter 352 of the laws of 1938, are amended to read as follows:

17. Stock of a federal home loan bank in the amount necessary to qualify for membership in such bank and in such additional amounts as are approved by the banking AND FINANCIAL SERVICES board.

19. Securities of corporations which securities are made eligible for investment by savings banks by the banking AND FINANCIAL SERVICES board.

S 128. Subdivision 20 of section 235 of the banking law, as amended by chapter 315 of the laws of 2008, is amended to read as follows:

20. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, (a) (1) any

bond and mortgage insured by the federal housing commissioner, or for which a commitment to insure has been made by the federal housing commissioner, or (2) any bond and mortgage guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of 1944", or (3) provided the mortgage is a first lien, any bond and mortgage at least twenty per centum of which is guaranteed pursuant to the provisions of such act, or (4) a participation in any loan or a part interest in any bond and mortgage, secured by real property, to the extent that the small business administration is committed to pay the principal and interest thereof; (b) any whole or part interest in any such bond and mortgage or in any whole or part interest in any such bond and mortgage, which bond and mortgage is held for the benefit of the holder or holders of a whole interest or part interests therein by any entity or entities with which a savings bank is authorized to participate pursuant to this paragraph, but no such investment shall be made in any part interest which is junior or subordinate to any other part interest therein; (c) any bond secured by any such mortgage or mortgages, which mortgage is, or which mortgages are, held for the benefit of the holder or holders of the bond or bonds secured thereby, by a savings bank or bank or trust company; and (d) any property improvement note issued pursuant to the provisions of the national housing act, provided the savings bank investing in such note shall have qualified for and received in connection therewith a contract of insurance from the federal housing commissioner. A savings bank may receive and hold such debentures as are issued in payment of any such insurance. No law of this state prescribing or limiting the interest rate upon loans or advances of credit or prescribing a penalty for violation thereof or prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made or limiting the amount of any class of loans, advances of credit or purchases which may be made shall be deemed to apply to loans, advances of credit or purchases made or to loans acquired by purchase pursuant to this subdivision.

The provisions of subdivision six of this section, except those of paragraph (f) thereof, shall not apply to investments made pursuant to this subdivision by any savings bank. Paragraphs (a), (b) and (c) of section one of chapter eight hundred ninety-seven of the laws of nineteen hundred thirty-four as amended shall not apply to savings banks. The term "bond", as used in this subdivision, includes a note. The authority provided in this subdivision to invest in any bond and mortgage guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of 1944", shall include authority to acquire title to real property in connection with investing in an installment contract for the sale of real property, so guaranteed, where the purchaser under such contract is in possession and control of the property, and title is acquired by the savings bank solely as security for the obligations of the purchaser.

S 129. The opening paragraph of paragraph (a) of subdivision 21 of section 235 of the banking law, as amended by chapter 522 of the laws of 1949, is amended to read as follows:

Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper:

S 130. Subdivision 21-a of section 235 of the banking law, as added by chapter 674 of the laws of 1968, is amended to read as follows:

21-a. Interest-bearing obligations payable in United States funds which at the time of investment are rated in one of the three highest rating grades by each rating service, designated by the banking AND FINANCIAL SERVICES board, which has rated such obligations, provided that the aggregate amount invested in the obligations of any single issuer pursuant to this subdivision and pursuant to subparagraph [(2)] TWO of paragraph (a) of subdivision twenty-one of this section may not exceed one per centum of the assets of the savings bank, and provided further that the aggregate amount invested in the interest-bearing obligations of any single issuer pursuant to this subdivision and pursuant to any provision of this section specifically authorizing such investment, may not exceed the percentage limitations contained in any such provision.

S 131. The opening paragraph and paragraph (ee) of subdivision 26 of section 235 of the banking law, the opening paragraph as amended by chapter 705 of the laws of 1952 and paragraph (ee) as added by chapter 231 of the laws of 1964, are amended to read as follows:

Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper:

(ee) Stock of any "bank service corporation", as such term is defined by an act of congress of the United States, entitled the "Bank Service Corporation Act", approved October twenty-third, nineteen hundred sixty-two, as such act may be amended from time to time, provided such investment shall have been authorized by resolution of the banking AND FINANCIAL SERVICES board upon a three-fifths vote of all its members.

S 132. Paragraph 1 of subdivision 26-a of section 235 of the banking law, as added by chapter 622 of the laws of 1976, is amended to read as follows:

(1) Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, the stock or obligations of one or more corporations engaged, or to be engaged, primarily in originating and servicing mortgages on real property, provided, however, that if the savings bank shall own less than all of the stock and obligations of any such corporation, the remainder of the stock, excluding directors' qualifying shares, if any, and obligations of such corporation shall be owned by one or more savings banks or savings and loan associations located in this state.

S 133. Subdivisions 28, 29, 30 and the opening paragraph of subdivision 31 of section 235 of the banking law, subdivision 28 as amended by chapter 680 of the laws of 1974, subdivision 29 as added by chapter 566 of the laws of 2004, subdivision 30 as amended by chapter 183 of the laws of 1992 and the opening paragraph of subdivision 31 as amended by chapter 171 of the laws of 1982 and such subdivision 31 as renumbered by chapter 360 of the laws of 1984, are amended to read as follows:

28. Bonds, notes or evidences of indebtedness issued by a corporation organized for the purpose of undertaking, constructing, owning, maintaining, operating, selling or conveying a slum clearance and redevelopment project, located within this state, pursuant to title one of an act of congress of the United States approved July fifteenth, nineteen hundred forty-nine, entitled the "Housing Act of 1949," or organized pursuant to articles five and six of the private housing finance law, and secured by a first mortgage upon all of the real property owned by the corporation. A mortgage loan made under this subdivision may equal but shall in no event exceed ninety per centum of the cost as estimated prior to the completion of the project, or ninety per centum of the total actual final cost, if that shall be greater than the estimated

cost, but in no event, shall such mortgage loan exceed ninety per centum of the appraised value of the completed project determined pursuant to subdivision six of this section. The estimated cost and the total actual final cost shall be certified as to reasonableness and correctness by an independent engineering organization and shall include the cost to the corporation of the lands owned by the corporation, the cost of demolition, the cost of constructing the improvements, including planning, designing, engineering and landscaping, the cost of relocation of tenants, interest and other carrying charges during the period of acquisition and of construction, all other costs necessarily incurred and properly attributable to undertaking, constructing and completing the project, and an allowance for working capital which shall not exceed an amount equal to three per centum of the estimated cost or of the total actual final cost of the project if that shall be greater than the estimated cost. A mortgage loan made under this subdivision may be participated in by one or more savings banks. An agreement setting forth the manner in which the participating banks shall administer the mortgage and acquire real estate, if any, shall be executed on behalf of each bank by two persons appointed by the board of trustees of such bank. Investments made by any savings bank in mortgage loans pursuant to this subdivision and pursuant to paragraph (h) of subdivision six of this section shall not, in the aggregate, exceed ten per centum of the assets or an amount equal to the surplus fund and undivided profits and surplus reserve of such savings bank, whichever is less, and shall be included in the computation of permissive investment in mortgage loans pursuant to paragraph (d) of subdivision six of this section. Investments in such mortgage loans shall be subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper.

29. Subject to such restrictions as the banking AND FINANCIAL SERVICES board may prescribe, stock or other equity interest in one or more small business investment companies, as authorized pursuant to the provisions of an act of congress entitled "Small Business Investment Act of 1958," as amended, or in any entity established to invest solely in such small business investment companies, except that in no event shall the total amount of such investments exceed: (a) for a stock form savings bank five percent of its capital stock, surplus fund and undivided profits; or (b) for a non-stock savings bank five percent of its net worth.

30. Alternative investment authority of savings banks to invest in certain securities. Notwithstanding the limitations contained in subdivision one, two, three, four, five, seven, seven-a, ten, eleven, thirteen, fourteen, fifteen, nineteen, twenty-one-a, twenty-four, twenty-four-a, twenty-four-b, twenty-four-c, twenty-five, twenty-six, twenty-seven, twenty-eight-a, or subparagraph two of paragraph (a) or paragraph (b) of subdivision twenty-one of this section, and subject to such limitations as the banking AND FINANCIAL SERVICES board shall adopt, a savings bank shall be authorized to invest in such debt securities as are not in default as to either principal or interest when acquired, and in such equity securities, in both cases as would be acquired by prudent persons of discretion and intelligence in such matters who are seeking a reasonable income and preservation of their capital.

Without limiting its authority hereunder, the banking AND FINANCIAL SERVICES board shall adopt regulations to require that any savings bank which shall elect to make investments pursuant to this subdivision shall have first established an investment committee of its board of trustees to supervise and monitor the investment activities exercisable pursuant to the authority granted by this subdivision, the majority of the members of which shall be trustees who are not also officers or employees of such savings bank.

The banking AND FINANCIAL SERVICES board shall, in addition, adopt regulations to require that no savings bank, in making investments pursuant to this subdivision shall (either before or after the making of such investments) control, as the banking AND FINANCIAL SERVICES board shall define the term "control", the issuer of any such securities acquired by such savings bank.

For purposes of any other law establishing or limiting the investments of any person or entity to those investments which are permitted for savings banks, the investments authorized by this subdivision shall not, by virtue of this subdivision alone, be deemed investments in which a savings bank may legally invest.

Subject to such regulations as the banking AND FINANCIAL SERVICES board may promulgate, investments which do not qualify under any of the preceding subdivisions of this section, provided that:

S 134. Section 235-c of the banking law, as added by chapter 361 of the laws of 1984, is amended to read as follows:

S 235-c. Regulation of certain charges. The banking AND FINANCIAL SERVICES board shall have the power to prescribe by regulation (i) the maximum charge which may be imposed in this state by a savings bank in connection with a check or other written order drawn upon it on insufficient funds, irrespective of whether the instrument is paid, accepted or returned by the bank, and (ii) the maximum charge which may be imposed in this state by a savings bank in connection with a check or other written order received by it for deposit or collection and subsequently dishonored and returned for any reason by the drawee.

S 135. Section 235-d of the banking law, as added by chapter 76 of the laws of 1983, is amended to read as follows:

S 235-d. Service corporations owned by savings banks; authorized activities of such corporations; investment therein. 1. A savings bank may invest in the stock, capital notes and debentures of one or more service corporations organized under the laws of this state for the sole activities set forth in subdivision two of this section, to the extent and upon such conditions as are or have been authorized by the banking AND FINANCIAL SERVICES board, provided that all of the stock of such service corporations is, or is to be, owned by one or more savings banks; and provided further, that no savings bank may make any investment under this section if its aggregate outstanding investment thereby, determined as prescribed by the banking AND FINANCIAL SERVICES board, would thereupon exceed three per centum of its assets.

2. The activities of such service corporations, performed directly or through one or more wholly owned subsidiaries, shall consist of rendering such services to savings banks and making such investments for itself and for savings banks as are authorized services and investments for such savings banks under the provisions of this chapter, as well as such activities as may be prescribed by general regulation of the banking AND FINANCIAL SERVICES board.

S 136. Subdivisions 3, 4-a and 6 of section 238 of the banking law, subdivision 3 as amended by chapter 308 of the laws of 1986, subdivision 4-a as amended by chapter 887 of the laws of 1985 and subdivision 6 as amended by chapter 225 of the laws of 1976, are amended to read as follows:

3. Except as provided in subdivisions four, five and six of this section, a savings bank shall not pay, nor shall a depositor, his assignee or anyone claiming through a depositor, be entitled to receive any interest or deposit or portion of a deposit, unless the passbook of the depositor be produced and the proper entry be made therein at the time of the payment. The board of trustees, however, may provide in the by-laws for making payments in cases of loss of passbook, or other exceptional cases where the passbooks cannot be produced without serious inconvenience to depositors. The board of trustees may further provide in the by-laws for the payment of interest to a depositor without requiring the production of the passbook, provided that such payment is made (a) pursuant to the written request of the depositor, and (b) by check payable to the order of the depositor. The right to make such payments without production of the passbook shall cease when the superintendent shall so direct, upon his being satisfied that such right is being improperly exercised. Payments, however, may be made upon the judgment or order of a court. Where payment is made without production of the passbook in accordance with its by-laws, a savings bank shall not be liable to an assignee of that passbook for such payment if such assignee has not, prior to such payment, served upon the savings bank written notice of the assignment. When authorized by the depositor, or, in the case of a joint account, by both depositors, a savings bank may charge the account of such depositor or depositors for any sums due the insurance department of such savings bank, or due the insurance department of any other savings bank for which it is agent, without requiring the production of the passbook for the recording of the charge therein. For the purpose of this subdivision, the term "passbook" shall include any evidence of ownership of a deposit held pursuant to subdivision one-a of section two hundred thirty-four of this chapter, subject, however, to such regulations and restrictions as the banking AND FINANCIAL SERVICES board may prescribe pursuant to such subdivision.

4-a. If a deposit held pursuant to subdivision one-a of section two hundred thirty-four of this chapter is repaid prior to maturity at the request of a depositor, such repayment shall be subject to such penalties as the banking AND FINANCIAL SERVICES board may find to be necessary and proper, except that no such penalty shall be imposed where the depositor has died or been declared legally incompetent.

6. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings bank may accept deposits, including demand deposits, without the issuance of a passbook in connection therewith, and may issue such other evidences of its obligation to repay such deposits as may be appropriate to safeguard the interests of the depositors and of the savings bank.

S 137. Section 239-a of the banking law, as added by chapter 164 of the laws of 2002, is amended to read as follows:

S 239-a. Preservation of books and records. Every savings bank shall preserve all its records of final entry, including cards used under the card system and deposit tickets, for a period of at least six years from the date of making the same or from the date of the last entry thereon; provided, however, that preservation of photographic reproductions thereof or records in photographic form shall constitute compliance with the requirements of this section. Notwithstanding the foregoing, the banking AND FINANCIAL SERVICES board may prescribe by regulation such period of time longer or shorter than six years during which all records kept by saving banks as fiduciary shall be preserved in original form.

S 138. Section 240-a of the banking law, as amended by chapter 613 of the laws of 1995, is amended to read as follows:

S 240-a. Electronic facilities. A savings bank may conduct a banking business, at automated teller machines, point-of-sale terminals, and similar facilities subject to regulations which may be promulgated by the banking AND FINANCIAL SERVICES board. Such facilities shall not be deemed to be branches and shall not be subject to any of the provisions of this chapter applicable to branches; provided however that notwithstanding the foregoing, for purposes of paragraph (b) of subdivision two of section two hundred forty of this chapter, such facilities shall be deemed to be branches, and such facilities shall be subject to the terms and conditions of section two hundred forty, and for purposes of section twenty-eight-b of this chapter, such facilities shall be deemed to be branches.

S 139. Subdivisions 2 and 4 of section 242 of the banking law, subdivision 2 as amended by chapter 664 of the laws of 1958 and subdivision 4 as amended by chapter 360 of the laws of 1984, are amended to read as follows:

2. The stocks, bonds, promissory notes or other interest-bearing obligations purchased by a savings bank shall be entered on its books at the actual cost thereof, and shall not thereafter be carried upon the books at a valuation exceeding their cost as adjusted by amortization for the purpose of bringing them to par at maturity; and where securities purchased at a premium are callable prior to maturity, the rate of amortization thereof shall be increased when necessary to such extent as shall reduce the amount at which such securities are carried upon the books to the call price at the date or dates upon which a call may be made. No adjustment for amortization shall be required to be made on the books except when the books are closed for the purpose of computing net earnings. The banking AND FINANCIAL SERVICES board may by general regulation adopted by a three-fifths vote of all its members vary the requirements of this subdivision to permit the amortization of premiums at the same rate as that required by federal tax statutes or regulations.

4. Real estate acquired by a savings bank, other than that acquired for use as a place of business, shall be entered on the books of the savings bank in conformity with the method of accounting for troubled debt restructurings approved by the financial accounting standards board or such other method of accounting as may be authorized or required by rules and regulations of the banking AND FINANCIAL SERVICES board.

The provisions of this subdivision shall not, except as the superintendent may otherwise require, apply to any parcel of real estate as to which the savings bank has exercised its option to transfer or convey such real estate to the veterans administration or the federal housing commissioner pursuant to insurance or guaranty.

S 140. Subdivision 3 of section 244 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

3. If at the close of any accounting period the net worth of any savings bank, including the net earnings for that period, is less than ten per centum of the amount due to depositors, including all interest accrued and credited for that period, such per centum of its net earnings for such period as may be determined by the banking AND FINANCIAL SERVICES board shall be credited to its surplus fund.

S 141. Subdivision 3-b of section 245 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

3-b. Subject to such limitations and restrictions as may be prescribed by regulation of the banking AND FINANCIAL SERVICES board, a savings bank may credit interest on deposits from the date on which the deposit is made to the date the deposit is withdrawn.

S 142. Paragraphs (a) and (b) of subdivision 5 of section 247 of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

(a) No executive officer of a savings bank may be an executive officer, director or trustee of another savings bank, or of a bank or trust company, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to the provisions of subparagraph (b) of this subdivision, except that an executive officer of a savings bank may be (1) an executive officer and (2) a director of a trust company owned by savings banks, pursuant to subdivision eighteen of section two hundred thirty-five of this chapter, if one of the stockholders of such trust company is the savings bank of which he is an executive officer; provided, however, that, except as stated in the foregoing exceptions, an executive officer of a savings bank who on the effective date of this act is an executive officer, director or trustee of another savings bank, bank or trust company, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

(b) The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a savings bank to be an executive officer, director or trustee or both an executive officer and director or trustee of another savings bank or a bank or trust company, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

S 143. The opening paragraph of section 250 of the banking law, as added by chapter 883 of the laws of 1980, is amended to read as follows:

Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, a savings bank may, in the discretion of a majority of all the trustees:

S 144. Subdivision 6 of section 251 of the banking law, as added by chapter 849 of the laws of 1964, is amended to read as follows:

6. Any officer elected or appointed by the BANKING AND FINANCIAL SERVICES board may be removed by the BANKING AND FINANCIAL SERVICES

board, or his authority suspended by it, with or without cause. Such removal or suspension without cause, however, shall be without prejudice to his contract rights. The election or appointment of an officer shall not be deemed of itself to create contract rights. This subdivision does not affect the powers of the superintendent or the banking AND FINANCIAL SERVICES board under section forty-one of this chapter.

S 145. Section 253 of the banking law, as added by chapter 352 of the laws of 1938, is amended to read as follows:

S 253. Official communications from [banking] department OF BANKING AND FINANCIAL SERVICES to be submitted to trustees and noted in minutes. Every official communication, as defined in article two of this chapter, shall be submitted by the officer receiving it to the board of trustees at the next meeting of such board, and duly noted in the minutes.

S 146. Section 288 of the banking law, as added by chapter 259 of the laws of 1934, is amended to read as follows:

S 288. Contributions as assets. All contributions and payments pursuant to call paid into the fund by any member savings bank may be carried by it as an asset to the extent authorized by the superintendent of banks AND FINANCIAL SERVICES.

S 147. Subdivision 1 of section 290 of the banking law, as amended by section 3 of part D-1 of chapter 109 of the laws of 2006, is amended to read as follows:

1. Notwithstanding any other provision of law, and in accordance with general regulations which the banking AND FINANCIAL SERVICES board shall promulgate to facilitate such reorganizations, a mutual savings bank may reorganize so as to cause its deposit-taking and one or more other activities to be conducted by a stock savings bank subsidiary of a mutual holding company formed for such purpose, upon the payment of a fee as prescribed pursuant to section eighteen-a of this chapter.

S 148. The opening paragraph of subdivision 3 of section 291 of the banking law, as added by chapter 762 of the laws of 1989, is amended to read as follows:

If approved by the superintendent, the mutual savings bank shall submit the plan of reorganization to its depositors for approval at a meeting convened in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board for the sole purpose of approving or disapproving such plan. At such meeting:

S 149. Subparagraphs (i) and (iii) of paragraph (a) of subdivision 1 of section 292 of the banking law, as amended by chapter 382 of the laws of 1993, are amended to read as follows:

(i) the organization by the mutual holding company of a stock savings bank subsidiary and the transferal to such stock savings bank of the substantial part of its assets and liabilities, including all of its deposit liabilities, in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board;

(iii) the reorganization of the mutual savings bank under any other method approved pursuant to general or specific regulations promulgated by the banking AND FINANCIAL SERVICES board.

S 150. Subdivision 2 of section 293 of the banking law, as added by chapter 762 of the laws of 1989, paragraph (a) as amended by chapter 382 of the laws of 1993, and paragraph (d) as amended by chapter 291 of the laws of 2001, is amended to read as follows:

2. Notwithstanding any inconsistent provisions of section fourteen-e, six hundred, six hundred one, six hundred one-a or six hundred one-b of this chapter, subject to general regulations promulgated by the banking AND FINANCIAL SERVICES board, a mutual holding company may:

(a) merge with, acquire or purchase the assets of a mutual holding company established pursuant to this article or the savings and loan holding company provisions of the Home Owners Loan Act (title twelve United States Code Section 1467a);

(b) acquire or purchase the assets or stock of a stock savings bank, a stock savings and loan association, a stock federal savings bank or a stock federal savings and loan association;

(c) acquire a mutual savings bank, a mutual savings and loan association, a federal mutual savings bank or a federal mutual savings and loan association through the merger of such institution with a stock subsidiary of such mutual holding company;

(d) engage in any other acquisition or combination specifically permitted by general regulations promulgated by or specific resolution of the banking AND FINANCIAL SERVICES board; provided, however, that any such regulation promulgated by, or specific resolution, of the banking AND FINANCIAL SERVICES board shall only authorize activities which are authorized by the provisions of the Bank Holding Company Act of 1956, as amended, (title twelve United States Code, Section 1841, et seq.) and the provisions applicable, to mutual holding companies under the Home Owners Loan Act, as amended, (title twelve United States Code, Section 1467a) and any regulations or rules of the Federal Reserve Board and the federal Office of Thrift Supervision pursuant thereto, respectively, to the extent such authorized activities are not otherwise limited or prohibited by this chapter.

S 151. Subdivision 1 of section 294 of the banking law, as added by chapter 762 of the laws of 1989, is amended to read as follows:

1. If approved by the superintendent, a mutual holding company may convert to a stock holding company in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board.

S 152. Section 328 of the banking law, as amended by chapter 684 of the laws of 1938, is amended to read as follows:

S 328. Communications from [banking] department OF BANKING AND FINANCIAL SERVICES must be submitted to directors and noted in minutes. Every official communication as defined in article two of this chapter directed to a safe deposit company or to any officer thereof shall be submitted, by the officer receiving it, to the board of directors at the next meeting of such board, and duly noted in the minutes of the meetings of such board.

S 153. Paragraph (b) of subdivision 1 of section 350 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

(b) No licensee shall make, directly or indirectly, orally or in writing, by any method, practice or device, any representation that it is licensed under this chapter, except a representation that such licensee is licensed as a licensed lender by the New York state [banking] department OF BANKING AND FINANCIAL SERVICES.

S 154. Subdivision 2 of section 351 of the banking law, as amended by chapter 22 of the laws of 1990, is amended to read as follows:

2. On any loan with a variable rate of interest made pursuant to this subdivision, the rate shall be determined at regular intervals as set forth in the evidence of indebtedness and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the licensee, and (d) approved by the superintendent.

The banking AND FINANCIAL SERVICES board shall adopt regulations, including but not limited to: (i) providing for disclosure to the borrower by the licensee of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (ii) providing for disclosure to the borrower by the licensee of a history of the fluctuations of the index over a reasonable period of time; and (iii) providing for notice to the borrower from the licensee prior to any rate increase or change in the terms of payment.

S 155. Paragraph (bb) of subdivision 4 of section 378 of the banking law, as amended by chapter 349 of the laws of 1986, is amended to read as follows:

(bb) Subject to such limitations and restrictions as may be prescribed by regulation of the banking AND FINANCIAL SERVICES board, special savings shares, upon which dues shall be paid in such sums, at such times and for such purposes as the holder thereof may elect, and which shall provide that dividends shall be credited from the date of actual receipt of such dues to the date they are withdrawn or retired. Dividends on special savings shares shall be credited and shall be made available no later than the end of a regular dividend period, or at the time such special savings shares are withdrawn or retired if in the opinion of a majority of the board of directors it appears the savings and loan association will have sufficient profit available at the end of such regular dividend period to pay dividends and if the board of directors chooses payment of dividends at withdrawal as an option to periodic payment of dividends. Any savings and loan association which does not make dividends available pursuant to the provisions of this paragraph shall promptly notify the superintendent of banks AND FINANCIAL SERVICES of such decision. Withdrawals or retirements of special savings shares during the last three business days of any regular dividend period or, in the event that any one of such last three business days is a Saturday, withdrawals of such shares upon one of the last four business days of any such period may receive dividends apportioned for the full period.

S 156. Subdivisions 1 and 7 of section 378-a of the banking law, subdivision 1 as amended by chapter 360 of the laws of 1984 and subdivision 7 as added by chapter 65 of the laws of 1971, are amended to read as follows:

1. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, a savings and loan association may contract to receive time deposits including deposits upon which the savings and loan association contracts to pay interest at a fixed rate.

7. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings and loan association may accept time deposit without the issuance of a passbook in connection therewith, and may issue such other evidences of its obligation to repay such time deposits as may be appropriate to safeguard the interests of the depositors and of the savings and loan association.

S 157. Section 378-d of the banking law, as added by chapter 164 of the laws of 2002, is amended to read as follows:

S 378-d. Preservation of books and records. Every savings and loan association shall preserve all its records of final entry, including cards used under the card system and deposit tickets, for a period of at least six years from the date of making the same or from the date of the last entry thereon; provided, however, that preservation of photographic reproductions thereof or records in photographic form shall constitute compliance with the requirements of this section. Notwithstanding the foregoing, the banking AND FINANCIAL SERVICES board may prescribe by regulation such period of time longer or shorter than six years during which all records kept by savings and loan associations as fiduciary shall be preserved in original form.

S 158. Section 379-b of the banking law, as added by chapter 624 of the laws of 1976 and subdivision 2 as amended by chapter 546 of the laws of 1983, is amended to read as follows:

S 379-b. Service corporation owned by associations; authorized activities of such corporation; investment therein. 1. A savings and loan association may invest in the stock, capital notes and debentures of a service corporation organized under the laws of this state for the sole activities set forth in subdivision two of this section, to the extent and upon such conditions as are or have been authorized by the banking AND FINANCIAL SERVICES board, provided that all of the stock of such service corporation is, or is to be, owned by one or more savings and loan associations; and provided further, that no savings and loan association may make any investment under this section if its aggregate outstanding investment thereby, determined as prescribed by the banking AND FINANCIAL SERVICES board, would thereupon exceed three per centum of its assets.

2. The activities of such service corporation, performed directly or through one or more wholly owned subsidiaries, shall consist of rendering such services to savings and loan associations and making such investments for itself and for savings and loan associations as are authorized services and investments for such associations under the provisions of this chapter as well as such activities as may be prescribed by general regulation of the banking AND FINANCIAL SERVICES board.

S 159. Subdivision 1, subparagraph 8 of paragraph (d) of subdivision 2 and subdivisions 2-a and 4-a of section 380 of the banking law, subdivision 1 as added by chapter 1 of the laws of 1983, subparagraph 8 of paragraph (d) of subdivision 2 as added by chapter 320 of the laws of 1973, subdivision 2-a as amended by chapter 360 of the laws of 1984 and subdivision 4-a as amended by chapter 82 of the laws of 2005, are amended to read as follows:

1. A savings and loan association may make a loan upon the security of a mortgage of the type authorized to be made by a savings bank by subdivisions five-a and six of section two hundred thirty-five of this chapter, subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe.

(8) Subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may prescribe by general regulation, a savings and loan association may make a loan pursuant to this paragraph which the federal housing administrator has insured or has made a commitment to insure and may receive and hold such debentures as are issued by the federal housing administrator in payment of such insurance, or which is guaranteed pursuant to the provisions of the act of congress entitled the "Servicemen's Readjustment Act of l944." No law of this state prescribing or limiting the interest rate upon loans or advances of credit or prescribing a penalty for violation thereof or prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made or limiting the amount of any class of loans, advances of credit or purchases which may

be made shall be deemed to apply to loans, advances of credit or purchases made or to loans acquired by purchase pursuant to this subparagraph.

2-a. A savings and loan association may lend its funds to borrowers therefrom upon their promissory notes representing loans for the purpose of financing the purchase of or refinancing an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate as provided in this subdivision.

A savings and loan association may, subject to such regulations as the banking AND FINANCIAL SERVICES board finds necessary and proper, invest to an amount not exceeding the maximum per cent of the loans permitted to be made on real estate improved by a single family residence occupied by the owner, provided that for purposes of this section the amount of the purchase price shall be deemed to equal the appraised value of such certificate of stock or other evidence of an ownership interest, or, in the case of a refinancing, the appraised value of certificates of stock or other evidence of the ownership of an interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate, for the purpose of financing a purchase of or refinancing an existing ownership interest in such a corporation or partnership; provided (a) such investment is secured within ninety days from the making of the loan by an assignment or transfer of the stock or other evidence of an ownership interest of the borrower and a proprietary lease; and (b) repayments of principal and interest shall be effected within the same number of years as a conventional mortgage loan previously described in this subdivision. The maximum rate of interest which may be charged, taken or received upon any loan or forbearance made pursuant to this subdivision may exceed the rate of interest prescribed by the banking AND FINANCIAL SERVICES board in accordance with section fourteen-a of this chapter by no more than one and one-half [per cent] PERCENT per annum.

4-a. A savings and loan association may, in addition to the authority granted under any other subdivision of this section or subdivision six of section three hundred seventy-nine of this article, make a loan to a natural person upon the security of a mortgage which is not a first lien at the rate or rates agreed to by the savings and loan association and the borrower, subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe. Such regulations by the banking AND FINANCIAL SERVICES board may include such restrictions as the banking AND FINANCIAL SERVICES board finds necessary or proper, including without limitation, a restriction as to the percentage of total assets which may be invested in such loans or a restriction on the loan to appraisal value of property securing such loan.

For purposes of this subdivision, the term mortgage shall include a lien on an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate.

S 160. Section 380-c of the banking law, as amended by chapter 205 of the laws of 1979, is amended to read as follows:

S 380-c. Power to participate in certain loans and mortgage investments. Subject to such regulations and restrictions as may be prescribed by the banking AND FINANCIAL SERVICES board, a savings and loan association may participate in making or acquiring (1) loans of a type that it is authorized to have by paragraph (b) of subdivision two of section three hundred eighty of this chapter, and (2) mortgage investments of any type that it is authorized to have, provided that the participation acquired shall not be subordinate to any other part interest.

S 161. Subdivisions 1 and 4 of section 380-h of the banking law, as added by chapter 883 of the laws of 1980, are amended to read as follows:

1. The banking AND FINANCIAL SERVICES board is authorized and empowered to grant permission to a savings and loan association to exercise any or all of the powers specified in sections one hundred, one hundred-a, one hundred-b and one hundred-c of this chapter. In passing upon applications for permission to exercise any such powers, the banking AND FINANCIAL SERVICES board may take into consideration the amount of surplus of the applying association, whether or not such surplus is sufficient under the circumstances of the case, the needs of the community to be served and any other facts and circumstances that seem to it proper, and may grant or refuse it permission accordingly.

4. The banking AND FINANCIAL SERVICES board is authorized to promulgate such regulations as it may deem necessary or proper to implement the provisions of this section and the proper exercise of the powers granted by this section.

S 162. Section 380-i of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

S 380-i. Personal loan departments. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, a savings and loan association may operate a personal loan department under the same terms and conditions as are provided under subdivisions four and five of section one hundred eight of this chapter.

The banking AND FINANCIAL SERVICES board shall be empowered (a) to prescribe the terms and conditions governing the conduct and operation of personal loan departments including the maximum amount, expressed as a percentage of assets or otherwise, which a savings and loan association may invest pursuant to the provisions of this subdivision or in the aggregate, taking into account such other provisions of law authorizing investments by savings and loan associations and (b) to prescribe such terms and conditions as may be appropriate to effect or facilitate the [tranfer] TRANSFER of accounts operated pursuant to the provisions of any other section of this chapter to the personal loan departments authorized to be operated hereunder.

In pursuance of the authority granted hereunder savings and loan associations shall be empowered to issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations, and to act as financing agencies as defined in subdivision nine of section three hundred one and subdivision eighteen of section four hundred one of the personal property law.

S 163. Subdivision 2 of section 381 of the banking law, as amended by chapter 37 of the laws of 1969, is amended to read as follows:

2. All real estate purchased by any such association or taken by it in settlement of debts due it, shall be conveyed to it directly by name or, subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, may be taken in the name of a duly authorized nominee, and the conveyance immediately recorded or registered in the office of the proper recording officer of the county in which such real estate is located.

S 164. Section 382 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

S 382. Power to borrow. Subject to such regulations as the banking AND FINANCIAL SERVICES board may promulgate, a savings and loan association may borrow money and pledge its assets as security for the repayment thereof if it has been authorized so to do by the vote of a majority of its board of directors.

S 165. Subdivision 2 of section 382-b of the banking law, as amended by chapter 638 of the laws of 1981, is amended to read as follows:

2. Subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds to be necessary and proper and notwithstanding any other provisions of law, a savings and loan association may issue notes, bonds, debentures, or other obligations or other securities subordinated to deposits in such savings and loan association; provided that, unless the superintendent has given prior approval otherwise, the aggregate principal amount thereof at the time of issuance shall not exceed twenty-five [per cent] PERCENT of the net worth of such savings and loan association, exclusive of all such notes, bonds, debentures, or other obligations or other securities. The proceeds or other consideration derived by a savings and loan association from the issuance pursuant to this subdivision of any such notes, bonds, debentures, or other obligations or other securities shall be deemed for purposes of this chapter to constitute a part of the net worth of such savings and loan association. For the purposes of this article, the term "net worth" shall mean the excess of assets at book value, less allocated reserves, over known liabilities, including deposit liabilities.

S 166. Subdivisions 5, 13 and 15 of section 383 of the banking law, subdivision 5 as amended by chapter 1150 of the laws of 1969, subdivision 13 as amended by chapter 63 of the laws of 1992 and subdivision 15 as added by chapter 1 of the laws of 1983, are amended to read as follows:

5. To service mortgages for others, and to render investment advice incidental to the purchase of and investment in mortgages by others, provided, however, that the superintendent of banks AND FINANCIAL SERVICES shall have power to prescribe, by specific or general regulation, the extent to which and the conditions upon which such mortgages may be serviced and such investment advice may be rendered.

13. To receive and repay demand deposits subject to those provisions applicable to such deposits, in the case of savings banks under section two hundred thirty-seven of this chapter, including, subject to regulation by the banking AND FINANCIAL SERVICES board, the power to charge for maintaining a demand deposit account or for honoring checks drawn on or accepting deposits made to such an account.

The banking AND FINANCIAL SERVICES board shall have the power to prescribe by regulation (a) the maximum charge which may be imposed in this state by a savings and loan association in connection with a check or other written order drawn upon it on insufficient funds, irrespective of whether the instrument is paid, accepted or returned by the bank, and (b) the maximum charge which may be imposed in this state by a savings and loan association in connection with a check or other written order received by it for deposit or collection and subsequently dishonored and returned for any reason by the drawee.

15. Subject to such regulations as the banking AND FINANCIAL SERVICES board finds to be necessary and proper, and notwithstanding any other provision of law, to accept federal tax and loan accounts, the balance of which are payable on demand without previous notice of intended withdrawal and to pledge collateral to secure such accounts.

S 167. Subdivisions 2 and 4 of section 384 of the banking law, subdivision 2 as amended by chapter 247 of the laws of 1959 and subdivision 4 as amended by chapter 360 of the laws of 1984, are amended to read as follows:

2. The stocks, bonds or other interest-bearing obligations purchased by a savings and loan association shall be entered on its books at the actual cost thereof, and shall not thereafter be carried upon its books at a valuation exceeding their cost as adjusted by amortization for the purpose of bringing them to par at maturity; and where securities purchased at a premium are callable prior to maturity, the rate of amortization thereof shall be increased when necessary to such extent as shall reduce the amount at which such securities are carried upon the books to the call price at the date or dates upon which a call may be made. No adjustment for amortization shall be required to be made on the books, except when the books are closed for the purpose of computing profits. The banking AND FINANCIAL SERVICES board may by general regulation adopted by a three-fifths vote of all its members vary the requirements of this subdivision to permit the amortization of premiums at the same rate as that required by federal tax statutes or regulations.

4. Real estate acquired by an association other than that acquired for use as a place of business, shall be entered on the books of the association in conformity with the method of accounting for troubled debt restructurings approved by the financial accounting standards board or such other method of accounting as may be authorized or required by rules and regulations of the banking AND FINANCIAL SERVICES board.

The provisions of this subdivision shall not, except as the superintendent may otherwise require, apply to any parcel of real estate as to which the savings and loan association has exercised its option to transfer or convey such real estate to the veterans administration or the federal housing commissioner pursuant to insurance or guaranty.

S 168. Subdivision 1 of section 387 of the banking law, as amended by chapter 349 of the laws of 1986, is amended to read as follows:

1. When the net profits of any savings and loan association have been determined at the close of an accounting period, if its net worth does not equal ten per centum of its capital, such net profits shall be credited to its surplus account in such amount as may be determined by the banking AND FINANCIAL SERVICES board until such net worth equals ten per centum of its capital. For purposes of this article, the term "net worth" shall mean the excess of assets at book value, less allocated reserves, over known liabilities. The balance of such net profits, together with any amounts remaining from similar balances for previous accounting periods, shall constitute the undivided profits of such savings and loan association at the close of such period. The directors, in addition to the transfers to the surplus account required by this section, may transfer additional amounts to surplus account from undivided profits or continue to carry as undivided profits such sum or sums as they may deem wise. Amounts heretofore credited to a reserve for bad debts pursuant to chapter three hundred nine of the laws of nineteen hundred fifty-two shall be transferred to surplus account.

S 169. Section 396-a of the banking law, as amended by chapter 613 of the laws of 1995, is amended to read as follows:

S 396-a. Electronic facilities. A savings and loan association may conduct a banking business, at automated teller machines, point-of-sale terminals, and similar facilities subject to regulations which may be promulgated by the banking AND FINANCIAL SERVICES board. Such facilities shall not be deemed to be branches and shall not be subject to any of the provisions of this chapter applicable to branches; provided however that notwithstanding the foregoing, for purposes of paragraph (b) of subdivision two of section three hundred ninety-six of this chapter, such facilities shall be deemed to be branches, and such facilities shall be subject to the terms and conditions of section three hundred ninety-six, and for purposes of section twenty-eight-b of this chapter, such facilities shall be deemed to be branches.

S 170. Subdivision 7 of section 397 of the banking law, as added by chapter 849 of the laws of 1964, is amended to read as follows:

7. Any officer elected or appointed by the BANKING AND FINANCIAL SERVICES board may be removed by the BANKING AND FINANCIAL SERVICES board, or his authority suspended by it, with or without cause. Such removal or suspension without cause, however, shall be without prejudice to his contract rights. The election or appointment of an officer shall not be deemed of itself to create contract rights. This subdivision does not affect the powers of the superintendent or the banking AND FINANCIAL SERVICES board under section forty-one of this chapter.

S 171. Paragraphs (a) and (b) of subdivision 5 of section 399 of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

(a) No executive officer of a savings and loan association may be an executive officer, director or trustee of another savings and loan association, bank or trust company, savings bank, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to paragraph (b) of this subdivision, except that an executive officer of a savings and loan association may be (1) an executive officer and (2) a director of a trust company owned by savings and loan [association] ASSOCIATIONS or federal savings and loan associations located in this state, pursuant to section three hundred seventy-nine-a of this chapter, if one of the stockholders of such trust company is a savings and loan association of which he is an executive officer; provided, however, that, except as stated in the foregoing exceptions, an executive officer of a savings and loan association, who on the effective date of this act is an executive officer, director or trustee of another savings and loan association, bank or trust company, savings bank, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

(b) The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a savings and loan association to be an executive officer, director or trustee or both an executive officer and a director or a trustee of another savings and loan association, bank or trust company, savings bank, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

S 172. Subdivisions 1 and 2 of section 399-a of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

1. No executive officer of a federal savings and loan association located in this state may be an executive officer, director or trustee of a savings and loan association, bank or trust company, savings bank, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking AND FINANCIAL SERVICES board pursuant to subdivision two of this section, except that an executive officer of a federal savings and loan association located in this state may be (1) an executive officer and (2) a director of a trust company owned by savings and loan associations or federal savings and loan associations located in this state, pursuant to section three hundred seventy-nine-a of this chapter, if one of the stockholders of such trust company is the federal savings and loan association of which he is an executive officer; provided, however, that, except as stated in the foregoing exceptions, an executive officer of a federal savings and loan association located in this state, who on the effective date of this act is an executive officer, director or trustee of a savings and loan association, bank or trust company, savings bank, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office without permission from the banking AND FINANCIAL SERVICES board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

2. The banking AND FINANCIAL SERVICES board shall have the power to determine by regulation who shall be considered, under the provisions of this subdivision, to be an executive officer, and by a general or specific regulation, upon a three-fifths vote of all its members, to grant permission to an executive officer of a federal savings and loan association located in this state, to be at the same time an executive officer, director or trustee, or both an executive officer and a director or trustee of a savings and loan association, bank or trust company, savings bank, bank holding company, and foreign banking corporation maintaining a branch in this state. Such permission may be granted only if in the judgment of the banking AND FINANCIAL SERVICES board such service by the executive officer will be consistent with the policy of the state of New York as declared in section ten of this chapter. The banking AND FINANCIAL SERVICES board shall have the power to revoke such permission by a like vote whenever it finds, after reasonable notice and an opportunity to be heard, that the public interest requires such revocation.

S 173. The opening paragraph of section 400 of the banking law, as added by chapter 883 of the laws of 1980, is amended to read as follows:

Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, a savings and loan association may, in the discretion of a majority of all the directors:

S 174. Section 406 of the banking law, as amended by chapter 1 of the laws of 1984, is amended to read as follows:

S 406. Charters conformed to this article; obligations and rights unimpaired; saving clause; applicability to stock-form savings and loan associations. 1. Except as provided by regulations promulgated by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-e of this chapter, the powers, rights, duties, privileges and obligations of every savings and loan association shall be governed, controlled, construed, extended, limited and determined by the provisions of this chapter, and the articles of association, certificate of incorporation, by-laws or rules of every such association heretofore made or existing, are hereby modified, altered and amended to conform to the provisions of this chapter, and are declared void where such articles of association, certificate of incorporation, by-laws or rules are inconsistent with the provisions of this chapter; except that the obligations of any existing association, and the obligations to any such association, existing on June thirtieth, nineteen hundred thirty-nine, shall not be in any wise impaired by the provisions of this [act] ARTICLE. No savings and loan association shall by reason of the provisions of this act be required to dispose of any loan or investment held by it on June thirtieth, nineteen hundred thirty-nine. For the purposes of this section, articles of association and by-laws are not to be deemed obligations of the association and may be changed as prescribed in section four hundred two, anything in the articles of association or by-laws to the contrary notwithstanding.

2. The provisions of this article shall apply to stock-form savings and loan associations except that the banking AND FINANCIAL SERVICES board, consistent with the declaration of policy described in section fourteen-e of this chapter, shall be empowered to deem inapplicable to stock-form savings and loan associations, sections three hundred seventy-five, three hundred seventy-six, three hundred seventy-seven, three hundred seventy-eight, three hundred eighty-five, three hundred eighty-six, three hundred eighty-seven, three hundred eighty-eight, three hundred eighty-nine, three hundred ninety, three hundred ninety-two, three hundred ninety-seven, three hundred ninety-eight, three hundred ninety-eight-a, three hundred ninety-eight-b, three hundred ninety-eight-c, subdivisions one, two and three of section three hundred ninety-nine, four hundred, four hundred two, four hundred five and four hundred six of this chapter.

S 175. Section 412 of the banking law, as amended by section 9 of part D-1 of chapter 109 of the laws of 2006, is amended to read as follows:

S 412. Conversion of federal savings institutions to state charter. The banking AND FINANCIAL SERVICES board is authorized, by a three-fifths vote of all its members, to promulgate such regulations as are necessary to permit the conversion of any federal savings association or federal savings and loan association to state charter where such conversion is not otherwise governed by the provisions of this chapter. Subject to the foregoing, such regulations may provide for the conversion of a federal savings association or federal savings and loan association, whether in mutual or stock form, into a state-chartered savings bank or state-chartered savings and loan association. The federal savings association shall submit a written plan of conversion to the superintendent, together with an investigation fee as prescribed pursuant to section eighteen-a of this chapter.

S 176. Subdivision 1 of section 413 of the banking law, as amended by chapter 300 of the laws of 1994, is amended to read as follows:

1. With the prior approval of the superintendent, a New York savings and loan holding company or a subsidiary thereof or a New York savings

association may acquire control of an out-of-state savings and loan holding company or an out-of-state savings association, and an out-of-state savings and loan holding company or a subsidiary thereof or an out-of-state savings association may acquire control of a New York savings and loan holding company or a New York savings association subject to regulations to be adopted by the banking AND FINANCIAL SERVICES board. The terms and conditions prescribed by such regulations shall be substantially similar to those contained in section one hundred forty-two-b of this chapter governing reciprocal interstate acquisitions by bank holding companies.

S 177. Subdivisions 5 and 10 of section 420-c of the banking law, as added by chapter 848 of the laws of 1966, are amended to read as follows:

5. Subject to the approval of the superintendent of banks AND FINANCIAL SERVICES, to establish rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this article;

10. In the performance of the fund's duties, to utilize the services of employees of the [banking] department OF BANKING AND FINANCIAL SERVICES, reimbursing [the banking] SUCH department for such services and expenses therein;

S 178. Subdivision 1 of section 447 of the banking law, as amended by section 10 of part D-1 of chapter 109 of the laws of 2006, is amended to read as follows:

1. Notwithstanding any other provision of law and in accordance with general regulations which the banking AND FINANCIAL SERVICES board shall promulgate to facilitate such reorganizations, a mutual savings and loan association may reorganize so as to cause its deposit-taking and one or more other activities to be conducted by a stock savings and loan association subsidiary of a mutual holding company formed for such purpose upon the payment of a fee as prescribed pursuant to section eighteen-a of this chapter.

S 179. The opening paragraph of subdivision 3 of section 447-a of the banking law, as added by chapter 382 of the laws of 1993, is amended to read as follows:

If approved by the superintendent the mutual savings and loan association shall submit the plan of reorganization to its shareholders for approval at a meeting convened in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board for the sole purpose of approving or disapproving such plan. At such meeting:

S 180. Paragraph (a) of subdivision 1 of section 447-b of the banking law, as added by chapter 382 of the laws of 1993, is amended to read as follows:

(a) (i) the organization by the mutual holding company of a stock savings and loan association subsidiary and the transferal to such stock savings and loan association of the substantial part of its assets and liabilities, including all of its deposit liabilities, in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board;

(ii) the organization by the mutual savings and loan association of a mutual holding company and the organization by such mutual holding company of a stock savings and loan association subsidiary which merges with the mutual savings and loan association; or

(iii) the reorganization of the mutual savings and loan association under any other method approved pursuant to general or specific regulations promulgated by the banking AND FINANCIAL SERVICES board.

S 181. Subdivision 2 of section 447-c of the banking law, as added by chapter 382 of the laws of 1993, is amended to read as follows:

2. Notwithstanding any inconsistent provision of section fourteen-e, six hundred, six hundred one, six hundred one-a or six hundred one-b of this chapter, subject to general regulations promulgated by the banking AND FINANCIAL SERVICES board, a mutual holding company may:

(a) merge with, acquire or purchase the assets of a mutual holding company established pursuant to this article or the savings and loan holding company provisions of the Home Owners Loan Act (title twelve United States Code Section 1467a);

(b) acquire or purchase the assets or stock of a stock savings bank, a stock savings and loan association, a stock federal savings bank or a stock federal savings and loan association;

(c) acquire a mutual savings bank, a mutual savings and loan association, a federal mutual savings bank or a federal mutual savings and loan association through the merger of such institution with a stock subsidiary of such mutual holding company;

(d) engage in any other acquisition or combination specifically permitted by general or special regulations promulgated by the banking AND FINANCIAL SERVICES board; provided, however, that the banking AND FINANCIAL SERVICES board shall have no power to permit any insurance activities prohibited by subdivision three of this section or to expand by interpretation any provision of federal law set forth in the savings and loan holding company provisions of the Home Owners Loan Act (title twelve United States Code Section 1467a).

S 181-a. Subdivision 1 of section 447-d of the banking law, as added by chapter 382 of the laws of 1993, is amended to read as follows:

1. If approved by the superintendent, a mutual holding company may convert to a stock holding company in accordance with general regulations promulgated by the banking AND FINANCIAL SERVICES board.

S 182. Subdivision 5 of section 450-a of the banking law, as added by chapter 214 of the laws of 1999, is amended to read as follows:

5. As used in this section, the term "low income credit union" shall mean a credit union in which a majority of the members: (a) make less than eighty percent of the average for all wage earners as established by the bureau of labor statistics of the United States department of labor or have annual household incomes that fall at or below eighty percent of the median household income for the nation as established by the United States census bureau; or (b) are residents of a public housing project who qualify for such residency because of low income; or (c) qualify to receive benefits from any program designed to assist the economically disadvantaged. The banking AND FINANCIAL SERVICES board may promulgate regulations appropriate to the formation and operation of low income credit unions.

S 183. The opening paragraph of subdivision 5 of section 453 of the banking law, as amended by chapter 530 of the laws of 2000, is amended to read as follows:

A corporate credit union shall enjoy the powers and privileges of any other credit union incorporated under this chapter in addition to those powers enumerated in this article, notwithstanding any limitation or restrictions found elsewhere in this article. The banking AND FINANCIAL SERVICES board may promulgate such regulations concerning the establishment and operations of corporate credit unions as in its discretion are necessary and proper. Subject to such regulations, a corporate credit union may:

S 184. The opening paragraph, paragraph (a) of subdivision 6 and subdivisions 9, 15, 19 and 30 of section 454 of the banking law, as amended by chapter 679 of the laws of 2003, are amended to read as follows:

In addition to the powers conferred by the provisions of this chapter, a credit union shall, subject to the restrictions and limitations contained in this article, in its bylaws, and in any regulations promulgated by the superintendent, or in any regulations of the banking AND FINANCIAL SERVICES board as may be specifically authorized under this section, have the following powers:

(a) To lend money to its members at the rate or rates agreed to by the credit union and the borrower upon such terms and conditions as are established by its board of directors and subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds necessary and proper.

9. To borrow money subject to such regulations and restrictions as the banking AND FINANCIAL SERVICES board finds necessary and proper from any source in an aggregate amount not exceeding fifty percent of assets without the written approval of the superintendent.

15. To conduct its business at automated teller machines, point-of-sale terminals, shared service centers, and similar facilities subject to regulations which may be promulgated by the banking AND FINANCIAL SERVICES board. Such facilities shall not be deemed to be stations and shall not be subject to any of the provisions of this chapter applicable to stations.

19. Subject to regulations and restrictions of the banking AND FINANCIAL SERVICES board, a credit union may invest its funds in and make loans to credit union organizations; provided that such loans or investments shall be approved by the board of directors. No such loan or investment shall be made by a credit union pursuant to this subdivision if the amount of such loan or investment exceeds three per centum of the total sum due to the members on shares and deposits. For the purpose of this subdivision, a credit union organization is any organization established primarily to serve the needs of its member state and federal credit unions, and whose business relates to the daily operations of the credit unions it serves.

30. To acquire and lease personal property, and to hold, assign, pledge, sell or otherwise dispose of such personal property, to the same extent as authorized under subdivision twelve of section ninety-six of this chapter, subject to such limitations and conditions as the banking AND FINANCIAL SERVICES board may from time to time prescribe by general regulation.

S 185. Section 455 of the banking law, as added by chapter 608 of the laws of 1996, is amended to read as follows:

S 455. Trust powers. 1. The banking AND FINANCIAL SERVICES board is authorized and empowered to grant permission to a credit union to exercise any or all of the powers specified in sections one hundred, one hundred-a, one hundred-b and one hundred-c of this chapter. In passing upon applications for permission to exercise any such powers, the banking AND FINANCIAL SERVICES board may take into consideration the amount of net worth of the applying credit union, whether or not such net worth is sufficient under the circumstances of the case, the needs of the community to be served and any other facts and circumstances that seem to it proper, and may grant or refuse it permission accordingly.

2. Whenever the laws of this state require a trust company acting in a fiduciary capacity to deposit securities with the state authorities for

the protection of private or court trusts, a credit union, so acting, is required and empowered to make similar deposits of securities.

3. The banking AND FINANCIAL SERVICES board is authorized to promulgate such regulations as it may deem necessary or proper to implement the provisions of this section and the proper exercise of the powers granted by this section.

S 186. Subdivision 9 of section 456 of the banking law, as added by chapter 608 of the laws of 1996, is amended to read as follows:

9. Make a loan to a member upon the security of a mortgage which is not a first lien, unless such loan is in compliance with the regulations of the banking AND FINANCIAL SERVICES board. Such regulations may include such restrictions as the banking AND FINANCIAL SERVICES board finds necessary and proper, including without limitation, a restriction as to the percentage of total assets which may be invested in such loans, a restriction on the loan-to-appraisal value of property securing such loan, a restriction on the maximum amount to be loaned to each member, and a limitation on such loans based upon share capital, as determined by the banking AND FINANCIAL SERVICES board.

S 187. Subdivision 1 of section 477 of the banking law, as amended by chapter 510 of the laws of 2006, is amended to read as follows:

1. Subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe, a credit union may, in the discretion of a majority of all the board of directors, provide to officers and employees retirement benefits, deferred compensation programs and other employee benefit plans.

S 188. Section 481 of the banking law, as added by chapter 608 of the laws of 1996, is amended to read as follows:

S 481. Communications from [banking] department OF BANKING AND FINANCIAL SERVICES must be submitted to directors and supervisory committee, and noted in the minutes. Every official communication as defined in article two of this chapter directed to a credit union shall be submitted to both the board of directors and the supervisory committee at the next meeting of each such board or committee and duly noted in the minutes of the meeting of such board or committee.

S 189. Subdivision 4 of section 497 of the banking law, as amended by chapter 502 of the laws of 1961, is amended to read as follows:

4. All reports of examinations and investigations, and all correspondence and memoranda concerning or arising out of such examinations or investigations, including any duly authenticated copy or copies thereof in the possession of any licensee or the [banking] department OF BANKING AND FINANCIAL SERVICES, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event he OR SHE may publish or authorize the publication of a copy of any such report or other material referred to in this subdivision [four], or any part thereof, in such manner, as he OR SHE may deem proper.

S 190. Subdivision 3 of section 507 of the banking law, as added by chapter 637 of the laws of 1995, is amended to read as follows:

3. For a period of one year following the effective date of this section, investment companies which have been formed and are operating pursuant to this article and article fifteen of this chapter on the effective date of this section, and which meet the requirements of subdivision one of this section, may convert into limited liability investment companies provided they meet all of the other requirements of

this chapter as if they were newly formed companies and subject to the approval of the banking AND FINANCIAL SERVICES board.

S 191. The opening paragraph of subdivision 3 and subdivision 6 of section 508 of the banking law, the opening paragraph of subdivision 3 as amended by chapter 776 of the laws of 1947 and subdivision 6 as amended by chapter 360 of the laws of 1984, are amended to read as follows:

With the approval of the banking AND FINANCIAL SERVICES board, and subject to such conditions as the banking AND FINANCIAL SERVICES board shall impose,

6. To exercise, subject to such regulations as may be issued from time to time by the banking AND FINANCIAL SERVICES board, through any branch office opened and occupied outside the states of the United States and the District of Columbia with the approval of the superintendent and the banking AND FINANCIAL SERVICES board as provided in article two of this chapter, such further powers as may be usual, in connection with the transaction of the business permitted by this article, in the place where such branch office shall transact business; provided that no such branch office shall engage in the general business of producing, distributing, buying or selling goods, wares, or merchandise.

The grant of powers to investment companies by or pursuant to this section shall not be deemed to limit or restrict any other corporations, heretofore or hereafter organized, in the exercise of their lawful powers.

S 192. Subdivision 4 of section 509 of the banking law, as added by chapter 776 of the laws of 1947, is amended to read as follows:

4. Except as provided in section five hundred eight of this article, engage in the business of receiving deposits; provided, however, that nothing contained in this article shall prevent an investment company from maintaining for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers, but the banking AND FINANCIAL SERVICES board shall have power to prescribe, by specific or general regulation, the extent to which, and the conditions upon which, such credit balances may be established, maintained and paid out.

S 193. Section 512 of the banking law, as amended by chapter 684 of the laws of 1938, is amended to read as follows:

S 512. Communications from [banking] department OF BANKING AND FINANCIAL SERVICES must be submitted to directors and noted in minutes. Every official communication as defined in article two of this chapter directed to an investment company or to any officer thereof shall be submitted, by the officer receiving it, to the board of directors at the next meeting of such board, and duly noted in the minutes of the meetings of such board.

S 194. Section 553 of the banking law, as amended by chapter 805 of the laws of 1972, is amended to read as follows:

S 553. Investment by fiduciaries in shares. Unless the instrument or the order, decree or judgment under which moneys are held in a fiduciary capacity prohibits such investment, an eligible fiduciary or fiduciaries may invest and reinvest moneys so held in shares of stock of one or more mutual trust investment companies as it may determine.

The net aggregate amount of moneys of any estate, trust or fund invested in shares of a mutual trust investment company shall not at any time exceed the maximum amount permitted by such rules and regulations as may be promulgated by the banking AND FINANCIAL SERVICES board.

"An eligible fiduciary or fiduciaries" shall be deemed to mean a trust company or a national banking association having its principal office within the state of New York and acting either as sole fiduciary or with one or more co-fiduciaries.

S 195. Subdivision 1 of section 556 of the banking law, as added by chapter 488 of the laws of 1960, is amended to read as follows:

1. Within ninety days after the filing of an application for a license accompanied by payment of the fees for license and investigation, the superintendent shall issue the license, or the superintendent may refuse to issue the license if he OR SHE shall find that the financial responsibility, experience, character and general fitness of the applicant or any person associated with the applicant are not such as to command the confidence of the community and to warrant the belief that the business will be conducted honestly, fairly and efficiently within the purposes and intent of this article. For the purpose of this subdivision, the applicant shall be deemed to include all the members of the applicant if it is a partnership or unincorporated association, and all the stockholders, officers and directors of the applicant if it is a corporation. Such license to engage in business in accordance with the provisions of this article at the location specified in the application shall be executed in triplicate by the superintendent and he OR SHE shall transmit one copy thereof to the applicant, file a copy in the office of the [banking] department OF BANKING AND FINANCIAL SERVICES, and file a copy in the office of the clerk of the county in which is located the place designated in such license.

S 196. Section 560 of the banking law, as amended by chapter 474 of the laws of 1962, is amended to read as follows:

S 560. Investigations and examinations. 1. The superintendent shall have the power to make such investigations as he OR SHE shall deem necessary to determine whether any licensee or any other person has violated any of the provisions of this article, or whether any licensee has conducted himself OR HERSELF in such manner as would justify the revocation of his OR HER license, and to the extent necessary therefor, he OR SHE may require the attendance of and examine any person under oath, and shall have the power to compel the production of all relevant books, records, accounts, and documents.

2. The superintendent shall have the power to make such examinations of the books, records, accounts and documents used in the business of any licensee as he OR SHE shall deem necessary to determine whether any such licensee has violated any of the provisions of this article.

3. The expenses incurred in making any examination pursuant to subdivision two of this section [five hundred sixty] shall be assessed against and paid by the licensee so examined, except that traveling and subsistence expenses so incurred shall be charged against and paid by licensees in such proportions as the superintendent shall deem just and reasonable, and such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination. Upon written notice by the superintendent of the total amount of such assessment, the licensee shall become liable for and shall pay such assessment to the superintendent.

4. All reports of examinations and investigations, and all correspondence and memoranda concerning or arising out of such examinations or investigations, including any duly authenticated copy or copies thereof in the possession of any licensee or the [banking] department OF BANKING AND FINANCIAL SERVICES, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judg-

ment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event he OR SHE may publish or authorize the publication of a copy of any such report or other material referred to in this subdivision [four], or any part thereof, in such manner as he OR SHE may deem proper.

S 197. Section 577 of the banking law, as amended by chapter 1 of the laws of 1994, is amended to read as follows:

S 577. Interpretation of article. This article does not affect: (1) the inclusion of amounts for insurance in retail instalment contracts or obligations in accordance with the motor vehicle retail instalment sales act or the retail instalment sales act; (2) the inclusion of amounts for insurance in retail lease agreements in accordance with the motor vehicle retail leasing act; or (3) the making of loans for the purpose of financing insurance premiums:

(a) By any person at a rate of interest not greater than the rate prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of this chapter, or, if no rate has been so prescribed, six per centum per annum; or

(b) By a lending institution in accordance with the applicable provisions of other laws authorizing and regulating the making of loans by the lending institution.

S 198. Subdivision 4 of section 580 of the banking law, as added by chapter 629 of the laws of 2002, is amended to read as follows:

4. As a condition for the issuance and retention of a budget planner license, and subject to such regulations as the superintendent shall prescribe, applicants for a license shall file with the superintendent a surety bond in form satisfactory to the superintendent issued by a bonding company or insurance company authorized to do business in this state. Except as provided hereunder, the principal amount of such bond shall be two hundred fifty thousand dollars. The superintendent may require a larger bond if he or she determines, in his or her sole discretion, that a licensee has engaged in a pattern of conduct resulting in bona fide consumer complaints of misconduct and that such increased bond is necessary for the protection of consumers; or the superintendent may increase or decrease the amount of such bond or deposit based upon the applicant's or licensee's financial condition, business plan, and the actual or estimated aggregate amount of payments and fees paid by debtors to such licensee. In lieu of such bond, an applicant may keep on deposit with such banks, savings banks, savings and loan associations, trust companies, private bankers, national banks, federal savings banks, or federal savings and loan associations in the state as such licensee may designate and the superintendent may approve, interest-bearing bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or such other assets or letters of credit as the superintendent shall by rule or regulation permit. The proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse payments by debtors that have not been properly distributed to creditors or to reimburse fees determined by the superintendent to be improperly charged or collected and, in the event of the insolvency, liquidation, or bankruptcy of such licensee, to pay outstanding [banking] department OF BANKING AND FINANCIAL SERVICES examination costs and assessments. Within ninety days after the effective

date of this subdivision, each licensee shall comply with the requirements of this subdivision.

S 199. Subdivision 1 of section 581 of the banking law, as amended by chapter 456 of the laws of 2006, is amended to read as follows:

1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the officers and directors thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of this article, he or she shall thereupon issue a license in duplicate to engage in budget planning in accordance with the provisions of this article. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the [banking] department OF BANKING AND FINANCIAL SERVICES. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided; if the superintendent shall not so find he or she shall not issue such license and he or she shall notify the applicant of the denial. The superintendent shall approve or deny every application for license hereunder within ninety days from the filing thereof.

S 200. Paragraph (e) of subdivision 1 and subdivision 6 of section 590 of the banking law, paragraph (e) of subdivision 1 as added by chapter 571 of the laws of 1986 and subdivision 6 as amended by chapter 293 of the laws of 1987, are amended to read as follows:

(e) "Exempt organization" shall mean any insurance company, banking organization, foreign banking corporation licensed by the superintendent or the comptroller of the currency to transact business in this state, national bank, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any instrumentality created by the United States or any state with the power to make mortgage loans. Subject to such regulations as may be promulgated by the banking AND FINANCIAL SERVICES board, "exempt organization" may also include any subsidiary of such entities;

6. The banking AND FINANCIAL SERVICES board is hereby authorized and empowered, consistent with the declaration of policy set forth in this article, to exempt by rule or regulation from any or all of the provisions of this article any or all licensees or exempt organizations as defined in paragraph (e) of subdivision one of this section with respect to credit line mortgages, installment loans and home improvement loans.

S 201. Paragraphs (a), (b) and (b-1) of subdivision 2 and subdivisions 3 and 5 of section 590 of the banking law, as amended and paragraph (b-1) of subdivision 2 as added by chapter 472 of the laws of 2008, are amended to read as follows:

(a) No person, partnership, association, corporation or other entity shall engage in the business of making five or more mortgage loans in any one calendar year without first obtaining a license from the superintendent in accordance with the licensing procedure provided in this article and such regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent. The licensing provisions of this subdivision shall not apply to any exempt organization nor to any entity or entities which shall be exempted in accordance with regulations promulgated by the banking AND FINANCIAL SERVICES board hereunder.

(b) No person, partnership, association, corporation or other entity shall engage in the business of soliciting, processing, placing or negotiating a mortgage loan or offering to solicit, process, place or negotiate a mortgage loan in this state without first being registered with the superintendent as a mortgage broker in accordance with the registration procedure provided in this article and by such regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent. The registration provisions of this subdivision shall not apply to any exempt organization or mortgage banker. No real estate broker or salesman, as defined in section four hundred forty of the real property law, shall be deemed to be engaged in the business of a mortgage broker if he does not accept a fee, directly or indirectly, for services rendered in connection with the solicitation, processing, placement or negotiation of a mortgage loan. No attorney-at-law who solicits, processes, places or negotiates a mortgage loan incidental to his legal practice shall be deemed to be engaged in the business of a mortgage broker. The registration provisions of this subdivision shall not apply to any person or entity which shall be exempted in accordance with regulations promulgated by the banking AND FINANCIAL SERVICES board hereunder.

(b-1) No person, partnership, association, corporation or other entity shall engage in the business of servicing mortgage loans with respect to any property located in this state without first being registered with the superintendent as a mortgage loan servicer in accordance with the registration procedure provided by such regulations as may be prescribed by the superintendent. The superintendent may refuse to register a mortgage loan servicer on the same grounds that he or she may refuse to issue a registration certificate to a mortgage broker pursuant to subdivision two of section five hundred ninety-two-a of this article. The registration provisions of this subdivision shall not apply to any exempt organization, mortgage banker, or mortgage broker or any person or entity which shall be exempted in accordance with regulations prescribed by the superintendent hereunder; provided that such exempt organization, mortgage banker, mortgage broker, or exempted person notifies the superintendent that it is acting as a mortgage loan servicer in this state and complies with any regulation applicable to mortgage loan servicers, promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent with respect to mortgage loan servicers.

3. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the banking AND FINANCIAL SERVICES board is hereby authorized and empowered to promulgate such rules and regulations as may in the judgement of the banking AND FINANCIAL SERVICES board be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

(a) Such rules and regulations in connection with the activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations as may be necessary and appropriate for the protection of consumers in this state;

(b) Such rules and regulations as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations in making mortgage loans;

(c) Such rules and regulations as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article; and

(d) Such rules and regulations as may be necessary for the enforcement of this article.

The banking AND FINANCIAL SERVICES board is hereby authorized and empowered to make such specific rulings, demands and findings as it may deem necessary for the proper conduct of the mortgage lending industry.

5. Activities of mortgage brokers, mortgage bankers, mortgage loan servicers and exempt organizations. (a) Mortgage brokers may not make mortgage loans in this state;

(b) Mortgage brokers shall solicit, process, place and negotiate mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder;

(c) Mortgage bankers and exempt organizations shall make mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder;

(d) Mortgage loan servicers shall engage in the business of servicing mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the banking AND FINANCIAL SERVICES board or prescribed by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder.

(e) Nothing in this section shall be construed to limit any otherwise applicable state or federal law or regulations.

S 202. Subdivisions 1 and 4 of section 590-a of the banking law, subdivision 1 as amended by chapter 81 of the laws of 1996 and subdivision 4 as added by chapter 631 of the laws of 1983, are amended to read as follows:

1. A licensee may make a loan to a natural person upon the security of a mortgage on residential real property which is not a first lien at the rate or rates agreed to by the licensee and the borrower, subject to such regulations as the banking AND FINANCIAL SERVICES board may prescribe. Such regulations by the banking AND FINANCIAL SERVICES board may include such restrictions as the banking AND FINANCIAL SERVICES board finds necessary or proper. For purposes of this section, the term mortgage shall include a lien on an existing ownership interest in certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of residential real estate.

4. The banking AND FINANCIAL SERVICES board shall adopt regulations, including but not limited to: (a) providing for disclosure to the borrower by the licensee of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase, (b) providing for disclosure to the borrower by the licensee of a history of the fluctuations of the index over a reasonable period of time, and (c) providing for notice to the borrower from the licensee of any rate increase or change in the terms of payment.

S 203. Subdivision 4 of section 591 of the banking law, as amended by chapter 146 of the laws of 2003, is amended to read as follows:

4. As a condition for the issuance and retention of a mortgage banker's license, and subject to such regulations as the superintendent shall prescribe, applicants for a license shall file with the superintendent a surety bond in form satisfactory to him or her issued by a bonding company or insurance company authorized to do business in this state. The principal amount of such bond shall be in an amount and form prescribed by regulations of the superintendent. Such regulations shall provide for a varying bond amount based upon a licensee's volume of business and any other relevant factors as determined by the superintendent, but in no case shall such bond be less than fifty thousand dollars nor more than five hundred thousand dollars; provided, however, that if the superintendent determines, in his or her sole discretion, that a licensee has engaged in a pattern of conduct resulting in bona fide consumer complaints of misconduct, the superintendent may require such licensee to post a surety bond, or keep on deposit as provided in this subdivision, twice the amount of such bond or deposit as is required consistent with such regulations. In lieu of such bond, an applicant may keep on deposit with such banks, savings banks, savings and loan associations, or trust companies or private bankers or national banks or federal savings banks or federal savings and loan associations in the state of New York as such applicant may designate and the superintendent may approve, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or such other assets or letters of credit as the superintendent shall by rule or regulation permit. In the event of the insolvency, liquidation or bankruptcy of such licensee, or the surrender or revocation of such mortgage banker's license, or where the superintendent takes possession of such licensee, the proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse consumer fees or other charges determined by the superintendent to be improperly charged or collected and to pay past due [banking] department OF BANKING AND FINANCIAL SERVICES examination costs and assessments charged to the licensee, unpaid penalties, or other obligations of the licensee. The superintendent is authorized to promulgate such regulations as are necessary and desirable to define and implement the provisions of this subdivision. Persons and entities licensed prior to the effective date of any regulations of the superintendent prescribing the bonding requirement authorized by this subdivision shall file such bond or establish such deposit within six months of the effective date of such regulations.

S 204. Subdivision 3 of section 591-a of the banking law, as amended by chapter 154 of the laws of 2007, is amended to read as follows:

3. As a condition for the issuance and retention of a mortgage broker's registration, and subject to such regulations as the superintendent shall prescribe, applicants for a registration shall file with the superintendent a surety bond or make a deposit, as described in subdivision four of section five hundred ninety-one of this article, in an amount and form prescribed by regulations of the superintendent. Such regulations shall provide for a varying bond amount based upon a registrant's volume of business and any other relevant factors as determined by the superintendent, but in no case shall such bond be less than ten thousand dollars nor more than one hundred thousand dollars; provided however that if the superintendent determines, in his or her sole discretion, that a registrant has engaged in a pattern of conduct

resulting in bona fide consumer complaints of misconduct, the superintendent may require such registrant to post a surety bond, or keep on deposit as provided in this subdivision, twice the amount of such bond or deposit as is required consistent with such regulations. In the event of the insolvency, liquidation or bankruptcy of such registrant, or the surrender or revocation of such mortgage broker's registration, or where the superintendent takes possession of such registrant, the proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse consumer fees or other charges determined by the superintendent to be improperly charged or collected and to pay past due [banking] department OF BANKING AND FINANCIAL SERVICES examination costs and assessments charged to the registrant, unpaid penalties, or other obligations of the registrant. The superintendent is authorized to promulgate such regulations as are necessary and desirable to define and implement the provisions of this subdivision. Persons and entities registered prior to the effective date of any regulations of the superintendent implementing or modifying the bonding requirement authorized by this subdivision shall file such bond or establish such deposit within six months of the effective date of such regulations.

S 205. Subdivision 1 of section 592 of the banking law, as amended by chapter 400 of the laws of 1993, is amended to read as follows:

1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant and of the members thereof if the applicant is a co-partnership or association, and of the officers and directors thereof if the applicant is a corporation are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall thereupon issue a license in duplicate to engage in the business of making mortgage loans described in section five hundred ninety of this article in accordance with provisions of this article. If the superintendent shall not so find, the superintendent shall not issue such license, and the superintendent shall notify the applicant of the denial. The superintendent shall transmit one copy of such license to the applicant and file another in the office of the [banking] department OF BANKING AND FINANCIAL SERVICES. Upon receipt of such license, a mortgage banker shall be authorized to engage in the business of making mortgage loans in accordance with the provisions of this article. Such license shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided. The superintendent shall approve or deny every application for license hereunder within ninety days from the filing of a completed application provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

S 206. Subdivision 1 of section 592-a of the banking law, as amended by section 18 of part D-1 of chapter 109 of the laws of 2006, is amended to read as follows:

1. Upon the filing of an application for registration, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant, and of the members thereof if the applicant is a co-partnership or association, and of the officers and directors thereof if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superintendent shall thereupon

register the applicant as a mortgage broker on a roll maintained for that purpose at the [banking] department OF BANKING AND FINANCIAL SERVICES, and issue a certificate attesting to such registration in duplicate. If the superintendent shall not so find, the superintendent shall not register such applicant, and shall notify the applicant of the denial. The superintendent shall transmit one copy of such certificate to the applicant and file another in the office of the [banking] department OF BANKING AND FINANCIAL SERVICES. Upon receipt of such certificate a mortgage broker shall be authorized to engage in the business of placing, processing and negotiating mortgage loans. Such registration shall remain in full force and effect until it is surrendered by the licensee or revoked or suspended as hereinafter provided, except that such registration, notwithstanding any provisions of subdivision five of section seventeen of this chapter to the contrary, shall expire upon the registrant's failure to pay the required assessment charged pursuant to such section seventeen thirty days after the date or dates such payment or payments are due. If the registrant fails to pay such charged assessment by the date or dates such payment or payments are due, then the registrant shall be required to pay, in addition, a late fee in the amount of one hundred dollars. Such registration shall be reinstated if the registrant pays such assessment charged and any applicable late fees and/or interest within sixty days of such expiration. The superintendent shall approve or deny every application for registration hereunder within ninety days from the filing of a complete application provided, however, that failure to act within the prescribed period shall not be deemed approval of any such application.

S 207. Subdivision 2 of section 593-a of the banking law, as added by chapter 571 of the laws of 1986, is amended to read as follows:

2. In addition to the display of such certificate, each registered mortgage broker shall prominently display a notice printed in the English language, each letter to be at least two inches in height, indicating that the mortgage broker is not empowered to make mortgage loans, and such other notices as required by the banking AND FINANCIAL SERVICES board.

S 208. The opening paragraph of subdivision 1, the opening paragraph and paragraph (a) of subdivision 2, and the opening paragraph and paragraphs (a), (b) and (d) of subdivision 3 of section 595-a of the banking law, as added by chapter 571 of the laws of 1986, and paragraph (d) of subdivision 3 as relettered by chapter 400 of the laws of 1993, are amended to read as follows:

In addition to such other rules, regulations and policies as the banking AND FINANCIAL SERVICES board may prescribe to effectuate the purposes of this article, the banking AND FINANCIAL SERVICES board shall promulgate regulations and policies governing the establishment of grounds to impose a fine or penalty with respect to the activities of a mortgage banker, mortgage broker or exempt organization. Such regulation shall encompass the following:

In addition to such other rules, regulations and policies as the banking AND FINANCIAL SERVICES board may promulgate to effectuate the purposes of this article, the banking AND FINANCIAL SERVICES board shall prescribe regulations governing the advertising of mortgage loans, including, without limitation, the following requirements:

(a) All advertisements by a mortgage broker, mortgage banker or exempt organization shall contain the name and an office address of such entity, which in the case of licensees and registrants shall conform to a name and address on record with the [banking] department OF BANKING AND FINANCIAL SERVICES;

In addition to such other rules, regulations and policies as the banking AND FINANCIAL SERVICES board may promulgate to effectuate the purposes of this article, the banking AND FINANCIAL SERVICES board shall promulgate regulations governing the disclosure required to be made to applicants for a mortgage loan, including, without limitation, the following requirements:

(a) Each mortgage broker, mortgage banker and exempt organization shall provide to each applicant for a mortgage loan at or before the time of application a disclosure of the fees payable at the time of application and the conditions under which such fees may be refundable, and such other disclosures as shall be required by the banking AND FINANCIAL SERVICES board;

(b) Each mortgage banker and exempt organization shall make available to each applicant for a mortgage loan at or before the time a commitment to make a mortgage loan is given a written disclosure, the fees to be paid in connection with the commitment and the loan, or the manner in which such fees shall be determined and the conditions under which such fees may be refundable, and such other disclosures as may be required by the banking AND FINANCIAL SERVICES board; and

(d) Each mortgage broker, mortgage banker and exempt organization shall provide such other disclosure as the banking AND FINANCIAL SERVICES board shall determine by regulation are appropriate to carry out the purposes of this article.

S 209. Section 595-b of the banking law, as added by chapter 472 of the laws of 2008, is amended to read as follows:

S 595-b. Regulation of mortgage loan servicers. 1. Establishment of grounds to impose a fine or penalty. In addition to such other rules, regulations and policies as the banking AND FINANCIAL SERVICES board may promulgate or the superintendent may prescribe to effectuate the purposes of this article, the superintendent shall promulgate regulations and policies governing the establishment of grounds to impose a fine or penalty with respect to the activities of a mortgage loan servicer.

2. Servicing practices. In addition to such other rules, regulations and policies as the banking AND FINANCIAL SERVICES board may promulgate to effectuate the purposes of this article, the superintendent may prescribe regulations which relate to: (a) providing for disclosures to borrowers of the basis for any interest rate resets; (b) requirements for the provision of pay-off statements; and (c) governing the timing of the crediting of payments made by the borrower.

S 210. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 102 of the state administrative procedure act, as amended by chapter 74 of the laws of 1987, is amended to read as follows:

(vi) rates of interest prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law;

S 211. Section 597 of the banking law, as separately amended by chapters 315 and 472 of the laws of 2008, is amended to read as follows:

S 597. Books and records; reports and electronic filing. Each licensee, servicer, registrant and exempt organization shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether such licensee, servicer, registrant or exempt organization is complying with the provisions of this article and with the rules and regulations lawfully made by the superintendent and the banking AND FINANCIAL SERVICES board. Every licensee, servicer, registrant and exempt organization shall preserve such books, accounts, and records, for at least three years; provided, however, that preservation by photographic reproduction thereof or records in photographic form, including an optical disk storage system and the use of electronic data processing equipment that provides comparable records to those otherwise required and which are available for examination upon request shall constitute compliance with the requirements of this section.

Each licensee and registrant shall annually, on or before a date to be determined by the superintendent, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of such licensee or registrant under authority of this article. Such report shall be subscribed and affirmed as true by the licensee or registrant under the penalties of perjury and shall be in the form prescribed by the superintendent. In addition to annual reports, the superintendent may require such additional regular or special reports as he or she may deem necessary to the proper supervision of licensees and registrants under this article. Such additional reports shall be in the form prescribed by the superintendent and shall be subscribed and affirmed as true under the penalties of perjury.

Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that any application for, or renewal of, any license or registration or any other submission or approval as may be required by the superintendent be made or executed by electronic means if he or she deems it necessary to ensure the efficient administration of this article.

The superintendent may require servicers to file annual reports or other regular or special reports, including reports with respect to mortgage delinquencies and foreclosures. Such reports shall be in the form prescribed by the superintendent and shall be subscribed and affirmed as true under the penalties of perjury.

S 212. Paragraph (a) of subdivision 1 of section 599-g of the banking law, as added by chapter 553 of the laws of 2007, is amended to read as follows:

(a) Through a course of conduct, the MLO has violated any provisions of this article, or any rule or regulation promulgated by the banking AND FINANCIAL SERVICES board, or any rule or regulation prescribed by the superintendent under and within the authority of this article or article twelve-D of this chapter or of any other law, rule or regulation of this state or the federal government pertaining to mortgage banking, brokering or loan originating;

S 213. Subdivisions 7 and 8 of section 600 of the banking law, subdivision 7 as amended by chapter 315 of the laws of 2008 and subdivision 8 as amended by chapter 152 of the laws of 1993 and as renumbered by chapter 455 of the laws of 2006, are amended to read as follows:

(7) One or more subsidiaries or affiliates of a bank, trust company, savings bank or savings and loan association, which are not a bank, trust company, savings bank or savings and loan association, as those terms are defined in section two of this chapter, with the bank, trust company, savings bank or savings and loan association of which it is a subsidiary or affiliate, as the banking AND FINANCIAL SERVICES board shall approve and enter on its records; provided, however, that nothing in this subdivision shall be deemed to authorize a bank, trust company, savings bank or savings and loan association to exercise any power or engage in any activity that it may not exercise or engage in pursuant to this chapter. The banking AND FINANCIAL SERVICES board may promulgate

such regulations as it deems necessary and proper to implement and define the provisions of this subdivision. Nothing in this subdivision shall alter, affect or impair any regulation or resolution adopted, or that may be adopted, by the banking AND FINANCIAL SERVICES board, pursuant to section twelve-a or former sections fourteen-g or fourteen-h of this chapter.

(8) Such other mergers between and among banking institutions as the banking AND FINANCIAL SERVICES board may authorize.

S 214. Paragraph (g) of subdivision 1 of section 601-a of the banking law, as amended by chapter 152 of the laws of 1993, is amended to read as follows:

(g) One or more banking institutions by another banking institution to the extent permitted under regulations of the banking AND FINANCIAL SERVICES board.

S 215. Subdivision 2 of section 601-b of the banking law, as amended by chapter 55 of the laws of 1965, is amended to read as follows:

2. Notwithstanding the provisions of subdivision one of this section, the approval of the superintendent shall not be required with respect to such merger or acquisition, if any of the corporations which are to merge, or if the selling or acquiring corporation, is a banking subsidiary of a bank holding company, and the banking AND FINANCIAL SERVICES board pursuant to section one hundred forty-two of this chapter has granted its approval for such bank holding company, or any trustee or trustees who hold voting stock of such banking subsidiary for the benefit of the stockholders or members of such bank holding company, to vote the stock of such banking subsidiary in favor of the proposed merger or acquisition. The superintendent shall file the plan of merger or acquisition and the certificates submitted to him pursuant to section six hundred one or section six hundred one-a of this chapter, together with a certified copy of the resolution of the banking AND FINANCIAL SERVICES board granting such approval, in the office of the superintendent, and, in the case of a merger, a duplicate of the plan and of each of such certificates, together with a certified copy of such resolution, shall be filed in the office of the clerk of the county in which the receiving corporation is located. Upon such filing in the office of the superintendent, the merger or acquisition shall become effective, unless a later date is specified in the plan, in which event the merger or acquisition shall become effective upon such later date. For purposes of this subdivision, the terms "bank holding company" and "banking subsidiary" shall have the meanings stated in section one hundred forty-one of this chapter.

S 216. Subdivision 8 of section 605 of the banking law, as amended by section 60 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

8. Unless the banking AND FINANCIAL SERVICES board by a three-fifths vote of all its members shall otherwise provide, any corporate banking organization that, pursuant to an agreement, sells or conveys more than fifty per centum of its assets without the written approval of the superintendent shall take the proceedings for voluntary dissolution herein prescribed and, within six months from the date of such sale or conveyance, shall file with the superintendent a certified copy of the closing order in the form prescribed by subdivision four of this section. The corporate banking organization, upon making written application to the superintendent for approval of the sale or conveyance of more than fifty per centum of its assets, shall pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter. If a clos-

ing order is required to be filed pursuant to this subdivision and such order is not filed within the time prescribed, the superintendent shall have the power, in his or her discretion, to take possession of the business and property of such corporation and proceed with the liquidation thereof under the provisions of this article.

S 217. Subdivision 2 of section 617 of the banking law, as amended by chapter 174 of the laws of 1941, is amended to read as follows:

2. If such property or contents shall not be removed, and all rent or storage and other charges theretofore accrued, if any, shall not be paid, within the time fixed by such notice, the superintendent may cause such property to be inventoried, or such safe, vault or box, or any package, parcel or receptacle in the custody or possession of such banking organization as bailee or depositary for hire or otherwise, to be opened and the contents, if any, to be removed and inventoried, in his presence or in the presence of a deputy superintendent, a special deputy superintendent, or an examiner and of a notary public, not an officer or employee of such banking organization or of the [banking] department OF BANKING AND FINANCIAL SERVICES. Such property or contents shall thereupon be sealed up by such notary public in a package distinctly marked by him with the name of the person in whose name such property or such safe, vault, box, package, parcel or receptacle stands upon the books of such banking organization, and a copy of the inventory of the property therein shall be certified and attached thereto by such notary public. Such package may be kept by the superintendent in such place as he may determine at the expense and risk of the person in whose name it stands until delivered to such person or until sold, destroyed or otherwise disposed of as hereinafter provided. Such package may, pending final disposition of its contents, be opened by the superintendent, a deputy superintendent, special deputy superintendent or examiner, from time to time for inspection or appraisal, or to enable the superintendent to exercise any of the powers conferred or duties imposed upon him by this article. Whenever such package is opened, the superintendent, deputy superintendent, special deputy superintendent or examiner, shall endorse on the outside of said package the date of opening and re-sealing, and shall prepare an affidavit which shall be attached thereto, showing the reason for opening and the articles, if any, removed therefrom, or placed or replaced therein.

S 218. Subdivision 4 of section 646 of the banking law, as amended by chapter 677 of the laws of 2004, is amended to read as follows:

4. All reports of investigations and other reports rendered pursuant to this section, and all correspondence and memoranda concerning or arising out of such investigations or reports, including any duly authenticated copy or copies thereof in the possession of any licensee or the [banking] department OF BANKING AND FINANCIAL SERVICES, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or other material referred to in this subdivision, or any part thereof, in such manner as may be deemed proper. For purposes of this subdivision, "reports of investigations, and other reports rendered pursuant to this section and all correspondence and memoranda concerning or arising out of such investigations or reports" shall have the same meaning as such terms are defined pursuant to subdivision ten of section thirty-six of this chapter.

S 219. Subdivision (c) of section 675 of the banking law, as added by chapter 777 of the laws of 1983, is amended to read as follows:

(c) 1. The banking AND FINANCIAL SERVICES board shall promulgate and may from time to time amend rules and regulations which require that the joint tenants of an account established on or after the date on which the rule or regulation becomes effective and representing any deposit or shares governed by the foregoing provisions of this section, shall, at the time the account is established be informed of the terms and conditions of the account including the relationship and consequences between the parties in the account and the responsibilities of the institution with which the account is established.

2. This subdivision or any rule or regulation thereunder shall not be deemed or construed as increasing or diminishing the rights or liability of any person, or other entity.

S 220. Subdivision 2 of section 678 of the banking law, as added by chapter 436 of the laws of 1990, is amended to read as follows:

2. The banking AND FINANCIAL SERVICES board shall promulgate and may from time to time amend rules and regulations which require that a depositor who requests the establishment of an account in the name of the depositor and another person "for the convenience" of the depositor be informed of the terms and conditions of the account described in subdivision one of this section, including the relationship and consequences between the parties in such an account, the difference between such an account and a joint account established under section six hundred seventy-five of this article, and the responsibilities of the institution with which such an account is established. This subdivision or any rule or regulation thereunder shall not be deemed or construed as increasing or diminishing the rights or liability of any person, or other entity.

S 221. Subdivision 1 of section 1001 of the banking law, as amended by chapter 1 of the laws of 1984, is amended to read as follows:

1. "Corporation" means and includes all banks, trust companies, safe deposit companies, investment companies, mutual trust investment companies, and, to the extent not provided otherwise under any regulation of the banking AND FINANCIAL SERVICES board promulgated pursuant to the provisions of section fourteen-e of this chapter, stock-form savings banks and stock-form savings and loan associations.

S 222. Paragraph (f) of subdivision 2 of section 2001 of the banking law, as amended by chapter 566 of the laws of 2004, is amended to read as follows:

(f) To be a promoter, partner, member, associate or manager of other business enterprises or ventures, or to the extent permitted in any other jurisdiction to be an incorporator of other corporations of any type or kind; provided, however, that nothing contained in this paragraph shall authorize a banking organization to engage in any activity not otherwise authorized by the laws of New York or by regulations of the banking AND FINANCIAL SERVICES board or of the superintendent.

S 223. Section 3001 of the banking law, as amended by chapter 464 of the laws of 2006, is amended to read as follows:

S 3001. Corporate name; general. Except as otherwise provided in this chapter, the name of a corporation or a foreign corporation, or the name of representative and other offices in this state, which are open to the general public and maintained by any banking corporation, wherever located, shall not be the same as the name of a corporation of any type or kind, as such name appears on the index of names of existing corporations and foreign corporations of any type or kind in the [banking] department OF BANKING AND FINANCIAL SERVICES or a name so similar to such name as to tend to confuse or deceive.

S 224. Subdivision 3 and the closing paragraph of subdivision 9 of section 4001 of the banking law, as amended by chapter 360 of the laws of 1984, are amended to read as follows:

3. The amount of its capital stock, the number of shares into which such capital stock shall be divided and the par value of the shares, which capital stock shall amount to not less than the amounts prescribed by the banking AND FINANCIAL SERVICES board.

No corporation shall be authorized to exercise the powers set forth in section one hundred of this chapter unless its capital stock shall amount to not less than the amounts prescribed by the banking AND FINANCIAL SERVICES board.

S 225. Subdivision 1 of section 4001-a of the banking law, as added by chapter 637 of the laws of 1995, is amended to read as follows:

1. Notwithstanding the provisions of section four thousand one of this article and when authorized by the superintendent and the banking AND FINANCIAL SERVICES board as provided in article two of this chapter, five or more persons may form a limited liability investment company pursuant to the provisions of article twelve of this chapter. Such person or persons shall subscribe and acknowledge the articles of organization in duplicate which shall specifically state:

(a) the name by which the limited liability investment company is to be known;

(b) the place where its office is to be located;

(c) the amount of its capital contributions;

(d) if the company is to have classes or groups of members, the relative rights, powers, preferences, limitations and voting powers of each such class or group;

(e) the names and places of residence of the persons forming the company;

(f) the duration of the company;

(g) the number of managers charged with the management of the company as its board, provided that such number shall be in accordance with the requirements set forth in section seven thousand two of this article; and

(h) the names of the persons who shall manage the company until the first annual meeting of the members, provided that such persons must possess the qualifications as to citizenship and residence specified in section seven thousand one of this article.

S 225-a. Subdivision 1 of section 4001-b of the banking law, as added by chapter 248 of the laws of 1997, is amended to read as follows:

1. Notwithstanding the provisions of section four thousand one of this article and when authorized by the superintendent and the banking AND FINANCIAL SERVICES board as provided in article two of this chapter, five or more persons may form a limited liability trust company pursuant to the provisions of article three of this chapter. Such person or persons shall subscribe and acknowledge the articles of organization in duplicate, which shall specifically state:

(a) the name by which the limited liability trust company is to be known;

(b) the place where its office is to be located;

(c) the amount of its capital contributions;

(d) if the company is to have classes or groups of members, the relative rights, powers, preferences, limitations, and voting powers of each such class or group;

(e) the names and places of residence of the persons forming the company;

(f) the duration of the company;

(g) the number of managers charged with the management of the company as its board, provided that such number shall be in accordance with the requirements set forth in section seven thousand two of this article; and

(h) the names of the persons who shall manage the company until the first annual meeting of the members, provided that such persons must possess the qualifications as to citizenship and residence specified in section seven thousand one of this article.

S 226. Subdivision 4 of section 7006 of the banking law, as added by chapter 849 of the laws of 1964, is amended to read as follows:

4. This section does not affect the powers of the superintendent or the banking AND FINANCIAL SERVICES board under section forty-one of this chapter.

S 226-a. Subdivision 2 of section 7014 of the banking law, as added by chapter 849 of the laws of 1964, is amended to read as follows:

2. This section does not affect the powers of the superintendent or the banking AND FINANCIAL SERVICES board under section forty-one of this chapter.

S 227. Section 9014 of the banking law, as amended by chapter 297 of the laws of 1993, is amended to read as follows:

S 9014. Corporate name; general. Except as otherwise provided in this chapter, the name of a corporation or a foreign corporation shall not be the same as the name of a corporation of any type or kind, as such name appears on the index of names of existing corporations of any type or kind in the [banking] department OF BANKING AND FINANCIAL SERVICES or a name so similar to such name as to tend to confuse or deceive.

S 228. Section 9019 of the banking law, as added by chapter 1 of the laws of 1984, is amended to read as follows:

S 9019. Certain provisions relating to the conversion of non-stock savings banks and savings and loan associations to stock form. No mutual savings bank and no mutual savings and loan association shall convert to stock form unless all depositors (in the case of such savings banks) and all shareholders (in the case of such savings and loan associations) of any such converting institution whose aggregate deposit or share balance, as the case may be, (as shown on the books and records of the converting institution) equals at least one hundred dollars as of a record date to be established in accordance with general regulations of the banking AND FINANCIAL SERVICES board are provided with an opportunity to approve such conversion, either in person or by valid proxy, at a meeting duly convened in accordance with general regulations of the banking AND FINANCIAL SERVICES board for the purpose of approving or disapproving such conversion. At such meeting, each depositor or shareholder shall be entitled to cast one vote for each full one hundred dollars of deposits or shares of such depositor or shareholder shown on the books and records of the converting institution as of such record date. A depositor or shareholder shall not be entitled to cast any votes for any deposit or share balances in amounts of less than one hundred dollars. No such conversion shall be effective unless approved by the affirmative vote of at least seventy-five per centum of the aggregate dollar amount of the book value of deposits or shares, as the case may be, represented (either in person or by proxy) at such duly convened meeting and entitled to vote thereat.

S 229. Section 304 of the abandoned property law, as amended by chapter 44 of the laws of 1950, is amended to read as follows:

S 304. Unclaimed property held by the superintendent of banks AND FINANCIAL SERVICES after liquidation. 1. All amounts held by the superintendent of banks AND FINANCIAL SERVICES as trustee for the owners thereof after the completion of the voluntary or involuntary liquidation of the business and property of any banking organization or of the business and property in this state of any foreign banking corporation, as provided in section thirty of the banking law, which shall not have been claimed and paid within four years after receipt by the superintendent OF BANKS AND FINANCIAL SERVICES shall be deemed abandoned property.

2. Any such abandoned property held by the superintendent of banks AND FINANCIAL SERVICES to which the right to receive the same is established as provided in section thirty-one of the banking law shall cease to be deemed abandoned.

S 230. Section 305 of the abandoned property law, as amended by chapter 44 of the laws of 1950, is amended to read as follows:

S 305. Payment of abandoned property after liquidation by superintendent of banks AND FINANCIAL SERVICES. 1. Not later than the first day of October in each year the superintendent of banks AND FINANCIAL SERVICES shall pay to the state comptroller all such abandoned property held by him which shall have become abandoned property at any time prior to the first day of July next preceding, excepting such abandoned property as since such first day of July shall have ceased to be abandoned.

2. Such payment shall be accompanied by a statement signed by the superintendent of banks AND FINANCIAL SERVICES setting forth the name and last known address of, and the amount owning to, each person appearing to be the owner of any such abandoned property, or if the name is unknown, the nature and identifying number of the indebtedness and the name of the banking organization or foreign banking corporation from which such abandoned property was received, together with such other identifying information as the state comptroller may require.

S 231. Subdivision (a) of section 1415 of the abandoned property law, as added by chapter 568 of the laws of 1981, is amended to read as follows:

(a) the laws of the state of New York including therein the regulations of the New York state [banking] department OF BANKING AND FINANCIAL SERVICES; or

S 232. Paragraphs b and j of subdivision 3 of section 24-a of the general construction law, paragraph b as amended and paragraph j as added by chapter 209 of the laws of 1979, are amended to read as follows:

b. Whenever the officers of a banking organization are of the opinion that an emergency, as hereinafter defined, exists which affects one or more or all the banking organization's offices, they shall have authority to close one or more or all such offices even though the governor has not issued and does not issue a proclamation of emergency, provided however, that provision is made by such officers for the transaction of the business normally transacted at a closed office at another office or the principal office of the banking organization, until further notice. The office or offices so closed shall remain closed until the officers or, in the case of a banking organization as defined in the banking law, the superintendent of banks AND FINANCIAL SERVICES, direct that it be opened. A banking organization closing an office or offices pursuant to this paragraph shall give prompt notice to the superintendent of banks AND FINANCIAL SERVICES of its action.

j. For purposes of this section, each reference to the superintendent of banks AND FINANCIAL SERVICES shall be deemed to include any official of the [banking] department OF BANKING AND FINANCIAL SERVICES to whom authority granted by this section has been delegated.

S 233. Paragraphs (a) and (b) of subdivision 1 of section 15 of the private housing finance law, paragraph (a) as amended by chapter 990 of the laws of 1972 and paragraph (b) as added by chapter 23 of the laws of 1976, are amended to read as follows:

(a) One or more banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries or any combination of the foregoing, shall have the power to organize a company pursuant to the provisions of this article, and to purchase for cash or to receive and hold in exchange for property, and to own the bonds of a company and to invest, singly or jointly, or with the state or a municipality or the New York state housing finance agency or the New York city housing development corporation in a bond or note and single participating mortgage, or in separate bonds or notes and mortgages, in an amount not greater than ninety-five per centum of the total project cost in the case of a mutual company, urban rental company or a non-profit company incorporated pursuant to the provisions of the not-for-profit corporation law and this article for the purpose of providing housing for staff members, employees or students of a college, university, child care institution, or hospital and their immediate families and in the case of a non-profit company incorporated pursuant to the not-for-profit corporation law and this article for the purpose of providing housing for aged persons of low income or in the case of a low income non-profit housing company such investment shall not be greater than the total project cost. Where one or more banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries, or the state or a municipality or the New York state housing finance agency or the New York city housing development corporation, shall participate in a loan to a company secured by a single participating mortgage or by separate mortgages, the interest of each shall have equal priority as to lien in proportion to the amount of loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise. Banking organizations, foundations, labor unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees, fiduciaries or groups thereof, may exercise any such power on such conditions, however, as to banking organizations, as may be prescribed by the banking AND FINANCIAL SERVICES board of the state [banking] department OF BANKING AND FINANCIAL SERVICES, and as to insurance companies only to the extent and upon such conditions as may be authorized by the state superintendent of insurance. As used in this subdivision, the terms "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries holding funds for investment, and the term "banking organizations" shall have the same meaning as in subdivision eleven of section two of the banking law.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision or of any general, special or local law, for the purpose of completing the financing of project cost, in the event that a municipality has made or contracted to make a loan to a company or to a public benefit corporation to provide moneys to finance the project cost of a project (1) the construction of which commenced prior to December first, nineteen hundred seventy-five, (2) for which a temporary or permanent certificate of occupancy was not issued prior to January first, nineteen hundred seventy-three, and (3) which is assisted by a contract with the secretary of housing and urban development of the United States pursuant to section two hundred thirty-six of the national housing act, as amended, covering all dwelling units therein, one or more banking organizations as defined in paragraph (a) of this subdivision, foundations, labor unions, credit unions, employers' associations, veterans' organizations, colleges, universities, educational institutions, child care institutions, hospitals, medical research institutes, insurance companies, trustees or fiduciaries as defined in paragraph (a) of this subdivision, trustees of pension and retirement funds and systems, corporations, partnerships, individuals, or other entities or any combination of the foregoing shall have the power to participate in such loan or make or participate in a new loan secured by a bond or note and a single participating mortgage, or by separate bonds or notes and separate mortgages, or to invest, singly or jointly, with the municipality in a bond or note and single participating mortgage or in separate bonds or notes and mortgages, upon such terms and conditions as may be approved by the supervising agency, including but not limited to provisions providing that (i) priority may be given to the payment of the principal of and interest on that portion of the mortgage indebtedness attributable to participation in a loan or an investment made by one or more of such entities or organizations, (ii) the interest of the municipality created as a result of making a mortgage loan may be subordinated to the interest that one or more of such organizations or entities may have upon such participation or investment, (iii) the interest of each upon such participation or investment need not be of equal priority as to lien, nor be equal as to interest rate, time or rate of amortization of principal or time of payment of interest, or otherwise, provided, however, that the aggregate amount of the loan or loans or investment made by one or more of such organizations or entities shall not exceed thirty per centum of total project cost and, further provided that the aggregate amount of the loan or loans to a company does not exceed such amount as is authorized pursuant to paragraph (a) of this subdivision. All or part of the proceeds of such participation or investment pursuant to this paragraph (b) may be applied to reduce or prepay the loan made by the municipality. The provisions of subdivisions one and five of section twenty-six of this article shall not apply to such participation in a loan or investment pursuant to this paragraph (b) if undertaken in connection with a project theretofore approved pursuant to said section twenty-six.

Notwithstanding the provisions of this article or of any general, special or local law, in the event that a municipality has made a loan pursuant to this article prior to any participation pursuant to this paragraph, the supervising agency shall have the power, upon the mortgagor's consent, to modify the terms and conditions of the original bond or bonds or note or notes and mortgage and any other documents executed in connection with such initial loan, as the supervising agency may deem necessary or desirable, to provide for such participation, including but not limited to modification of the rate and time of payment of the interest on the initial loan or rate of amortization of principal thereof, and provision for the additional borrowing cost, if any, with respect to that portion of the mortgage indebtedness attributable to such participation, provided, that except to the extent of any increase in the maximum principal amount of the original mortgage loan, with regard to a company that has obtained a temporary or permanent certificate of occupancy for part or all of a project financed by a loan pursuant to this article before such participation in a loan or investment is made, the sum of the payments of interest and principal on the mortgage loan or loans which the company is obligated to make in any year as a result of such modification and participation in a loan or investment made pursuant to this paragraph, shall not exceed the sum of the payments of interest and principal that such company would have been obligated to make in such year under the original mortgage loan agreement if the project had been fully financed under the original mortgage loan agreement by the municipality at an interest rate equal to the maximum rate per annum prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law as of December nineteenth, nineteen hundred seventy-five, or such higher rate of interest as the secretary of housing and urban development of the United States shall approve pursuant to an agreement to make interest reduction payments pursuant to section two hundred thirty-six of the national housing act, as amended, with respect to such project and that the rental or carrying charges in such projects shall not be increased as a result of such participation in a loan or investment and further provided, that the company shall not seek or accept from the municipality any subsidy, direct or indirect, excluding existing tax exemption, to offset any increased borrowing costs, if any.

S 234. Subdivision 5 of section 27 of the private housing finance law, as amended by chapter 341 of the laws of 1976, is amended to read as follows:

5. Pay interest on its mortgage indebtedness at a rate higher than six per centum per annum, or at such higher rates as may be approved by the commissioner, or the supervising agency, as the case may be, but in no event shall any such rate exceed the rate of interest prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law or, in the case of a mortgage loan insured or held by the federal government, the rate approved by the federal government; provided, however, that in the case of a company carrying out a state urban development corporation project or in the case of an instrument or instruments securing the residual indebtedness of a company, which indebtedness is secured by a mortgage on the real property of a project, such rate shall not exceed the rate of interest prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law or nine per centum per annum, whichever is the higher; and further provided, however, that, in the case of a company that is a mortgagor under a mortgage assigned to or acquired by the New York city housing development corporation pursuant to subdivision twenty-one of section six hundred fifty-four of this chapter and whose project is aided by a subsidy from the federal government, such rate shall be the rate of interest approved by the supervising agency. Notwithstanding the foregoing provisions of this section, the rate of interest that a company shall have the power to pay on that portion of its mortgage indebtedness attributable to an investment or participation in a loan made pursuant to subdivision one of section fifteen by an organization or entity mentioned in such subdivision, shall be the rate of interest approved by the commissioner or the supervising agency, as the case may be.

S 235. Subdivision 2 of section 28 of the private housing finance law, as amended by chapter 317 of the laws of 1978, is amended to read as follows:

2. Anything contained in this article to the contrary notwithstanding, a company which receives a loan from the state, the New York state housing finance agency or a municipality after July first, nineteen hundred sixty-nine, or a mutual company which has been duly authorized to issue income debentures to finance the modernization or replacement of project improvements or the acquisition and installation of energy saving equipment and which is otherwise authorized to pay dividends upon its shares or interest upon its income debentures, may, with the approval of the commissioner or the supervising agency as the case may be, pay such dividends or interest in excess of six per centum per annum, but in no event shall any such rate exceed the interest rate prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law, provided, however, if the voting stock of a mutual company has not been issued and delivered to the stock subscribers, then the additional authorization of such stock subscribers is required to be obtained by a majority vote.

S 236. Subdivision 1 of section 30 of the private housing finance law is amended to read as follows:

1. Notwithstanding any requirement of law to the contrary, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, municipalities, all other public bodies, all public officers, persons, partnerships and corporations organized under and governed as to investments by or pursuant to the provisions of the banking law or organized under or subject to the provisions of the insurance law, the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, owning or holding any real property may grant, sell, lease or otherwise transfer any such real property to a company and receive and hold any cash, stock, bonds, notes, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such company and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the company in connection with a project or projects. Notwithstanding the provisions of any general, special or local law, charter or ordinance, such grant, sale, lease or transfer may be made without public auction or bidding.

S 237. Subdivision 2 of section 94 of the private housing finance law, as amended by chapter 23 of the laws of 1976, is amended to read as follows:

2. Notwithstanding the foregoing provisions of this section, wherever it shall appear that a government, the New York state housing finance agency, the New York state urban development corporation, created by the New York state urban development corporation act, the New York city housing development corporation, Battery Park city authority, an organization or entity investing or participating in a loan pursuant to subdivision one of section fifteen of this chapter, or a corporation subject to the supervision either of the state insurance department or the state [banking] department OF BANKING AND FINANCIAL SERVICES, shall have loaned on a mortgage which is a lien upon any such property, such government, New York state housing finance agency, New York state urban development corporation, New York city housing development corporation,

Battery Park city authority, an organization or entity investing or participating in a loan pursuant to said section fifteen or a corporation subject to such supervision, or any trustee or trustees, or any successor trustee or trustees, for the benefit of any one or more of the aforesaid classes shall have all the remedies available to a mortgagee under the laws of the state of New York, free from any restrictions contained in this section except that the commissioner shall be made a party defendant and that the commissioner shall take all steps necessary to protect the interests of the public and no costs shall be awarded against him.

S 238. Paragraph (b) of the fifth undesignated paragraph of section 111 of the private housing finance law, as amended by chapter 40 of the laws of 1969, is amended to read as follows:

(b) the rate prescribed by the banking AND FINANCIAL SERVICES board pursuant to section fourteen-a of the banking law,

S 239. Subdivision 2 of section 122 of the private housing finance law, as amended by chapter 804 of the laws of 1981, is amended to read as follows:

2. If an action be brought to foreclose a mortgage or tax lien upon a redevelopment project, heretofore or hereafter authorized pursuant to this article, and the real property constituting the project shall be acquired at the foreclosure sale or from the mortgagee or lienor that had acquired the property of such sale, or by a conveyance in lieu of such sale, by a redevelopment company organized pursuant to this article, or by the federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, such successor in interest shall acquire such project subject to all provisions of the contract regulating such project and shall be entitled to all of the benefits contained in such contract. In all other cases of sale at foreclosure or forced sale, the real property constituting the project or any portion or portions thereof shall be sold free of all restrictions, except such covenants running with the land as may be contained in the contract regulating the project, or in the deed, if any, given by the municipality to the redevelopment company affecting all or any portion of the real property upon which the project is situated, and the tax exemption, if any, theretofore granted to such project pursuant to such contract shall immediately terminate.

S 240. Section 214 of the private housing finance law is amended to read as follows:

S 214. Transfer of real property to redevelopment corporation. Notwithstanding any requirement of law to the contrary or the absence of direct provision therefor in the instrument under which a fiduciary is acting, every executor, administrator, trustee, guardian or other person, holding trust funds or acting in a fiduciary capacity, unless the instrument under which such fiduciary is acting expressly forbids, the state, its subdivisions, cities, all other public bodies, all public officers, corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, private bankers and private banking corporations), the superintendent of banks AND FINANCIAL SERVICES as conservator, liquidator or rehabilitator of any such person, partnership or corporation, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the superintendent of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation, any of which owns or holds any real property within a development area, may grant, sell, lease or otherwise transfer any such real property to a redevelopment corporation, and receive and hold any cash, stocks, income debentures, mortgages, or other securities or obligations, secured or unsecured, exchanged therefor by such redevelopment corporation, and may execute such instruments and do such acts as may be deemed necessary or desirable by them or it and by the redevelopment corporation in connection with the development and the development plan.

S 241. Subdivision 2 of section 218 of the private housing finance law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

2. Certificates, bonds and notes, or part interests therein, or any part of an issue thereof, which are issued by a redevelopment corporation and secured by a first mortgage on the real property of the redevelopment corporation, or any part thereof, shall be securities in which all the following persons, partnerships or corporations and public bodies or public officers may legally invest the funds within their control, provided that the principal amount thereof shall not exceed the limits, if any, imposed by law for such investments by the person, partnership, corporation, public body or public officer making the same: every executor, administrator, trustee, guardian, committee, conservator or other person or corporation holding trust funds or acting in a fiduciary capacity; the state, its subdivisions, cities, all other public bodies, all public officers; persons, partnerships and corporations organized under or subject to the provisions of the banking law (including savings banks, savings and loan associations, trust companies, bankers and private banking corporations); the superintendent of banks AND FINANCIAL SERVICES as conservator, liquidator or rehabilitator of any such person, partnership or corporation; persons, partnerships or corporations organized under or subject to the provisions of the insurance law; and the superintendent of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation.

S 242. Subdivision 1 of section 307 of the private housing finance law is amended to read as follows:

1. The members of such corporation shall consist of such banking organizations, insurance and surety companies, as may make application for membership in such corporation, and membership shall become effective upon the acceptance of such applications by the temporary board of directors or the permanent board of directors, as the case may be. Each member shall lend funds to the corporation as and when called upon by it to do so, pursuant to subdivision two of this section [three hundred seven], but the total amount on loan by any member at any one time shall not exceed the following limits to be determined as of the date it became a member, and such amount shall thereafter be readjusted annually in the event of any change in the base of the loan limit of such member: commercial banks, industrial banks and trust companies, one per centum of capital and surplus; private bankers, one per centum of capital; savings banks, one per centum of surplus fund; savings and loan associations, one per centum of surplus; stock insurance companies, one per centum of capital and surplus; surety and casualty companies, one per centum of capital and surplus; mutual insurance companies, one per centum of guaranty funds or of surplus, whichever is applicable; and comparable limits for other banking, lending and insurance organizations, as established by the board of directors; provided, however, that the total amount on loan by any member at any one time shall not exceed two hundred fifty thousand dollars; provided, however, that in the case

of banking organizations, the superintendent of banks AND FINANCIAL SERVICES, and in the case of insurance and surety companies, the superintendent of insurance, may authorize a member to lend to the corporation an amount in excess of two hundred fifty thousand dollars. All loan limits shall be established at the thousand dollar nearest to the amount computed on an actual basis. All calls of funds which members are committed to lend to such corporation shall be prorated by such corporation among the members in the same proportion that the maximum loan limit of each bears to the aggregate loan limits of all members of such corporation. Upon six months' prior written notice to the board of directors, a member of such corporation may withdraw from membership, effective at the end of such six-month period and, after the effective date of such withdrawal, such member shall be free of obligations hereunder except those accrued or committed by such corporation prior to such effective date of withdrawal. Notwithstanding the provisions of any other law, general or special, the notes or other interest-bearing obligations of such corporation, issued in accordance with and by virtue of this article and the by-laws of such corporation, shall be legal investments for the banking, insurance and surety organizations who become members of such corporations, up to but in no event exceeding the loan limits established herein.

S 243. Section 311 of the private housing finance law, as amended by chapter 891 of the laws of 1971, is amended to read as follows:

S 311. Examination. At least once in each calendar year the corporation shall be examined by either the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance for the purpose of determining the corporation's net worth and the soundness of its management and operating policies. The examination is to be made by the [superintendant] SUPERINTENDENT of banks AND FINANCIAL SERVICES in alternate years commencing with the examination for the year ending October thirty-first, nineteen hundred seventy-one, and by the superintendent of insurance in alternate years commencing with the examination for the year ending October thirty-first, nineteen hundred seventy-two. The corporation shall not, however, be deemed to be a banking or insurance organization. The corporation shall pay the cost of each such examination. Copies of each examination report, including the findings, conclusions and recommendations of the examiners, shall be furnished to the corporation. The corporation shall furnish copies of each report, including the findings, conclusions and recommendations of the examiners, to each of the holders of its capital stock and to its members. Such corporation shall make an annual report of its condition to the governor, legislature, superintendent of insurance and superintendent of banks AND FINANCIAL SERVICES on or before January first of each year.

S 244. Subdivision 2 of section 407 of the private housing finance law, as added by chapter 499 of the laws of 1970, is amended to read as follows:

2. Banking institutions may exercise such power on such conditions as may be prescribed by the banking AND FINANCIAL SERVICES board of the state [banking] department OF BANKING AND FINANCIAL SERVICES and insurance companies may exercise such power only to the extent and on such conditions as may be authorized by the state superintendent of insurance.

S 245. Section 454 of the private housing finance law, as added by chapter 862 of the laws of 1973, is amended to read as follows:

S 454. Servicing of municipal loans by banking institutions. The municipality is authorized to make provision, either in the loan agreement or by separate agreement, for the performance by one or more banking institutions of such services as are generally performed by any such bank itself owning and holding such a loan and as may be approved by the banking AND FINANCIAL SERVICES board of the state [banking] department OF BANKING AND FINANCIAL SERVICES, for which services a bank may make and collect such service charges as the banking AND FINANCIAL SERVICES board shall prescribe or approve.

S 246. Subdivision 1 of section 474 of the private housing finance law, as added by chapter 786 of the laws of 1987, is amended to read as follows:

1. The agency is authorized to make provision in the note and loan agreement or by separate agreement for the performance by one or more banking institutions of such services as are generally performed by any such bank itself owning and holding such a loan and as may be approved by the banking AND FINANCIAL SERVICES board of the state [banking] department OF BANKING AND FINANCIAL SERVICES, for which services a bank may make and collect such service charges as the banking AND FINANCIAL SERVICES board shall prescribe or approve.

S 247. Subdivision 7 of section 802 of the private housing finance law, as added by chapter 822 of the laws of 1976, is amended to read as follows:

7. Banking organizations may exercise such power on such conditions as may be prescribed by the banking AND FINANCIAL SERVICES board of the state [banking] department OF BANKING AND FINANCIAL SERVICES, and insurance companies may exercise such power only to the extent and on such conditions as may be authorized by the state superintendent of insurance.

S 248. Subdivisions 3, 4 and 5 of section 1303 of the real property actions and proceedings law, as amended by chapter 472 of the laws of 2008, are amended to read as follows:

3. The notice required by this section shall appear as follows:

Help for Homeowners in Foreclosure

New York State Law requires that we send you this notice about the foreclosure process. Please read it carefully.

Summons and Complaint

You are in danger of losing your home. If you fail to respond to the summons and complaint in this foreclosure action, you may lose your home. Please read the summons and complaint carefully. You should immediately contact an attorney or your local legal aid office to obtain advice on how to protect yourself.

Sources of Information and Assistance

The State encourages you to become informed about your options in foreclosure. In addition to seeking assistance from an attorney or legal aid office, there are government agencies and non-profit organizations that you may contact for information about possible options, including trying to work with your lender during this process.

To locate an entity near you, you may call the toll-free helpline maintained by the New York State [Banking] Department OF BANKING AND FINANCIAL SERVICES at _____________ (enter number) or visit the Department's website at _______________ (enter web address).

Foreclosure rescue scams

Be careful of people who approach you with offers to "save" your home. There are individuals who watch for notices of foreclosure actions in order to unfairly profit from a homeowner's distress. You should be extremely careful about any such promises and any suggestions that you pay them a fee or sign over your deed. State law requires anyone offering such services for profit to enter into a contract which fully describes the services they will perform and fees they will charge, and which prohibits them from taking any money from you until they have completed all such promised services.

4. The [banking] department OF BANKING AND FINANCIAL SERVICES shall prescribe the telephone number and web address to be included in the notice.

5. The [banking] department OF BANKING AND FINANCIAL SERVICES shall post on its website or otherwise make readily available the name and contact information of government agencies or non-profit organizations that may be contacted for information about the foreclosure process, including maintaining a toll-free helpline to disseminate the information required by this section.

S 249. Subdivisions 1 and 2 and paragraph (f) of subdivision 5 of section 1304 of the real property actions and proceedings law, as added by chapter 472 of the laws of 2008, are amended to read as follows:

1. Notwithstanding any other provision of law, with regard to a high-cost home loan, as such term is defined in section six-l of the banking law, a subprime home loan or a non-traditional home loan, at least ninety days before a lender or a mortgage loan servicer commences legal action against the borrower, including mortgage foreclosure, the lender or mortgage loan servicer shall give notice to the borrower in at least fourteen-point type which shall include the following:

"YOU COULD LOSE YOUR HOME. PLEASE READ THE FOLLOWING NOTICE CAREFULLY"

"As of ___, your home loan is ___ days in default. Under New York State Law, we are required to send you this notice to inform you that you are at risk of losing your home. You can cure this default by making the payment of _____ dollars by ____.

If you are experiencing financial difficulty, you should know that there are several options available to you that may help you keep your home. Attached to this notice is a list of government approved housing counseling agencies in your area which provide free or very low-cost counseling. You should consider contacting one of these agencies immediately. These agencies specialize in helping homeowners who are facing financial difficulty. Housing counselors can help you assess your financial condition and work with us to explore the possibility of modifying your loan, establishing an easier payment plan for you, or even working out a period of loan forbearance. If you wish, you may also contact us directly at __________ and ask to discuss possible options.

While we cannot assure that a mutually agreeable resolution is possible, we encourage you to take immediate steps to try to achieve a resolution. The longer you wait, the fewer options you may have.

If this matter is not resolved within 90 days from the date this notice was mailed, we may commence legal action against you (or sooner if you cease to live in the dwelling as your primary residence.)

If you need further information, please call the New York State [Banking Department's] DEPARTMENT OF BANKING AND FINANCIAL SERVICES' toll-free helpline at 1-877-BANK-NYS (1-877-226-5697) or visit the Department's website at http://www.banking.state.ny.us"

2. Such notice shall be sent by the lender or mortgage loan servicer to the borrower, by registered or certified mail and also by first-class mail to the last known address of the borrower, and if different, to the residence which is the subject of the mortgage. Notice is considered

given as of the date it is mailed. The notice shall contain a list of at least five United States department of housing and urban development approved housing counseling agencies, or other housing counseling agencies as designated by the division of housing and community renewal, that serve the region where the borrower resides. The list shall include the counseling agencies' last known addresses and telephone numbers. The [banking] department OF BANKING AND FINANCIAL SERVICES and/or the division of housing and community renewal shall make available a listing, by region, of such agencies which the lender or mortgage loan servicer may use to meet the requirements of this section.

(f) For purposes of determining the threshold, the [banking] department OF BANKING AND FINANCIAL SERVICES shall publish on its website a listing of constant maturity yields for U.S. Treasury securities for each month between January first, two thousand three and September first, two thousand eight, as published in the Federal Reserve Statistical Release on selected interest rates, commonly referred to as the H.15 release, in the following maturities, to the extent available in such release: six month, one year, two year, three year, five year, seven year, ten year, thirty year.

S 250. Paragraph (d) of subdivision 11 of section 265-a of the real property law, as added by chapter 308 of the laws of 2006, is amended to read as follows:

(d) As part of a reconveyance arrangement, an equity purchaser shall either:

(i) ensure that title to the residence is reconveyed to the equity seller; or

(ii) make a payment to the equity seller such that the equity seller has received consideration in an amount of at least eighty-two percent of the fair market value of the property within one hundred twenty days of either the eviction or voluntary relinquishment of possession of the residence by the equity seller. The equity purchaser shall make a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make a payment, including providing written documentation of expenses, within such one hundred twenty-day period. The accounting shall be on a form prescribed by the [banking] department OF BANKING AND FINANCIAL SERVICES. For purposes of this subparagraph, the following applies:

(A) there is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate establishes the fair market value of the property;

(B) the time for determining the fair market value amount shall be determined in the reconveyance arrangement as either at the time of the execution of the reconveyance arrangement or at resale to a bona fide purchaser. If the covered contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within one hundred twenty days of the eviction or voluntary relinquishment of the property by the equity seller. If the covered contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within one hundred twenty days of the eviction or voluntary relinquishment of the property by the equity seller, the fair market value shall be determined by an appraisal conducted within ten days after the end of such one hundred twenty-day period and payment, if required, shall be made to the equity seller. If payment is not made to the equity seller at such time, the fair market value shall be recalculated as the resale price on resale and payment shall be made to the equity seller within fifteen days of resale. A detailed accounting of the basis for the payment amount shall be made within fifteen days of resale, including providing written documentation of expenses. The accounting shall be on a form prescribed by the [banking] department OF BANKING AND FINANCIAL SERVICES;

(C) "consideration" shall mean any payment or thing of value provided to the equity seller, including unpaid lease payments owed by the equity seller prior to the date of eviction or voluntary relinquishment of the property, reasonable costs paid to third parties necessary to complete the reconveyance transaction, payment of money to satisfy a debt or legal obligation of the equity seller or the reasonable cost of repairs for damage to the dwelling caused by the equity seller beyond ordinary wear and tear; but shall not include amounts imputed as any fee paid directly or indirectly to the equity purchaser, or his or her representative, incident to a reconveyance arrangement, except for reasonable costs paid to third parties necessary to complete the reconveyance.

(D) "resale" means a bona fide market sale of the property subject to the reconveyance arrangement by the equity purchaser to an unaffiliated third party.

(E) "resale price" means the purchase price of the property on resale.

S 251. Subparagraphs (iii) and (ix) of paragraph (e) of subdivision 1 and subparagraph (viii) of paragraph (a) of subdivision 3 of section 265-b of the real property law, as added by chapter 472 of the laws of 2008, are amended to read as follows:

(iii) a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company, credit union or insurance company organized under the laws of this state, another state or the United States, or a subsidiary or affiliate of such entity or a foreign banking corporation licensed by the superintendent of banks AND FINANCIAL SERVICES or the comptroller of the currency;

(ix) a person licensed or registered in the state to engage in the practice of other professions that the superintendent of banks AND FINANCIAL SERVICES has determined should not be subject to this section.

(viii) contain the following notice, which shall be printed in at least fourteen point boldface type, completed with the name of the distressed property consultant, and located in immediate proximity to the space reserved for the homeowner's signature:

"NOTICE REQUIRED BY NEW YORK LAW

You may cancel this contract, without any penalty or obligation, at any time before midnight of (fifth business day after execution).

(Name of Distressed Property Consultant) (the "Consultant") or anyone working for the Consultant may not take any money from you or ask you for money until the Consultant has completely finished doing everything this Contract says the Consultant will do.

You should consider consulting an attorney or a government-approved housing counselor before signing any legal document concerning your home. It is advisable that you find your own attorney, and not consult with an attorney recommended or provided to you by the Consultant. A list of housing counselors may be found on the website of the New York State [Banking] Department OF BANKING AND FINANCIAL SERVICES, www.banking.state.ny.us or by calling the [Banking] Department OF BANKING AND FINANCIAL SERVICES toll-free at 1-877-BANK-NYS (1-877-226-5697). The law requires that this contract contain the entire agreement between

you and the Consultant. You should not rely upon any other written or oral agreement or promise."
The distressed property consultant shall accurately enter the date on which the right to cancel ends.

S 252. Paragraph (a) of subdivision 2 of section 274-a of the real property law, as added by chapter 132 of the laws of 1993, is amended to read as follows:

(a) The mortgagee of an owner-occupied, one-to-six family residential structure or residential condominium unit, shall deliver within thirty days, any mortgage related documents to an authorized individual making a bona fide written demand for such documents. The mortgagee shall not charge for providing the mortgage-related documents, provided, however, the mortgagee may charge not more than twenty dollars, or such amount as may be fixed by the banking AND FINANCIAL SERVICES board, for each subsequent payoff statement provided under this subdivision. If the mortgagee fails to deliver the mortgage-related documents, the mortgagee shall be liable for the actual damages to the mortgagor by reason of such failure. In computing actual damages the court may consider the actual rate of interest on the mortgage debt and current prevailing rate or rates of interest on comparable debts. However, actual damages do not include pain and suffering, mental or emotional distress or the like. The replacement costs of a lost abstract of title required to be delivered hereunder, may be deducted from the amount required to satisfy the mortgage.

S 253. Section 278 of the real property law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

S 278. Exchange of mortgage investment. Trustees, executors, administrators, guardians, committees, conservators, receivers, the town treasurer of any town and other persons and corporations holding trust funds, corporations and private bankers organized under or subject to the provisions of the banking law, the superintendent of banks AND FINANCIAL SERVICES as conservator, liquidator or rehabilitator of any such corporation or private banker organized under and subject to the provisions of the banking law, persons, partnerships, and corporations organized under or subject to the provisions of the insurance law, the superintendent of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation organized under or subject to the provisions of the insurance law, and other domestic corporations, that shall have made or shall hold an investment, whether with or without a specified ratio of real property security, in a bond secured by mortgage on real property or share or part thereof, whether guaranteed or not, may, at any time without an order of the court or other authority, exchange, prior or subsequent to maturity, such bond and mortgage or share or part thereof and any rights in respect thereto, for bonds of Home Owners' Loan Corporation, a corporation created under home owners' loan act of nineteen hundred and thirty-three, and may hold such bonds of Home Owners' Loan Corporation as authorized and lawful investments for any and all purposes, notwithstanding the provisions of any general or special law of this state inconsistent with the provisions of this section.

S 254. The opening paragraph of section 278-a of the real property law, as amended by chapter 115 of the laws of 1981, is amended to read as follows:

Trustees, executors, administrators, guardians, committees, conservators and all other persons or corporations holding trust funds or acting in a fiduciary capacity, corporations and private bankers organized under or subject to the provisions of the banking law, the superintendent of banks AND FINANCIAL SERVICES as conservator, liquidator or rehabilitator of any such corporation or private banker organized under and subject to the provisions of the banking law, persons, partnerships and corporations organized under or subject to the provisions of the insurance law, the superintendent of insurance as conservator, liquidator or rehabilitator of any such person, partnership or corporation organized under or subject to the provisions of the insurance law who or which (1) own any property on which there is a building defined in the multiple dwelling law as an old law tenement or who or which hold a mortgage or other lien on such property, or

S 255. Paragraph (c) of subdivision 3 of section 279 of the real property law, as added by chapter 15 of the laws of 1980, is amended to read as follows:

(c) discloses in advance on a uniform disclosure statement, prescribed by the banking AND FINANCIAL SERVICES board, the relevant provisions of the graduated payment mortgage loan including:

(i) a side by side comparison of interest rates and other terms that differ between a non-graduated payment mortgage loan and a graduated payment mortgage loan;

(ii) payment schedules for both types of loans and the total payment in dollars over the full term of each loan;

(iii) a statement prominently displayed that borrowers have the option to elect a non-graduated payment mortgage loan; and

(iv) a description of the conversion option.

S 256. Paragraphs (f) and (g) of subdivision 1, paragraphs (a), (b), (e) and (i) of subdivision 2, paragraph (b) of subdivision 3 and subdivisions 4, 8 and 9 of section 280 of the real property law, as added by chapter 613 of the laws of 1993, are amended to read as follows:

(f) Banking AND FINANCIAL SERVICES board. The board established pursuant to section thirteen of the banking law.

(g) Superintendent of banks AND FINANCIAL SERVICES. The position established pursuant to section twelve of the banking law as the head of the [banking] department OF BANKING AND FINANCIAL SERVICES and pursuant to section thirteen of the banking law as the chairman and executive head of the banking AND FINANCIAL SERVICES board.

(a) the loan to value ratio shall be determined by the banking AND FINANCIAL SERVICES board; and

(b) subject to such rules or regulations as the banking AND FINANCIAL SERVICES board shall adopt, any authorized lender or any successor or assign of such authorized lender which suspends, ceases or makes late payments to a mortgagor under a reverse mortgage loan shall be subject to forfeiture (as liquidated damages to such mortgagor and not as a penalty) of twice the interest which would otherwise have been earned during the period in which payments were suspended, ceased or made late, provided that said authorized lender or any successor or assign of such authorized lender shall have the right to make payments pursuant to said loan agreement within fifteen days of each payment date, without penalty; and

(e) the authorized lender must deliver to an applicant such disclosures as may be required by the banking AND FINANCIAL SERVICES board which shall describe the relevant portions of the reverse mortgage being offered, and shall include but not be limited to the following items:

(i) except for a tenure reverse mortgage loan, a schedule of payments to and from the mortgagor and the total payments in dollars over the term of the reverse mortgage loan for both the mortgagor and mortgagee depending on the type of reverse mortgage loan being offered;

(ii) a statement prominently displayed advising applicants to consult with appropriate authorities regarding tax and estate planning consequences of a reverse mortgage;

(iii) where applicable a description of prepayment and refinancing features;

(iv) the interest rate and, except for a tenure reverse mortgage loan, the total interest payable on the loan;

(v) a statement concerning the compliance of the lender with the criteria established by the banking AND FINANCIAL SERVICES board that an authorized lender must meet before it may make reverse mortgage loans pursuant to this section; and

(vi) a statement setting forth those events which would terminate the reverse mortgage loan; and

(i) subject to such rules or regulations as the banking AND FINANCIAL SERVICES board may adopt, a reverse mortgage loan shall be made at either a fixed or variable rate of interest.

(b) provide for the maintenance of an escrow account by the authorized lender for purposes of payment of real property taxes, insurance on the property securing the loan, or any other fees and expenses as may be permitted by banking AND FINANCIAL SERVICES board regulation;

4. The banking AND FINANCIAL SERVICES board shall adopt those rules or regulations as it considers appropriate to govern reverse mortgage loans made pursuant to this section. No reverse mortgage loan shall be made unless it conforms to the requirements of this section and such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt except those reverse mortgage loans made pursuant to section two hundred eighty-a of this article. A reverse mortgage loan made by any authorized lender, national banking association, federal savings and loan association or federal credit union in conformity with applicable federal laws and regulations specifically regulating reverse mortgage loans shall be deemed to conform to the requirements of this section unless such reverse mortgage loan fails to conform to such rules and regulations as the banking AND FINANCIAL SERVICES board has expressly declared to be neither preempted by, nor otherwise inconsistent with such federal laws or regulations. Those rules or regulations shall include, but are not limited to, the form and contents of any disclosure statement, with the exception of the counseling statement prepared by the New York state office for the aging pursuant to paragraph (g) of subdivision two of this section, that authorized lenders must provide to mortgagors.

8. In a term reverse mortgage loan, the real property securing the reverse mortgage loan may be reappraised by an independent appraiser at the end of the loan term. If the value of the real property has appreciated, the term of the reverse mortgage may be extended or refinanced, however, the total reverse mortgage loan amount may not exceed such amount or ratio as may be determined by the banking AND FINANCIAL SERVICES board. The refinancing of the reverse mortgage loan shall be provided by the original authorized lender or by any other authorized lender designated by the mortgagee.

9. The principal, including any accrued but unpaid interest, of a reverse mortgage loan agreement entered into pursuant to this section may be insured by the mortgagor. If such insurance is purchased from or otherwise provided by any agency of the state of New York the mortgagor shall be granted the right, for a term reverse mortgage loan, to refinance or extend the reverse mortgage loan at the end of the term,

subject to such rules or regulations as the banking AND FINANCIAL SERVICES board may adopt. The authorized lender shall have the option to choose between refinancing or extending the reverse mortgage loan. Subject to obtaining an adequate increase in the insurance and subject to such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt, the total reverse mortgage loan amount shall not exceed such amount or loan to value ratio as may be determined by the banking AND FINANCIAL SERVICES board. The refinancing of the reverse mortgage loan shall be provided by the original authorized lender or by any other authorized lender designated by the mortgagee.

S 257. Paragraphs (d), (f) and (g) of subdivision 1, subdivisions 2, 4, 8, and 9 of section 280-a of the real property law, as added by chapter 613 of the laws of 1993, are amended to read as follows:

(d) Authorized lender. Any bank, trust company, national banking association, savings bank, savings and loan association, federal savings bank, federal savings and loan association, credit union, or federal credit union or any licensed mortgage banker approved for the making of reverse mortgage loans by the superintendent of banks AND FINANCIAL SERVICES or any entity exempted from licensing pursuant to section five hundred ninety of the banking law and approved for the making of reverse mortgage loans by the superintendent of banks AND FINANCIAL SERVICES.

(f) Banking AND FINANCIAL SERVICES board. The board established pursuant to section thirteen of the banking law.

(g) Superintendent of banks AND FINANCIAL SERVICES. The position established pursuant to section twelve of the banking law as the head of the [banking] department OF BANKING AND FINANCIAL SERVICES and pursuant to section thirteen of the banking law as the chairman and executive head of the banking AND FINANCIAL SERVICES board.

2. A reverse mortgage loan pursuant to this section shall be subject to the following:

(a) the mortgagor shall be granted lifetime possession of the subject premises of the real property which is the security for the reverse mortgage loan, as long as such real property remains the mortgagors' principal residence and subject to a limited waiver of the right of foreclosure as determined by the banking AND FINANCIAL SERVICES board; and

(b) the term of the reverse mortgage, except for a tenure reverse mortgage loan, shall be for a period of ten years or less; and

(c) the loan to value ratio shall be determined by the banking AND FINANCIAL SERVICES board; and

(d) subject to such rules or regulations as the banking AND FINANCIAL SERVICES board shall adopt, for that period of time commencing at the end of the loan term or ten years after the reverse mortgage loan commences, whichever occurs first, and ending at such time as the reverse mortgage loan is paid in full, the authorized lender, at its option, may receive no more than twenty percent of the future appreciation of the property securing the reverse mortgage loan as full or partial consideration for the making of a reverse mortgage loan; provided, however, that such future appreciation shall be limited by such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt or the authorized lender may charge a fixed rate of interest on the outstanding balance of monies advanced under the reverse mortgage agreement or any combination thereof. Said reverse mortgage loan shall not come due and shall be extended until the voluntary relinquishment by the mortgagors of possessory interest in such real property, the real property no longer being the mortgagors' principal residence, the death of the mortgagors, or such other events as may be determined by the banking AND FINANCIAL SERVICES board. Any such appreciation shall not be considered interest for the purposes of any law regulating the maximum rate of interest which may be charged, taken or received including sections 190.40 and 190.42 of the penal law; and

(e) the authorized lender shall maintain an escrow account for the purposes of paying real property taxes, insurance premiums of the property securing the reverse mortgage loan, or for the payment of any other fees and expenses as may be permitted by banking AND FINANCIAL SERVICES board regulation; and

(f) subject to such rules or regulations as the banking AND FINANCIAL SERVICES board may adopt, an authorized lender or any successor or assign of such authorized lender which [may] suspends, ceases or makes late payments to a mortgagor under a reverse mortgage loan shall be subject to forfeiture (as liquidated damages to such mortgagor and not as a penalty) of twice the interest which would otherwise have been earned during the period in which payments were suspended, ceased, or made late, provided that said authorized lender or any successor or assign of such authorized lender shall have the right to make payments pursuant to said loan agreement within fifteen days of each payment date without penalty; and

(g) an authorized lender must deliver to an applicant such disclosures as may be required by the banking AND FINANCIAL SERVICES board which shall describe the relevant portions of the reverse mortgage being offered, and shall include but not be limited to the following items:

(i) except for a tenure reverse mortgage loan, a schedule of payments to and from the mortgagor and the total payments in dollars over the term of the reverse mortgage loan for both the mortgagor and mortgagee, depending on the type of reverse mortgage loan being offered;

(ii) a statement prominently displayed advising applicants to consult with appropriate authorities regarding tax and estate planning consequences of a reverse mortgage;

(iii) where applicable a description of prepayment and refinancing features;

(iv) to the extent determinable at or prior to the inception of the reverse mortgage loan, the interest rate and, except for a tenure reverse mortgage loan, the total interest payable on the reverse mortgage loan;

(v) a statement concerning the compliance of the lender with the criteria established by the banking AND FINANCIAL SERVICES board that an authorized lender must meet before it may make reverse mortgage loans pursuant to this section; and

(vi) a statement setting forth those events which would terminate the reverse mortgage loan; and

(h) the outstanding balance may be prepaid in full by the mortgagor without penalty at any time during the reverse mortgage loan term; and

(i) an authorized lender is prohibited from using or attaching any property or asset of the mortgagor except the real property securing the reverse mortgage loan in settlement of a reverse mortgage obligation; and

(j) an authorized lender must deliver to the applicant upon application, if available, a statement prepared by the local or county office for the aging on the advisability and availability of independent counseling and information services. Further, no reverse mortgage commitment shall be issued by the authorized lender until the applicant presents, in writing, a statement that the terms of the reverse mortgage loan have been explained to them by an attorney, a housing and urban development certified counselor or any other counseling service as indicated on the statement supplied by the county or local office for the aging or a signed affidavit indicating that the applicant, although made aware of the importance of counseling and its local availability through the provision of such information by the authorized lender, chooses not to utilize any of the aforementioned available services. The form of such statement and affidavit shall be developed by the New York state office for the aging; and

(k) a reverse mortgage pursuant to this section shall expressly and conspicuously bear a legend identifying it as such; and

(l) subject to such rules or regulations as the banking AND FINANCIAL SERVICES board may adopt, a reverse mortgage loan shall be made at either a fixed or variable rate of interest; and

(m) in the event that an authorized lender or holder of the reverse mortgage loan intends to initiate foreclosure proceedings the mortgagor shall have the right to designate a third party who shall be notified. In the event that the mortgagor has not designated a third party to receive such notice of foreclosure, then the authorized lender or the holder of said reverse mortgage loan shall notify the local or county office for the aging of its intent to commence foreclosure proceedings. Such entity shall take appropriate action to protect the interests of the mortgagor.

4. The banking AND FINANCIAL SERVICES board shall adopt those rules or regulations as it considers appropriate to govern reverse mortgage loans made pursuant to this section. No reverse mortgage loan shall be made unless it conforms to the requirements of this section and such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt except those reverse mortgage loans made pursuant to section two hundred eighty of this article. A reverse mortgage loan made by any authorized lender, national banking association, federal savings and loan association or federal credit union in conformity with applicable federal laws and regulations specifically regulating reverse mortgage loans shall be deemed to conform to the requirements of this section unless such reverse mortgage loan fails to conform to such rules and regulations as the banking AND FINANCIAL SERVICES board has expressly declared to be neither preempted by, nor otherwise inconsistent with such federal laws or regulations. Those rules or regulations shall include, but are not limited to:

(a) any limitations on the taking of a percentage of the future appreciation of the real property securing the reverse mortgage loan as consideration for making the reverse mortgage loan;

(b) the execution by an authorized lender of a limited waiver of the right of foreclosure;

(c) with the exception of the counseling statement prepared by the New York state office for the aging pursuant to paragraph (j) of subdivision two of this section, the form and contents of any disclosure statement that authorized lenders must provide to mortgagors.

8. In a term reverse mortgage loan, the real property securing the reverse mortgage may be reappraised by an independent appraiser at the end of the loan term. If the value of the property has appreciated, the term of the reverse mortgage may be extended or refinanced; however the total reverse mortgage loan amount may not exceed such amount or loan to value ratio as may be determined by the banking AND FINANCIAL SERVICES board. The refinancing of the reverse mortgage loan shall be provided by

the original authorized lender or by any other authorized lender designated by the mortgagee.

9. The principal, including any accrued but unpaid interest, of a reverse mortgage loan agreement entered into pursuant to this section must be insured by the mortgagor. If such insurance is purchased from or otherwise provided by any agency of the state of New York, the mortgagor shall be granted the right, for a term reverse mortgage loan, to refinance or extend the reverse mortgage loan at the end of the term, subject to such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt. The authorized lender shall have the option to choose between refinancing or extending the reverse mortgage loan. Subject to obtaining an adequate increase in the insurance and subject to such rules and regulations as the banking AND FINANCIAL SERVICES board may adopt, the total reverse mortgage loan amount shall not exceed such amount or ratio as may be determined by the banking AND FINANCIAL SERVICES board. The refinancing of the reverse mortgage loan shall be provided by the original authorized lender or by any other authorized lender designated by the mortgagee.

S 258. Paragraph (b) of subdivision 1 of section 281 of the real property law, as amended by chapter 613 of the laws of 1993, is amended to read as follows:

(b) Payments made by an authorized lender pursuant to any credit line reverse mortgage made in accordance with section two hundred eighty-a of this article during any one year shall be limited to such amount or ratio as may be determined by the banking AND FINANCIAL SERVICES board. In the event that a borrower does not take payment under such credit line during the course of any year then that borrower shall have the ability to increase the yearly payments by that amount available but not borrowed during previous years.

S 259. Subdivision 1 and paragraph (b) of subdivision 3 of section 485-f of the real property tax law, as added by chapter 204 of the laws of 1997, are amended to read as follows:

1. Real property altered, constructed, installed, or improved for use as a branch of a bank, trust company or national bank in an area designated as a banking development district by the superintendent of banks AND FINANCIAL SERVICES pursuant to section ninety-six-d of the banking law shall be exempt from taxation and special ad valorem levies by any municipal corporation in which located, for a period of ten years, provided that the governing board of such municipal corporation, after a public hearing, adopts a local law, ordinance, or resolution providing therefor.

(b) No exemption shall be granted pursuant to this section, unless:

(i) the alteration, construction, installation, or improvement commenced on or after either the date the banking development district was designated by the superintendent of banks AND FINANCIAL SERVICES pursuant to section ninety-six-d of the banking law or, if specified in local law, ordinance, or resolution adopted pursuant to subdivision one of this section, the effective date of such local law, resolution or ordinance; and

(ii) the property is located in a banking development district designated by the superintendent of banks AND FINANCIAL SERVICES pursuant to section ninety-six-d of the banking law.

S 260. Subdivision 3 of section 953 of the real property tax law, as added by chapter 440 of the laws of 1989, is amended to read as follows:

3. Every mortgage investing institution shall deposit funds from a real property tax escrow account of a mortgagor in a banking institution

whose deposits are insured by a federal agency or a licensed branch of a foreign banking corporation whose deposits are insured by a federal agency. Notwithstanding the foregoing provisions of this subdivision, the banking AND FINANCIAL SERVICES board shall have the power, by a three-fifths vote of all its members, to exempt from the requirements of this subdivision any banking organization which does not receive deposits or share accounts from the general public.

S 261. Subdivision 9 of section 90 of chapter 784 of the laws of 1951, constituting the defense emergency act of 1951, as added by chapter 654 of the laws of 1961, is amended to read as follows:

9. "Superintendent," when used in this article, shall mean the superintendent of banks AND FINANCIAL SERVICES.

S 262. Section 94 of chapter 784 of the laws of 1951, constituting the defense emergency act of 1951, as added by chapter 654 of the laws of 1961, is amended to read as follows:

S 94. The banking AND FINANCIAL SERVICES board. 1. During a period of acute emergency affecting any area within this state, the superintendent shall have power to call meetings of the banking AND FINANCIAL SERVICES board created by section thirteen of the banking law upon such period of notice as he may deem appropriate in view of the condition of acute emergency and the urgency of the business to be transacted at such meeting. The superintendent shall give notice of such meeting by making such reasonable efforts as in his judgment circumstances may permit to notify each member of the banking AND FINANCIAL SERVICES board of the time and place of such meeting. Failure of any member of the banking AND FINANCIAL SERVICES board to receive actual notice of such a meeting shall not affect the power of the members present thereat or the superintendent to act as prescribed in subdivision two of this section.

2. At any meeting of the banking AND FINANCIAL SERVICES board convened during a period of acute emergency affecting any area within this state, the members present, if three or more in number, may, by the vote of a majority of such members present, take any action which the banking AND FINANCIAL SERVICES board is empowered to take pursuant to the banking law. If less than three members shall appear pursuant to notice given by the superintendent in accordance with subdivision one of this section, the superintendent may by general or specific regulation, directive or order, take any action which the banking AND FINANCIAL SERVICES board is empowered to take pursuant to the banking law.

S 263. Subdivisions 1, 1-a and 3 of section 4 and subdivision 3 of section 12 of section 1 of chapter 174 of the laws of 1968 constituting the New York State urban development corporation act, subdivisions 1, 1-a and 3 of section 4 as amended by chapter 280 of the laws of 1984 and subdivision 3 of section 12 as amended by chapter 508 of the laws of 1985, are amended to read as follows:

(1) There is hereby created the New York state urban development corporation. The corporation shall be a corporate governmental agency of the state, constituting a political subdivision and public benefit corporation. Its membership shall consist of nine directors as follows: the superintendent of banks AND FINANCIAL SERVICES, the chairman of the New York state science and technology foundation, and seven directors to be appointed by the governor with the advice and consent of the senate. From the seven directors appointed by him OR HER, the governor shall designate the chairman of the corporation and two others who shall all serve at the pleasure of the governor. Of the four remaining directors, one of such directors first appointed by the governor after the effective date of this subdivision as amended shall serve for a term ending

January first next succeeding his OR HER appointment, one of such directors shall serve for a term ending one year from such date, one of such directors shall serve for a term ending two years from such date, and one of such directors shall serve for a term ending three years from such date. Their successors shall serve for terms of four years each. Directors shall continue in office until their successors have been appointed and qualified. In the event of a vacancy occurring in the office of a director by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term. The governor shall appoint the president of the corporation, with the advice and consent of the senate, who shall be the chief executive officer of the corporation and who shall serve at the pleasure of the governor. Such president may be one of the directors appointed by the governor.

(1-a) The superintendent of banks AND FINANCIAL SERVICES and the chairman of the New York state science and technology foundation each may designate a person from his OR HER department to represent him OR HER at all meetings of the corporation from which such director may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the corporation from which the director so designating him OR HER is absent, with the same force and effect as if the director designating him OR HER were present and voting. Such designation shall be by written notice filed with the [chairman] CHAIR of the corporation by the director making the designation. The designation of each such person shall continue until revoked at any time by written notice to the [chairman] CHAIR by the director making the designation. Such designation shall not limit the power of the director making the designation to attend and vote in person at any meeting of the corporation.

(3) Such directors other than the superintendent of banks AND FINANCIAL SERVICES, the chairman of the New York state science and technology foundation, and any director who serves as president of the corporation may engage in private employment, or in a profession or business. The corporation, its directors, officers and employees shall be subject to the provisions of sections seventy-three and seventy-four of the public officers law.

(3) Notwithstanding any provision of this act to the contrary, the superintendent of banks AND FINANCIAL SERVICES and the chairman of the New York state science and technology foundation shall not serve as a director, trustee or member of any such subsidiary corporation.

S 264. Section 14 of the state finance law is amended to read as follows:

S 14. Departmental statements. In addition to the annual department reports prescribed by law, the head of each department of the state, on or before the fifteenth day of October in each year, shall submit to the governor a statement of the sources, amounts and disposition of all money received by such department, its divisions, bureaus or officers for the preceding fiscal year other than money appropriated for such department by the legislature or money which was paid by such department into the treasury. Such statement shall include a description of the nature and the amount of each fund, if any, then under the supervision or control of such department or the head thereof or under the supervision or control of any division, bureau, commission, board or other organization therein or under the supervision or control of the head or any other officer of such division, bureau, commission, board or organization, which was derived from any source whether or not deposited in the treasury, a citation of the statute authorizing the creation or establishment of each such fund and the nature and amount of any payments made therefrom during the preceding fiscal year. The director of the budget in the executive department shall make rules, which shall be approved by the governor, regulating the form and contents of such statements. Copies of such statements shall be simultaneously furnished to the senate finance committee and the assembly ways and means committee for their information.

The governor, in such form and with such explanation as he may desire, shall transmit to the legislature, with the annual budget, a recapitulation or summary of the information contained in such statements arranged under appropriate headings for each department. The provisions of this section shall not apply to any funds received by the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance in a fiduciary capacity or to the state teachers' retirement fund, or any state employees' retirement and pension fund, but such exemption from the application of this section shall not affect any other provision of law requiring a report or statement of such funds.

S 265. The closing paragraph of section 106 of the state finance law, as amended by chapter 583 of the laws of 1941, is amended to read as follows:

This section shall not apply to any funds held by the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance in a fiduciary capacity.

S 266. The section heading, subdivision 1 and subdivision 4 of section 215 of the state finance law, the section heading and subdivision 4 as added by chapter 705 of the laws of 1993 and subdivision 1 as amended by chapter 291 of the laws of 2004, are amended to read as follows:

Responsibilities of commissioner of economic development, comptroller, commissioner of taxation and finance and superintendent of banks AND FINANCIAL SERVICES. 1. The commissioner of economic development shall administer the program pursuant to section two hundred nineteen of this article, including all decisions with respect to the application and use of the program for eligible projects; market and promote the program pursuant to section two hundred twenty-three of this article; after consulting with the comptroller, the commissioner of taxation and finance and the superintendent of banks AND FINANCIAL SERVICES, issue rules and regulations for the operation of the program pursuant to section two hundred twenty-four of this article.

4. The superintendent of banks AND FINANCIAL SERVICES' responsibilities for the program shall be limited to marketing and promoting the program pursuant to section two hundred twenty-three of this article.

S 267. Section 224 of the state finance law, as added by chapter 705 of the laws of 1993, is amended to read as follows:

S 224. Rules and regulations. The commissioner of economic development shall, in consultation with the comptroller, the commissioner of taxation and finance and the superintendent of banks AND FINANCIAL SERVICES, promulgate rules and regulations necessary and reasonable for the operation of the program.

S 268. Subdivision 1 of section 218 of the labor law, as amended by chapter 190 of the laws of 1990, and the opening paragraph as amended by chapter 304 of the laws of 2007, is amended to read as follows:

1. If the commissioner determines that an employer has violated a provision of article six (payment of wages), article nineteen (minimum wage act), article nineteen-A, section two hundred twelve-a, section two hundred twelve-b, section one hundred sixty-one (day of rest) or section

one hundred sixty-two (meal periods) of this chapter, or a rule or regulation promulgated thereunder, the commissioner shall issue to the employer an order directing compliance therewith, which shall describe particularly the nature of the alleged violation. In addition to directing payment of wages, benefits or wage supplements found to be due, such order, if issued to an employer who previously has been found in violation of those provisions, rules or regulations, or to an employer whose violation is willful or egregious, shall direct payment to the commissioner of an additional sum as a civil penalty in an amount equal to double the total amount found to be due. In no case shall the order direct payment of an amount less than the total wages, benefits or wage supplements found by the commissioner to be due, plus the appropriate civil penalty. Where the violation is for a reason other than the employer's failure to pay wages, benefits or wage supplements found to be due, the order shall direct payment to the commissioner of a civil penalty in an amount not to exceed one thousand dollars for a first violation, two thousand dollars for a second violation or three thousand dollars for a third or subsequent violation. In assessing the amount of the penalty, the commissioner shall give due consideration to the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations and, in the case of wages, benefits or supplements violations, the failure to comply with recordkeeping or other non-wage requirements.

Where there is a violation of section one hundred ninety-eight-b of this chapter, the order shall direct payment back to the employee of the amount of wages, supplements or other thing of value unlawfully received plus interest at the rate of interest then in effect, as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law per annum from the date of the payback, return, donation or contribution to the date of payment, and shall include such other relief as may be appropriate, including rehiring or reinstatement of the employee to his or her former position, back wages, and restoration of seniority. In addition, the commissioner shall order payment of a civil penalty of at least twenty-five hundred dollars but not more than five thousand dollars per violation. In assessing the amount of the penalty, the commissioner shall give due consideration to the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations.

S 268-a. Subdivision 1 of section 219 of the labor law, as amended by chapter 417 of the laws of 1987, is amended to read as follows:

1. If the commissioner determines that an employer has failed to pay wages, benefits or wage supplements required pursuant to article six (payment of wages), article nineteen (minimum wage act) or article nineteen-a of this chapter, or a rule or regulation promulgated thereunder, the commissioner shall issue to the employer an order directing compliance therewith, which shall describe particularly the nature of the alleged violation. Such order shall direct payment of wages or supplements found to be due, including interest at the rate of interest then in effect as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law per annum from the date of the underpayment to the date of the payment.

S 269. Subdivision 8 of section 220 of the labor law, as amended by chapter 7 of the laws of 2008, is amended to read as follows:

8. Hearings. Before issuing an order or determination as provided in subdivision seven of this section, the fiscal officer shall order a hearing thereon at a time and place to be specified, and shall give

notice thereof, together with a copy of such complaint or the purpose thereof, or a statement of the facts disclosed upon such investigation, which notice shall be served personally or by mail on any person affected thereby; such person shall have an opportunity to be heard in respect to the matters complained of at the time and place specified in such notice, which time shall be not less than five days from the service of the notice personally or by mail. The fiscal officer in such hearing shall be deemed to be acting in a judicial capacity, and shall have the right to issue subpoenas, administer oaths and examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by the civil practice law and rules. Such hearing shall be expeditiously conducted and upon such hearing the fiscal officer shall determine the issues raised thereon and shall make and file an order in the office of the fiscal officer stating such determination, and forthwith serve a copy of such order, with a notice of the filing thereof, upon the parties to such proceeding, personally or by mail. Such order shall direct payment of wages or supplements found to be due, including interest at the rate of interest then in effect as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law per annum from the date of the underpayment to the date of the payment, provided, however, that such interest rate shall not apply to subdivision eight-c of this section.

In addition to directing payment of wages or supplements including interest found to be due, such order may direct payment of a further sum as a civil penalty in an amount not exceeding twenty-five percent of the total amount found to be due. In assessing the amount of the penalty, due consideration shall be given to the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations and the failure to comply with recordkeeping or other non-wage requirements. Where the fiscal officer is the commissioner, the penalty shall be paid to the commissioner for deposit in the state treasury. Where the fiscal officer is a city comptroller or other analogous officer, the penalty shall be paid to said officer for deposit in the city treasury.

Upon the entry of such order any party aggrieved thereby may commence a proceeding for the review thereof pursuant to article seventy-eight of the civil practice law and rules within thirty days from the notice of the filing of the said order in the office of the fiscal officer. Said proceeding shall be commenced directly in the appellate division of the supreme court. If such order is not reviewed, or is so reviewed and the final decision is in favor of the complainant and the order involves or relates to the rate of wages paid or the supplements provided on such public work, the complainant or any other person affected may within six months after the service of notice of the filing of said order, or the notice of entry of said final decision on review, institute an action against the person found violating this act for the recovery of the difference between the sum actually paid or provided and the amount which should have been paid or provided, together with interest at the rate of interest provided herein, as determined by said order or decision, as the case may be, from and after the date of the filing of said verified complaint, with the fiscal officer or of the filing of the fiscal officer's report of investigation made on his own initiative. Provided that no proceeding for judicial review as provided herein shall then be pending and the time for initiation of such proceeding shall have expired, the fiscal officer may file with the county clerk of the county where the employer resides or has a place of business the order of the fiscal officer containing the amount found to be due. The filing of such order shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order may be enforced by and in the name of the fiscal officer in the same manner, and with like effect, as that prescribed by the civil practice law and rules for the enforcement of a money judgment.

S 270. Paragraphs c and f of subdivision 2 of section 220-b of the labor law, as amended by chapter 304 of the laws of 1989, are amended to read as follows:

c. The fiscal officer shall cause an investigation to be made to determine whether any amounts are due to the laborers, workmen or mechanics, or on their respective behalves, on such public improvement, for labor performed after the commencement of the three-year period immediately preceding the filing of the complaint or the commencement of the investigation on his own initiative, as the case may be, and shall order a hearing thereon at a time and place to be specified and shall give notice thereof, together with a copy of such complaint, or a statement of the facts disclosed upon such investigation, which notice shall be served personally or by mail on all interested persons, including the person complained against and upon the financial officer of the civil division interested; such person complained against shall have an opportunity to be heard in respect to the matters complained of, at the time and place specified in such notice, which time shall be not less than five days from the service of said notice. The fiscal officer in such an investigation shall be deemed to be acting in a judicial capacity and shall have the rights to issue subpoenas, administer oaths and examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by the civil practice law and rules. Such investigation and hearing shall be expeditiously conducted, and upon such hearing and investigation, the fiscal officer shall determine the issues raised thereon and shall make and file an order in his office stating such determination and forthwith serve a copy of such order, either personally or by mail, together with notice of filing, upon the financial officer of the civil division interested, and the parties to such proceedings and, if the fiscal officer be the comptroller or other analogous officer of a city, upon the commissioner. Such order shall direct payment of wages or supplements found to be due, including interest at the rate of interest then in effect as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law per annum from the date of the underpayment to the date of the payment.

f. If the financial officer of the civil division interested fails to pay to the claimant the amount of the claim as determined by the fiscal officer within ten days after the expiration of the contractor's time to commence a proceeding for review of the fiscal officer's order or, if such a proceeding has been commenced, within ten days after entry and service of a court order confirming the fiscal officer's order, the civil division interested shall pay to the claimant interest on the claim at the rate of interest then in effect as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law from the date the financial officer was required to pay the claim as provided herein to the date of payment; provided, however, this paragraph shall not apply if the failure of the financial officer of the civil division interested to pay the amount of the claim is pursuant to court order.

S 271. Paragraph c of subdivision 5 of section 235 of the labor law, as amended by chapter 547 of the laws of 1998, is amended to read as follows:

c. If the order directs the payment to specified employees of wages found to be due and unpaid, including interest at a rate not less than six per centum per year and not more than the rate of interest then in effect as prescribed by the superintendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the banking law per annum from the time such wages should have been paid, the financial officer of such public agency shall, upon the service to him of such order, pay to such employees from the trust money withheld the amounts specified in such order and shall pay the civil penalty as provided herein, provided no review proceeding pursuant to the provisions of article seventy-eight of the civil practice law and rules is commenced within thirty days of the date said order was filed in the office of the fiscal officer. If such review is timely commenced, the money withheld shall remain in trust pending final disposition of the review proceeding. In determining the rate of interest to be imposed the fiscal officer shall consider the size of the employer's business, the good faith of the employer, the gravity of the violation, the history of previous violations of the employer, successor or substantially-owned affiliated entity or any successor of the contractor or subcontractor, any officer of the contractor or subcontractor who knowingly participated in the violation of this article, and any of the partners if the contractor or subcontractor is a partnership or any of the five largest shareholders of the contractor or subcontractor, as determined by the fiscal officer, and the failure to comply with recordkeeping or other non-wage requirements.

S 272. Paragraphs (a), (b) and (c) of subdivision 39 of section 100 of the economic development law, as added by chapter 1008 of the laws of 1984, are amended to read as follows:

(a) To assist the superintendent of banks AND FINANCIAL SERVICES to solicit, evaluate, develop and provide information to banking corporations, principally engaged in doing business within the state, about various methods used by banking corporations to provide financing for businesses engaged in the export of products and services to foreign countries.

(b) The commissioner shall evaluate such information as may be available to the department and help identify local regional banking corporations currently serving the state exporters and shall assist the superintendent of banks AND FINANCIAL SERVICES in determining the status of local and regional banking corporations in export financing so that in cooperation with the banking department, a program shall be developed by which new banking corporations may be brought into the export financing sector and potential and current state exporters may be given a wider choice of available financing sources for medium and small export transactions.

(c) The commissioner shall further inform the superintendent of banks AND FINANCIAL SERVICES of any changes which the department projects may occur in the international business community about which the commissioner may become aware so that the superintendent of banks AND FINANCIAL SERVICES may provide the most timely and accurate information to the state banking community.

S 273. Subdivision 8 of section 262 of the economic development law, as added by chapter 615 of the laws of 1987 and such section as renumbered by chapter 300 of the laws of 1988, is amended to read as follows:

8. Implementation. In implementing the program, the department shall promulgate rules and regulations formulated after consultation with the department of environmental conservation, the energy office and the superintendent of banks AND FINANCIAL SERVICES. Such rules and regulations may include, but not be limited to, requirements for applications and supporting materials and criteria for the selection of cooperating financial institutions.

S 274. Subdivisions 1 and 1-a of section 1802 of the public authorities law, as amended by chapter 118 of the laws of 1990, are amended to read as follows:

1. There is hereby created the "New York job development authority." The authority shall be a body corporate and politic constituting a public benefit corporation. Its members shall consist of the commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of banks AND FINANCIAL SERVICES, serving ex officio, and seven members to be appointed by the governor with the advice and consent of the senate. Each member appointed by the governor shall be a citizen of the United States and a resident of the state.

1-a. The commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of banks AND FINANCIAL SERVICES each may designate a person from his department to represent him at all meetings of the authority from which such member may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the authority from which the member so designating him is absent, with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice to the chairman by the member making the designation. Such designation shall not limit the power of the member making the designation to attend and vote in person at any meeting of the authority.

S 275. Paragraph c of subdivision 2 of section 10 of the general municipal law, as amended by chapter 623 of the laws of 1998, is amended to read as follows:

c. The governing board of a local government, in which a banking development district has been designated by the superintendent of banks AND FINANCIAL SERVICES pursuant to section ninety-six-d of the banking law, may designate a bank, trust company or national bank located in such district for the deposit of public funds, the disposition of which is not otherwise provided for by law, received by the chief fiscal officer or other officer authorized by law to make such deposits. Such designation shall be by resolution of the governing board or, in the case of a city, such other body as may be authorized or required by law to designate depositories. Such resolution shall specify the maximum amount which may be kept on deposit at any time with such bank, trust company or national bank located in such district. Subject to an agreement between such governing board and such banking institution, public funds deposited in such banking institution may earn a fixed interest rate which is at or below such banking institution's posted two year certificate of deposit rate. In those instances where there is such an agreement, its terms and conditions shall also be specified in the resolution. Any such designation, amount, or agreement provisions may be changed at any time by further resolution.

S 276. Subdivision 4 of section 11 of the general municipal law, as amended by chapter 708 of the laws of 1992, is amended to read as follows:

4. Notwithstanding any other provision of law, the governing board of a local government may authorize the aforementioned officers to turn over the physical custody and safekeeping of the evidences of the investments made pursuant to this section to (a) any bank or trust company incorporated in this state, or (b) any national bank located in this state, or (c) any private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES of this state to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in this state. The said officers may direct such bank, trust company or private banker to register and hold any such evidences of investments in its custody, in the name of its nominee. Such officers may deposit or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of any such evidences of investments with a federal reserve bank or other book-entry transfer system operated by a federally regulated entity to be credited to an account as to which the ownership of, and other interests in, such evidences of investments may be transferred by entries on the books of such federal reserve bank or other book-entry transfer system operated by a federally regulated entity without physical delivery of any such evidences of investments. The records of any such bank, trust company or private banker shall show, at all times, the ownership of such evidences of investments, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. All evidences of investments delivered to a bank, trust company, or private banker pursuant to this subdivision shall be held by such bank, trust company or private banker pursuant to a written custodial agreement as set forth in paragraph a of subdivision three of section ten of this article. When any such evidences of investments are so registered in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such evidences of investments.

S 277. Subdivision 18 of section 305 of the education law, as added by chapter 1008 of the laws of 1984, is amended to read as follows:

18. The commissioner shall cooperate with the superintendent of banks AND FINANCIAL SERVICES and the commissioner of commerce in the creation of educational programs to be offered in conjunction with and in support of the export finance awareness program of the department of banks and the department of commerce. Such assistance may include, but shall not be limited to, the development of specific training programs, identification of potential training needs, provision of facilities for training and the identification of potential trainees. Further activity by the commissioner shall require that a designee of the commissioner attend each and every export awareness advisory board meeting, formally report to the commissioner, and have the commissioner contact the superintendent of banks AND FINANCIAL SERVICES and the commissioner of commerce so that the superintendent of banks AND FINANCIAL SERVICES may coordinate the activities of each of these components in the area of training.

S 278. Section 658 of the education law, as added by chapter 942 of the laws of 1974, is amended to read as follows:

S 658. Supervision by the superintendent of banks AND FINANCIAL SERVICES. The corporation in its administration of student loan programs shall be subject to the supervision and examination of the superintendent of banks AND FINANCIAL SERVICES, but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination.

S 279. Subdivision 7 of section 695-d of the education law, as added by chapter 546 of the laws of 1997, is amended to read as follows:

7. During the term of any contract with a program manager, the comptroller shall conduct an examination of such manager and its handling of accounts. Such examination shall be conducted at least biennially if such manager is not otherwise subject to periodic examination by the superintendent of banks AND FINANCIAL SERVICES, the federal deposit insurance corporation or other similar entity.

S 280. Subdivision 1 of section 178-a of the retirement and social security law, as amended by chapter 674 of the laws of 1992, is amended to read as follows:

1. Notwithstanding any other provision of law, including the provisions of the administrative code of the city of New York and the education law, the public officer or officers designated by law as the custodian of a fund are authorized, in accordance with the provisions of this section, to turn over the physical custody and safekeeping of any stock or other securities, in registered or bearer form, owned by such fund to (a) any state bank or trust company located in this state, or (b) any national bank located in this state, or (c) any private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES of this state to engage in business here. All such private bankers shall, as private bankers, maintain a permanent capital of not less than one million dollars in this state. Transfers of stocks or securities must receive the prior consent of the trustees of such fund, under such terms and conditions as they may specify. The custodian of such fund may direct such bank, trust company or private banker to register and hold any such stock or securities in its custody, in the name of its nominee. The custodian of such fund may also authorize such bank, trust company or private banker to deposit, or arrange for the deposit, of such stock or securities in a clearing corporation (as defined in article eight of the uniform commercial code). In addition, the custodian of such fund may deposit, or authorize such bank, trust company or private banker, to deposit, or arrange for the deposit of any of such securities the principal and interest of which the United States, or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, with a federal reserve bank to be credited to an account as to which the ownership of, and other interests in, such securities may be transferred by entries on the books of such federal reserve bank without physical delivery of any securities. The records of such bank, trust company or private banker shall show, at all times, the ownership of such stock and securities, and they shall, when held in the possession of such bank, trust company or private banker be, at all times, kept separate from the assets of such bank, trust company or private banker. When any such stock or securities are so registered in the name of a nominee, such bank, trust company or private banker shall be absolutely liable for any loss occasioned by the acts of such nominee with respect to such stock or securities.

S 281. Subparagraphs 9 and 10 of paragraph (b) of section 11-1.1 of the estates, powers and trusts law, as amended by chapter 501 of the laws of 1970, are amended to read as follows:

(9) To employ any bank or trust company incorporated in this state, any national bank located in this state or any private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES of this state to engage in business here (who, as private banker, maintains a permanent capital of not less than one million dollars) as custodian of any stock or other securities held as a fiduciary, and the cost thereof,

except in the case of a corporate fiduciary, shall be a charge upon the estate or trust. The records of such bank, trust company or private banker shall at all times show the ownership of such stock or other securities. Such stock or other securities shall at all times be kept separate from the assets of such bank, trust company or private banker and may be kept by such bank, trust company or private banker

(A) in a manner such that all certificates representing the securities from time to time constituting the assets of a particular estate, trust or other fiduciary account are held separate from those of all other estates, trusts or accounts; or

(B) in a manner such that, without certification as to ownership attached, certificates representing securities of the same class of the same issuer and from time to time constituting assets of particular estates, trusts or other fiduciary accounts are held in bulk, including, to the extent feasible, the merging of certificates of small denomination into one or more certificates of large denomination, provided that a bank, trust company or private banker, when operating under the method of safekeeping security certificates described in this subparagraph (B), shall be subject to such rules and regulations as, in the case of state chartered institutions, the state banking AND FINANCIAL SERVICES board and, in the case of national banking associations, the comptroller of the currency may from time to time issue. Such bank, trust company or private banker shall, on demand by the fiduciary, certify in writing the securities held by it for such estate, trust or fiduciary account.

(10) To cause any stock or other securities (hereinafter referred to as "securities") held by any bank or trust company, when acting as fiduciary, whether alone or jointly with an individual, with the consent of the individual fiduciary, if any (who is hereby authorized to give such consent), to be registered and held in the name of a nominee of such bank or trust company without disclosure of the fiduciary relationship; and, in the case of an individual acting as fiduciary, to direct any bank or trust company incorporated under the laws of this state, any national bank located in this state or any private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES of this state to engage in business here (who, as private banker, maintains a permanent capital of not less than one million dollars) to register and hold any securities deposited with such bank, trust company or private banker (hereinafter referred to as "bank") in the name of a nominee of such bank. The bank shall not redeliver such securities to the individual fiduciary, who authorized their registration in the name of a nominee of the bank, without first registering the securities in the name of the individual fiduciary, as such. But, any sale of such securities by the bank at the direction of the individual fiduciary shall not be treated as a redelivery. The bank may make any disposition of such securities which is authorized or directed by an order or decree of the court having jurisdiction of the estate or trust. Any such bank shall be absolutely liable for any loss occasioned by the acts of its nominee with respect to the securities so registered. The records of the bank shall at all times show the ownership of any such securities and of those held in bearer form. Such securities and those held in bearer form shall at all times be kept separate from the assets of the bank and may be kept by such bank

(A) in a manner such that all certificates representing the securities from time to time constituting the assets of a particular estate, trust or other fiduciary account are held separate from those of all other estates, trusts or accounts; or

(B) in a manner such that, without certification as to ownership attached, certificates representing securities of the same class of the same issuer and from time to time constituting assets of particular estates, trusts or other fiduciary accounts are held in bulk, including, to the extent feasible, the merging of certificates of small denomination into one or more certificates of large denomination, provided that a bank, when operating under the method of safekeeping security certificates described in this subparagraph (B), shall be subject to such rules and regulations as, in the case of state chartered institutions, the state banking AND FINANCIAL SERVICES board and, in the case of national banking associations, the comptroller of the currency may from time to time issue. Such bank or trust company shall, on demand by any party to an accounting by such bank or trust company as fiduciary or on demand by the attorney for such party, certify in writing the securities held by such bank or trust company as such fiduciary.

S 282. Paragraph (a) and subparagraph (B) of paragraph (c) of section 11-1.6 of the estates, powers and trusts law, such section as renumbered by chapter 686 of the laws of 1967 and paragraph (c) as amended by chapter 501 of the laws of 1970, are amended to read as follows:

(a) Every fiduciary shall keep property received as fiduciary separate from his OR HER individual property. He OR SHE shall not invest or deposit such property with any corporation or other person doing business under the banking law, or with any other person or institution, in his OR HER own name, but all transactions by him OR HER affecting such property shall be in his name as fiduciary; provided, however, that any bank or trust company, when acting as fiduciary, whether alone or jointly with an individual, may with the consent of the individual fiduciary, if any (who is hereby authorized to give such consent), register and hold stock or other securities (referred to in this section as "securities") in the name of the nominee of such bank or trust company; and provided, further, that any individual acting as fiduciary is authorized to direct any bank or trust company incorporated under the laws of this state, any national bank located in this state or any private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES of this state to engage in business here (who, as private banker, maintains a permanent capital of not less than one million dollars) to register and hold any securities in the name of a nominee of such bank, trust company or private banker (referred to in this section as "bank"). Such bank shall not redeliver such securities to the individual fiduciary, who authorized their registration in the name of a nominee of the bank, without first registering the securities in the name of the individual fiduciary, as such. But, any sale of such securities by the bank at the direction of the individual fiduciary shall not be treated as a redelivery. The bank may make any disposition of such securities which is authorized or directed by an order or decree of the court having jurisdiction of the estate or trust.

(B) in a manner such that, without certification as to ownership attached, certificates representing securities of the same class of the same issuer and from time to time constituting assets of particular estates, trusts or other fiduciary accounts are held in bulk, including, to the extent feasible, the merging of certificates of small denomination into one or more certificates of large denomination, provided that a bank, when operating under the method of safekeeping security certificates described in this subparagraph (B), shall be subject to such rules and regulations as, in the case of state chartered institutions, the state banking AND FINANCIAL SERVICES board and, in the case of national banking associations, the comptroller of the currency may from time to time issue. Such banks shall, on demand by the fiduciary, certify in writing the securities held for such fiduciary.

S 283. Paragraph (a) of section 11-1.8 of the estates, powers and trusts law, as amended by chapter 498 of the laws of 1980, is amended to read as follows:

(a) Notwithstanding any other provision of law, any bank or trust company, when acting as fiduciary and any bank, trust company or private banker, when holding securities as custodian for a fiduciary pursuant to S 11-1.1(b) (9), is authorized to deposit, or arrange through a subcustodian or otherwise for the deposit, with the federal reserve bank in its district of any securities the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, to be credited to one or more accounts on the books of said federal reserve bank in the name of such bank, trust company or private banker, to be designated fiduciary or safekeeping accounts, to which account other similar securities may be credited. A bank, trust company or private banker so depositing securities with a federal reserve bank shall be subject to such rules and regulations with respect to the making and maintenance of such deposit as, in the case of state chartered institutions, the state banking AND FINANCIAL SERVICES board, and, in the case of national banking associations, the comptroller of the currency, may from time to time issue. The records of such bank, trust company or private banker shall at all times show the ownership of the securities held in such account. Ownership of, and other interests in, the securities credited to such account may be transferred by entries on the books of said federal reserve bank without physical delivery of any securities. A bank, trust company or private banker acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank, trust company or private banker with such federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party to its accounting or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary with such federal reserve bank for its account as such fiduciary.

S 284. Paragraph (a) of section 11-1.9 of the estates, powers and trusts law, as amended by chapter 498 of the laws of 1980, is amended to read as follows:

(a) Notwithstanding any other provision of law, any fiduciary (as defined in section 1-2.7) holding securities in its fiduciary capacity, any bank, trust company or private banker holding securities as a custodian or managing agent, and any bank, trust company or private banker holding securities as custodian for a fiduciary pursuant to section 11-1.1 (b)(9), is authorized to deposit or arrange through a subcustodian or otherwise for the deposit of such securities in a clearing corporation (as defined in article eight of the Uniform Commercial Code). When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank, trust company or private banker acting as custodian, as managing agent or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities. A bank, trust company or private banker so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered institutions, the state banking AND FINANCIAL SERVICES board and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A bank, trust company or private banker acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank, trust company or private banker in such clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary.

S 285. Subdivision 7 of section 130 of the general business law, as amended by chapter 950 of the laws of 1990, is amended to read as follows:

7. Subdivision one of this section shall not apply to a person who, or a partnership which, has duly filed a certificate of continued use of firm name under article seven of the partnership law, or to a private banker duly authorized by the superintendent of banks AND FINANCIAL SERVICES to engage in business pursuant to the provisions of the banking law or to a partnership of attorneys and counsellors-at-law engaged in the practice of their profession, and subdivision three of this section shall not apply to such a person or partnership who has filed a certificate of discontinuance under subdivision ten of this section.

S 286. Paragraph (g) of subdivision 1 of section 359-f of the general business law, as amended by chapter 980 of the laws of 1946, is amended to read as follows:

(g) Any security which under the laws of this state is a legal investment for savings banks or trust funds, and any securities which are underwritten or sold by any corporation under the supervision of the superintendent of banks AND FINANCIAL SERVICES of the state of New York.

S 287. Subdivision 2 of section 396-a of the general business law, as amended by chapter 310 of the laws of 1962, is amended to read as follows:

2. Whenever the superintendent of banks AND FINANCIAL SERVICES shall report a violation of this section to the attorney-general or the attorney-general shall believe from evidence satisfactory to him that a violation of this section has occurred, the attorney-general may bring an action in the name of the superintendent or in behalf of the people of the state, as the case may be, to enjoin further violation. In the action preliminary relief may be granted as under article sixty-three of the civil practice law and rules.

S 288. Subdivision 6 of section 684 of the general business law, as added by chapter 730 of the laws of 1980, is amended to read as follows:

6. This article shall not be applicable to any transaction relating to a bank credit card plan. "Bank credit card plan" means a credit card plan in which the issuers of credit cards are only: banks regulated by or under the supervision of the Federal Reserve Board; the Federal

Deposit Insurance Corporation; the Controller of the Currency of the United States; or the Superintendent of Banks AND FINANCIAL SERVICES of this state; or persons controlling such banks, provided that the assets of such a bank or banks represent a majority of the assets on a consolidated basis of any holding company system of which such card issuers may be a party; or, persons controlled by such banks.

S 289. Subsections (a) and (c) of section 4402 of the insurance law are amended to read as follows:

(a) "Employee welfare fund" or "fund" means any trust fund or other fund established or maintained jointly by one or more employers together with one or more labor organizations, whether directly or through trustees, to provide employee benefits by the purchase of insurance or annuity contracts or otherwise, and to which is paid or contracted to be paid anything, other than income from investments of such fund for the benefit of employees employed in this state, and, if the principal office of the employer is located outside of the state, for at least twenty such employees; provided, however, that such term shall not include any such fund where its over-all management is vested, alone or jointly with other trustees, in a corporate trustee which is subject to supervision by the superintendent of banks AND FINANCIAL SERVICES of any state or is a member of the federal reserve system.

(c) "Trustee" means the person or group of persons who or which is charged with or has the general power of administration over an employee welfare fund and may include a pension board or committee, a board of individual trustees, a board of administration or the like; provided, however, such term shall not include a corporate trustee which is subject to supervision by the superintendent of banks AND FINANCIAL SERVICES of any state or is a member of the federal reserve system; nor shall such term include any insurer licensed under the laws of this state or authorized to do business herein.

S 290. Subsection (b) of section 4403 of the insurance law is amended to read as follows:

(b) If it is found that the conditions which originally required registration with the superintendent have ceased to exist and that new conditions exist which would not require the registration of an employee welfare fund with either the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, then the superintendent of insurance may, on application of the trustees or on his OR HER own motion, cancel the registration of such fund.

S 291. Subsection (a) of section 7316 of the insurance law, as added by chapter 540 of the laws of 1998, is amended to read as follows:

(a) (1) Upon compliance with the requirements of this section, the life insurance business conducted by all savings and insurance banks as defined in [article six-A] ARTICLES SIX AND SIX-B of the banking law may be converted into and transferred to a corporation formed as set forth in subsection (b) of this section and licensed as a mutual life insurance company to do the kinds of insurance business specified in paragraphs one, two and three of subsection (a) of section one thousand one hundred thirteen of this chapter. Such conversion and transfer shall be effected pursuant to a plan approved by the superintendent and the superintendent of banks AND FINANCIAL SERVICES. Such plan shall be submitted by the trustees of savings banks life insurance fund to the superintendent and the superintendent of [banking] BANKS AND FINANCIAL SERVICES in writing and shall set forth in full the terms and conditions thereof.

(2) Prior to the submission thereof to the superintendent and the superintendent of banks AND FINANCIAL SERVICES, such plan shall be approved by the vote of at least three-fourths of the trustees of savings banks life insurance fund and then by the vote of at least three-fourths of all the savings and insurance banks at a meeting of all such banks called for the purpose of submitting such plan to such banks for approval. Written notice of such meeting shall be given to each such bank by first class mail addressed to the chairman or president of the bank at the bank's principal office not less than thirty days prior to the date of such meeting. Such notice shall state the purpose for which the meeting is called and shall be accompanied by a true and complete copy of such plan. At such meeting the vote of each such bank shall be cast by the chairman or president thereof or by an officer thereof designated by the chairman or president in a writing addressed to and received by the secretary of savings banks life insurance fund prior to the date of such meeting. The results of the vote and the minutes of the meeting shall be submitted to the superintendent and the superintendent of banks AND FINANCIAL SERVICES.

(3) The superintendent and the superintendent of banks AND FINANCIAL SERVICES each may approve the plan if he finds that it conforms to the requirements of law and is fair and equitable to the holders of insurance policies issued by the life insurance departments of the savings and insurance banks. The plan submitted shall include a filing in accordance with section thirteen hundred twenty-two of this chapter which shows that the proposed mutual insurer's risk based capital level is in excess of the company action level and there is no company action level event. Upon the approval by the superintendent and the superintendent of banks AND FINANCIAL SERVICES of the plan, the trustees of savings banks life insurance fund shall form a corporation as set forth in subsection (b) of this section to which the life insurance business conducted by all the savings and insurance banks shall be transferred.

S 292. Subdivision (f) of section 204 of the limited liability company law is amended to read as follows:

(f) shall not contain the following words, or any abbreviation or derivative thereof:

acceptance	guaranty
annuity	indemnity
assurance	insurance
attorney	investment
bank	lawyer
benefit	loan
bond	mortgage
casualty	savings
doctor	surety
endowment	title
fidelity	trust
finance	underwriter

unless the approval of the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, as appropriate, is attached to the articles of organization or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context that clearly denotes a purpose other than the practice of law or medicine;

S 293. Clause (B) of subparagraph (5) of paragraph (a) of section 301 of the not-for-profit corporation law, as amended by chapter 9 of the laws of 1983, is amended to read as follows:

(B) Shall not contain any of the following words, or any abbreviation or derivative thereof:

acceptance	fidelity	mortgage
annuity	finance	savings
assurance	guaranty	surety
bank	indemnity	title
bond	insurance	trust
casualty	investment	underwriter
doctor	lawyer	
endowment	loan	

unless the approval of the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, as appropriate, is attached to the certificate of incorporation, or application for authority or amendment thereof; or that the word "doctor", "lawyer", or the phrase "state police" or "state trooper" or an abbreviation or derivation thereof, may be used in the name of a corporation the membership of which is composed exclusively of doctors, lawyers, state policemen or state troopers, respectively.

S 294. Paragraph (k) of section 404 of the not-for-profit corporation law, as amended by chapter 139 and as relettered by chapter 431 of the laws of 1993, is amended to read as follows:

(k) Every certificate of incorporation for a corporation which has as its exclusive purpose the promotion of the interests of savings bank life insurance or the promotion of the interests of member banks may, if the approval of the superintendent of banks AND FINANCIAL SERVICES is endorsed thereon or annexed thereto, use as a part of the corporate name any of the words or phrases, or any abbreviation or derivative thereof, set forth in subparagraph (5) of paragraph (a) of section 301 (Corporate name; general).

S 295. Subparagraph (B) of paragraph (3) of subdivision (a) of section 121-102 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(B) may not contain the following words, or any abbreviation or derivative thereof:

acceptance	indemnity
annuity	insurance
assurance	investment
bank	lawyer
benefit	loan
bond	mortgage
casualty	savings
doctor	surety
endowment	title
fidelity	trust
finance	underwriter
guaranty	

unless the approval of the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, as appropriate, is attached to the certificate of limited partnership; or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context which clearly denotes a purpose other than the practice of law or medicine.

S 296. Section 4-a of the banking law, as added by chapter 665 of the laws of 1975, is amended to read as follows:

S 4-a. Banks to display signs. Every banking organization having as its purpose or among its purposes the receipt of deposits, shall continuously display a sign, or signs, as prescribed by the superintendent of banks AND FINANCIAL SERVICES, at each station or window within the state where deposits are usually and normally received in its principal place of business and in all its branches indicating whether deposits are insured, and if insured the name of the insurer and the extent to which each depositor is insured. Signs in non-insured banking organizations shall clearly and legibly state "DEPOSITS NOT INSURED", all in letters of the same size and character. No sign shall appear in any non-insured bank with regard to insurance or deposits except as herein prescribed.

S 297. Section 4-b of the banking law, as added by chapter 665 of the laws of 1975, is amended to read as follows:

S 4-b. Advertising. Every such non-insured banking organization shall include in all its advertising within the state with reference to deposit accounts the statement substantially as follows: "DEPOSITS NOT INSURED". Where such advertising is printed the statement shall be of such size and print to be clearly legible, all letters in such statement being of the same size and character. No further reference shall be contained in the advertising of non-insured banking organizations with reference to the insurance of depositors which shall tend to be misleading in connection therewith. The non-English equivalent of the insurance statement may be used in any advertisement provided that the entire advertisement is in such language and that the translation has had the prior approval of the superintendent of banks AND FINANCIAL SERVICES.

S 298. Section 202-f of the banking law, as amended by chapter 496 of the laws of 1993, is amended to read as follows:

S 202-f. Restrictions on loans, purchases of securities and total liabilities of any one person to New York branch or agency of foreign bank. Before opening a branch or agency in this state, and annually thereafter so long as a branch or agency is maintained in this state, a foreign banking corporation, licensed pursuant to article two of this chapter, shall certify to the superintendent the amount of its paid-in capital stock, its surplus fund and its undivided profits, each expressed in the currency of the country of its incorporation, the dollar equivalent of which amount, as determined by the superintendent, shall be deemed to be the amount of its capital stock, surplus fund and undivided profits. Loans, purchases and discounts of notes, bills of exchange, bonds, debentures and other obligations, and extensions of credit and acceptances by a branch or agency of a foreign banking corporation within this state shall be subject to the same limitations as to amount in relation to capital stock, surplus fund, and undivided profits as are applicable to banks and trust companies pursuant to article three of this chapter, provided, however, that with the prior approval of the superintendent of banks AND FINANCIAL SERVICES, the capital notes and capital debentures of such foreign banking corporation may be treated as capital stock in computing such limitations.

S 299. Section 206 of the banking law, as amended by chapter 154 of the laws of 2007, is amended to read as follows:

S 206. Termination of existence. When a foreign banking corporation licensed pursuant to article two of this chapter is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its incorporation, a certificate of the superintendent of banks AND FINANCIAL SERVICES, or official performing the equivalent function as to records of banking corporations, of the jurisdiction of incorporation of such foreign banking corporation attesting to the occurrence of any such event or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign banking corporation, the termination of its existence or the cancellation of its authority shall be delivered to the superintendent. The filing of the certificate, order or decree shall have the same effect as the revocation of its license under section forty of this chapter. The superintendent shall continue as agent of the foreign banking corporation upon whom process against it may be served in any action or special proceeding based upon any liability or obligation incurred by the foreign banking corporation within this state prior to the filing of such certificate, order or decree and he shall promptly cause a copy of such process to be mailed by registered mail, return receipt requested, to such foreign corporation at the post office address on file in his office specified for such purpose. The post office address may be changed in the manner provided in section two hundred of this article.

S 300. Subdivision 1 of section 221-a of the banking law, as amended by chapter 281 of the laws of 1992, is amended to read as follows:

1. No person, co-partnership, association, corporation or other entity shall establish, maintain or use one or more offices in this state as the representative of one or more foreign banking corporations unless the foreign banking corporation to be represented has first obtained a license from the superintendent of banks AND FINANCIAL SERVICES. Entities lawfully registered pursuant to this article on or before September first, nineteen hundred ninety-two shall be deemed licensed pursuant to this section until September first, nineteen hundred ninety-four, provided however that the superintendent may require the submission of any additional documents or materials relating to the business activities of the registrant as he or she may deem necessary or appropriate.

S 301. Subdivision 1 of section 228-f of the banking law, as added by chapter 1 of the laws of 1994, is amended to read as follows:

1. The investment companies shall make an annual report of their conditions to the governor, the legislature and the superintendent of banks AND FINANCIAL SERVICES, on or before January first of each year.

S 302. Paragraph (a) of subdivision 13 and paragraph (a) of subdivision 14 of section 235 of the banking law, as amended by chapter 645 of the laws of 1950, are amended to read as follows:

(a) Such corporation shall have all franchises necessary to operate in territory in which at least seventy-five per centum of its gross income is earned. Such corporation shall file with the superintendent of banks AND FINANCIAL SERVICES and make public in each year a statement and a report giving the income account covering the previous fiscal year and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year.

(a) Such corporation shall have been in existence for a period of not less than eight fiscal years and at no time within such period of eight fiscal years next preceding the date of such investment shall said corporation have failed to pay promptly and regularly the matured principal and interest of all its indebtedness direct, assumed, or guaranteed, but the period of life of the corporation, together with the period of life of any predecessor corporation or corporations from which a major portion of its property was acquired by consolidation, merger or purchase, shall be considered together in determining the required period; and such corporation shall file with the superintendent of banks AND FINANCIAL SERVICES and make public in each year a statement and a report giving the income account covering the previous fiscal year and a balance sheet showing in reasonable detail the assets and liabilities at the end of the year.

S 303. Subdivisions 7 and 8 of section 237 of the banking law, subdivision 7 as amended and subdivision 8 as added by chapter 86 of the laws of 1975, are amended to read as follows:

7. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings bank shall have power to act as trustee under a retirement plan established pursuant to the provisions of the act of congress entitled "Self-employed Individuals Tax Retirement Act of 1962", and provisions of law contained therein as amended, provided that the provisions of such retirement plan require the funds of such trust to be invested exclusively in deposits in savings banks. In the event that any such retirement plan which, in the judgment of the savings bank, constituted a qualified plan under the provisions of said Self-employed Individuals Tax Retirement Act of 1962, and provisions of law contained therein as amended, and the regulations promulgated thereunder at the time the trust was established and accepted by the savings bank is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the savings bank may, nevertheless, continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No savings bank, in respect to deposits made under this subdivision, shall be bound by any provision of this chapter restricting or limiting the amount of deposits which a savings bank may accept, or be required to segregate such deposits from other deposits of such savings banks, provided, however, that a savings bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subdivision.

8. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings bank shall have power to act as trustee of an individual retirement account established pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974", provided that the provisions of the written governing instrument creating the trust require the funds of such trust to be invested exclusively in deposits in savings banks. In the event that any such individual retirement account, which in the judgment of the savings bank, constituted a qualified individual retirement account under the provisions of said Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder at the time the trust was established and accepted by the savings bank is subsequently determined not to be such a qualified individual retirement account or subsequently ceases to be such a qualified individual retirement account, in whole or in part, the savings bank may, nevertheless, continue to act as trustee of any deposits theretofore made under such individual retirement account and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No savings bank, in respect to deposits made under this subdivision, shall be bound by any provision of this chapter restricting or limiting the amount of deposits which a savings bank may accept, or be required to segregate such deposits from other deposits of such savings banks, provided, however, that a savings bank shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subdivision.

S 304. Paragraph (b) of subdivision 1 of section 246 of the banking law, as amended by chapter 102 of the laws of 1982, is amended to read as follows:

(b) Notwithstanding the provisions of the foregoing paragraph of this section, a vacancy now existing or hereafter occurring in the board of trustees of a savings bank, which savings bank resulted from the merger of two or more savings banks or one or more savings and loan associations and a savings bank, may be filled, even though the remaining number of trustees exceeds twenty, by election thereto of one or more of the three highest ranking officers of the savings bank who are not then trustees, provided (1) that the superintendent of banks AND FINANCIAL SERVICES shall have given his prior written approval that such vacancy be filled, (2) that the election of such officer or officers shall not result in having more than three active officers on the board of trustees at any one time, and (3) that the total number of trustees shall in no event exceed the number authorized by the merger agreement.

S 305. Subdivision 2 of section 258 of the banking law, as amended by chapter 546 of the laws of 1952, is amended to read as follows:

2. Any school in the state of New York may collect from time to time amounts of money from the pupils of such school and any philanthropic agency incorporated for philanthropic purposes, if such agency be so authorized by certificate of the superintendent of banks AND FINANCIAL SERVICES, may collect from time to time amounts of money from the children or persons under the direction or guidance of, or the promotion of whose welfare is an object of, such philanthropic agency. As to each such school, such money shall be collected by or under the supervision of, the principal or superintendent of such school or by, or under the supervision of, any person designated for that purpose by the board of education or other authority having jurisdiction over such school. As to each such philanthropic agency, such money shall be collected by, or under the supervision of, the superintendent or other designated head of such agency. All money so collected shall, not later than the day following the day of collection, be deposited in some savings bank in the state, be used for the purchase of shares in any savings and loan association organized under this law, or under the laws of the United States, whose principal office is located in the state of New York, or be deposited in any trust company or state or national bank located in the state and having an interest department. All money so collected from any person shall be deposited, or used to purchase shares, in his name; provided, however, that if the principal, superintendent, designated person or agency head by whom, or under whose supervision, such money was collected shall deem the amount of money so collected at any one time to be insufficient for the opening of individual accounts, such money shall be deposited, or used to purchase shares, in the name of such principal, superintendent, designated person or agency head, in trust, to be by him eventually transferred to the credit of the respective persons to whom the same belongs, and pending such transfer, said principal, superintendent, designated person or agency head shall furnish to the depositary institution or savings and loan association receiving such money the name, signature, address, age and place of birth of each person from whom such money was collected, and such other data concerning such person as the institution may require. Any depositary institution or savings and loan association authorized to receive any amounts collected by a school or philanthropic agency in accordance with this subdivision, may, on the request of any person authorized by this subdivision to collect such amounts for such school or philanthrop-

ic agency, send a collector to such school or philanthropic agency to receive and receipt for same. Any certificate of authorization issued to a philanthropic agency by the superintendent of banks AND FINANCIAL SERVICES in accordance with this subdivision shall specify the period for which such authorization is to be effective and the area in which collections may be made, and may specify any other terms or conditions upon which such authorization is granted. Any such authorization may be terminated by the superintendent of banks AND FINANCIAL SERVICES by written notice served upon the philanthropic agency or mailed to it at its last known address. As used in this subdivision with reference to the placing of amounts with a depositary institution or savings and loan association, the words "the day following the day of collection" shall mean the next day, after the day of collection, on which such institution or association is open for business. As used in this subdivision, the words "philanthropic agency" shall be deemed to include, without limitation a corporation, not organized for profit, engaged in promoting the welfare of seamen.

S 306. Section 282 of the banking law, as added by chapter 259 of the laws of 1934, is amended to read as follows:

S 282. Creation of fund. Any seventy-five or more savings banks organized under the laws of the state of New York whose deposits aggregate not less than fifty per cent of the total deposit liabilities of all the savings banks in the state, may enter into an agreement (hereinafter called the agreement) subject to the approval of the superintendent of banks AND FINANCIAL SERVICES to create a fund (hereinafter called the fund) and from time to time make such contributions to such fund as the said agreement may provide for, for the purpose of insuring deposits and/or otherwise protecting the interests of depositors in the banks (hereinafter referred to as member banks) which become parties to the said agreement. Once this agreement has become effective, if at any subsequent time there should be fewer member banks than the number required to create the fund, the remaining member banks are authorized to continue the fund.

S 307. Section 283 of the banking law, as added by chapter 259 of the laws of 1934, is amended to read as follows:

S 283. Management of fund. The fund shall be collected, held, administered and disbursed by a corporate trustee or a board of trustees composed of individuals who are trustees of mutual savings banks, either of which shall be approved by the superintendent of banks AND FINANCIAL SERVICES, which corporate trustee or board of trustees are hereinafter referred to as the trustee. In the event there be a board of individual trustees, a majority of them at any time in office shall constitute a quorum, and the vote of a majority at any meeting, provided a quorum be present, shall be determinative and any action taken pursuant thereto be the action of the trustee.

S 308. Section 284 of the banking law, as added by chapter 259 of the laws of 1934, is amended to read as follows:

S 284. Agreement; filing and provisions thereof. The agreement when approved by the superintendent of banks AND FINANCIAL SERVICES shall be executed by the savings banks parties thereto and filed in his office. The agreement may be executed in any number of counterparts, all of which taken together shall constitute the original. The agreement shall name the trustee and contain suitable provisions for the removal or resignation of the trustee, or if the trustee named be a board of trustees, for the removal or resignation of any or all of them, and for the appointment of a successor trustee or for the filling of vacancies in such board of trustees, whether caused by death, resignation, disqualification or removal; it shall also provide the amount of the initial contributions to the fund and the manner of making subsequent calls, and may contain such limitations thereon as the superintendent shall approve, but all such initial contributions to the fund and payments pursuant to further calls shall be made ratably by all the member banks in proportion to their several deposit liabilities, except that the superintendent of banks AND FINANCIAL SERVICES may exempt from any such call in whole or in part any member bank or banks the condition of which makes such exemption in his opinion desirable; it may also provide for the liquidation of the fund pursuant to rules and regulations for that purpose acceptable to the superintendent of banks AND FINANCIAL SERVICES, provided that on any such liquidation the liabilities incurred or assumed by the trustee pursuant to the provisions hereof shall first be paid and the balance, if any, be distributed among the member banks pro rata according to their contributions; and the agreement may similarly provide for the change or amendment thereof with the approval of the superintendent of banks AND FINANCIAL SERVICES and with such approval may be amended in such manner as may be provided therein; and the agreement shall also define the powers of the trustee, which may be all or any one or more or the powers hereinafter set forth, together with any additional powers not inconsistent with the powers herein enumerated or with the purposes of the fund, set forth in the agreement.

S 309. Subdivisions 2, 5, 6, 8, and 9 of section 285 of the banking law, subdivisions 2, 8 and 9 as added by chapter 259 of the laws of 1934 and subdivisions 5 and 6 as amended by chapter 352 of the laws of 1938, are amended to read as follows:

2. To buy any assets owned by any member bank at the book value thereof notwithstanding such value may exceed the market value thereof, or such other value as the trustee may elect either with or without an agreement providing for the repurchase of the same at such price or value and at such time and subject to such conditions as may be agreed upon by the trustee in its discretion and to make loans or advances to any member bank upon such terms and conditions as may seem desirable and with such security as the trustee may determine or without security; in any agreement of repurchase or repayment it may be provided that the savings bank receiving such loan or advance or making such sale of assets may not be obligated to repay the same or repurchase such assets until the superintendent of banks AND FINANCIAL SERVICES shall certify that such savings bank is in a safe and sound condition to make such repurchase or repayment.

5. To make contributions to the surplus fund of any member bank upon such terms and conditions for the use and the repayment thereof and evidenced in such manner as the superintendent of banks AND FINANCIAL SERVICES may approve, and such savings bank may make such repayment as such agreement may provide notwithstanding any provisions of law; but no such agreement shall require such repayment except if, as and when the surplus and surplus fund of such savings bank shall be not less than five per centum of the amount due its depositors nor shall any such agreement require any payment on account of such contribution in such an amount as to reduce the surplus and surplus fund of such savings bank below five per centum of the amount owed its depositors. The agreement may provide the manner in which the surplus and surplus fund shall be computed for the purpose of this subdivision. Such contributions shall not constitute a liability of such member bank except as herein provided.

6. If it shall appear by certificate of the superintendent of banks AND FINANCIAL SERVICES filed in his office, that any member bank to which the trustee with the approval of the superintendent has made any loan or advance, or to the surplus fund of which it has made a contribution, or from which the trustee has purchased any asset at a price in excess of the market value thereof, would but for such loan, advance, contribution or purchase be in such condition that the superintendent might take possession of the business and property of the same pursuant to law, or that any such member bank to which the trustee with the approval of the superintendent has made any loan or advance, or to the surplus fund of which it has made a contribution, or from which the trustee has purchased any asset at a price in excess of the market value thereof, or the deposits in which have been insured by the fund in whole or in part shall have committed such an act or is in such condition that the superintendent might take possession of the business and property of the same pursuant to law, the trustee shall have the right if it so elects, and in such case the superintendent, on such conditions and subject to such rules and regulations as he shall prescribe, shall permit the trustee to take possession and control forthwith of the property and business of such bank and operate and/or liquidate the same. The trustee may, while carrying on such business, pay to such bank out of the moneys in or available to the fund such sums as the agreement may authorize as the trustee deems necessary for the protection of the bank's depositors.

8. The trustee, with the approval of the superintendent of banks AND FINANCIAL SERVICES may at any time after it has taken over the control, possession and operation of any bank under subdivision six [hereof] OF THIS SECTION discontinue the business of such bank and proceed to liquidate its affairs. The trustee may use the assets in the fund to pay to the depositors of any such savings bank out of moneys in or available to the fund the excess, if any, or such portion thereof as the agreement may provide, of the full amount of their respective deposits over the dividends received therefor on such liquidation.

9. To carry out the provisions [aforesaid] OF THIS SECTION, the trustee shall have and may exercise all the rights, powers, privileges and franchises of any savings bank taken over by it, and at any time, with the approval of the superintendent of banks AND FINANCIAL SERVICES, to suspend the authority of the trustees of any savings bank and exercise the powers and duties of such trustees, and in addition to the foregoing, in the event it shall operate and/or liquidate any such savings bank it shall have and may exercise all of the rights and powers which the superintendent of banks AND FINANCIAL SERVICES would have pursuant to law in connection with the operation and/or liquidation of such bank and be subject to the same duties and supervision. The trustee, or any duly authorized agent of the trustee, in connection with the operation and/or liquidation of any such bank may execute, acknowledge and deliver in the name of such bank, and under its seal, or may authorize any officer or officers of any such bank to execute, acknowledge and deliver in the name of such bank and under its seal any instrument affecting or relating to the property, business or affairs of such bank, and in the event any such officer is so authorized by the trustee, such authorization shall be deemed the authorization of the board of trustees of such bank and he may swear or affirm the usual certificate of acknowledgment to the effect that he executed the same and such seal was affixed by the authority of the board of trustees thereof. Any instru-

ment executed in any manner provided herein shall be valid and effectual for all purposes.

S 310. The first undesignated paragraph of section 329 of the banking law, as amended by chapter 845 of the laws of 1965, is amended to read as follows:

On or before the first day of February in each year, every safe deposit company shall make a written report to the superintendent of banks AND FINANCIAL SERVICES which shall contain a statement of its condition on the morning of the first day of January in said year. Every such report shall be subscribed and affirmed as true under the penalties of perjury, according to the best of their knowledge and belief, by the two principal officers in charge of the affairs of the safe deposit company at the time of such subscription and shall state that the usual business of the safe deposit company has been transacted at the location required by this article and not elsewhere.

S 311. Subdivision 1 of section 366 of the banking law, as amended by chapter 849 of the laws of 1964, is amended to read as follows:

1. The term "licensed casher of checks" means any individual, partnership, unincorporated association or corporation duly licensed by the superintendent of banks AND FINANCIAL SERVICES to engage in business pursuant to the provisions of this article.

S 312. Section 380-a of the banking law, as added by chapter 430 of the laws of 1965, is amended to read as follows:

S 380-a. Power to purchase mortgage, loan or investment. Subject to such regulations and restrictions as the superintendent of banks AND FINANCIAL SERVICES may prescribe therefor, an association may acquire by purchase any mortgage, loan or [invetsment] INVESTMENT which by the provisions of this article it is authorized to make and hold.

S 313. Section 382-a of the banking law, as amended by chapter 86 of the laws of 1975, is amended to read as follows:

S 382-a. Power to act as trustee under self-employed retirement trust and of individual retirement account; investment in savings account. 1. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings and loan association shall have power to act as trustee under a retirement plan established pursuant to the provisions of the act of congress entitled "Self-employed Individuals Tax Retirement Act of 1962", and provisions of law contained therein as amended, provided that the provisions of such retirement plan require the funds of such trust to be invested exclusively in deposits in savings and loan associations and federal savings and loan associations whose principal offices are located in this state. In the event that any such retirement plan, which in the judgment of the association, constituted a qualified plan under the provisions of said Self-employed Individuals Tax Retirement Act of 1962, and provisions of law contained therein as amended, and the regulations promulgated thereunder at the time the trust was established and accepted by the association is subsequently determined not to be such a qualified plan or subsequently ceases to be such a qualified plan, in whole or in part, the association may, nevertheless, continue to act as trustee of any deposits theretofore made under such plan and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No association, in respect to deposits made under this subdivision, shall be required to segregate such deposits from other deposits of such association, provided, however, that the association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subdivision. As used in this subdivision, the term "deposits" shall include shares issued by the association and time deposits held pursuant to section three hundred seventy-eight-a of this [chapter] ARTICLE.

2. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings and loan association shall have power to act as trustee of an individual retirement account established pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974" provided that the provisions of the written governing instrument creating the trust require the funds of such trust to be invested exclusively in deposits in savings and loan associations and federal savings and loan associations whose principal offices are located in this state. In the event that any such individual retirement account, which in the judgment of the association, constituted a qualified individual retirement account under the provisions of said Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder at the time the trust was established and accepted by the association is subsequently determined not to be such a qualified individual retirement account or subsequently ceases to be such a qualified individual retirement account, in whole or in part, the association may, nevertheless, continue to act as trustee of any deposits theretofore made under such individual retirement account and to dispose of the same in accordance with the directions of the depositor and the beneficiaries thereof. No association, in respect to deposits made under this subdivision, shall be required to segregate such deposits from other deposits of such association, provided, however, that the association shall keep appropriate records showing in proper detail all transactions engaged in under the authority of this subdivision. As used in this subdivision, the term "deposits" shall include shares issued by the association and time deposits held pursuant to section three hundred seventy-eight-a of this [chapter] ARTICLE.

S 314. Subdivision 5 of section 390 of the banking law, as amended by chapter 225 of the laws of 1976, is amended to read as follows:

5. Subject to any regulations and restrictions prescribed by the superintendent of banks AND FINANCIAL SERVICES, a savings and loan association may accept deposits, including demand deposits, without the issuance of a passbook in connection therewith, and may issue such other evidences of its obligation to repay such deposits as may be appropriate to safeguard the interests of the depositors and of the savings and loan association.

S 315. Subdivisions 9 and 10 of section 420-a of the banking law, as added by chapter 848 of the laws of 1966, are amended to read as follows:

9. The fund shall be subject to an examination by the superintendent of banks AND FINANCIAL SERVICES at least once in each calendar year.

10. Within three days, Saturdays, Sundays and holidays excepted, after each meeting of the trustees of the fund, the secretary or other officer of the fund in charge of the minutes of the proceedings of the trustees shall transmit to the superintendent of banks AND FINANCIAL SERVICES at his office in Albany three certified copies of the minutes of every meeting of the trustees for his information.

S 316. Paragraph (d) of subdivision 1 of section 495 of the banking law, as added by chapter 481 of the laws of 1959, is amended to read as follows:

(d) Any fact or condition exists which, if it had existed at the time of the original application for such license, clearly would have warranted the superintendent of banks AND FINANCIAL SERVICES in refusing to issue such license originally.

S 317. Section 498-b of the banking law, as added by chapter 598 of the laws of 1957, is amended to read as follows:

S 498-b. Regulations and rulings. The superintendent of banks AND FINANCIAL SERVICES is hereby authorized and empowered to make such general rules and regulations, and such specific rulings, demands and findings as may be necessary for the proper conduct of the business authorized and licensed under and for the enforcement of this article.

S 318. Section 513 of the banking law, as amended by chapter 360 of the laws of 1984, is amended to read as follows:

S 513. Reports to superintendent. On or before the first day of April in each year, every investment company shall make a written report to the superintendent of banks AND FINANCIAL SERVICES which shall contain a statement of its condition on the morning of the first day of January in said year and shall be in the form and contain the matters prescribed by the superintendent. The superintendent may, however, in his discretion accept from an investment company which has branches in a foreign country or countries, a report containing a statement of its condition as of a date not later than the first day of January and not earlier than the first day of November in the preceding year. Every such report shall be subscribed and affirmed as true under the penalties of perjury, according to the best of their knowledge and belief, by the two principal officers of the investment company at the time of such subscription, and shall state that the usual business of the investment company has been transacted at the location or locations required by this article and not elsewhere.

Every such investment company shall also make such other special reports to the superintendent as he may from time to time require, which shall be in such form and filed at such date as may be prescribed by the superintendent and shall, if required by him, be subscribed and affirmed as true under the penalties of perjury.

S 319. Section 550 of the banking law, as amended by chapter 833 of the laws of 1969, is amended to read as follows:

S 550. Incorporation; organization certificate. When authorized by the superintendent as provided in article two of this chapter, five or more persons may form a corporation to be known as a mutual trust investment company. Such persons shall subscribe and acknowledge and submit to the superintendent of banks AND FINANCIAL SERVICES at his office an organization certificate in duplicate which shall specifically state:

1. The name by which the mutual trust investment company is to be known and the investment purpose of its formation under [the following] section five hundred fifty-one OF THIS ARTICLE.

2. The place where its principal office is to be located.

3. The amount of its capital stock and the number of shares into which such capital stock shall be divided.

4. The full name, residence and post-office address of each of the incorporators and the number of shares subscribed for by each.

5. The term of its existence, which may be perpetual.

6. The number of its directors, which shall not be less than five and the names and addresses of the persons who shall be its directors until the first annual meeting of stockholders.

Such certificate may provide for the manner in which the stock of the corporation may be transferred and for the number of directors necessary to constitute a quorum.

When the superintendent shall have endorsed his OR HER approval on the organization certificate as provided in article two of this chapter, the corporate existence shall begin.

S 320. Subdivision 9 of section 554 of the banking law, as added by chapter 488 of the laws of 1960, is amended to read as follows:

9. "Superintendent" means the superintendent of banks AND FINANCIAL SERVICES.

S 321. Section 631 of the banking law, as amended by chapter 684 of the laws of 1938, is amended to read as follows:

S 631. Actions against directors, trustees, managers or officers for violation of their official duties. At any time while the superintendent is in possession of the property and business of any corporation, he may within six years after the cause of action has accrued institute and maintain in his name as superintendent of banks AND FINANCIAL SERVICES against its directors, trustees, managers or officers, or any of them, any action or proceeding which is vested in such corporation or in the stockholders or creditors thereof.

S 322. The opening paragraph of section 669 of the banking law, as amended by chapter 339 of the laws of 1967, is amended to read as follows:

S 669. Unauthorized use of the term "bank" or "trust company." Any person not authorized by the superintendent of banks AND FINANCIAL SERVICES, who:

S 323. Subdivision 4 of section 303 of the personal property law, as added by chapter 641 of the laws of 1984, is amended to read as follows:

4. As an alternative to the credit service charge provided for above, a retail seller may contract for in a retail [instalment] INSTALLMENT contract and charge, receive and collect a credit service charge calculated on the unpaid balances of an amount computed as provided in the second paragraph of subdivision one above, for the time outstanding according to a generally accepted actuarial method at rates that may vary from time to time and in accordance with the provisions of the contract. On any contract with a variable rate credit service charge made pursuant to this subdivision the rate shall be determined at regular intervals as set forth in the contract and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the retail seller and (d) approved by the superintendent.

The banking AND FINANCIAL SERVICES board shall adopt regulations with respect to retail installment contracts that provide for a variable rate of credit-service charge, including but not limited to: (a) providing for disclosure to the buyer by the retail seller of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (b) providing for disclosure to the buyer by the retail seller of a history of the fluctuations of the index over a reasonable period of time; and (c) providing for notice to the buyer by the retail seller prior to any rate increase or change in the terms of payment.

S 324. Subdivision 4 of section 404 of the personal property law, as added by chapter 641 of the laws of 1984, is amended to read as follows:

4. As an alternative to the credit service charge provided for above, a seller may, in a retail [instalment] INSTALLMENT contract or obligation, contract for and, if so contracted for, the holder may charge,

receive and collect a credit service charge calculated on the unpaid principal balances of the contract for the time each is outstanding, according to a generally accepted actuarial method at rates that may vary from time to time and in accordance with the provisions of the contract or obligation. On any contract or obligation with a variable rate credit service charge made pursuant to this subdivision, each rate shall be determined at regular intervals as set forth in the contract or obligation and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the holder, and (d) approved by the superintendent.

The banking AND FINANCIAL SERVICES board shall adopt regulations with respect to retail installment contracts or obligations that provide for a variable rate of credit service charge, including but not limited to: (a) providing for disclosure to the buyer by the holder of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (b) providing for disclosure to the buyer by the holder of a history of the fluctuations of the index over a reasonable period of time; and (c) providing for notice to the buyer from the holder prior to any rate increase or change in the terms of payment.

S 325. Paragraph (a) of subdivision 3 of section 413 of the personal property law, as amended by chapter 1 of the laws of 1994, is amended to read as follows:

(a) A seller may, in a retail instalment credit agreement, contract for and, if so contracted for, the seller or holder thereof may charge, receive and collect the service charge authorized by this article, which service charge shall not exceed the rate or rates agreed upon by the seller and the buyer, including, in accordance with the provisions of the credit agreement, rates that may vary, from time to time computed, for the purposes of this section, on the outstanding indebtedness from month to month, or if the service charge so computed is less than seventy cents for any month, seventy cents. If the credit agreement provides for a variable rate of service charge, such rate shall be determined at regular intervals as set forth in the credit agreement and in accordance with such regulations as the banking AND FINANCIAL SERVICES board shall prescribe but said rate shall not vary more often than once in any three month period and shall be based on a published index that is (a) readily available, (b) independently verifiable, (c) beyond the control of the seller and (d) approved by the superintendent, (e) such charges in credit agreements shall be based on the index values, or the index numbers plus or minus additional percentage points provided, however, that variations in the charge must correspond directly to the movements of the index values plus or minus additional percentage points only. Once such charge is established no lending institution may add any factors to increase the charge other than variations in the established index without the prior approval of the banking AND FINANCIAL SERVICES board.

The banking AND FINANCIAL SERVICES board shall adopt regulations with respect to credit agreements that provide for a variable rate of service charge, including but not limited to: (a) providing for disclosure to the buyer by the seller of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase and an example of the payment terms that would result from an increase; (b) providing for disclosure to the buyer by the seller of a history of the fluctuations of the index over a reasonable period of time; and (c) providing for notice to the buyer by the seller prior to any rate increase or change in the terms of payment. The regulations shall allow a seller, holder or financing agency after choosing an approved index to choose a spread and a minimum and maximum rate of service charge at its discretion. A retail instalment credit agreement, whether it provides for a fixed or variable service charge, may provide for an introductory rate of service charge at either a fixed or variable rate, provided that the terms of such introductory rate, including, if applicable, the date on which the introductory rate shall terminate, are disclosed to the buyer. Such disclosure shall be contained on an application form or pre-approved written solicitation as specified pursuant to subdivisions one and one-a of section five hundred twenty of the general business law. A change in the service charge rate upon expiration of an introductory rate shall not be considered a variable rate or a change in terms. The service charge rate in effect after expiration of an introductory rate may apply to all amounts due under the credit agreement regardless of when incurred, and disclosure of the same shall be provided to the buyer in the written agreement.

S 326. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of the business corporation law, as amended by chapter 555 of the laws of 1993, is amended to read as follows:

(B) Shall not contain any of the following words, or any abbreviation or derivative thereof:

acceptance	endowment	loan
annuity	fidelity	mortgage
assurance	finance	savings
bank	guaranty	surety
benefit	indemnity	title
bond	insurance	trust
casualty	investment	underwriter
doctor	lawyer	

unless the approval of the superintendent of banks AND FINANCIAL SERVICES or the superintendent of insurance, as appropriate, is attached to the certificate of incorporation, or application for authority or amendment thereof; or that the word "doctor" or "lawyer" or an abbreviation or derivation thereof is used in the name of a university faculty practice corporation formed pursuant to section fourteen hundred twelve of the not-for-profit corporation law or a professional service corporation formed pursuant to article fifteen of this chapter, or a foreign professional service corporation authorized to do business in this state pursuant to article fifteen-A of this chapter, the members or shareholders of which are composed exclusively of doctors or lawyers, respectively, or are used in a context which clearly denotes a purpose other than the practice of law or medicine.

S 327. Subparagraphs 5 and 8 of paragraph (b) of section 302 of the business corporation law, subparagraph 8 of paragraph (b) as amended by chapter 619 of the laws of 1976 and as renumbered by chapter 892 of the laws of 1981, are amended to read as follows:

(5) Shall not prevent an "investment company" as defined in an act of congress entitled "Investment Company Act of 1940" from including the word "finance" or "bond" as part of its name, if the approval of the superintendent of banks AND FINANCIAL SERVICES is attached to the certificate of incorporation, application for authority, or amendment thereof.

(8) Shall not prevent a bank holding company, as long as it is required to be registered under article III-A of the banking law or under the federal Bank Holding Company Act, as each may be amended from time to time, from using the words "bank", "banker" or "trusts" or any abbreviation, derivative or combination thereof as part of its corporate name, if the approval of the superintendent of banks AND FINANCIAL SERVICES is attached to the certificate of incorporation, application for authority, or amendment thereof.

S 328. Paragraph (y) of subdivision 6 of section 470.00 of the penal law, as added by chapter 489 of the laws of 2000, is amended to read as follows:

(y) any business or agency engaged in any activity which the superintendent of banks AND FINANCIAL SERVICES or the United States Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for activity which any business as described in this subdivision is authorized to engage.

S 329. Subdivision 61 of section 2.10 of the criminal procedure law, as added by chapter 321 of the laws of 1992, is amended to read as follows:

61. Investigators employed by the criminal investigations bureau when assigned to such bureau by the superintendent of banks AND FINANCIAL SERVICES and acting pursuant to their special duties as set forth in article two-B of the banking law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

S 330. Subdivision 2 of section 1107 of the surrogate's court procedure act, as amended by chapter 655 of the laws of 1978, is amended to read as follows:

2. The public administrators shall deposit to their respective credit all moneys by them severally collected and received within 5 days after receipt in demand, time, thrift or other accounts in one or more banks or trust companies designated by the mayor, comptroller and commissioner of finance for the deposit of moneys of the city of New York or in such accounts in savings banks or savings and loan associations located in their respective counties. All interest received on such deposits shall be credited to the respective estates. In case of the insolvency or involuntary liquidation of the depository all money so deposited shall be entitled to equal priority of payment with that given by law to deposits of money by the state superintendent of banks AND FINANCIAL SERVICES.

S 331. Subdivision 1 of section 1208 of the surrogate's court procedure act, as amended by chapter 655 of the laws of 1993, is amended to read as follows:

1. All moneys collected shall be deposited by the public administrator in a state or national bank, savings bank, savings and loan association or trust company and shall, in case of the insolvency or voluntary or involuntary liquidation of the depositary be entitled to equal priority of payment with that given by law to deposits of moneys by the state superintendent of banks AND FINANCIAL SERVICES.

S 332. Subparagraph (vi) of paragraph (a) of subdivision 1 of section 1310 of the surrogate's court procedure act, as amended by chapter 260 of the laws of 1968, is amended to read as follows:

(vi) a balance of money due on an accepted claim or account payable, on account of dividends payable by the superintendent of banks AND

FINANCIAL SERVICES in liquidation of bank assets, to, or to the estate of, or to a beneficiary designated by, a depositor or

S 333. Subdivision (a) of section 209 of the civil practice law and rules is amended to read as follows:

(a) Cause of action accruing in foreign country. Where a cause of action, whether originally accrued in favor of a resident or non-resident of the state, accrued in a foreign country with which the United States or any of its allies were then or subsequently at war, or territory then or subsequently occupied by the government of such foreign country, the time which elapsed between the commencement of the war, or of such occupation, and the termination of hostilities with such country, or of such occupation, is not a part of the time within which the action must be commenced. This section shall neither apply to nor in any manner affect an action brought pursuant to section six hundred twenty-five of the banking law against a banking organization or against the superintendent of banks AND FINANCIAL SERVICES.

S 334. Subparagraphs (ii) and (iii) of paragraph 3 of subdivision (1) of section 5205 of the civil practice law and rules, as amended by chapter 24 of the laws of 2009, are amended to read as follows:

(ii) The superintendent of banks AND FINANCIAL SERVICES shall determine the amount of the adjustment based on the change in the Consumer Price Index for All Urban Consumers, New York-Northern New Jersey-Long Island, NY-NJ-CT-PA, published by the U.S. Department of Labor, Bureau of Labor Statistics, for the most recent three-year period ending on December thirty-first preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars.

(iii) Beginning on April first, two thousand twelve, and at each three-year interval ending on April first thereafter, the superintendent of banks AND FINANCIAL SERVICES shall publish the current dollar amount of the exemption provided in this section, subdivisions (e) and (h) of section fifty-two hundred twenty-two, subdivision (a) of section fifty-two hundred thirty and subdivision (e) of section fifty-two hundred thirty-two of this [chapter] ARTICLE, together with the date of the next scheduled adjustment. The publication shall be substantially in the form set below:

CURRENT DOLLAR AMOUNT OF EXEMPTION FROM ENFORCEMENT OF JUDGMENT UNDER NEW YORK CIVIL PRACTICE LAW AND RULES Sections 5205(l), 5222(e), 5222(h), 5230(a), and 5232(e)

The following is the current dollar amount of exemption from enforcement of money judgments under CPLR sections 5205(l), 5222(e), 5222(h), 5230(a), and 5232(e), as required by CPLR section 5205(l)(3):

(Amount)

This amount is effective on April 1, (year) and shall not apply to cases commenced before April 1, (year). The next adjustment is scheduled for April 1, (year).

S 335. Section 7701 of the civil practice law and rules, as amended by chapter 193 of the laws of 1976, is amended to read as follows:

S 7701. Special proceeding relating to express trust. A special proceeding may be brought to determine a matter relating to any express trust except a voting trust, a mortgage, a trust for the benefit of creditors, a trust to carry out any plan of reorganization of real property acquired on foreclosure or otherwise of a mortgage or mortgages against which participation certificates have been issued and guaranteed by a corporation and for which the superintendent of insurance or the superintendent of banks AND FINANCIAL SERVICES has been or may hereafter be appointed rehabilitator or liquidator or conservator, a trust to carry out any plan of reorganization pursuant to sections one hundred nineteen through one hundred twenty-three of the real property law or pursuant to section seventy-seven B of the national bankruptcy act, and trusts for cemetery purposes, as provided for by sections 8-1.5 and 8-1.6 of the estates, powers and trusts law.

Any party to the proceeding shall have the right to examine the trustees, under oath, either before or after filing an answer or objections, as to any matter relating to their administration of the trust, in accordance with the provisions of article thirty-one OF THIS CHAPTER.

S 336. This act shall take effect immediately; provided, however:

(a) That the amendments to subdivision four of section 2405 of the public authorities law made by section seventeen of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 16 of chapter 915 of the laws of 1982, as amended, when upon such date the provisions of section eighteen of this act shall take effect.

(b) That the amendments to subdivision 6 of section 2405-b of the public authorities law made by section nineteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

(c) That the amendments to subdivision 6 of section 2405-c of the public authorities law made by section twenty-one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

(d) Section forty of this act shall take effect on the same date and in the same manner as subdivision d of section 28 of chapter 472 of the laws of 2008, takes effect.

(e) That the amendments to subdivisions 3, 4 and 5 of section 12-a of the banking law made by section forty-nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

(f) That the amendments to paragraph b of subdivision 19 of section 42 of the banking law made by section sixty-eight of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.

(g) Sections 70, 201, 209 and 211 of this act shall take effect on the same date and in the same manner as subdivision e of section 28 of chapter 472 of the laws of 2008, takes effect.

(h) That the amendments to subdivision 1 of section 96-d of the banking law made by section seventy-three of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 526 of the laws of 1998, as amended, when upon such date the provisions of section seventy-four of this act shall take effect.

(i) That the amendments to paragraph (b) of subdivision 5 of section 96-d of the banking law made by section seventy-three of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.