

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:

1 Section 1. Subdivisions 4, 8, 12 and 13 of section 2 of the banking
2 law, subdivisions 4 and 8 as amended by chapter 1 of the laws of 1984
3 and subdivisions 12 and 13 as amended by chapter 638 of the laws of
4 1981, are amended and a new subdivision 1-a is added to read as follows:
5 1-A. FINANCIAL SERVICES. THE TERM "FINANCIAL SERVICES" REFERS TO
6 SERVICES PROVIDED BY THE FINANCE INDUSTRY, ENCOMPASSING A BROAD RANGE OF
7 ORGANIZATIONS THAT DEAL WITH THE MANAGEMENT OF MONEY. FINANCIAL SERVICES
8 CAN BE DEFINED AS THE PRODUCTS AND SERVICES OFFERED BY BANKS, CREDIT
9 CARD COMPANIES, INSURANCE COMPANIES, CONSUMER FINANCE COMPANIES, STOCK
10 BROKERAGES, INVESTMENT FUNDS AND GOVERNMENT SPONSORED ENTERPRISES, DEAL-
11 ING 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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1 MONEY MANAGEMENT AS WELL AS PROVIDING INFORMATION ON THE STOCK MARKET
2 AND OTHER ISSUES LIKE MARKET TRENDS.

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

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

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

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

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

28 S 166. Record of appearances. Every regulatory agency of the state
29 shall keep a record of appearances before it or its appropriate divi-
30 sions or bureaus of attorneys, agents and representatives appearing on
31 behalf of any person, firm, corporation or association subject to its
32 regulatory jurisdiction, for which they receive a fee, which record
33 shall be open to public inspection. Each regulatory agency shall file
34 the record with the New York temporary state commission on lobbying on
35 forms prescribed by the commission. The record shall be filed quarterly
36 on the fifteenth day of the month following the end of the quarter. The
37 term "regulatory agency" as used in this section shall mean the [bank-
38 ing] department OF BANKING AND FINANCIAL SERVICES, insurance department,
39 state liquor authority, department of agriculture and markets, depart-
40 ment of education, department of environmental conservation, department
41 of health, division of housing and community renewal, department of
42 state, other than the division of corporations and state records,
43 department of public service, the industrial board of appeals in the
44 department of labor and the department of law, other than when the
45 attorney general or his agents or employees are performing duties speci-
46 fied in section sixty-three of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 S 223. Promotion of program. The department, through its regional
48 offices and with the assistance of the [banking] department OF BANKING
49 AND FINANCIAL SERVICES and other appropriate state agencies and public
50 benefit corporations, shall actively market and promote awareness of the
51 program in all geographical areas of the state among banks, banking
52 organizations, manufacturing firms, manufacturing organizations, and
53 regional and local economic development agencies. In soliciting lenders
54 to participate in the program, on or before April first, nineteen
55 hundred ninety-six, the commissioner of economic development shall give
56 priority to the solicitation of lenders seeking to make linked loans in

1 economic development regions in which fewer than ten linked loans have
2 been made on or before April first, nineteen hundred ninety-five.
3 Provided, however, that the granting of such priority shall in no way
4 relieve the commissioner of economic development of the duty and obli-
5 gation to solicit lenders from all economic development regions of the
6 state.

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

9 (c) The term "international banking facility" shall mean an interna-
10 tional banking facility located in New York state and shall have the
11 same meaning as is set forth in the New York state banking law or regu-
12 lations of the New York state [banking] department OF BANKING AND FINAN-
13 CIAL SERVICES or as is set forth in the laws of the United States or
14 regulations of the board of governors of the federal reserve system.

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

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

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

35 1. To coordinate the international economic activities of the state
36 including any international economic activities of the department of
37 agriculture and markets, the [banking] department OF BANKING AND FINAN-
38 CIAL SERVICES, the insurance department, the education department, the
39 state university of New York, the city university of New York, the New
40 York state science and technology foundation, the New York state urban
41 development corporation, the New York state job development authority,
42 the port authority of New York and New Jersey, and other New York state
43 agencies.

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

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

50 S 15. Section 1830 of the public authorities law, as amended by chap-
51 ter 118 of the laws of 1990, is amended to read as follows:

52 S 1830. Cooperation and assistance from other state agencies. The
53 department of economic development, the department of labor, the [bank-
54 ing] department OF BANKING AND FINANCIAL SERVICES, the department of
55 state and all other state agencies shall cooperate with and assist the
56 authority in the fulfillment of its corporate purposes and in the exer-

1 cise of its corporate powers under this title and may render such
2 services to the authority within their respective functions as may be
3 requested by the authority.

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

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

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

13 (4) In the case of individual borrowers, new mortgages made by banks
14 that sell existing mortgages to the agency shall bear interest computed
15 in accordance with section 5-501 of the general obligations law (whether
16 or not insured or guaranteed by the United States of America or any
17 agency thereof) at a rate which does not exceed the maximum interest
18 rate, if any, set by the agency for such mortgages. The agency may set
19 such a maximum interest rate chargeable to individual borrowers on such
20 new mortgages, notwithstanding the maximum interest rate, if any, fixed
21 by section 5-501 of the general obligations law or any other law not
22 specifically amending or applicable to this section, at the rate that
23 the existing mortgages purchased by the agency were discounted to yield
24 plus an interest differential, not in excess of one percent per annum,
25 which the agency from time to time shall determine to be adequate
26 consideration to induce such banks to sell existing mortgages to the
27 agency and to loan an amount equal to the proceeds on new mortgages in
28 furtherance of the purposes of and subject to the conditions of this
29 title. In the case of corporate borrowers, such new mortgages shall bear
30 interest at a rate not substantially lower than the rate of interest
31 that banks are charging at the time of commitment on comparable new
32 mortgages. Each such bank that sells existing mortgages to the agency
33 shall annually account and pay over to the agency or to the New York
34 state housing finance agency for deposit in and for the purposes of the
35 low rent lease account as set forth in paragraphs (a) and (b) of subdivi-
36 sion four of section forty-four-a of the private housing finance law
37 or any successor entity as the agency may direct, or to both the agency
38 and the New York state housing finance agency for such deposit and
39 purposes in such proportions as the agency may direct, an amount equal
40 to the difference between (a) the total amount of interest (which shall
41 include all charges to individual and corporate borrowers that would be
42 treated as interest under section 5-501 of the general obligations law
43 and any regulations of the banking AND FINANCIAL SERVICES board pursuant
44 to section fourteen-a of the banking law) received by it during the
45 preceding year on all such new mortgages and (b) the total amount of
46 interest which such new mortgages would have yielded if the interest
47 thereon had been at the maximum rate chargeable to individual borrowers
48 on such new mortgages plus an additional interest differential, not in
49 excess of one percent per annum, determined by the agency to be adequate
50 consideration to induce participating banks to make new loans on multi-
51 ple dwellings.

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

55 (4) In the case of individual borrowers, such new mortgages shall bear
56 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:

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

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

11 (e) A bank or trust company may, from time to time and as agreed upon
12 with a local government, reimburse all or part of, but not more than,
13 the actual cost incurred by the local government in transporting cash,
14 negotiable instruments or other items for deposit through a courier
15 service. Any such reimbursement agreement shall apply only to a speci-
16 fied deposit transaction, and may be subject to such terms, conditions
17 and limitations as the bank or trust company deems necessary to ensure
18 sound banking practices, including, but not limited to, any terms,
19 conditions or limitations that may be required by the [banking] depart-
20 ment OF BANKING AND FINANCIAL SERVICES or other federal or state author-
21 ity.

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

25 (iii) licensed or chartered by the state [banking] department OF BANK-
26 ING AND FINANCIAL SERVICES;

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

30 (iii) licensed or chartered by the state [banking] department OF BANK-
31 ING AND FINANCIAL SERVICES;

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

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

37 S 26. Subparagraph (ii) of paragraph (b) of subdivision 4 of section
38 695-b of the education law, as added by chapter 546 of the laws of 1997,
39 is amended to read as follows:

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

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

45 (iv) The department shall promulgate such regulations as may be neces-
46 sary to carry out the provisions of this subparagraph. Such regulations
47 shall include provisions for: assuring the fulfillment of fiduciary
48 obligations of the trustee with respect to the remainder interest of the
49 department or state; monitoring pooled trusts; applying this subdivision
50 to legal instruments and other devices similar to trusts, in accordance
51 with applicable federal rules and regulations; and establishing proce-
52 dures under which the application of this subdivision will be waived
53 with respect to an applicant or recipient who demonstrates that such
54 application would work an undue hardship on him or her, in accordance
55 with standards specified by the secretary of the federal department of
56 health and human services. Such regulations may require: notification of

1 the department of the creation or funding of such a trust for the bene-
2 fit of an applicant for or recipient of medical assistance; notification
3 of the department of the death of a beneficiary of such a trust who is a
4 current or former recipient of medical assistance; in the case of a
5 trust, the corpus of which exceeds one hundred thousand dollars, notifi-
6 cation of the department of transactions tending to substantially
7 deplete the trust corpus; notification of the department of any trans-
8 actions involving transfers from the trust corpus for less than fair
9 market value; the bonding of the trustee when the assets of such a trust
10 equal or exceed one million dollars, unless a court of competent juris-
11 diction waives such requirement; and the bonding of the trustee when the
12 assets of such a trust are less than one million dollars, upon order of
13 a court of competent jurisdiction. The department, together with the
14 [banking] department OF BANKING AND FINANCIAL SERVICES, shall promulgate
15 regulations governing the establishment, management and monitoring of
16 trusts established pursuant to subclause (B) of clause (iii) of this
17 subparagraph in which a not-for-profit corporation and a trust company
18 serve as co-trustees.

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

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

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

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

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

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

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

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

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

24 Subject to such regulations and restrictions as the banking AND FINAN-
25 CIAL SERVICES board finds to be necessary and proper,

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

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

38 S 6. Investment in obligations of housing corporations indirectly
39 guaranteed pursuant to the "Servicemen's Readjustment Act of 1944".
40 Subject to such regulations and restrictions as the banking AND FINAN-
41 CIAL SERVICES board finds to be necessary and proper, any bank, trust
42 company or savings bank may invest in obligations of any corporation
43 organized under any law of this state for the purpose of acquiring,
44 constructing, owning, maintaining, operating, selling or conveying a
45 housing project or projects (not including hotels but including accommo-
46 dations for retail stores, shops, offices and other community services
47 reasonably incident to such projects) located within this state, which
48 obligations are (a) secured by a first mortgage lien on such project, or
49 such part thereof, as was or is to be constructed or acquired out of the
50 proceeds of such obligations, either directly or by issue under an
51 indenture of mortgage from such corporation to a corporate trustee
52 having its principal office in this state, and (b) guaranteed indirectly
53 through the pledge as security therefor of obligations directly guaran-
54 teed under title three of an act of congress entitled the "Servicemen's
55 Readjustment Act of 1944", in an aggregate amount equal to at least
56 thirty per centum of the principal amount of all sums advanced to such

1 corporation under the loan instrument or indenture during the period of
2 construction and, upon completion, to the extent of at least forty per
3 centum of the principal amount of such obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 S 6-h. Reverse mortgage loans authorized. Notwithstanding any incon-
21 sistent provision of law, in addition to any other power exercised by
22 it, every authorized lender, as defined by section two hundred eighty or
23 two hundred eighty-a of the real property law, shall have the power to
24 offer reverse mortgage loans (1) which conform to the provisions of
25 section two hundred eighty or two hundred eighty-a of the real property
26 law and the rules and regulations promulgated by the banking AND FINAN-
27 CIAL SERVICES board; or (2) which conform to the requirements of the
28 federal housing administration's home equity conversion mortgage insur-
29 ance demonstration program for as long as such program exists as
30 provided for in section 1715Z-20 of title 12 of the United States Code.
31 "Reverse mortgage" shall mean the mortgage, deed of trust or other secu-
32 rity instrument relating to a particular reverse mortgage loan trans-
33 action.

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

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

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

49 (c) Every mortgage investing institution shall deposit funds from a
50 real property insurance escrow account of a mortgagor in a banking
51 institution whose deposits are insured by a federal agency or a licensed
52 branch of a foreign banking corporation whose deposits are insured by a
53 federal agency. Notwithstanding the foregoing provisions of this subdivi-
54 sion, the banking AND FINANCIAL SERVICES board shall have the power,
55 by a three-fifths vote of all its members, to exempt from the require-

ments of this subdivision any banking organization which does not receive deposits or share accounts from the general public.

S 39. Subparagraph (i) of paragraph (1) of subdivision 2 of section 6-1 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 (1) of subdivision 2 of section 6-1 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.

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

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

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

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

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

37 3. The banking AND FINANCIAL SERVICES board may promulgate such regu-
38 lations as it deems necessary and proper to implement and define the
39 provisions of this section.

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

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

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

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

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

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

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

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

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

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

37 S 47. The section heading, subdivision 1, paragraph (b) of subdivision
38 3 and subdivision 4 of section 11 of the banking law, the section head-
39 ing as amended by chapter 777 of the laws of 1939, subdivisions 1 and 4
40 as amended by chapter 566 of the laws of 2004, and paragraph (b) of
41 subdivision 3 as amended by chapter 276 of the laws of 1990, are amended
42 to read as follows:

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

52 (b) Reports made in accordance with section twenty-eight-b of this
53 chapter or pursuant to the rules and regulations of the banking AND
54 FINANCIAL SERVICES board promulgated in connection with assessing a
55 banking organization's record of performance in meeting the credit needs
56 of local communities within the meaning of section twenty-eight-b of

1 this chapter, including reports expressly required to be rendered to the
2 superintendent and reports of examinations may be destroyed at the
3 direction of the superintendent and in accordance with the provisions of
4 the arts and cultural affairs law after three years from date of receipt
5 thereof, provided any such report has first been photographed, micropho-
6 tographed or otherwise reproduced. Each such reproduction shall be
7 retained in the files of the department for a period of at least fifteen
8 years from the date of the last received report, oath or declaration
9 appearing thereon. After the expiration of such period, such reprod-
10 uction may be destroyed at the direction of the superintendent and in
11 accordance with the provisions of the arts and cultural affairs law.
12 Such reproduction thereof shall be deemed, for any purpose, the equiv-
13 alent of the original of such report. Any such report not so reproduced
14 shall be retained in the files of the department for a period of at
15 least fifteen years from the date of receipt thereof, after which it may
16 be destroyed at the direction of the superintendent and in accordance
17 with the provisions of the arts and cultural affairs law.

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

30 S 48. Section 12 of the banking law, as added by chapter 684 of the
31 laws of 1938, subdivision 1 as amended by chapter 460 of the laws of
32 1971, subdivision 2 as amended by chapter 300 of the laws of 1994 and
33 subdivision 3 as amended by chapter 146 of the laws of 1960, is amended
34 to read as follows:

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

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

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

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

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

7 3. Except with respect to a federally permitted power approved pursu-
8 ant to subdivision four of this section, prior to any state chartered
9 banking institution initially exercising any federally permitted power
10 pursuant to this section, such banking institution shall make an appli-
11 cation individually or with one or more state chartered banking insti-
12 tutions to the superintendent indicating that such institution or insti-
13 tutions intend to exercise such federally permitted power and the basis
14 on which such institution or institutions believe such power is a feder-
15 ally permitted power. The superintendent shall post such application
16 upon the bulletin board of the department pursuant to section forty-two
17 of this article. After promptly reviewing such application, the super-
18 intendent shall determine, consistent with the standards set forth in
19 subdivision five of this section, whether to recommend to the banking
20 AND FINANCIAL SERVICES board approval of such application subject to
21 such terms and conditions as he or she may deem appropriate, in his or
22 her sole discretion. Such determination, and any recommendation to the
23 banking AND FINANCIAL SERVICES board to approve an application, shall be
24 made by the superintendent within forty-five days after the posting of
25 such application by the superintendent, provided however that the super-
26 intendent may notify the applicant or applicants that the review of the
27 application shall be extended for an additional period of time not
28 exceeding one hundred twenty days after the posting of such application,
29 and provided further that such period of time may be extended for an
30 additional period of time with the written consent of the applicant or
31 applicants. The banking AND FINANCIAL SERVICES board shall not act upon
32 the superintendent's recommendation prior to thirty days after such
33 application has been posted. If the superintendent shall determine not
34 to recommend approval of such application, the superintendent shall
35 notify the applicant or applicants in writing that the applicant or
36 applicants may not exercise such federally permitted power. If the
37 superintendent determines to recommend approval of such application, and
38 the banking AND FINANCIAL SERVICES board approves such application by
39 adoption of a resolution, the applicant or applicants may exercise such
40 federally permitted power subject to such terms and conditions as the
41 banking AND FINANCIAL SERVICES board may have approved. If the banking
42 AND FINANCIAL SERVICES board declines to approve such application, the
43 superintendent shall notify the applicant or applicants in writing ther-
44 eof. Notwithstanding any other law, the banking AND FINANCIAL SERVICES
45 board, upon the recommendation of the superintendent, may, by resol-
46 ution, make the approval of an application under this section applicable
47 to one or more additional state chartered banking institutions that are
48 qualified to exercise the same federally permitted powers as the appli-
49 cant or applicants pursuant to subdivision two of this section, subject
50 to such terms and conditions as the superintendent shall find necessary
51 and appropriate and as approved by the banking AND FINANCIAL SERVICES
52 board.

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

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

11 5. Prior to approving any recommendation by the superintendent pursu-
12 ant to subdivision three or four of this section, the banking AND FINAN-
13 CIAL SERVICES board shall make a finding that the approval of such
14 recommendation is:

15 (i) consistent with the policy of the state of New York as declared in
16 section ten of this article and thereby protects the public interest,
17 including the interests of depositors, creditors, shareholders, stock-
18 holders and consumers; and

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

23 S 50. The section heading and subdivision 1 of section 13 of the bank-
24 ing law, as amended by chapter 360 of the laws of 1984, are amended to
25 read as follows:

26 Banking AND FINANCIAL SERVICES board. 1. There shall be in the [bank-
27 ing] department OF BANKING AND FINANCIAL SERVICES a banking AND FINAN-
28 CIAL SERVICES board which shall consist of seventeen members. The super-
29 intendent shall be a member of the board and its chairman and executive
30 head. The other sixteen members shall be appointed by the governor by
31 and with the advice and consent of the senate. Each member, other than
32 the superintendent and the first person appointed to fill a new member-
33 ship on the board, shall serve for a term of three years from the first
34 day of March in the year in which he OR SHE was appointed and until his
35 OR HER successor has been appointed and has qualified. Any member
36 appointed pursuant to the provisions of this section may be removed from
37 office by the governor whenever in his OR HER judgment the public inter-
38 est may require. In case of such removal the governor shall file with
39 the department of state a statement of the cause of such removal.

40 S 51. The section heading and the opening paragraph of subdivision 1
41 of section 14 of the banking law, the section heading as amended by
42 chapter 684 of the laws of 1938 and the opening paragraph of subdivision
43 1 as amended by chapter 315 of the laws of 2008, are amended to read as
44 follows:

45 Powers of the banking AND FINANCIAL SERVICES board.

46 For the purpose of effectuating the policy declared in section ten of
47 this article, the banking AND FINANCIAL SERVICES board shall have power,
48 by a three-fifths vote of all its members, to make, alter and amend
49 resolutions, rules and regulations not inconsistent with law. Such
50 rules, regulations and resolutions shall be brought to the attention of
51 those affected thereby in a manner to be prescribed by the board. With-
52 out limiting the foregoing power, resolutions or rules or regulations
53 may be so adopted for the following specific purposes:

54 S 52. The section heading and subdivisions 2, 3, 4 and 5 of section
55 14-a of the banking law, as added by chapter 883 of the laws of 1980,
56 are amended to read as follows:

1 Rate of interest; banking AND FINANCIAL SERVICES board to adopt regu-
2 lations.

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

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

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

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

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

30 Power of the banking AND FINANCIAL SERVICES board to prescribe minimum
31 rate of interest on mortgage escrow accounts. 1. The banking AND FINAN-
32 CIAL SERVICES board shall have the power to prescribe, from time to time
33 but not more often than once in every three month period, by a three-
34 fifths vote of all its members, by regulation a minimum rate of, and
35 method or basis of computing, interest that a mortgage investing insti-
36 tution shall be required to pay on each escrow account maintained with
37 respect to a mortgage on a one to six family residence occupied by the
38 owner or on any property owned by a cooperative apartment corporation,
39 as defined in subdivision twelve of section three hundred sixty of the
40 tax law, (as such subdivision was in effect on December thirtieth, nine-
41 teen hundred sixty), and located in this state, which rate shall be
42 greater than the rate of interest required to be paid under section
43 5-601 or 5-602 of the general obligations law.

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

1 Prior to making such recommendation, the superintendent may invite pres-
2 entation, by interested persons, of information and data relating to
3 economic and cost factors relevant to such minimum rate of interest.

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

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

19 Power of the banking AND FINANCIAL SERVICES board to prescribe crite-
20 ria for disclosure of information on savings and time accounts.

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

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

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

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

38 2. The banking AND FINANCIAL SERVICES board shall promulgate regu-
39 lations, which may be amended from time to time, establishing a reason-
40 able period of time within which a banking institution must permit a
41 banking customer to draw, as of right, on an item which has been
42 received for deposit in the customer's account.

43 3. The superintendent is authorized to gather from banking insti-
44 tutions such information as may be required by the banking AND FINANCIAL
45 SERVICES board for the promulgation of the regulations required by this
46 section.

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

52 S 56. Section 14-e of the banking law, as added by chapter 1 of the
53 laws of 1984, subdivision 2 as amended by section 1 of part 0 of chapter
54 59 of the laws of 2006, is amended to read as follows:

55 S 14-e. Power of the banking AND FINANCIAL SERVICES board to authorize
56 the operation of savings banks and savings and loan associations in

1 stock form. 1. Notwithstanding any other provision of law to the
2 contrary, the banking AND FINANCIAL SERVICES board is authorized, by a
3 three-fifths vote of all its members, to promulgate such rules and regu-
4 lations as shall facilitate:

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

7 (b) The conversion of mutual savings banks and savings and loan asso-
8 ciations to stock form, and

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

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

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

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

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

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

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

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

1 safety and soundness of such applicant or a similar investigative under-
2 taking by the department, shall be:

3 (a) twelve thousand five hundred dollars when such application relates
4 to a banking organization, bank holding company or, except as provided
5 in paragraph (b) of this subdivision, a foreign banking corporation;

6 (b) seven thousand five hundred dollars when such application relates
7 to licensing a branch, agency or representative office of a foreign
8 banking corporation;

9 (c) one thousand five hundred dollars when the application relates to
10 a mortgage broker; or

11 (d) three thousand dollars for all other such applications.

12 5. The fee for any application requiring the approval of the super-
13 intendent or the banking AND FINANCIAL SERVICES board, including, but
14 not limited to, any application required to change the name of the
15 applicant, open branches or offices or additional locations, or relocate
16 an existing branch, office, or location, and any other application not
17 subject to subdivision four of this section, shall be:

18 (a) seven hundred fifty dollars when the application relates to a
19 banking organization, bank holding company, out-of-state state bank,
20 foreign credit union, or foreign banking corporation;

21 (b) two thousand dollars when the application relates to the licensing
22 of an additional location or change of location or the licensing of a
23 mobile unit of a licensed casher of checks; or

24 (c) five hundred dollars for all other such applications.

25 (ii) facilitates the administration of the [banking] department OF
26 BANKING AND FINANCIAL SERVICES; or

27 S 59. Subdivisions 1, 2 and 3 of section 24 of the banking law, subdi-
28 vision 1 as amended by chapter 453 of the laws of 1960, subdivision 2 as
29 amended by chapter 419 of the laws of 1996, and subdivision 3 as amended
30 by chapter 52 of the laws of 1944, are amended to read as follows:

31 1. Within ninety days after the date when any organization certificate
32 or private banker's certificate shall have been filed for examination,
33 the superintendent, if he shall find after investigation and examination
34 of what he deems to be the best sources of information at his command
35 that the character, responsibility and general fitness of the person or
36 persons named in such certificate are such as to command confidence and
37 warrant belief that the business of the proposed corporation or private
38 banker will be honestly and efficiently conducted in accordance with the
39 intent and purpose of this chapter, and that the public convenience and
40 advantage will be promoted by allowing such proposed corporation or
41 private banker to engage in business, shall submit such certificate to
42 the banking AND FINANCIAL SERVICES board together with all papers,
43 correspondence and other information in his possession relating thereto,
44 including the results of his investigation and his recommendation in the
45 matter. Such period of ninety days may be extended, by a written consent
46 executed by a majority of the persons from whom the superintendent
47 received such organization certificate or private banker's certificate,
48 for such additional reasonable period of time as may be required for
49 applicants to comply with conditions precedent stipulated by the super-
50 intendent as being a prerequisite to his recommendation to the banking
51 AND FINANCIAL SERVICES board.

52 2. If three-fifths of the members of the board, after consideration of
53 all relevant information available to them, shall vote for approval, the
54 superintendent, if he is still satisfied, upon the considerations set
55 forth in subdivision one of this section, that such proposed corporation
56 or private banker should be permitted to engage in business, shall

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

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

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

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

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

54 (a) When taking any action on an application made by a banking insti-
55 tution under section one hundred five, two hundred twenty-four, two
56 hundred forty, or three hundred ninety-six of this chapter for a branch

1 office or under section one hundred ninety-one of this chapter for a
2 public accommodation office or under section six hundred one-b of this
3 chapter for approval or disapproval of a merger or purchase of assets,
4 or taking any action on a notice submitted by a banking institution
5 under section one hundred five-a, two hundred forty-a or three hundred
6 ninety-six-a of this chapter for the use or installation of an automated
7 teller machine, point-of-sale terminal or similar electronic facility or
8 on any other application to which the banking AND FINANCIAL SERVICES
9 board shall by rule or regulation make applicable the provisions of this
10 section, the superintendent shall take into account, among other
11 factors, an assessment, in writing, of the record of performance of the
12 banking institution in helping to meet the credit needs of its entire
13 community, including low and moderate-income neighborhoods, consistent
14 with safe and sound operation of the banking institution. Such assess-
15 ment and any written communications from the [banking] department OF
16 BANKING AND FINANCIAL SERVICES to a banking institution relating to such
17 assessment shall be made available to the public upon request, provided
18 that nothing contained in this subdivision shall be deemed to alter,
19 amend or affect the provisions of subdivision ten of section thirty-six
20 of this chapter. In making such assessment the superintendent shall
21 review all reports and documents filed pursuant to subdivision one of
22 this section and any signed, written comments received by the super-
23 intendent which specifically relate to the banking institution's
24 performance in helping to meet the credit needs of its community. In
25 addition, the superintendent shall consider the following factors in
26 assessing a banking institution's record of performance:

27 (1) Activities conducted by the banking institution to ascertain cred-
28 it needs of its community, including the extent of the banking insti-
29 tution's efforts to communicate with members of its community regarding
30 the credit services being provided by the banking institution;

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

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

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

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

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

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

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

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

53 (10) The banking institution's participation in governmentally-in-
54 sured, guaranteed or subsidized loan programs for housing, small busi-
55 nesses 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.

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

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

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

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

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

34 1. If the superintendent shall find that (i) any of the reasons for
35 taking possession of the business and property of a banking organization
36 or of the business and property in this state of a foreign banking
37 corporation enumerated in section six hundred six of this chapter, shall
38 exist with respect to a private banker to which the superintendent has
39 issued an authorization certificate or a foreign banking corporation to
40 which the superintendent has issued a license or (ii) any fact or condi-
41 tion exists which would be grounds for denial of an application for such
42 a license issued to a foreign banking corporation, as defined by the
43 banking AND FINANCIAL SERVICES board by regulation, he OR SHE may, after
44 notice and hearing thereon, revoke such license or authorization certif-
45 icate. Notice of such revocation, under the superintendent's hand and
46 the official seal of the department, shall be executed in triplicate and
47 one copy shall be transmitted to such private banker or foreign corpo-
48 ration, another shall be filed in the office of the department and the
49 third shall be filed in the office of the clerk of the county in which
50 the authorization certificate or license of such private banker or
51 foreign corporation has been filed. The superintendent may, in his OR
52 HER discretion, publish a copy of such notice, with such other facts as
53 he OR SHE may deem proper, in the state register.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 S 96-c. Power to act as trustee under self-employed retirement trust
55 or individual retirement trust. Every bank without fiduciary powers may,
56 subject to any regulations and restrictions prescribed by the super-

1 intendent of banks AND FINANCIAL SERVICES, act as trustee under a
2 retirement plan established pursuant to the provisions of the act of
3 congress entitled "Self-employed Individuals Tax Retirement Act of 1962"
4 as such provisions may be amended from time to time, and under an indi-
5 vidual retirement account plan established pursuant to the amendments to
6 the provisions of the Internal Revenue Code contained in the act of
7 congress entitled "Employee Retirement Income Security Act of 1974" as
8 such provisions may be amended from time to time, provided that the
9 provisions of such retirement or individual retirement account plan
10 require the funds of such trust to be invested exclusively in deposits
11 in banks, trust companies, savings banks, savings and loan associations
12 or federal savings and loan associations whose principal offices are
13 located in this state. In the event that any such retirement or individ-
14 ual retirement account plan, which in the judgment of the bank, consti-
15 tuted a qualified plan under the provisions of the applicable act of
16 congress hereinabove mentioned and the regulations promulgated there-
17 under at the time the trust was established and accepted by the bank is
18 subsequently determined not to be such a qualified plan or subsequently
19 ceases to be such a qualified plan, in whole or in part, the bank may,
20 nevertheless, continue to act as trustee of any deposits theretofore
21 made under such plan and to dispose of the same in accordance with the
22 directions of the depositor and the beneficiaries thereof. No bank, in
23 respect to deposits made under this section, shall be required to segre-
24 gate such deposits from other deposits of such bank, provided, however,
25 that the bank shall keep appropriate records showing in proper detail
26 all transactions engaged in under the authority of this section.

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

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

39 (b) Notwithstanding any other provision of law, the banking AND FINAN-
40 CIAL SERVICES board shall promulgate rules and regulations to authorize
41 the participation of savings banks, savings and loan associations,
42 federal savings banks and federal savings and loan associations in the
43 program established pursuant to this section.

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

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

55 S 75. The opening paragraph of subdivision 4-a and subdivisions 4-c
56 and 5 of section 97 of the banking law, the opening paragraph of subdi-

vision 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:

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

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

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

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

27 10. The banking AND FINANCIAL SERVICES board shall promulgate such
28 regulations and rules as it considers appropriate to govern the adminis-
29 tration of common trust funds and short term investment common trust
30 funds.

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

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

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

52 S 79. Paragraphs (a), (b), (c), (i), (j) and (k) of subdivision 1,
53 subdivisions 4, 4-a and 5 of section 103 of the banking law, paragraphs
54 (a), (c), and (i) of subdivision 1 and subdivision 4-a as amended by
55 chapter 1 of the laws of 1983, paragraph (b) of subdivision 1 as amended
56 by chapter 360 of the laws of 1984, paragraphs (j) and (k) of subdivi-

sion 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

1 equal but not exceed twenty-five per centum of the capital stock,
2 surplus fund and undivided profits of such bank or trust company.

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

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

37 (k) In the case of a trust company which (1) does not receive deposits
38 from the general public and (2) has been exempted by the banking AND
39 FINANCIAL SERVICES board from the requirements of section thirty-two of
40 this chapter, the limitations of this subdivision shall not apply to the
41 purchase of securities under repurchase agreement provided that the
42 repurchase agreement relates to not less than a like amount of direct
43 obligations (based on their principal amount or market value, whichever
44 is lower, at the time the purchase occurs) of any foreign nation, or any
45 political subdivision, agency or instrumentality thereof, provided: (i)
46 at the time of such purchase, such direct obligations are rated in one
47 of the three highest rating grades by an independent rating service
48 designated by the banking AND FINANCIAL SERVICES board; (ii) for any
49 such direct obligations, the foreign nation, or any political subdivi-
50 sion, agency or instrumentality thereof, has guaranteed payment (by
51 guaranty or commitment to purchase or otherwise) of the principal and
52 interest thereof, or is committed to supply, by loan, subsidy or other-
53 wise, funds sufficient to pay such principal and interest, or has other-
54 wise pledged its faith and credit for the payment of such principal and
55 interest; (iii) the purchase price of such securities does not exceed
56 the per centum applicable to the obligor of such securities of the capi-

tal 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

1 shall be made prior to or upon the maturity of the loan by the lending
2 bank or trust company.

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

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

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

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

43 4-a. A bank or trust company may, in addition to the authority granted
44 under any other provisions of this article, make a loan to a natural
45 person upon the security of a mortgage which is not a first lien at the
46 rate or rates agreed to by the bank or trust company and the borrower,
47 subject to such regulations as the banking AND FINANCIAL SERVICES board
48 may prescribe. Such regulations by the banking AND FINANCIAL SERVICES
49 board may include such restrictions as the banking AND FINANCIAL
50 SERVICES board finds necessary or proper, including without limitation,
51 a restriction as to the percentage of total assets which may be invested
52 in such loans or a restriction on the loan to appraisal value of proper-
53 ty securing such loan.

54 For purposes of this subdivision, the term mortgage shall include a
55 lien on an existing ownership interest in certificates of stock or other
56 evidence of an ownership interest in, and a proprietary lease from, a

1 corporation or partnership formed for the purpose of the cooperative
2 ownership of real estate.

3 5. Make any loan for the purpose of financing the purchase of or refi-
4 nancing an existing ownership interest in certificates of stock or other
5 evidence of an ownership interest in, and a proprietary lease from, a
6 corporation or partnership formed for the purpose of the cooperative
7 ownership of real estate, unsecured except to the extent of an assign-
8 ment or transfer of the stock certificates or other evidence of owner-
9 ship interest of the borrower and the proprietary lease within ninety
10 days from the making of the loan, which shall exceed the maximum per
11 cent of the loan permitted to be made on real estate improved by a
12 single family residence occupied by the owner, provided that for
13 purposes of this section the amount of the purchase price shall be
14 deemed to equal the appraised value of such certificate of stock or
15 other evidence of an ownership interest, or, in the case of a refinanc-
16 ing, the appraised value of such certificates of stock or other evidence
17 of an ownership interest and which shall fail to provide for full repay-
18 ment of principal and interest within the same number of years as a
19 conventional mortgage loan previously described in this subdivision,
20 provided that all real estate owned by such corporation or partnership
21 shall be located within the state; and provided, further, that such loan
22 shall be subject to such regulations as the banking AND FINANCIAL
23 SERVICES board may from time to time promulgate. The maximum rate of
24 interest which may be charged, taken or received upon any loan or
25 forbearance made pursuant to this subdivision may exceed the rate of
26 interest prescribed by the banking AND FINANCIAL SERVICES board in
27 accordance with section fourteen-a by no more than one and one-half per
28 centum per annum.

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

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

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

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

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

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

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

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

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

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

39 S 83. Subdivision 1, paragraphs (b) of subdivisions 4 and 5, paragraph
40 9 of subdivision 5-a and subdivision 8 of section 108 of the banking
41 law, subdivision 1 as amended by chapter 360 of the laws of 1984, para-
42 graph (b) of subdivision 4 as amended by chapter 92 of the laws of 1986,
43 the opening paragraph of paragraph (b) of subdivision 4 as amended by
44 chapter 577 of the laws of 1987, clause (C) of subparagraph (ii) of the
45 opening paragraph of paragraph (b) of subdivision 4 as amended by chap-
46 ter 119 of the laws of 1992, paragraph (b) of subdivision 5 as amended
47 by chapter 5 of the laws of 1992, the third undesignated paragraph and
48 the closing paragraph of paragraph (b) of subdivision 5 as added by
49 chapter 1 of the laws of 1994, paragraph 9 of subdivision 5-a as added
50 by chapter 320 of the laws of 1973 and subdivision 8 as added by chapter
51 344 of the laws of 1974 and renumbered by chapter 512 of the laws of
52 1977, are amended to read as follows:

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

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

20 Anything contained in this subdivision to the contrary notwithstand-
21 ing, the charging of interest or discount on a loan or discount made
22 outside this state at a rate allowed by the laws of the jurisdiction
23 where such loan is made, or the acquisition by a bank or trust company
24 of a part interest or the entire interest in any loan or discount here-
25 tofore or hereafter made by a bank or trust company or any other banking
26 institution, shall not be a violation of this section.

27 (b) A bank or trust company which operates a personal loan department
28 may make loans and charge interest thereon, which may be calculated on
29 the actual unpaid principal balances of the loan or in the case of a
30 loan commitment from the date of each advance thereunder for the actual
31 time outstanding, according to a generally accepted actuarial method at
32 a fixed or variable rate in accordance with the provisions of the
33 evidence of the indebtedness, or taken in advance, computed from the
34 date of the loan, or in the case of a loan commitment from the date of
35 each advance thereunder, to the date of the last installment payable
36 thereunder, at the rate or rates agreed to by the bank or trust company
37 and the borrower, with respect to any loan which is repayable at regular
38 periodic intervals of not more than one month over a period from the
39 date of the loan not exceeding (i) thirty-seven months, if the face
40 amount of the loan is for not more than twelve hundred dollars, or (ii)
41 any number of months agreed to by the bank or trust company and the
42 borrower, (A) if the face amount of the loan is for more than twelve
43 hundred dollars, (B) if the loan is for more than twelve hundred
44 dollars, and is made for a commercial or business use or purpose or for
45 investment in or purchase of an unincorporated business or commercial
46 enterprise, (C) if the loan or loan commitment is made for educational
47 purposes as specified in subdivision five-b of this section, or (D) if
48 the loan or advance of credit is made for the purpose of financing
49 alterations, repairs and improvements upon or in connection with, or as
50 the superintendent may authorize the equipping of existing structures,
51 and the building of new structures, upon urban, suburban, or rural real
52 property (including the restoration, rehabilitation, rebuilding and
53 replacement of such improvements which have been damaged or destroyed by
54 earthquake, conflagration, tornado, hurricane, cyclone, flood or other
55 catastrophe), by the owners thereof or by lessees of such real property
56 under a lease expiring not less than six months after the maturity of

1 the loan or advance of credit or by lessees under proprietary leases
2 from corporations or partnerships formed for the purpose of the cooper-
3 ative ownership of real estate. The total unpaid principal balances of
4 any one or more loans made by such bank or trust company to the borrower
5 pursuant to this subdivision shall be determined by agreement between
6 such bank or trust company and the borrower. If the loan is made for a
7 period of one year or more, provision may be made in the note, instru-
8 ment or other evidence of debt, for the omission of payments during not
9 more than any three specified months in any twelve-month period, but the
10 maximum period of thirty-seven months, shall not be exceeded. On any
11 loan with a variable rate of interest made pursuant to this paragraph,
12 the rate shall be determined at regular intervals as set forth in the
13 evidence of indebtedness and in accordance with such regulations as the
14 banking AND FINANCIAL SERVICES board shall prescribe but said rate shall
15 not vary more often than once in any three month period and shall be
16 based on a published index that is (a) readily available, (b) independ-
17 ently verifiable, (c) beyond the control of the bank or trust company
18 and (d) approved by the superintendent.

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

29 (b) Such agreement may provide for interest on the unpaid aggregate
30 principal amount of such loans and advances from time to time outstand-
31 ing at the rate or rates agreed to by the bank or trust company and the
32 borrower, as computed pursuant to this section, including, in accordance
33 with the provisions of the agreement, rates that may vary from time to
34 time reckoned on each loan or advance from the date thereof, calculated
35 on any of the following bases: (i) on the unpaid principal amount of
36 such loans and advances from time to time outstanding, or (ii) for each
37 month on an average balance outstanding determined by dividing by two
38 the sum of the balances of unpaid principal of such loans and advances
39 outstanding on two dates during such month, as specified in such agree-
40 ment; the first of which dates being not later than the fifteenth day of
41 such month and the second being not earlier than the sixteenth day of
42 such month and not less than ten nor more than twenty days after the
43 first date, or (iii) for each month on a fixed amount selected from a
44 schedule, which fixed amount may exceed the average daily balance under
45 (i) above, or the average balance if determined under (ii) above, by a
46 differential of not more than five dollars, provided the same fixed
47 amount is also used for computing interest for any month for which such
48 balance exceeds said fixed amount by any amount up to at least the same
49 differential. For purposes of this subdivision, a month may but need not
50 be a calendar month, and a bank or trust company computing interest on a
51 daily basis may charge for each day one thirtieth of the monthly inter-
52 est rate. No amendment to any agreement shall take effect unless at
53 least [30] THIRTY days prior to the effective date of such amendment,
54 imposition or increase, a written notice has been mailed or delivered to
55 the borrower that clearly and conspicuously describes such amendment,
56 imposition or increase and the indebtedness to which it applies and if

1 the amendment has the effect of increasing the rate of interest, either
2 (a) the notice states that the incurrence by the borrower or another
3 person authorized by him of any further indebtedness under the plan to
4 which the agreement relates on or after the effective date of such
5 change specified in the notice shall constitute acceptance of such
6 change, and either the borrower agrees in writing to such change or the
7 borrower or another person authorized by him incurs such further indebt-
8 edness on or after the effective date of the change stated in the
9 notice, or (b) the notice advises the borrower that he has thirty days
10 from the earlier of the mailing or delivery of the notice to advise the
11 bank or trust company in writing that he does not accept such amendment,
12 provided that such notice contains an address to which the borrower may
13 send notice of his election not to accept the amendment and also
14 provided that the notice specifies that the amendment will take effect
15 absent receipt of the borrower's written objection to the amendment. Any
16 borrower who has received a notice pursuant to clause (a) who does not
17 agree in writing to the amendment and no further indebtedness is
18 incurred under the plan to which the agreement relates, and any borrower
19 who gives a timely notice, pursuant to clause (b), electing not to
20 accept the amendment shall be permitted to pay his outstanding indebt-
21 edness in accordance with the terms of the agreement but the bank or
22 trust company may terminate the amount of credit available to the
23 borrower and may require the borrower to return all credit cards and
24 checks issued in connection with the agreement. If such a borrower
25 subsequently obtains credit under the agreement, such use shall consti-
26 tute acceptance of the change of terms and shall be deemed to have been
27 accepted and shall become effective as to the borrower as of the date
28 such change would have become effective but for the giving of notice by
29 the borrower. If notice is given pursuant to clause (b) and the borrower
30 does not timely object in writing to the amendment, such amendment shall
31 become effective without action on the part of the borrower; provided
32 that in no event shall any such amendment or increase take effect with
33 respect to (i) the unpaid aggregate principal amount of loans or
34 advances representing indebtedness outstanding prior to January 1, 1981
35 and (ii) the unpaid aggregate principal amount of loans or advances
36 representing indebtedness incurred, under or pursuant to an agreement in
37 effect on December 1, 1980, between January 1, 1981, and the effective
38 date of such amendment or increase specified in the first notice mailed
39 or delivered pursuant to clause (a). Indebtedness outstanding prior to
40 January 1, 1981, for purpose of clause (i) above and indebtedness
41 outstanding prior to the effective date of an increase for purposes of
42 clause (ii) above shall be determined on the basis of crediting payments
43 and other credits first to that portion of any such indebtedness repres-
44 enting interest charges, insurance premiums, service charges and fines
45 and then to that portion representing the principal amount of loans or
46 advances in the order in which made. The provisions of this paragraph
47 permitting an increase in a rate of interest shall not apply in the case
48 of an agreement which expressly prohibits changing of interest rates or
49 which provides limitations on changing of interest rates which are more
50 restrictive than the requirements of this paragraph. An amendment to an
51 agreement deleting a provision that the rate of interest may vary from
52 time to time may not become effective within one year from the later of
53 the effective date of the agreement or the effective date of an amend-
54 ment to an agreement adding a variable rate provision. On any loans or
55 advances with rates of interest that may vary from time to time made
56 pursuant to this paragraph, such variable rates of interest shall be

1 determined at regular intervals as set forth in the agreement and in
2 accordance with such regulations as the banking AND FINANCIAL SERVICES
3 board shall prescribe but said rate shall not vary more often than once
4 in any three month period and shall be based on a published index that
5 is (a) readily available, (b) independently verifiable, (c) beyond the
6 control of the bank or trust company and (d) approved by the superinten-
7 dent, (e) such loan rate shall be based on the index values, or the
8 index numbers plus or minus additional percentage points provided,
9 however, that variations in the rate must correspond directly to the
10 movements of the index values plus or minus additional percentage points
11 only. Once such rate is established no lending institution may add any
12 factors to increase the rate other than variations in the established
13 index without the prior approval of the banking AND FINANCIAL SERVICES
14 board. For purposes of this paragraph, an adjustment in the rate of
15 interest as a consequence of movement in the selected index shall not
16 constitute an amendment to that agreement. A reduction in the grace
17 period for the assessment of a fee on any installment not paid when due,
18 shall be considered an amendment to an agreement as set forth in this
19 paragraph.

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

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

46 Any interest charge, whether assessed by a fixed or variable rate, may
47 be reduced on such terms as the bank or trust company may determine,
48 provided that the terms of such reduction, including, if applicable, the
49 date on which the reduction will terminate, are disclosed to the borrow-
50 er on the written notice announcing the reduction, prior to the effec-
51 tive date of the reduction. A new method of determining an interest
52 charge is a reduction in the interest charge if the charge determined
53 under the new method never exceeds the charge under the original method.
54 The original interest charge or original method of determining the
55 interest charge may be applied after the reduction ends to the entire
56 outstanding indebtedness, including any indebtedness incurred when a

1 reduced interest charge applied and disclosure of the same shall be
2 provided to the borrower in the written notice announcing the reduction.
3 A reduction to an interest charge, including the resumption of the
4 original interest charge or the original method of determining the
5 interest charge, shall not be considered an amendment of the agreement
6 for purposes of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 which all records kept by banks and trust companies as fiduciary shall
2 be preserved in original form.

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

8 (a) No executive officer of a bank or trust company may be an execu-
9 tive officer, director or trustee of another bank or trust company,
10 savings bank, savings and loan association, national bank located in
11 this state, federal savings and loan association located in this state,
12 bank holding company or foreign banking corporation maintaining a branch
13 in this state, unless permission therefor has been granted by the bank-
14 ing AND FINANCIAL SERVICES board pursuant to the provisions of subpara-
15 graph (b) of this subdivision, except that (1) an executive officer of a
16 bank or trust company which is a subsidiary of a bank holding company
17 may be (i) an executive officer and (ii) a director of the bank holding
18 company and of one or more banking institutions which are subsidiaries
19 of such bank holding company; and (2) an executive officer of a bank or
20 trust company owned by savings banks pursuant to subdivision eighteen of
21 section two hundred thirty-five, or by savings and loan associations or
22 federal savings and loan associations located in this state pursuant to
23 section three hundred seventy-nine-a, may be (i) an executive officer
24 and (ii) a director or trustee of one of the stockholders of such a bank
25 or trust company of which he is an executive officer; provided, however,
26 that except as stated in the foregoing exceptions, an executive officer
27 of a bank or trust company, who on the effective date of this act is an
28 executive officer, director or trustee of another bank or trust company,
29 savings bank, savings and loan association, national bank located in
30 this state, federal savings and loan association located in this state,
31 bank holding company or foreign banking corporation maintaining a branch
32 in this state, may continue to hold such other office, without permis-
33 sion from the banking AND FINANCIAL SERVICES board, until the expiration
34 of the term of such office or the close of business on the last day of
35 December, nineteen hundred seventy-four, whichever occurs sooner.

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

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

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

3 2. Notwithstanding the provisions of subdivision one of this section,
4 the approval of the superintendent shall not be required with respect to
5 such merger or acquisition, if any of the corporations which are to
6 merge, or if the selling or acquiring corporation, is a banking subsid-
7 iary of a bank holding company, and the banking AND FINANCIAL SERVICES
8 board pursuant to section one hundred forty-two of this chapter has
9 granted its approval for such bank holding company, or any trustee or
10 trustees who hold voting stock of such banking subsidiary for the bene-
11 fit of the stockholders or members of such bank holding company, to vote
12 the stock of such banking subsidiary in favor of the proposed merger or
13 acquisition. The superintendent shall file the plan of merger or acqui-
14 sition and the certificate submitted to him pursuant to section one
15 hundred thirty-six or section one hundred thirty-six-a of this chapter,
16 together with a certified copy of the resolution of the banking AND
17 FINANCIAL SERVICES board granting such approval, in the office of the
18 superintendent, and, in the case of a merger, a duplicate of the plan
19 and of each of such certificates, together with a certified copy of such
20 resolution, shall be filed in the office of the clerk of the county in
21 which the receiving corporation is located. Upon such filing in the
22 office of the superintendent, the merger or acquisition shall become
23 effective, unless a later date is specified in the plan, in which event
24 the merger or acquisition shall become effective upon such later date.
25 For purposes of this subdivision, the terms "bank holding company" and
26 "banking subsidiary" shall have the meanings stated in section one
27 hundred forty-one of this chapter.

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

30 2-a. Notwithstanding the provisions of any law to the contrary, a bank
31 or trust company or national bank located in this state shall not be
32 required to repay any deposit made at a foreign branch of any such bank
33 if the branch cannot repay the deposit due to (i) an act of war, insur-
34 rection, or civil strife; or (ii) an action by a foreign government or
35 instrumentality, whether de jure or de facto, in the country in which
36 the branch is located preventing such repayment, unless such bank has
37 expressly agreed in writing to repay the deposit under such circum-
38 stances. The banking AND FINANCIAL SERVICES board may promulgate regu-
39 lations necessary to effectuate the provisions of this subdivision,
40 including regulations providing for adequate disclosure to retail depos-
41 itors in the United States of the restrictions on repayment contained in
42 this subdivision. The provisions of this subdivision shall not alter or
43 diminish the liability of a custodian of assets of a fund under section
44 one hundred seventy-eight-a of the retirement and social security law.

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

47 S 140-a. Stock option plans. Subject to such regulations and
48 restrictions as may be prescribed by the banking AND FINANCIAL SERVICES
49 board by a three-fifths vote of all the members thereof, every bank and
50 every trust company may grant options to purchase authorized and unis-
51 sued shares of its capital stock to officers, directors and employees,
52 for a consideration as authorized by section five thousand four of this
53 chapter of not less than one hundred [per cent] PERCENT of the fair
54 market value of the shares on the date the option is granted, pursuant
55 to the terms of a stock option plan which has previously been adopted by
56 the board of directors of the bank or trust company and approved by the

1 holders of a majority of the outstanding shares of capital stock of the
2 bank or trust company and by the superintendent. Stock options issued
3 hereunder shall not extend beyond a period of ten years from date of
4 issuance.

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

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

17 S 93. Subdivision 1 of section 142 of the banking law, as amended by
18 section 18 of part 0 of chapter 59 of the laws of 2006, is amended to
19 read as follows:

20 1. It shall be unlawful except with the prior approval of the banking
21 AND FINANCIAL SERVICES board by a three-fifths vote of all the members
22 thereof (a) for any action to be taken that causes any company to become
23 a bank holding company; (b) for any action to be taken that causes a
24 banking institution to become, or to be merged or consolidated with, a
25 subsidiary of a bank holding company; (c) for any bank holding company,
26 or for any trustee or trustees acting for the benefit of the stockhold-
27 ers or members of any bank holding company, to acquire direct or indi-
28 rect ownership or control of any voting stock of any banking institution
29 if, after such acquisition, such company or such trustee or trustees or
30 both will directly or indirectly own, control or hold more than five per
31 centum of the voting stock of such banking institution; (d) for any bank
32 holding company or subsidiary thereof to acquire all or substantially
33 all of the assets of a banking institution; or (e) for any bank holding
34 company to merge or consolidate with another bank holding company. For
35 the purposes of this section, the term "bank holding company" shall be
36 deemed to include any successor thereof. Any company desiring to take
37 any action requiring approval under this subdivision shall submit an
38 application therefor, in writing, to the superintendent and pay to the
39 superintendent an investigation fee as prescribed pursuant to section
40 eighteen-a of this chapter to the superintendent. If such action
41 includes the acquisition of all the capital stock of one or more corpo-
42 rations organized under or subject to the provisions of article three,
43 six or ten of this chapter, there shall be submitted in duplicate
44 together with such application a written plan of acquisition of such
45 stock in a form satisfactory to the superintendent and containing the
46 information required by subdivision one of section one hundred forty-
47 three-a of this article and a certificate which complies with the
48 provisions of subdivision two of said section one hundred forty-three-a.
49 Upon receipt of such application, the superintendent shall post notice
50 of the receipt thereof upon the bulletin board of the [banking] depart-
51 ment OF BANKING AND FINANCIAL SERVICES. The superintendent shall submit
52 such application together with his or her recommendations in regard
53 thereto and all papers, correspondence and other information in his or
54 her possession and relating thereto, to the banking AND FINANCIAL
55 SERVICES board which shall by order grant or deny the application and
56 shall state the reasons for such grant or denial. An order granting such

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

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

22 (a) No executive officer of a bank holding company may be an executive
23 officer or director of another bank holding company or of a bank or
24 trust company, savings bank, savings and loan association, national bank
25 located in this state, federal savings and loan association located in
26 this state or foreign banking corporation maintaining a branch in this
27 state, unless permission therefor has been granted by the banking AND
28 FINANCIAL SERVICES board pursuant to the provisions of paragraph (b) of
29 this subdivision, except that an executive officer of a bank holding
30 company may be (i) an executive officer and (ii) a director of one or
31 more banking institutions or bank holding companies which are subsid-
32 iaries of such bank holding company; provided, however, that an execu-
33 tive officer of a bank holding company, who on the effective date of
34 this act is an executive officer or director of another bank holding
35 company or of a bank or trust company, or of a savings bank, savings and
36 loan association, national bank located in this state, federal savings
37 and loan association located in this state or foreign banking corpo-
38 ration maintaining a branch in this state, may continue to hold such
39 other office, without permission from the banking AND FINANCIAL SERVICES
40 board, until the expiration of the term of such office or the close of
41 business on the last day of December, nineteen hundred seventy-four,
42 whichever occurs sooner.

43 (b) The banking AND FINANCIAL SERVICES board shall have the power to
44 determine by regulation who shall be considered, under the provisions of
45 this subdivision, to be an executive officer, and by a general or
46 specific regulation, upon a three-fifths vote of all its members, to
47 grant permission to an executive officer of a bank holding company to be
48 at the same time an executive officer, director or trustee or both an
49 executive officer and a director or a trustee of another bank holding
50 company or of a bank or trust company, savings bank, savings and loan
51 association, national bank located in this state, federal savings and
52 loan association located in this state or foreign banking corporation
53 maintaining a branch in this state. Such permission may be granted only
54 if in the judgment of the banking AND FINANCIAL SERVICES board such
55 service by the executive officer will be consistent with the policy of
56 the state of New York as declared in section ten of this chapter. The

1 banking AND FINANCIAL SERVICES board shall have the power to revoke such
2 permission by a like vote whenever it finds, after a reasonable notice
3 and an opportunity to be heard, that the public interest requires such
4 revocation.

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

9 3. If no action to be taken pursuant to the plan of acquisition
10 requires the prior approval of the banking AND FINANCIAL SERVICES board
11 pursuant to section one hundred forty-two or one hundred forty-three-b
12 of this article, the superintendent shall approve or disapprove of a
13 proposed plan of acquisition within one hundred twenty days after the
14 submission of such plan of acquisition to him, and in determining wheth-
15 er or not to approve any such plan the superintendent shall take into
16 consideration the declaration of policy contained in section ten of this
17 chapter. If any action to be taken pursuant to the plan of acquisition
18 requires such prior approval of the banking AND FINANCIAL SERVICES
19 board, the superintendent shall submit such plan of acquisition together
20 with his recommendations in regard thereto and all papers, correspond-
21 ence and other information in his possession and relating thereto, to
22 the banking AND FINANCIAL SERVICES board for its approval or disapproval
23 as part of the application submitted to it pursuant to said section one
24 hundred forty-two or one hundred forty-three-b. If the superintendent or
25 the banking AND FINANCIAL SERVICES board shall approve such plan of
26 acquisition, the superintendent shall file the plan, together with such
27 certificates and the original of the approval of the superintendent or a
28 certified copy of the approving resolution of the banking AND FINANCIAL
29 SERVICES board, in the office of the superintendent. Upon such filing in
30 the office of the superintendent, the plan, and the acquisitions
31 provided for therein, shall become effective, unless a later date is
32 specified in the plan, in which event the plan and such acquisitions
33 shall become effective upon such later date.

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

42 S 96. Subdivisions 1, 2 and 3 of section 143-b of the banking law,
43 subdivisions 1 and 3 as amended by chapter 793 of the laws of 1980 and
44 subdivision 2 as amended by section 20 of part 0 of chapter 59 of the
45 laws of 2006, are amended to read as follows:

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

1 banking institution, the ownership of voting stock of any company which
2 possesses such power or otherwise. Control shall be presumed to exist if
3 any company, directly or indirectly, owns, controls or holds with the
4 power to vote ten per centum or more of the voting stock of any banking
5 institution or of any company which owns, controls or holds with power
6 to vote ten per centum or more of the voting stock of such banking
7 institution, but no person shall be deemed to control a banking institu-
8 tion solely by reason of his being an officer or director of such bank-
9 ing institution or company. The superintendent may in his discretion,
10 upon the application of a banking institution or any company which,
11 directly or indirectly, owns, controls or holds with power to vote or
12 seeks to own, control or hold with power to vote any voting stock of
13 such banking institution, determine whether or not the ownership,
14 control or holding of such voting stock would constitute control of such
15 banking institution for purposes of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 S 101. Section 176 of the banking law, as amended by chapter 547 of
13 the laws of 1938, the opening paragraph as amended by chapter 232 of the
14 laws of 1957 and the closing paragraph as amended by section 22 of part
15 0 of chapter 59 of the laws of 2006, is amended to read as follows:

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

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

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

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

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

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

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

1 period not exceeding one year may, upon the approval of the superinten-
2 dent and the banking AND FINANCIAL SERVICES board, be renewed as
3 provided in section twenty-six of this chapter. No such license shall be
4 transferable or assignable. Every such license shall be at all times
5 conspicuously displayed in the place of business specified therein. In
6 the event that such license shall have been revoked by the superinten-
7 dent, as provided in article two of this chapter, it shall be surren-
8 dered to the superintendent within twenty-four hours after such corpo-
9 ration has received written notice of such revocation.

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

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

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

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

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

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

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

1 ciation, partnership, or any other entity or individual. For the
2 purposes of this subdivision [two], the superintendent shall value mark-
3 etable securities at principal amount or market value, whichever is
4 lower, shall have the right to determine the value of any non-marketable
5 bond, note, debenture, draft, bill of exchange, other evidence of
6 indebtedness, including loan participation agreements or certificates,
7 or of any other asset or obligation held by or owed to the foreign bank-
8 ing corporation or its agency, agencies, branch or branches within the
9 state, and in determining the amount of assets for the purpose of
10 computing the above ratio of assets to liabilities, shall have the power
11 to exclude in whole or in part any particular asset. If, by reason of
12 the existence or the potential occurrence of unusual and extraordinary
13 circumstances, the superintendent deems it necessary or desirable for
14 the maintenance of a sound financial condition, the protection of depos-
15 itors, creditors and the public interest, and to maintain public confi-
16 dence in the business of the agency, agencies, branch or branches of a
17 foreign banking corporation, he may, subject to such terms and condi-
18 tions as he may prescribe, require such foreign banking corporation to
19 deposit the assets required to be held in this state pursuant to this
20 subdivision [two] with such banks or trust companies or private bankers
21 or national banks located in this state, as the superintendent may
22 designate.

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

25 S 202-c. Reserves against deposits. Each such foreign banking corpo-
26 ration which is authorized to maintain a branch or branches in this
27 state shall maintain such reserves against the deposits of such branch
28 or branches as may be required from time to time by the laws of this
29 state to be maintained by banks and trust companies. Such reserves shall
30 be maintained, subject to call, as provided by sections thirty-three and
31 one hundred seven of this chapter; provided, however, that any such
32 foreign banking corporation which maintains reserves with a federal
33 reserve bank pursuant to federal law shall be exempt from the preceding
34 provisions of this section so long as it shall comply with the require-
35 ments of such law with reference to reserves, and provided further that
36 the banking AND FINANCIAL SERVICES board may determine that it is neces-
37 sary or appropriate to require such a foreign banking corporation to
38 maintain additional reserves against the deposits of its branch or
39 branches in this state, taking into consideration the character of busi-
40 ness conducted by such institutions and the need to maintain vigorous
41 and fair competition between and among such branches and banks organized
42 under the laws of this state. As to any such additional reserves which
43 are required to be maintained pursuant to this section, to the extent
44 permitted by the superintendent, amounts carried on the books of any
45 such branch or branches as credits to the account of another office or
46 branch or wholly owned (except for a nominal number of directors'
47 shares) subsidiary of such foreign banking corporation shall not be
48 deemed to be deposits.

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

51 S 202-j. Power to act as trustee under self-employed retirement trust
52 or individual retirement trust. Each such foreign banking corporation
53 which is authorized to maintain a branch or branches in this state the
54 deposits of which are insured by the federal deposit insurance corpo-
55 ration or any successor may, subject to any regulations prescribed by
56 the banking AND FINANCIAL SERVICES board, act through any such branch as

1 trustee under a retirement plan established pursuant to the provisions
2 of the act of congress entitled "Self-employed Individuals Tax Retirement
3 Act of 1962" as such provisions may be amended from time to time,
4 and under an individual retirement account plan established pursuant to
5 the amendments to the provisions of the Internal Revenue Code contained
6 in the act of congress entitled "Employee Retirement Income Security Act
7 of 1974" as such provisions may be amended from time to time, provided
8 that the provisions of such retirement or individual retirement account
9 plan require the funds of such trust to be invested exclusively in
10 deposits of branches of foreign banking corporations located in this
11 state the deposits of which are insured by the federal deposit insurance
12 corporation or any successor and in deposits of banks, trust companies,
13 savings banks, savings and loan associations, federal mutual savings or
14 federal savings banks or federal savings and loan associations whose
15 principal offices are located in this state. In the event that any such
16 retirement or individual retirement account plan, which in the judgment
17 of the foreign banking corporation constituted a qualified plan under
18 the provisions of the applicable act of congress hereinabove mentioned
19 and the regulations promulgated thereunder at the time the trust was
20 established and accepted by the foreign banking corporation is subsequently
21 determined not to be such a qualified plan or subsequently ceases
22 to be such a qualified plan, in whole or in part, the foreign banking
23 corporation may, nevertheless, continue to act as trustee of any deposits
24 theretofore made under such plan and to dispose of the same in
25 accordance with the directions of the depositor and the beneficiaries
26 thereof. No foreign banking corporation, in respect to deposits made
27 under this section, shall be required to segregate such deposits from
28 other deposits of such foreign banking corporation, provided, however,
29 that the foreign banking corporation shall keep appropriate records
30 showing in proper detail all transactions engaged in under the authority
31 of this section.

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

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

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

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

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

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

21 1. No executive officer of a foreign banking corporation maintaining a
22 branch in this state may be an executive officer, director or trustee of
23 a bank or trust company, savings bank, savings and loan association,
24 national bank located in this state, federal savings and loan associ-
25 ation located in this state, bank holding company or another foreign
26 banking corporation maintaining a branch in this state, unless permis-
27 sion therefor has been granted by the banking AND FINANCIAL SERVICES
28 board pursuant to the provisions of subdivision three of this section,
29 except that an executive officer of a foreign banking corporation main-
30 taining a branch in this state which is a subsidiary of a bank holding
31 company may be (i) an executive officer and (ii) a director of the bank
32 holding company of which such foreign banking corporation is a subsid-
33 iary, and of one or more of the banking institutions which are subsid-
34 iaries of such bank holding company; and provided, however, that, except
35 as stated in the foregoing exceptions, an executive officer of a foreign
36 banking corporation maintaining a branch in this state, who on the
37 effective date of this act is an executive officer, director or trustee
38 of a bank or trust company, savings bank, savings and loan association,
39 national bank located in this state, federal savings and loan associ-
40 ation located in this state, bank holding company or another foreign
41 banking corporation maintaining a branch in this state, may continue to
42 hold such other office, without permission from the banking AND FINAN-
43 CIAL SERVICES board, until the expiration of the term of such office or
44 the close of business on the last day of December, nineteen hundred
45 seventy-four, whichever occurs sooner.

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

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

10 3. The banking AND FINANCIAL SERVICES board shall have the power to
11 determine by regulation who shall be considered, under the provisions of
12 this subdivision, to be an executive officer, and by a general or
13 specific regulation, upon a three-fifths vote of all its members, to
14 grant permission to an executive officer of a foreign banking corpo-
15 ration maintaining a branch in this state and to an executive officer of
16 a national bank located in this state, to be at the same time an execu-
17 tive officer, trustee or director or both an executive officer and a
18 trustee or director of a bank or trust company, savings bank, savings
19 and loan association, national bank located in this state, federal
20 savings and loan association located in this state, bank holding compa-
21 ny, and foreign banking corporation maintaining a branch in this state.
22 Such permission may be granted only if in the judgment of the banking
23 AND FINANCIAL SERVICES board such service by the executive officer will
24 be consistent with the policy of the state of New York as declared in
25 section ten of this chapter. The banking AND FINANCIAL SERVICES board
26 shall have the power to revoke such permission by a like vote whenever
27 it finds, after reasonable notice and an opportunity to be heard, that
28 the public interest requires such revocation.

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

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

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

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

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

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

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

24 S 114. Subdivisions 1, 1-a, 5-a, 5-b, 16 and 24 of section 234 of the
25 banking law, subdivision 1 as amended by chapter 63 of the laws of 1992,
26 subdivisions 1-a and 5-a as amended by chapter 360 of the laws of 1984,
27 subdivision 5-b as amended by chapter 638 of the laws of 1981, subdivi-
28 sion 16 as amended by chapter 1150 of the laws of 1969 and subdivision
29 24 as added by chapter 1 of the laws of 1983, are amended to read as
30 follows:

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

38 1-a. Subject to such regulations and restrictions as the banking AND
39 FINANCIAL SERVICES board finds to be necessary and proper, to contract
40 to receive time deposits, including deposits upon which the savings bank
41 contracts to pay interest at a fixed rate.

42 5-a. Subject to such regulations and restrictions as the banking AND
43 FINANCIAL SERVICES board finds to be necessary and proper, to borrow
44 money for purposes other than that of repaying depositors and to pledge
45 or hypothecate its assets as collateral for any such loans.

46 5-b. Subject to such regulations and restrictions as the banking AND
47 FINANCIAL SERVICES board finds to be necessary and proper and notwith-
48 standing any other provisions of law, to issue notes, bonds, debentures,
49 or other obligations or other securities subordinated to deposits in
50 such savings bank; provided that, unless the superintendent has given
51 prior approval otherwise, the aggregate principal amount thereof at the
52 time of issuance shall not exceed twenty-five [per cent] PERCENT of the
53 net worth of such savings bank, exclusive of all such notes, bonds,
54 debentures, or other obligations or other securities. The proceeds or
55 other consideration derived by a savings bank from the issuance pursuant
56 to this subdivision of any such notes, bonds, debentures, or other obli-

gations 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 indi-

vidually 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

1 prescribe accounting regulations wherein shall be defined the term
2 income available for fixed charges and the term fixed charges, the defi-
3 nitions thereof as so prescribed shall be taken and used in lieu of the
4 definitions set forth in the preceding paragraph of this subdivision for
5 all purposes hereof, except that federal income taxes shall not be
6 deducted, nor shall federal income tax credits be included, in computing
7 income available for fixed charges. In determining income available for
8 fixed charges and fixed charges pursuant to this paragraph or the imme-
9 diately preceding paragraph interest, dividends and rentals paid by a
10 railroad corporation and included in both such amounts shall be elimi-
11 nated.

12 For all purposes of this subdivision [seven], the revenues, earnings,
13 income and fixed charges of, and dividends paid by, any railroad corpo-
14 ration prior to the acquisition of all or substantially all of its rail-
15 road lines by another railroad corporation, through merger, consol-
16 idation, conveyance or lease, shall, while such lines remain in the
17 possession of the acquiring corporation, be deemed to have been reven-
18 ues, earnings, income and fixed charges of, and dividends paid by, such
19 acquiring corporation.

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

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

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

42 Notwithstanding any of the provisions of this subdivision, fixed
43 interest-bearing obligations of railroad corporations, excluding termi-
44 nal, depot and tunnel corporations, which are eligible for purchase by
45 savings banks on December thirty-first, nineteen hundred fifty-two under
46 the provisions of [subdivisions seven] THIS SUBDIVISION or SUBDIVISION
47 nineteen of this section, or which shall thereafter become eligible
48 pursuant to the provisions of this subdivision [seven], as amended, if
49 not in default, shall be and remain eligible hereunder, provided that
50 the income available for fixed charges, as herein defined, of the rail-
51 road corporation which has issued, assumed or guaranteed such obli-
52 gations, or which operates under lease the railroad lines of the corpo-
53 ration which has issued, assumed or guaranteed such obligations, shall
54 have averaged for the five fiscal years next preceding the time of
55 investment not less than twice the interest charges for the last such
56 fiscal year on all equipment obligations, and other obligations eligible

1 hereunder, of such railroad corporation which remain outstanding at time
2 of investment.

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

14 Not more than twenty-five per centum of the assets of any savings bank
15 shall be loaned or invested in the bonds, notes, certificates, condi-
16 tional sale agreements, assignments of conditional sale agreements and
17 participations therein in this subdivision [seven] defined, and not more
18 than ten per centum of such assets shall be invested in such bonds,
19 notes, certificates, conditional sale agreements, assignments of condi-
20 tional sale agreements and participations therein for which any one
21 railroad corporation of this state shall be obligated, and not more than
22 five per centum of such assets shall be invested in the bonds, notes,
23 certificates, conditional sale agreements, assignments of conditional
24 sale agreements and participations therein for which any one railroad
25 corporation not of this state shall be obligated.

26 Street railroad corporations shall not be considered railroad corpo-
27 rations within the meaning of this subdivision.

28 S 119. Item 8 of subparagraph (c) of paragraph 4 of subdivision 8 of
29 section 235 of the banking law, as amended by chapter 19 of the laws of
30 1991, is amended to read as follows:

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

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

47 8-a. Promissory notes representing loans for the purpose of financing
48 the purchase of or refinancing an existing ownership interest in certifi-
49 cates of stock or other evidence of an ownership interest in, and a
50 proprietary lease from, a corporation or partnership formed for the
51 purpose of cooperative ownership of real estate within or without this
52 state, as provided in this subdivision.

53 A savings bank may, subject to such regulations as the banking AND
54 FINANCIAL SERVICES board finds necessary and proper, invest to an amount
55 not exceeding the maximum per cent of the loan permitted to be made on
56 real estate improved by a single family residence occupied by the owner,

1 provided that for purposes of this section the amount of the purchase
2 price shall be deemed to equal the appraised value of such certificate
3 of stock or other evidence of an ownership interest, or, in the case of
4 a refinancing, the appraised value of certificates of stock or other
5 evidence of an ownership interest in and a proprietary lease from, a
6 corporation or partnership formed for the purpose of the cooperative
7 ownership of real estate within or without this state, for the purpose
8 of financing a purchase of or refinancing an existing ownership interest
9 in such a corporation or partnership, provided (a) such investment is
10 secured within ninety days from the making of the loan by an assignment
11 or transfer of the stock or other evidence of an ownership interest of
12 the borrower and a proprietary lease; and (b) repayment of principal and
13 interest shall be effected within the same number of years as a conven-
14 tional mortgage loan previously described in this subdivision. The maxi-
15 mum rate of interest which may be charged, taken or received upon any
16 loan or forbearance made pursuant to this subdivision may exceed the
17 rate of interest prescribed by the banking AND FINANCIAL SERVICES board
18 in accordance with section fourteen-a of this chapter by no more than
19 one and one-half per centum per annum.

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

23 8-b. Personal loan departments. Subject to such regulations as the
24 banking AND FINANCIAL SERVICES board may prescribe, a savings bank may
25 operate a personal loan department under the same terms and conditions
26 as are provided under the provisions of subdivisions four and five of
27 section one hundred eight of this chapter.

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

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

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

46 8-c. Subject to such regulations as the banking AND FINANCIAL SERVICES
47 board may prescribe, promissory notes and other evidences of indebt-
48 edness representing commercial, corporate or business loans, provided
49 that the aggregate amount of all such loans outstanding at any time to
50 any borrower shall, if unsecured, not exceed fifteen per centum of the
51 net worth of such savings bank or, if secured, subject to the same limi-
52 tations as to amount in relation to net worth as are applicable to banks
53 and trust companies pursuant to article three of this chapter. For
54 purposes of this section the term "net worth" shall have the meaning
55 ascribed to it by subdivision four of section two hundred forty-four of
56 this chapter.

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

3 8-d. Subject to such regulations as the banking AND FINANCIAL SERVICES
4 board may prescribe and subject to the limits of subdivision eight-c of
5 this section and any other applicable limits or requirements imposed by
6 law or regulation, promissory notes and other evidence of indebtedness
7 that represent linked loans, each authorized and approved pursuant to
8 article fifteen of the state finance law and each in an amount equal to
9 a corresponding linked deposit made pursuant to such article.

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

12 8-e. Subject to such regulations as the banking AND FINANCIAL SERVICES
13 board may prescribe and subject to the limits of subdivision eight-c of
14 this section and any other applicable limits or requirements imposed by
15 law or regulation, promissory notes and other evidence of indebtedness
16 that represent linked loans, each authorized and approved pursuant to
17 article sixteen of the state finance law and each in an amount equal to
18 a corresponding linked deposit made pursuant to such article.

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

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

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

32 12-a. (a) Obligations of any corporation organized under the laws of
33 any state of the United States maturing within two hundred seventy days,
34 provided that such obligations receive the highest rating of an inde-
35 pendent rating service designated by the banking AND FINANCIAL SERVICES
36 board.

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

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

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

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

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

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

1 bond and mortgage insured by the federal housing commissioner, or for
2 which a commitment to insure has been made by the federal housing
3 commissioner, or (2) any bond and mortgage guaranteed pursuant to the
4 provisions of the act of congress entitled the "Servicemen's Readjust-
5 ment Act of 1944", or (3) provided the mortgage is a first lien, any
6 bond and mortgage at least twenty per centum of which is guaranteed
7 pursuant to the provisions of such act, or (4) a participation in any
8 loan or a part interest in any bond and mortgage, secured by real prop-
9 erty, to the extent that the small business administration is committed
10 to pay the principal and interest thereof; (b) any whole or part inter-
11 est in any such bond and mortgage or in any whole or part interest in
12 any such bond and mortgage, which bond and mortgage is held for the
13 benefit of the holder or holders of a whole interest or part interests
14 therein by any entity or entities with which a savings bank is author-
15 ized to participate pursuant to this paragraph, but no such investment
16 shall be made in any part interest which is junior or subordinate to any
17 other part interest therein; (c) any bond secured by any such mortgage
18 or mortgages, which mortgage is, or which mortgages are, held for the
19 benefit of the holder or holders of the bond or bonds secured thereby,
20 by a savings bank or bank or trust company; and (d) any property
21 improvement note issued pursuant to the provisions of the national hous-
22 ing act, provided the savings bank investing in such note shall have
23 qualified for and received in connection therewith a contract of insur-
24 ance from the federal housing commissioner. A savings bank may receive
25 and hold such debentures as are issued in payment of any such insurance.
26 No law of this state prescribing or limiting the interest rate upon
27 loans or advances of credit or prescribing a penalty for violation ther-
28 eof or prescribing the nature, amount or form of security or requiring
29 security upon which loans or advances of credit may be made or prescrib-
30 ing or limiting the period for which loans or advances of credit may be
31 made or limiting the amount of any class of loans, advances of credit or
32 purchases which may be made shall be deemed to apply to loans, advances
33 of credit or purchases made or to loans acquired by purchase pursuant to
34 this subdivision.

35 The provisions of subdivision six of this section, except those of
36 paragraph (f) thereof, shall not apply to investments made pursuant to
37 this subdivision by any savings bank. Paragraphs (a), (b) and (c) of
38 section one of chapter eight hundred ninety-seven of the laws of nine-
39 teen hundred thirty-four as amended shall not apply to savings banks.
40 The term "bond", as used in this subdivision, includes a note. The
41 authority provided in this subdivision to invest in any bond and mort-
42 gage guaranteed pursuant to the provisions of the act of congress enti-
43 tled the "Servicemen's Readjustment Act of 1944", shall include authori-
44 ty to acquire title to real property in connection with investing in an
45 installment contract for the sale of real property, so guaranteed, where
46 the purchaser under such contract is in possession and control of the
47 property, and title is acquired by the savings bank solely as security
48 for the obligations of the purchaser.

49 S 129. The opening paragraph of paragraph (a) of subdivision 21 of
50 section 235 of the banking law, as amended by chapter 522 of the laws of
51 1949, is amended to read as follows:

52 Subject to such regulations and restrictions as the banking AND FINAN-
53 CIAL SERVICES board finds to be necessary and proper:

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

1 21-a. Interest-bearing obligations payable in United States funds
2 which at the time of investment are rated in one of the three highest
3 rating grades by each rating service, designated by the banking AND
4 FINANCIAL SERVICES board, which has rated such obligations, provided
5 that the aggregate amount invested in the obligations of any single
6 issuer pursuant to this subdivision and pursuant to subparagraph [(2)]
7 TWO of paragraph (a) of subdivision twenty-one of this section may not
8 exceed one per centum of the assets of the savings bank, and provided
9 further that the aggregate amount invested in the interest-bearing obli-
10 gations of any single issuer pursuant to this subdivision and pursuant
11 to any provision of this section specifically authorizing such invest-
12 ment, may not exceed the percentage limitations contained in any such
13 provision.

14 S 131. The opening paragraph and paragraph (ee) of subdivision 26 of
15 section 235 of the banking law, the opening paragraph as amended by
16 chapter 705 of the laws of 1952 and paragraph (ee) as added by chapter
17 231 of the laws of 1964, are amended to read as follows:

18 Subject to such regulations and restrictions as the banking AND FINAN-
19 CIAL SERVICES board finds to be necessary and proper:

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

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

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

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

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

1 cost, but in no event, shall such mortgage loan exceed ninety per centum
2 of the appraised value of the completed project determined pursuant to
3 subdivision six of this section. The estimated cost and the total actual
4 final cost shall be certified as to reasonableness and correctness by an
5 independent engineering organization and shall include the cost to the
6 corporation of the lands owned by the corporation, the cost of demoli-
7 tion, the cost of constructing the improvements, including planning,
8 designing, engineering and landscaping, the cost of relocation of
9 tenants, interest and other carrying charges during the period of acqui-
10 sition and of construction, all other costs necessarily incurred and
11 properly attributable to undertaking, constructing and completing the
12 project, and an allowance for working capital which shall not exceed an
13 amount equal to three per centum of the estimated cost or of the total
14 actual final cost of the project if that shall be greater than the esti-
15 mated cost. A mortgage loan made under this subdivision may be partic-
16 ipated in by one or more savings banks. An agreement setting forth the
17 manner in which the participating banks shall administer the mortgage
18 and acquire real estate, if any, shall be executed on behalf of each
19 bank by two persons appointed by the board of trustees of such bank.
20 Investments made by any savings bank in mortgage loans pursuant to this
21 subdivision and pursuant to paragraph (h) of subdivision six of this
22 section shall not, in the aggregate, exceed ten per centum of the assets
23 or an amount equal to the surplus fund and undivided profits and surplus
24 reserve of such savings bank, whichever is less, and shall be included
25 in the computation of permissive investment in mortgage loans pursuant
26 to paragraph (d) of subdivision six of this section. Investments in such
27 mortgage loans shall be subject to such regulations and restrictions as
28 the banking AND FINANCIAL SERVICES board finds to be necessary and prop-
29 er.

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

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

53 Without limiting its authority hereunder, the banking AND FINANCIAL
54 SERVICES board shall adopt regulations to require that any savings bank
55 which shall elect to make investments pursuant to this subdivision shall
56 have first established an investment committee of its board of trustees

1 to supervise and monitor the investment activities exercisable pursuant
2 to the authority granted by this subdivision, the majority of the
3 members of which shall be trustees who are not also officers or employ-
4 ees of such savings bank.

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

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

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

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

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

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

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

44 2. The activities of such service corporations, performed directly or
45 through one or more wholly owned subsidiaries, shall consist of render-
46 ing such services to savings banks and making such investments for
47 itself and for savings banks as are authorized services and investments
48 for such savings banks under the provisions of this chapter, as well as
49 such activities as may be prescribed by general regulation of the bank-
50 ing AND FINANCIAL SERVICES board.

51 S 136. Subdivisions 3, 4-a and 6 of section 238 of the banking law,
52 subdivision 3 as amended by chapter 308 of the laws of 1986, subdivision
53 4-a as amended by chapter 887 of the laws of 1985 and subdivision 6 as
54 amended by chapter 225 of the laws of 1976, are amended to read as
55 follows:

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

28 4-a. If a deposit held pursuant to subdivision one-a of section two
29 hundred thirty-four of this chapter is repaid prior to maturity at the
30 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
31 depositor has died or been declared legally incompetent.

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

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

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

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

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

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

19 2. The stocks, bonds, promissory notes or other interest-bearing obli-
20 gations purchased by a savings bank shall be entered on its books at the
21 actual cost thereof, and shall not thereafter be carried upon the books
22 at a valuation exceeding their cost as adjusted by amortization for the
23 purpose of bringing them to par at maturity; and where securities
24 purchased at a premium are callable prior to maturity, the rate of amor-
25 tization thereof shall be increased when necessary to such extent as
26 shall reduce the amount at which such securities are carried upon the
27 books to the call price at the date or dates upon which a call may be
28 made. No adjustment for amortization shall be required to be made on the
29 books except when the books are closed for the purpose of computing net
30 earnings. The banking AND FINANCIAL SERVICES board may by general regu-
31 lation adopted by a three-fifths vote of all its members vary the
32 requirements of this subdivision to permit the amortization of premiums
33 at the same rate as that required by federal tax statutes or regu-
34 lations.

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

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

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

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

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

1 3-b. Subject to such limitations and restrictions as may be prescribed
2 by regulation of the banking AND FINANCIAL SERVICES board, a savings
3 bank may credit interest on deposits from the date on which the deposit
4 is made to the date the deposit is withdrawn.

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

8 (a) No executive officer of a savings bank may be an executive offi-
9 cer, director or trustee of another savings bank, or of a bank or trust
10 company, savings and loan association, national bank located in this
11 state, federal savings and loan association located in this state, bank
12 holding company or foreign banking corporation maintaining a branch in
13 this state, unless permission therefor has been granted by the banking
14 AND FINANCIAL SERVICES board pursuant to the provisions of subparagraph
15 (b) of this subdivision, except that an executive officer of a savings
16 bank may be (1) an executive officer and (2) a director of a trust
17 company owned by savings banks, pursuant to subdivision eighteen of
18 section two hundred thirty-five of this chapter, if one of the stock-
19 holders of such trust company is the savings bank of which he is an
20 executive officer; provided, however, that, except as stated in the
21 foregoing exceptions, an executive officer of a savings bank who on the
22 effective date of this act is an executive officer, director or trustee
23 of another savings bank, bank or trust company, savings and loan associ-
24 ation, national bank located in this state, federal savings and loan
25 association located in this state, bank holding company or foreign bank-
26 ing corporation maintaining a branch in this state, may continue to hold
27 such other office without permission from the banking AND FINANCIAL
28 SERVICES board, until the expiration of the term of such office or the
29 close of business on the last day of December, nineteen hundred seven-
30 ty-four, whichever occurs sooner.

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

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

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

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

55 6. Any officer elected or appointed by the BANKING AND FINANCIAL
56 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:

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

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

8 (c) acquire a mutual savings bank, a mutual savings and loan associ-
9 ation, a federal mutual savings bank or a federal mutual savings and
10 loan association through the merger of such institution with a stock
11 subsidiary of such mutual holding company;

12 (d) engage in any other acquisition or combination specifically
13 permitted by general regulations promulgated by or specific resolution
14 of the banking AND FINANCIAL SERVICES board; provided, however, that any
15 such regulation promulgated by, or specific resolution, of the banking
16 AND FINANCIAL SERVICES board shall only authorize activities which are
17 authorized by the provisions of the Bank Holding Company Act of 1956, as
18 amended, (title twelve United States Code, Section 1841, et seq.) and
19 the provisions applicable, to mutual holding companies under the Home
20 Owners Loan Act, as amended, (title twelve United States Code, Section
21 1467a) and any regulations or rules of the Federal Reserve Board and the
22 federal Office of Thrift Supervision pursuant thereto, respectively, to
23 the extent such authorized activities are not otherwise limited or
24 prohibited by this chapter.

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

27 1. If approved by the superintendent, a mutual holding company may
28 convert to a stock holding company in accordance with general regu-
29 lations promulgated by the banking AND FINANCIAL SERVICES board.

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

32 S 328. Communications from [banking] department OF BANKING AND FINAN-
33 CIAL SERVICES must be submitted to directors and noted in minutes. Every
34 official communication as defined in article two of this chapter
35 directed to a safe deposit company or to any officer thereof shall be
36 submitted, by the officer receiving it, to the board of directors at the
37 next meeting of such board, and duly noted in the minutes of the meet-
38 ings of such board.

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

42 (b) No licensee shall make, directly or indirectly, orally or in writ-
43 ing, by any method, practice or device, any representation that it is
44 licensed under this chapter, except a representation that such licensee
45 is licensed as a licensed lender by the New York state [banking] depart-
46 ment OF BANKING AND FINANCIAL SERVICES.

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

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

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

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

13 (bb) Subject to such limitations and restrictions as may be prescribed
14 by regulation of the banking AND FINANCIAL SERVICES board, special
15 savings shares, upon which dues shall be paid in such sums, at such
16 times and for such purposes as the holder thereof may elect, and which
17 shall provide that dividends shall be credited from the date of actual
18 receipt of such dues to the date they are withdrawn or retired. Divi-
19 dends on special savings shares shall be credited and shall be made
20 available no later than the end of a regular dividend period, or at the
21 time such special savings shares are withdrawn or retired if in the
22 opinion of a majority of the board of directors it appears the savings
23 and loan association will have sufficient profit available at the end of
24 such regular dividend period to pay dividends and if the board of direc-
25 tors chooses payment of dividends at withdrawal as an option to periodic
26 payment of dividends. Any savings and loan association which does not
27 make dividends available pursuant to the provisions of this paragraph
28 shall promptly notify the superintendent of banks AND FINANCIAL SERVICES
29 of such decision. Withdrawals or retirements of special savings shares
30 during the last three business days of any regular dividend period or,
31 in the event that any one of such last three business days is a Satur-
32 day, withdrawals of such shares upon one of the last four business days
33 of any such period may receive dividends apportioned for the full peri-
34 od.

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

39 1. Subject to such regulations and restrictions as the banking AND
40 FINANCIAL SERVICES board finds to be necessary and proper, a savings and
41 loan association may contract to receive time deposits including depos-
42 its upon which the savings and loan association contracts to pay inter-
43 est at a fixed rate.

44 7. Subject to any regulations and restrictions prescribed by the
45 superintendent of banks AND FINANCIAL SERVICES, a savings and loan asso-
46 ciation may accept time deposit without the issuance of a passbook in
47 connection therewith, and may issue such other evidences of its obli-
48 gation to repay such time deposits as may be appropriate to safeguard
49 the interests of the depositors and of the savings and loan association.

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

52 S 378-d. Preservation of books and records. Every savings and loan
53 association shall preserve all its records of final entry, including
54 cards used under the card system and deposit tickets, for a period of at
55 least six years from the date of making the same or from the date of the
56 last entry thereon; provided, however, that preservation of photographic

1 reproductions thereof or records in photographic form shall constitute
2 compliance with the requirements of this section. Notwithstanding the
3 foregoing, the banking AND FINANCIAL SERVICES board may prescribe by
4 regulation such period of time longer or shorter than six years during
5 which all records kept by savings and loan associations as fiduciary
6 shall be preserved in original form.

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

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

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

31 S 159. Subdivision 1, subparagraph 8 of paragraph (d) of subdivision 2
32 and subdivisions 2-a and 4-a of section 380 of the banking law, subdivi-
33 sion 1 as added by chapter 1 of the laws of 1983, subparagraph 8 of
34 paragraph (d) of subdivision 2 as added by chapter 320 of the laws of
35 1973, subdivision 2-a as amended by chapter 360 of the laws of 1984 and
36 subdivision 4-a as amended by chapter 82 of the laws of 2005, are
37 amended to read as follows:

38 1. A savings and loan association may make a loan upon the security of
39 a mortgage of the type authorized to be made by a savings bank by subdivi-
40 sions five-a and six of section two hundred thirty-five of this chap-
41 ter, subject to such regulations as the banking AND FINANCIAL SERVICES
42 board may prescribe.

43 (8) Subject to such limitations and conditions as the banking AND
44 FINANCIAL SERVICES board may prescribe by general regulation, a savings
45 and loan association may make a loan pursuant to this paragraph which
46 the federal housing administrator has insured or has made a commitment
47 to insure and may receive and hold such debentures as are issued by the
48 federal housing administrator in payment of such insurance, or which is
49 guaranteed pursuant to the provisions of the act of congress entitled
50 the "Servicemen's Readjustment Act of 1944." No law of this state
51 prescribing or limiting the interest rate upon loans or advances of
52 credit or prescribing a penalty for violation thereof or prescribing the
53 nature, amount or form of security or requiring security upon which
54 loans or advances of credit may be made or prescribing or limiting the
55 period for which loans or advances of credit may be made or limiting the
56 amount of any class of loans, advances of credit or purchases which may

1 be made shall be deemed to apply to loans, advances of credit or
2 purchases made or to loans acquired by purchase pursuant to this subpar-
3 agraph.

4 2-a. A savings and loan association may lend its funds to borrowers
5 therefrom upon their promissory notes representing loans for the purpose
6 of financing the purchase of or refinancing an existing ownership inter-
7 est in certificates of stock or other evidence of an ownership interest
8 in, and a proprietary lease from, a corporation or partnership formed
9 for the purpose of the cooperative ownership of real estate as provided
10 in this subdivision.

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

34 4-a. A savings and loan association may, in addition to the authority
35 granted under any other subdivision of this section or subdivision six
36 of section three hundred seventy-nine of this article, make a loan to a
37 natural person upon the security of a mortgage which is not a first lien
38 at the rate or rates agreed to by the savings and loan association and
39 the borrower, subject to such regulations as the banking AND FINANCIAL
40 SERVICES board may prescribe. Such regulations by the banking AND FINAN-
41 CIAL SERVICES board may include such restrictions as the banking AND
42 FINANCIAL SERVICES board finds necessary or proper, including without
43 limitation, a restriction as to the percentage of total assets which may
44 be invested in such loans or a restriction on the loan to appraisal
45 value of property securing such loan.

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

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

53 S 380-c. Power to participate in certain loans and mortgage invest-
54 ments. Subject to such regulations and restrictions as may be prescribed
55 by the banking AND FINANCIAL SERVICES board, a savings and loan associ-
56 ation may participate in making or acquiring (1) loans of a type that it

1 is authorized to have by paragraph (b) of subdivision two of section
2 three hundred eighty of this chapter, and (2) mortgage investments of
3 any type that it is authorized to have, provided that the participation
4 acquired shall not be subordinate to any other part interest.

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

8 1. The banking AND FINANCIAL SERVICES board is authorized and
9 empowered to grant permission to a savings and loan association to exer-
10 cise any or all of the powers specified in sections one hundred, one
11 hundred-a, one hundred-b and one hundred-c of this chapter. In passing
12 upon applications for permission to exercise any such powers, the bank-
13 ing AND FINANCIAL SERVICES board may take into consideration the amount
14 of surplus of the applying association, whether or not such surplus is
15 sufficient under the circumstances of the case, the needs of the commu-
16 nity to be served and any other facts and circumstances that seem to it
17 proper, and may grant or refuse it permission accordingly.

18 4. The banking AND FINANCIAL SERVICES board is authorized to promul-
19 gate such regulations as it may deem necessary or proper to implement
20 the provisions of this section and the proper exercise of the powers
21 granted by this section.

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

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

29 The banking AND FINANCIAL SERVICES board shall be empowered (a) to
30 prescribe the terms and conditions governing the conduct and operation
31 of personal loan departments including the maximum amount, expressed as
32 a percentage of assets or otherwise, which a savings and loan associ-
33 ation may invest pursuant to the provisions of this subdivision or in
34 the aggregate, taking into account such other provisions of law author-
35 izing investments by savings and loan associations and (b) to prescribe
36 such terms and conditions as may be appropriate to effect or facilitate
37 the [transfer] TRANSFER of accounts operated pursuant to the provisions
38 of any other section of this chapter to the personal loan departments
39 authorized to be operated hereunder.

40 In pursuance of the authority granted hereunder savings and loan asso-
41 ciations shall be empowered to issue credit cards, extend credit in
42 connection therewith, and otherwise engage in or participate in credit
43 card operations, and to act as financing agencies as defined in subdivi-
44 sion nine of section three hundred one and subdivision eighteen of
45 section four hundred one of the personal property law.

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

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

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

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

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

8 2. Subject to such regulations and restrictions as the banking AND
9 FINANCIAL SERVICES board finds to be necessary and proper and notwith-
10 standing any other provisions of law, a savings and loan association may
11 issue notes, bonds, debentures, or other obligations or other securities
12 subordinated to deposits in such savings and loan association; provided
13 that, unless the superintendent has given prior approval otherwise, the
14 aggregate principal amount thereof at the time of issuance shall not
15 exceed twenty-five [per cent] PERCENT of the net worth of such savings
16 and loan association, exclusive of all such notes, bonds, debentures, or
17 other obligations or other securities. The proceeds or other consider-
18 ation derived by a savings and loan association from the issuance pursu-
19 ant to this subdivision of any such notes, bonds, debentures, or other
20 obligations or other securities shall be deemed for purposes of this
21 chapter to constitute a part of the net worth of such savings and loan
22 association. For the purposes of this article, the term "net worth"
23 shall mean the excess of assets at book value, less allocated reserves,
24 over known liabilities, including deposit liabilities.

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

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

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

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

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

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

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

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

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

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

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

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

53 S 396-a. Electronic facilities. A savings and loan association may
54 conduct a banking business, at automated teller machines, point-of-sale
55 terminals, and similar facilities subject to regulations which may be
56 promulgated by the banking AND FINANCIAL SERVICES board. Such facilities

1 shall not be deemed to be branches and shall not be subject to any of
2 the provisions of this chapter applicable to branches; provided however
3 that notwithstanding the foregoing, for purposes of paragraph (b) of
4 subdivision two of section three hundred ninety-six of this chapter,
5 such facilities shall be deemed to be branches, and such facilities
6 shall be subject to the terms and conditions of section three hundred
7 ninety-six, and for purposes of section twenty-eight-b of this chapter,
8 such facilities shall be deemed to be branches.

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

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

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

22 (a) No executive officer of a savings and loan association may be an
23 executive officer, director or trustee of another savings and loan asso-
24 ciation, bank or trust company, savings bank, national bank located in
25 this state, federal savings and loan association located in this state,
26 bank holding company or foreign banking corporation maintaining a branch
27 in this state unless permission therefor has been granted by the banking
28 AND FINANCIAL SERVICES board pursuant to paragraph (b) of this subdivi-
29 sion, except that an executive officer of a savings and loan association
30 may be (1) an executive officer and (2) a director of a trust company
31 owned by savings and loan [association] ASSOCIATIONS or federal savings
32 and loan associations located in this state, pursuant to section three
33 hundred seventy-nine-a of this chapter, if one of the stockholders of
34 such trust company is a savings and loan association of which he is an
35 executive officer; provided, however, that, except as stated in the
36 foregoing exceptions, an executive officer of a savings and loan associ-
37 ation, who on the effective date of this act is an executive officer,
38 director or trustee of another savings and loan association, bank or
39 trust company, savings bank, national bank located in this state, feder-
40 al savings and loan association located in this state, bank holding
41 company or foreign banking corporation maintaining a branch in this
42 state, may continue to hold such other office, without permission from
43 the banking AND FINANCIAL SERVICES board, until the expiration of the
44 term of such office or the close of business on the last day of Decem-
45 ber, nineteen hundred seventy-four, whichever occurs sooner.

46 (b) The banking AND FINANCIAL SERVICES board shall have the power to
47 determine by regulation who shall be considered, under the provisions of
48 this subdivision, to be an executive officer, and by a general or
49 specific regulation, upon a three-fifths vote of all its members, to
50 grant permission to an executive officer of a savings and loan associ-
51 ation to be an executive officer, director or trustee or both an execu-
52 tive officer and a director or a trustee of another savings and loan
53 association, bank or trust company, savings bank, national bank located
54 in this state, federal savings and loan association located in this
55 state, bank holding company or foreign banking corporation maintaining a
56 branch in this state. Such permission may be granted only if in the

1 judgment of the banking AND FINANCIAL SERVICES board such service by the
2 executive officer will be consistent with the policy of the state of New
3 York as declared in section ten of this chapter. The banking AND FINAN-
4 CIAL SERVICES board shall have the power to revoke such permission by a
5 like vote whenever it finds, after reasonable notice and an opportunity
6 to be heard, that the public interest requires such revocation.

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

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

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

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

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

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

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

24 2. The provisions of this article shall apply to stock-form savings
25 and loan associations except that the banking AND FINANCIAL SERVICES
26 board, consistent with the declaration of policy described in section
27 fourteen-e of this chapter, shall be empowered to deem inapplicable to
28 stock-form savings and loan associations, sections three hundred seven-
29 ty-five, three hundred seventy-six, three hundred seventy-seven, three
30 hundred seventy-eight, three hundred eighty-five, three hundred eighty-
31 six, three hundred eighty-seven, three hundred eighty-eight, three
32 hundred eighty-nine, three hundred ninety, three hundred ninety-two,
33 three hundred ninety-seven, three hundred ninety-eight, three hundred
34 ninety-eight-a, three hundred ninety-eight-b, three hundred ninety-
35 eight-c, subdivisions one, two and three of section three hundred nine-
36 ty-nine, four hundred, four hundred two, four hundred five and four
37 hundred six of this chapter.

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

40 S 412. Conversion of federal savings institutions to state charter.
41 The banking AND FINANCIAL SERVICES board is authorized, by a three-
42 fifths vote of all its members, to promulgate such regulations as are
43 necessary to permit the conversion of any federal savings association or
44 federal savings and loan association to state charter where such conver-
45 sion is not otherwise governed by the provisions of this chapter.
46 Subject to the foregoing, such regulations may provide for the conver-
47 sion of a federal savings association or federal savings and loan asso-
48 ciation, whether in mutual or stock form, into a state-chartered savings
49 bank or state-chartered savings and loan association. The federal
50 savings association shall submit a written plan of conversion to the
51 superintendent, together with an investigation fee as prescribed pursu-
52 ant to section eighteen-a of this chapter.

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

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

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

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

14 5. Subject to the approval of the superintendent of banks AND FINAN-
15 CIAL SERVICES, to establish rules and regulations governing the exercise
16 of its powers and the fulfillment of its purposes under this article;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (c) acquire a mutual savings bank, a mutual savings and loan associ-
15 ation, a federal mutual savings bank or a federal mutual savings and
16 loan association through the merger of such institution with a stock
17 subsidiary of such mutual holding company;

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

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

28 1. If approved by the superintendent, a mutual holding company may
29 convert to a stock holding company in accordance with general regu-
30 lations promulgated by the banking AND FINANCIAL SERVICES board.

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

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

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

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

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

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

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

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

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

26 19. Subject to regulations and restrictions of the banking AND FINAN-
27 CIAL SERVICES board, a credit union may invest its funds in and make
28 loans to credit union organizations; provided that such loans or invest-
29 ments shall be approved by the board of directors. No such loan or
30 investment shall be made by a credit union pursuant to this subdivision
31 if the amount of such loan or investment exceeds three per centum of the
32 total sum due to the members on shares and deposits. For the purpose of
33 this subdivision, a credit union organization is any organization estab-
34 lished primarily to serve the needs of its member state and federal
35 credit unions, and whose business relates to the daily operations of the
36 credit unions it serves.

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

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

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

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

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

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

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

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

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

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

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

28 S 481. Communications from [banking] department OF BANKING AND FINAN-
29 CIAL SERVICES must be submitted to directors and supervisory committee,
30 and noted in the minutes. Every official communication as defined in
31 article two of this chapter directed to a credit union shall be submit-
32 ted to both the board of directors and the supervisory committee at the
33 next meeting of each such board or committee and duly noted in the
34 minutes of the meeting of such board or committee.

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

37 4. All reports of examinations and investigations, and all correspond-
38 ence and memoranda concerning or arising out of such examinations or
39 investigations, including any duly authenticated copy or copies thereof
40 in the possession of any licensee or the [banking] department OF BANKING
41 AND FINANCIAL SERVICES, shall be confidential communications, shall not
42 be subject to subpoena and shall not be made public unless, in the judg-
43 ment of the superintendent, the ends of justice and the public advantage
44 will be subserved by the publication thereof, in which event he OR SHE
45 may publish or authorize the publication of a copy of any such report or
46 other material referred to in this subdivision [four], or any part ther-
47 eof, in such manner, as he OR SHE may deem proper.

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

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

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

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

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

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

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

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

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

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

38 S 512. Communications from [banking] department OF BANKING AND FINAN-
39 CIAL SERVICES must be submitted to directors and noted in minutes. Every
40 official communication as defined in article two of this chapter
41 directed to an investment company or to any officer thereof shall be
42 submitted, by the officer receiving it, to the board of directors at the
43 next meeting of such board, and duly noted in the minutes of the meet-
44 ings of such board.

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

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

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

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

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

7 1. Within ninety days after the filing of an application for a license
8 accompanied by payment of the fees for license and investigation, the
9 superintendent shall issue the license, or the superintendent may refuse
10 to issue the license if he OR SHE shall find that the financial respon-
11 sibility, experience, character and general fitness of the applicant or
12 any person associated with the applicant are not such as to command the
13 confidence of the community and to warrant the belief that the business
14 will be conducted honestly, fairly and efficiently within the purposes
15 and intent of this article. For the purpose of this subdivision, the
16 applicant shall be deemed to include all the members of the applicant if
17 it is a partnership or unincorporated association, and all the stock-
18 holders, officers and directors of the applicant if it is a corporation.
19 Such license to engage in business in accordance with the provisions of
20 this article at the location specified in the application shall be
21 executed in triplicate by the superintendent and he OR SHE shall trans-
22 mit one copy thereof to the applicant, file a copy in the office of the
23 [banking] department OF BANKING AND FINANCIAL SERVICES, and file a copy
24 in the office of the clerk of the county in which is located the place
25 designated in such license.

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

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

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

41 3. The expenses incurred in making any examination pursuant to subdi-
42 vision two of this section [five hundred sixty] shall be assessed
43 against and paid by the licensee so examined, except that traveling and
44 subsistence expenses so incurred shall be charged against and paid by
45 licensees in such proportions as the superintendent shall deem just and
46 reasonable, and such proportionate charges shall be added to the assess-
47 ment of the other expenses incurred upon each examination. Upon written
48 notice by the superintendent of the total amount of such assessment, the
49 licensee shall become liable for and shall pay such assessment to the
50 superintendent.

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

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

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

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

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

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

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

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

1 date of this subdivision, each licensee shall comply with the require-
2 ments of this subdivision.

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

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

21 S 200. Paragraph (e) of subdivision 1 and subdivision 6 of section 590
22 of the banking law, paragraph (e) of subdivision 1 as added by chapter
23 571 of the laws of 1986 and subdivision 6 as amended by chapter 293 of
24 the laws of 1987, are amended to read as follows:

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

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

43 S 201. Paragraphs (a), (b) and (b-1) of subdivision 2 and subdivisions
44 3 and 5 of section 590 of the banking law, as amended and paragraph
45 (b-1) of subdivision 2 as added by chapter 472 of the laws of 2008, are
46 amended to read as follows:

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

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

21 (b-1) No person, partnership, association, corporation or other entity
22 shall engage in the business of servicing mortgage loans with respect to
23 any property located in this state without first being registered with
24 the superintendent as a mortgage loan servicer in accordance with the
25 registration procedure provided by such regulations as may be prescribed
26 by the superintendent. The superintendent may refuse to register a mort-
27 gage loan servicer on the same grounds that he or she may refuse to
28 issue a registration certificate to a mortgage broker pursuant to subdivi-
29 sion two of section five hundred ninety-two-a of this article. The
30 registration provisions of this subdivision shall not apply to any
31 exempt organization, mortgage banker, or mortgage broker or any person
32 or entity which shall be exempted in accordance with regulations
33 prescribed by the superintendent hereunder; provided that such exempt
34 organization, mortgage banker, mortgage broker, or exempted person noti-
35 fies the superintendent that it is acting as a mortgage loan servicer in
36 this state and complies with any regulation applicable to mortgage loan
37 servicers, promulgated by the banking AND FINANCIAL SERVICES board or
38 prescribed by the superintendent with respect to mortgage loan servi-
39 cers.

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

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

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

1 (c) Such rules and regulations as may define the terms used in this
2 article and as may be necessary and appropriate to interpret and imple-
3 ment the provisions of this article; and

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

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

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

12 (b) Mortgage brokers shall solicit, process, place and negotiate mort-
13 gage loans in conformity with the provisions of this chapter, such rules
14 and regulations as may be promulgated by the banking AND FINANCIAL
15 SERVICES board or prescribed by the superintendent thereunder and all
16 applicable federal laws and the rules and regulations promulgated there-
17 under;

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

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

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

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

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

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

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

1 4. As a condition for the issuance and retention of a mortgage bank-
2 er's license, and subject to such regulations as the superintendent
3 shall prescribe, applicants for a license shall file with the super-
4 intendent a surety bond in form satisfactory to him or her issued by a
5 bonding company or insurance company authorized to do business in this
6 state. The principal amount of such bond shall be in an amount and form
7 prescribed by regulations of the superintendent. Such regulations shall
8 provide for a varying bond amount based upon a licensee's volume of
9 business and any other relevant factors as determined by the superinten-
10 dent, but in no case shall such bond be less than fifty thousand dollars
11 nor more than five hundred thousand dollars; provided, however, that if
12 the superintendent determines, in his or her sole discretion, that a
13 licensee has engaged in a pattern of conduct resulting in bona fide
14 consumer complaints of misconduct, the superintendent may require such
15 licensee to post a surety bond, or keep on deposit as provided in this
16 subdivision, twice the amount of such bond or deposit as is required
17 consistent with such regulations. In lieu of such bond, an applicant may
18 keep on deposit with such banks, savings banks, savings and loan associ-
19 ations, or trust companies or private bankers or national banks or
20 federal savings banks or federal savings and loan associations in the
21 state of New York as such applicant may designate and the superintendent
22 may approve, interest-bearing stocks and bonds, notes, debentures, or
23 other obligations of the United States or any agency or instrumentality
24 thereof, or guaranteed by the United States, or of this state, or of a
25 city, county, town, village, school district, or instrumentality of this
26 state or guaranteed by this state, or dollar deposits, or such other
27 assets or letters of credit as the superintendent shall by rule or regu-
28 lation permit. In the event of the insolvency, liquidation or bankruptcy
29 of such licensee, or the surrender or revocation of such mortgage bank-
30 er's license, or where the superintendent takes possession of such
31 licensee, the proceeds of each bond or deposit shall constitute a trust
32 fund to be used exclusively to reimburse consumer fees or other charges
33 determined by the superintendent to be improperly charged or collected
34 and to pay past due [banking] department OF BANKING AND FINANCIAL
35 SERVICES examination costs and assessments charged to the licensee,
36 unpaid penalties, or other obligations of the licensee. The superinten-
37 dent is authorized to promulgate such regulations as are necessary and
38 desirable to define and implement the provisions of this subdivision.
39 Persons and entities licensed prior to the effective date of any regu-
40 lations of the superintendent prescribing the bonding requirement
41 authorized by this subdivision shall file such bond or establish such
42 deposit within six months of the effective date of such regulations.

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

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

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

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

22 1. Upon the filing of an application for a license, if the superinten-
23 dent shall find that the financial responsibility, experience, charac-
24 ter, and general fitness of the applicant and of the members thereof if
25 the applicant is a co-partnership or association, and of the officers
26 and directors thereof if the applicant is a corporation are such as to
27 command the confidence of the community and to warrant belief that the
28 business will be operated honestly, fairly, and efficiently within the
29 purpose of this article, the superintendent shall thereupon issue a
30 license in duplicate to engage in the business of making mortgage loans
31 described in section five hundred ninety of this article in accordance
32 with provisions of this article. If the superintendent shall not so
33 find, the superintendent shall not issue such license, and the super-
34 intendent shall notify the applicant of the denial. The superintendent
35 shall transmit one copy of such license to the applicant and file another
36 in the office of the [banking] department OF BANKING AND FINANCIAL
37 SERVICES. Upon receipt of such license, a mortgage banker shall be
38 authorized to engage in the business of making mortgage loans in accord-
39 ance with the provisions of this article. Such license shall remain in
40 full force and effect until it is surrendered by the licensee or revoked
41 or suspended as hereinafter provided. The superintendent shall approve
42 or deny every application for license hereunder within ninety days from
43 the filing of a completed application provided, however, that failure to
44 act within the prescribed period shall not be deemed approval of any
45 such application.

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

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

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

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

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

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

41 In addition to such other rules, regulations and policies as the bank-
42 ing AND FINANCIAL SERVICES board may prescribe to effectuate the
43 purposes of this article, the banking AND FINANCIAL SERVICES board shall
44 promulgate regulations and policies governing the establishment of
45 grounds to impose a fine or penalty with respect to the activities of a
46 mortgage banker, mortgage broker or exempt organization. Such regu-
47 lation shall encompass the following:

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

53 (a) All advertisements by a mortgage broker, mortgage banker or exempt
54 organization shall contain the name and an office address of such enti-
55 ty, which in the case of licensees and registrants shall conform to a

1 name and address on record with the [banking] department OF BANKING AND
2 FINANCIAL SERVICES;

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

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

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

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

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

28 S 595-b. Regulation of mortgage loan servicers. 1. Establishment of
29 grounds to impose a fine or penalty. In addition to such other rules,
30 regulations and policies as the banking AND FINANCIAL SERVICES board may
31 promulgate or the superintendent may prescribe to effectuate the
32 purposes of this article, the superintendent shall promulgate regu-
33 lations and policies governing the establishment of grounds to impose a
34 fine or penalty with respect to the activities of a mortgage loan servi-
35 cer.

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

43 S 210. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
44 102 of the state administrative procedure act, as amended by chapter 74
45 of the laws of 1987, is amended to read as follows:

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

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

50 S 597. Books and records; reports and electronic filing. Each licen-
51 see, servicer, registrant and exempt organization shall keep and use in
52 its business such books, accounts and records as will enable the super-
53 intendent to determine whether such licensee, servicer, registrant or
54 exempt organization is complying with the provisions of this article and
55 with the rules and regulations lawfully made by the superintendent and
56 the banking AND FINANCIAL SERVICES board. Every licensee, servicer,

1 registrant and exempt organization shall preserve such books, accounts,
2 and records, for at least three years; provided, however, that preserva-
3 tion by photographic reproduction thereof or records in photographic
4 form, including an optical disk storage system and the use of electronic
5 data processing equipment that provides comparable records to those
6 otherwise required and which are available for examination upon request
7 shall constitute compliance with the requirements of this section.

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

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

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

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

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

42 S 213. Subdivisions 7 and 8 of section 600 of the banking law, subdi-
43 vision 7 as amended by chapter 315 of the laws of 2008 and subdivision 8
44 as amended by chapter 152 of the laws of 1993 and as renumbered by chap-
45 ter 455 of the laws of 2006, are amended to read as follows:

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

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

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

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

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

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

17 2. Notwithstanding the provisions of subdivision one of this section,
18 the approval of the superintendent shall not be required with respect to
19 such merger or acquisition, if any of the corporations which are to
20 merge, or if the selling or acquiring corporation, is a banking subsid-
21 iary of a bank holding company, and the banking AND FINANCIAL SERVICES
22 board pursuant to section one hundred forty-two of this chapter has
23 granted its approval for such bank holding company, or any trustee or
24 trustees who hold voting stock of such banking subsidiary for the bene-
25 fit of the stockholders or members of such bank holding company, to vote
26 the stock of such banking subsidiary in favor of the proposed merger or
27 acquisition. The superintendent shall file the plan of merger or acqui-
28 sition and the certificates submitted to him pursuant to section six
29 hundred one or section six hundred one-a of this chapter, together with
30 a certified copy of the resolution of the banking AND FINANCIAL SERVICES
31 board granting such approval, in the office of the superintendent, and,
32 in the case of a merger, a duplicate of the plan and of each of such
33 certificates, together with a certified copy of such resolution, shall
34 be filed in the office of the clerk of the county in which the receiving
35 corporation is located. Upon such filing in the office of the super-
36 intendent, the merger or acquisition shall become effective, unless a
37 later date is specified in the plan, in which event the merger or acqui-
38 sition shall become effective upon such later date. For purposes of
39 this subdivision, the terms "bank holding company" and "banking subsid-
40 iary" shall have the meanings stated in section one hundred forty-one of
41 this chapter.

42 S 216. Subdivision 8 of section 605 of the banking law, as amended by
43 section 60 of part 0 of chapter 59 of the laws of 2006, is amended to
44 read as follows:

45 8. Unless the banking AND FINANCIAL SERVICES board by a three-fifths
46 vote of all its members shall otherwise provide, any corporate banking
47 organization that, pursuant to an agreement, sells or conveys more than
48 fifty per centum of its assets without the written approval of the
49 superintendent shall take the proceedings for voluntary dissolution
50 herein prescribed and, within six months from the date of such sale or
51 conveyance, shall file with the superintendent a certified copy of the
52 closing order in the form prescribed by subdivision four of this
53 section. The corporate banking organization, upon making written appli-
54 cation to the superintendent for approval of the sale or conveyance of
55 more than fifty per centum of its assets, shall pay an investigation fee
56 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.

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

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

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

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

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

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

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

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

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

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

49 S 3001. Corporate name; general. Except as otherwise provided in this
50 chapter, the name of a corporation or a foreign corporation, or the name
51 of representative and other offices in this state, which are open to the
52 general public and maintained by any banking corporation, wherever
53 located, shall not be the same as the name of a corporation of any type
54 or kind, as such name appears on the index of names of existing corpo-
55 rations and foreign corporations of any type or kind in the [banking]

1 department OF BANKING AND FINANCIAL SERVICES or a name so similar to
2 such name as to tend to confuse or deceive.

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

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

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

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

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

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

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

26 (c) the amount of its capital contributions;

27 (d) if the company is to have classes or groups of members, the rela-
28 tive rights, powers, preferences, limitations and voting powers of each
29 such class or group;

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

32 (f) the duration of the company;

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

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

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

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

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

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

53 (c) the amount of its capital contributions;

54 (d) if the company is to have classes or groups of members, the rela-
55 tive rights, powers, preferences, limitations, and voting powers of each
56 such class or group;

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

3 (f) the duration of the company;

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

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

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

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

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

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

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

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

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

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

1 S 229. Section 304 of the abandoned property law, as amended by chap-
2 ter 44 of the laws of 1950, is amended to read as follows:

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

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

16 S 230. Section 305 of the abandoned property law, as amended by chap-
17 ter 44 of the laws of 1950, is amended to read as follows:

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

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

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

36 (a) the laws of the state of New York including therein the regu-
37 lations of the New York state [banking] department OF BANKING AND FINAN-
38 CIAL SERVICES; or

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

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

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

5 S 233. Paragraphs (a) and (b) of subdivision 1 of section 15 of the
6 private housing finance law, paragraph (a) as amended by chapter 990 of
7 the laws of 1972 and paragraph (b) as added by chapter 23 of the laws of
8 1976, are amended to read as follows:

9 (a) One or more banking organizations, foundations, labor unions,
10 employers' associations, veterans' organizations, colleges, universi-
11 ties, educational institutions, child care institutions, hospitals,
12 medical research institutes, insurance companies, trustees, fiduciaries
13 or any combination of the foregoing, shall have the power to organize a
14 company pursuant to the provisions of this article, and to purchase for
15 cash or to receive and hold in exchange for property, and to own the
16 bonds of a company and to invest, singly or jointly, or with the state
17 or a municipality or the New York state housing finance agency or the
18 New York city housing development corporation in a bond or note and
19 single participating mortgage, or in separate bonds or notes and mort-
20 gages, in an amount not greater than ninety-five per centum of the total
21 project cost in the case of a mutual company, urban rental company or a
22 non-profit company incorporated pursuant to the provisions of the not-
23 for-profit corporation law and this article for the purpose of providing
24 housing for staff members, employees or students of a college, universi-
25 ty, child care institution, or hospital and their immediate families and
26 in the case of a non-profit company incorporated pursuant to the not-
27 for-profit corporation law and this article for the purpose of providing
28 housing for aged persons of low income or in the case of a low income
29 non-profit housing company such investment shall not be greater than the
30 total project cost. Where one or more banking organizations, founda-
31 tions, labor unions, employers' associations, veterans' organizations,
32 colleges, universities, educational institutions, child care insti-
33 tutions, hospitals, medical research institutes, insurance companies,
34 trustees, fiduciaries, or the state or a municipality or the New York
35 state housing finance agency or the New York city housing development
36 corporation, shall participate in a loan to a company secured by a
37 single participating mortgage or by separate mortgages, the interest of
38 each shall have equal priority as to lien in proportion to the amount of
39 loan so secured, but need not be equal as to interest rate, time or rate
40 of amortization or otherwise. Banking organizations, foundations, labor
41 unions, employers' associations, veterans' organizations, colleges,
42 universities, educational institutions, child care institutions, hospi-
43 tals, medical research institutes, insurance companies, trustees, fidu-
44 ciaries or groups thereof, may exercise any such power on such condi-
45 tions, however, as to banking organizations, as may be prescribed by the
46 banking AND FINANCIAL SERVICES board of the state [banking] department
47 OF BANKING AND FINANCIAL SERVICES, and as to insurance companies only to
48 the extent and upon such conditions as may be authorized by the state
49 superintendent of insurance. As used in this subdivision, the terms
50 "trustees" and "fiduciaries" shall include any fiduciary or fiduciaries
51 holding funds for investment, and the term "banking organizations" shall
52 have the same meaning as in subdivision eleven of section two of the
53 banking law.

54 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
55 sion or of any general, special or local law, for the purpose of
56 completing the financing of project cost, in the event that a munici-

1 pality has made or contracted to make a loan to a company or to a public
2 benefit corporation to provide moneys to finance the project cost of a
3 project (1) the construction of which commenced prior to December first,
4 nineteen hundred seventy-five, (2) for which a temporary or permanent
5 certificate of occupancy was not issued prior to January first, nineteen
6 hundred seventy-three, and (3) which is assisted by a contract with the
7 secretary of housing and urban development of the United States pursuant
8 to section two hundred thirty-six of the national housing act, as
9 amended, covering all dwelling units therein, one or more banking organ-
10 izations as defined in paragraph (a) of this subdivision, foundations,
11 labor unions, credit unions, employers' associations, veterans' organ-
12 izations, colleges, universities, educational institutions, child care
13 institutions, hospitals, medical research institutes, insurance compa-
14 nies, trustees or fiduciaries as defined in paragraph (a) of this subdi-
15 vision, trustees of pension and retirement funds and systems, corpo-
16 rations, partnerships, individuals, or other entities or any combination
17 of the foregoing shall have the power to participate in such loan or
18 make or participate in a new loan secured by a bond or note and a single
19 participating mortgage, or by separate bonds or notes and separate mort-
20 gages, or to invest, singly or jointly, with the municipality in a bond
21 or note and single participating mortgage or in separate bonds or notes
22 and mortgages, upon such terms and conditions as may be approved by the
23 supervising agency, including but not limited to provisions providing
24 that (i) priority may be given to the payment of the principal of and
25 interest on that portion of the mortgage indebtedness attributable to
26 participation in a loan or an investment made by one or more of such
27 entities or organizations, (ii) the interest of the municipality created
28 as a result of making a mortgage loan may be subordinated to the inter-
29 est that one or more of such organizations or entities may have upon
30 such participation or investment, (iii) the interest of each upon such
31 participation or investment need not be of equal priority as to lien,
32 nor be equal as to interest rate, time or rate of amortization of prin-
33 cipal or time of payment of interest, or otherwise, provided, however,
34 that the aggregate amount of the loan or loans or investment made by one
35 or more of such organizations or entities shall not exceed thirty per
36 centum of total project cost and, further provided that the aggregate
37 amount of the loan or loans to a company does not exceed such amount as
38 is authorized pursuant to paragraph (a) of this subdivision. All or part
39 of the proceeds of such participation or investment pursuant to this
40 paragraph (b) may be applied to reduce or prepay the loan made by the
41 municipality. The provisions of subdivisions one and five of section
42 twenty-six of this article shall not apply to such participation in a
43 loan or investment pursuant to this paragraph (b) if undertaken in
44 connection with a project theretofore approved pursuant to said section
45 twenty-six.

46 Notwithstanding the provisions of this article or of any general,
47 special or local law, in the event that a municipality has made a loan
48 pursuant to this article prior to any participation pursuant to this
49 paragraph, the supervising agency shall have the power, upon the
50 mortgagor's consent, to modify the terms and conditions of the original
51 bond or bonds or note or notes and mortgage and any other documents
52 executed in connection with such initial loan, as the supervising agency
53 may deem necessary or desirable, to provide for such participation,
54 including but not limited to modification of the rate and time of
55 payment of the interest on the initial loan or rate of amortization of
56 principal thereof, and provision for the additional borrowing cost, if

1 any, with respect to that portion of the mortgage indebtedness attribut-
2 able to such participation, provided, that except to the extent of any
3 increase in the maximum principal amount of the original mortgage loan,
4 with regard to a company that has obtained a temporary or permanent
5 certificate of occupancy for part or all of a project financed by a loan
6 pursuant to this article before such participation in a loan or invest-
7 ment is made, the sum of the payments of interest and principal on the
8 mortgage loan or loans which the company is obligated to make in any
9 year as a result of such modification and participation in a loan or
10 investment made pursuant to this paragraph, shall not exceed the sum of
11 the payments of interest and principal that such company would have been
12 obligated to make in such year under the original mortgage loan agree-
13 ment if the project had been fully financed under the original mortgage
14 loan agreement by the municipality at an interest rate equal to the
15 maximum rate per annum prescribed by the banking AND FINANCIAL SERVICES
16 board pursuant to section fourteen-a of the banking law as of December
17 nineteenth, nineteen hundred seventy-five, or such higher rate of inter-
18 est as the secretary of housing and urban development of the United
19 States shall approve pursuant to an agreement to make interest reduction
20 payments pursuant to section two hundred thirty-six of the national
21 housing act, as amended, with respect to such project and that the
22 rental or carrying charges in such projects shall not be increased as a
23 result of such participation in a loan or investment and further
24 provided, that the company shall not seek or accept from the munici-
25 pality any subsidy, direct or indirect, excluding existing tax
26 exemption, to offset any increased borrowing costs, if any.

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

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

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

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

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

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

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

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

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

11 S 238. Paragraph (b) of the fifth undesignated paragraph of section
12 111 of the private housing finance law, as amended by chapter 40 of the
13 laws of 1969, is amended to read as follows:

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

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

19 2. If an action be brought to foreclose a mortgage or tax lien upon a
20 redevelopment project, heretofore or hereafter authorized pursuant to
21 this article, and the real property constituting the project shall be
22 acquired at the foreclosure sale or from the mortgagee or lienor that
23 had acquired the property of such sale, or by a conveyance in lieu of
24 such sale, by a redevelopment company organized pursuant to this arti-
25 cle, or by the federal government or an instrumentality thereof, or by a
26 corporation which is, or by agreement has become subject to the super-
27 vision of the superintendent of banks AND FINANCIAL SERVICES or the
28 superintendent of insurance, such successor in interest shall acquire
29 such project subject to all provisions of the contract regulating such
30 project and shall be entitled to all of the benefits contained in such
31 contract. In all other cases of sale at foreclosure or forced sale, the
32 real property constituting the project or any portion or portions there-
33 of shall be sold free of all restrictions, except such covenants running
34 with the land as may be contained in the contract regulating the
35 project, or in the deed, if any, given by the municipality to the rede-
36 velopment company affecting all or any portion of the real property upon
37 which the project is situated, and the tax exemption, if any, thereto-
38 fore granted to such project pursuant to such contract shall immediately
39 terminate.

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

42 S 214. Transfer of real property to redevelopment corporation.
43 Notwithstanding any requirement of law to the contrary or the absence of
44 direct provision therefor in the instrument under which a fiduciary is
45 acting, every executor, administrator, trustee, guardian or other
46 person, holding trust funds or acting in a fiduciary capacity, unless
47 the instrument under which such fiduciary is acting expressly forbids,
48 the state, its subdivisions, cities, all other public bodies, all public
49 officers, corporations organized under or subject to the provisions of
50 the banking law (including savings banks, savings and loan associations,
51 trust companies, private bankers and private banking corporations), the
52 superintendent of banks AND FINANCIAL SERVICES as conservator, liquida-
53 tor or rehabilitator of any such person, partnership or corporation,
54 persons, partnerships and corporations organized under or subject to the
55 provisions of the insurance law, the superintendent of insurance as
56 conservator, liquidator or rehabilitator of any such person, partnership

1 or corporation, any of which owns or holds any real property within a
2 development area, may grant, sell, lease or otherwise transfer any such
3 real property to a redevelopment corporation, and receive and hold any
4 cash, stocks, income debentures, mortgages, or other securities or obli-
5 gations, secured or unsecured, exchanged therefor by such redevelopment
6 corporation, and may execute such instruments and do such acts as may be
7 deemed necessary or desirable by them or it and by the redevelopment
8 corporation in connection with the development and the development plan.
9 S 241. Subdivision 2 of section 218 of the private housing finance
10 law, as amended by chapter 115 of the laws of 1981, is amended to read
11 as follows:

12 2. Certificates, bonds and notes, or part interests therein, or any
13 part of an issue thereof, which are issued by a redevelopment corpo-
14 ration and secured by a first mortgage on the real property of the rede-
15 velopment corporation, or any part thereof, shall be securities in which
16 all the following persons, partnerships or corporations and public
17 bodies or public officers may legally invest the funds within their
18 control, provided that the principal amount thereof shall not exceed the
19 limits, if any, imposed by law for such investments by the person, part-
20 nership, corporation, public body or public officer making the same:
21 every executor, administrator, trustee, guardian, committee, conservator
22 or other person or corporation holding trust funds or acting in a fidu-
23 ciary capacity; the state, its subdivisions, cities, all other public
24 bodies, all public officers; persons, partnerships and corporations
25 organized under or subject to the provisions of the banking law (includ-
26 ing savings banks, savings and loan associations, trust companies, bank-
27 ers and private banking corporations); the superintendent of banks AND
28 FINANCIAL SERVICES as conservator, liquidator or rehabilitator of any
29 such person, partnership or corporation; persons, partnerships or corpo-
30 rations organized under or subject to the provisions of the insurance
31 law; and the superintendent of insurance as conservator, liquidator or
32 rehabilitator of any such person, partnership or corporation.

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

35 1. The members of such corporation shall consist of such banking
36 organizations, insurance and surety companies, as may make application
37 for membership in such corporation, and membership shall become effec-
38 tive upon the acceptance of such applications by the temporary board of
39 directors or the permanent board of directors, as the case may be. Each
40 member shall lend funds to the corporation as and when called upon by it
41 to do so, pursuant to subdivision two of this section [three hundred
42 seven], but the total amount on loan by any member at any one time shall
43 not exceed the following limits to be determined as of the date it
44 became a member, and such amount shall thereafter be readjusted annually
45 in the event of any change in the base of the loan limit of such member:
46 commercial banks, industrial banks and trust companies, one per centum
47 of capital and surplus; private bankers, one per centum of capital;
48 savings banks, one per centum of surplus fund; savings and loan associ-
49 ations, one per centum of surplus; stock insurance companies, one per
50 centum of capital and surplus; surety and casualty companies, one per
51 centum of capital and surplus; mutual insurance companies, one per
52 centum of guaranty funds or of surplus, whichever is applicable; and
53 comparable limits for other banking, lending and insurance organiza-
54 tions, as established by the board of directors; provided, however, that
55 the total amount on loan by any member at any one time shall not exceed
56 two hundred fifty thousand dollars; provided, however, that in the case

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

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

24 S 311. Examination. At least once in each calendar year the corpo-
25 ration shall be examined by either the superintendent of banks AND
26 FINANCIAL SERVICES or the superintendent of insurance for the purpose of
27 determining the corporation's net worth and the soundness of its manage-
28 ment and operating policies. The examination is to be made by the
29 [superintendent] SUPERINTENDENT of banks AND FINANCIAL SERVICES in
30 alternate years commencing with the examination for the year ending
31 October thirty-first, nineteen hundred seventy-one, and by the super-
32 intendent of insurance in alternate years commencing with the examina-
33 tion for the year ending October thirty-first, nineteen hundred seven-
34 ty-two. The corporation shall not, however, be deemed to be a banking
35 or insurance organization. The corporation shall pay the cost of each
36 such examination. Copies of each examination report, including the find-
37 ings, conclusions and recommendations of the examiners, shall be
38 furnished to the corporation. The corporation shall furnish copies of
39 each report, including the findings, conclusions and recommendations of
40 the examiners, to each of the holders of its capital stock and to its
41 members. Such corporation shall make an annual report of its condition
42 to the governor, legislature, superintendent of insurance and super-
43 intendent of banks AND FINANCIAL SERVICES on or before January first of
44 each year.

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

48 2. Banking institutions may exercise such power on such conditions as
49 may be prescribed by the banking AND FINANCIAL SERVICES board of the
50 state [banking] department OF BANKING AND FINANCIAL SERVICES and insur-
51 ance companies may exercise such power only to the extent and on such
52 conditions as may be authorized by the state superintendent of insur-
53 ance.

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

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

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

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

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

24 7. Banking organizations may exercise such power on such conditions as
25 may be prescribed by the banking AND FINANCIAL SERVICES board of the
26 state [banking] department OF BANKING AND FINANCIAL SERVICES, and insur-
27 ance companies may exercise such power only to the extent and on such
28 conditions as may be authorized by the state superintendent of insur-
29 ance.

30 S 248. Subdivisions 3, 4 and 5 of section 1303 of the real property
31 actions and proceedings law, as amended by chapter 472 of the laws of
32 2008, are amended to read as follows:

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

34 Help for Homeowners in Foreclosure

35 New York State Law requires that we send you this notice about the
36 foreclosure process. Please read it carefully.
37 Summons and Complaint

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

43 Sources of Information and Assistance

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

49 To locate an entity near you, you may call the toll-free helpline
50 maintained by the New York State [Banking] Department OF BANKING AND
51 FINANCIAL SERVICES at _____ (enter number) or visit the Depart-
52 ment's website at _____ (enter web address).

53 Foreclosure rescue scams

54 Be careful of people who approach you with offers to "save" your home.
55 There are individuals who watch for notices of foreclosure actions in
56 order to unfairly profit from a homeowner's distress. You should be

1 extremely careful about any such promises and any suggestions that you
2 pay them a fee or sign over your deed. State law requires anyone offer-
3 ing such services for profit to enter into a contract which fully
4 describes the services they will perform and fees they will charge, and
5 which prohibits them from taking any money from you until they have
6 completed all such promised services.

7 4. The [banking] department OF BANKING AND FINANCIAL SERVICES shall
8 prescribe the telephone number and web address to be included in the
9 notice.

10 5. The [banking] department OF BANKING AND FINANCIAL SERVICES shall
11 post on its website or otherwise make readily available the name and
12 contact information of government agencies or non-profit organizations
13 that may be contacted for information about the foreclosure process,
14 including maintaining a toll-free helpline to disseminate the informa-
15 tion required by this section.

16 S 249. Subdivisions 1 and 2 and paragraph (f) of subdivision 5 of
17 section 1304 of the real property actions and proceedings law, as added
18 by chapter 472 of the laws of 2008, are amended to read as follows:

19 1. Notwithstanding any other provision of law, with regard to a high-
20 cost home loan, as such term is defined in section six-1 of the banking
21 law, a subprime home loan or a non-traditional home loan, at least nine-
22 ty days before a lender or a mortgage loan servicer commences legal
23 action against the borrower, including mortgage foreclosure, the lender
24 or mortgage loan servicer shall give notice to the borrower in at least
25 fourteen-point type which shall include the following:

26 "YOU COULD LOSE YOUR HOME. PLEASE READ THE FOLLOWING
27 NOTICE CAREFULLY"

28 "As of ____, your home loan is ____ days in default. Under New York
29 State Law, we are required to send you this notice to inform you that
30 you are at risk of losing your home. You can cure this default by making
31 the payment of _____ dollars by ____.

32 If you are experiencing financial difficulty, you should know that
33 there are several options available to you that may help you keep your
34 home. Attached to this notice is a list of government approved housing
35 counseling agencies in your area which provide free or very low-cost
36 counseling. You should consider contacting one of these agencies imme-
37 diately. These agencies specialize in helping homeowners who are facing
38 financial difficulty. Housing counselors can help you assess your finan-
39 cial condition and work with us to explore the possibility of modifying
40 your loan, establishing an easier payment plan for you, or even working
41 out a period of loan forbearance. If you wish, you may also contact us
42 directly at _____ and ask to discuss possible options.

43 While we cannot assure that a mutually agreeable resolution is possi-
44 ble, we encourage you to take immediate steps to try to achieve a resol-
45 ution. The longer you wait, the fewer options you may have.

46 If this matter is not resolved within 90 days from the date this
47 notice was mailed, we may commence legal action against you (or sooner
48 if you cease to live in the dwelling as your primary residence.)

49 If you need further information, please call the New York State [Bank-
50 ing Department's] DEPARTMENT OF BANKING AND FINANCIAL SERVICES' toll-
51 free helpline at 1-877-BANK-NYS (1-877-226-5697) or visit the Depart-
52 ment's website at <http://www.banking.state.ny.us>"

53 2. Such notice shall be sent by the lender or mortgage loan servicer
54 to the borrower, by registered or certified mail and also by first-class
55 mail to the last known address of the borrower, and if different, to the
56 residence which is the subject of the mortgage. Notice is considered

1 given as of the date it is mailed. The notice shall contain a list of at
2 least five United States department of housing and urban development
3 approved housing counseling agencies, or other housing counseling agen-
4 cies as designated by the division of housing and community renewal,
5 that serve the region where the borrower resides. The list shall include
6 the counseling agencies' last known addresses and telephone numbers. The
7 [banking] department OF BANKING AND FINANCIAL SERVICES and/or the divi-
8 sion of housing and community renewal shall make available a listing, by
9 region, of such agencies which the lender or mortgage loan servicer may
10 use to meet the requirements of this section.

11 (f) For purposes of determining the threshold, the [banking] depart-
12 ment OF BANKING AND FINANCIAL SERVICES shall publish on its website a
13 listing of constant maturity yields for U.S. Treasury securities for
14 each month between January first, two thousand three and September
15 first, two thousand eight, as published in the Federal Reserve Statis-
16 tical Release on selected interest rates, commonly referred to as the
17 H.15 release, in the following maturities, to the extent available in
18 such release: six month, one year, two year, three year, five year,
19 seven year, ten year, thirty year.

20 S 250. Paragraph (d) of subdivision 11 of section 265-a of the real
21 property law, as added by chapter 308 of the laws of 2006, is amended to
22 read as follows:

23 (d) As part of a reconveyance arrangement, an equity purchaser shall
24 either:

25 (i) ensure that title to the residence is reconveyed to the equity
26 seller; or

27 (ii) make a payment to the equity seller such that the equity seller
28 has received consideration in an amount of at least eighty-two percent
29 of the fair market value of the property within one hundred twenty days
30 of either the eviction or voluntary relinquishment of possession of the
31 residence by the equity seller. The equity purchaser shall make a
32 detailed accounting of the basis for the payment amount, or a detailed
33 accounting of the reasons for failure to make a payment, including
34 providing written documentation of expenses, within such one hundred
35 twenty-day period. The accounting shall be on a form prescribed by the
36 [banking] department OF BANKING AND FINANCIAL SERVICES. For purposes of
37 this subparagraph, the following applies:

38 (A) there is a rebuttable presumption that an appraisal by a person
39 licensed or certified by an agency of the federal government or this
40 state to appraise real estate establishes the fair market value of the
41 property;

42 (B) the time for determining the fair market value amount shall be
43 determined in the reconveyance arrangement as either at the time of the
44 execution of the reconveyance arrangement or at resale to a bona fide
45 purchaser. If the covered contract states that the fair market value
46 shall be determined at the time of resale, the fair market value shall
47 be the resale price if it is sold within one hundred twenty days of the
48 eviction or voluntary relinquishment of the property by the equity sell-
49 er. If the covered contract states that the fair market value shall be
50 determined at the time of resale, and the resale is not completed within
51 one hundred twenty days of the eviction or voluntary relinquishment of
52 the property by the equity seller, the fair market value shall be deter-
53 mined by an appraisal conducted within ten days after the end of such
54 one hundred twenty-day period and payment, if required, shall be made to
55 the equity seller. If payment is not made to the equity seller at such
56 time, the fair market value shall be recalculated as the resale price on

1 resale and payment shall be made to the equity seller within fifteen
2 days of resale. A detailed accounting of the basis for the payment
3 amount shall be made within fifteen days of resale, including providing
4 written documentation of expenses. The accounting shall be on a form
5 prescribed by the [banking] department OF BANKING AND FINANCIAL
6 SERVICES;

7 (C) "consideration" shall mean any payment or thing of value provided
8 to the equity seller, including unpaid lease payments owed by the equity
9 seller prior to the date of eviction or voluntary relinquishment of the
10 property, reasonable costs paid to third parties necessary to complete
11 the reconveyance transaction, payment of money to satisfy a debt or
12 legal obligation of the equity seller or the reasonable cost of repairs
13 for damage to the dwelling caused by the equity seller beyond ordinary
14 wear and tear; but shall not include amounts imputed as any fee paid
15 directly or indirectly to the equity purchaser, or his or her represen-
16 tative, incident to a reconveyance arrangement, except for reasonable
17 costs paid to third parties necessary to complete the reconveyance.

18 (D) "resale" means a bona fide market sale of the property subject to
19 the reconveyance arrangement by the equity purchaser to an unaffiliated
20 third party.

21 (E) "resale price" means the purchase price of the property on resale.
22 S 251. Subparagraphs (iii) and (ix) of paragraph (e) of subdivision 1
23 and subparagraph (viii) of paragraph (a) of subdivision 3 of section
24 265-b of the real property law, as added by chapter 472 of the laws of
25 2008, are amended to read as follows:

26 (iii) a bank, trust company, private banker, bank holding company,
27 savings bank, savings and loan association, thrift holding company,
28 credit union or insurance company organized under the laws of this
29 state, another state or the United States, or a subsidiary or affiliate
30 of such entity or a foreign banking corporation licensed by the super-
31 intendent of banks AND FINANCIAL SERVICES or the comptroller of the
32 currency;

33 (ix) a person licensed or registered in the state to engage in the
34 practice of other professions that the superintendent of banks AND
35 FINANCIAL SERVICES has determined should not be subject to this section.

36 (viii) contain the following notice, which shall be printed in at
37 least fourteen point boldface type, completed with the name of the
38 distressed property consultant, and located in immediate proximity to
39 the space reserved for the homeowner's signature:

40 "NOTICE REQUIRED BY NEW YORK LAW

41 You may cancel this contract, without any penalty or obligation, at
42 any time before midnight of (fifth business day after
43 execution).

44 (Name of Distressed Property Consultant) (the "Consultant") or
45 anyone working for the Consultant may not take any money from you or ask
46 you for money until the Consultant has completely finished doing every-
47 thing this Contract says the Consultant will do.

48 You should consider consulting an attorney or a government-approved
49 housing counselor before signing any legal document concerning your
50 home. It is advisable that you find your own attorney, and not consult
51 with an attorney recommended or provided to you by the Consultant. A
52 list of housing counselors may be found on the website of the New York
53 State [Banking] Department OF BANKING AND FINANCIAL SERVICES,
54 www.banking.state.ny.us or by calling the [Banking] Department OF BANK-
55 ING AND FINANCIAL SERVICES toll-free at 1-877-BANK-NYS (1-877-226-5697).
56 The law requires that this contract contain the entire agreement between

1 you and the Consultant. You should not rely upon any other written or
2 oral agreement or promise."

3 The distressed property consultant shall accurately enter the date on
4 which the right to cancel ends.

5 S 252. Paragraph (a) of subdivision 2 of section 274-a of the real
6 property law, as added by chapter 132 of the laws of 1993, is amended to
7 read as follows:

8 (a) The mortgagee of an owner-occupied, one-to-six family residential
9 structure or residential condominium unit, shall deliver within thirty
10 days, any mortgage related documents to an authorized individual making
11 a bona fide written demand for such documents. The mortgagee shall not
12 charge for providing the mortgage-related documents, provided, however,
13 the mortgagee may charge not more than twenty dollars, or such amount as
14 may be fixed by the banking AND FINANCIAL SERVICES board, for each
15 subsequent payoff statement provided under this subdivision. If the
16 mortgagee fails to deliver the mortgage-related documents, the mortgagee
17 shall be liable for the actual damages to the mortgagor by reason of
18 such failure. In computing actual damages the court may consider the
19 actual rate of interest on the mortgage debt and current prevailing rate
20 or rates of interest on comparable debts. However, actual damages do not
21 include pain and suffering, mental or emotional distress or the like.
22 The replacement costs of a lost abstract of title required to be deliv-
23 ered hereunder, may be deducted from the amount required to satisfy the
24 mortgage.

25 S 253. Section 278 of the real property law, as amended by chapter 115
26 of the laws of 1981, is amended to read as follows:

27 S 278. Exchange of mortgage investment. Trustees, executors, adminis-
28 trators, guardians, committees, conservators, receivers, the town treas-
29 urer of any town and other persons and corporations holding trust funds,
30 corporations and private bankers organized under or subject to the
31 provisions of the banking law, the superintendent of banks AND FINANCIAL
32 SERVICES as conservator, liquidator or rehabilitator of any such corpo-
33 ration or private banker organized under and subject to the provisions
34 of the banking law, persons, partnerships, and corporations organized
35 under or subject to the provisions of the insurance law, the superinten-
36 dent of insurance as conservator, liquidator or rehabilitator of any
37 such person, partnership or corporation organized under or subject to
38 the provisions of the insurance law, and other domestic corporations,
39 that shall have made or shall hold an investment, whether with or with-
40 out a specified ratio of real property security, in a bond secured by
41 mortgage on real property or share or part thereof, whether guaranteed
42 or not, may, at any time without an order of the court or other authori-
43 ty, exchange, prior or subsequent to maturity, such bond and mortgage or
44 share or part thereof and any rights in respect thereto, for bonds of
45 Home Owners' Loan Corporation, a corporation created under home owners'
46 loan act of nineteen hundred and thirty-three, and may hold such bonds
47 of Home Owners' Loan Corporation as authorized and lawful investments
48 for any and all purposes, notwithstanding the provisions of any general
49 or special law of this state inconsistent with the provisions of this
50 section.

51 S 254. The opening paragraph of section 278-a of the real property
52 law, as amended by chapter 115 of the laws of 1981, is amended to read
53 as follows:

54 Trustees, executors, administrators, guardians, committees, conserva-
55 tors and all other persons or corporations holding trust funds or acting
56 in a fiduciary capacity, corporations and private bankers organized

1 under or subject to the provisions of the banking law, the superinten-
2 dent of banks AND FINANCIAL SERVICES as conservator, liquidator or reha-
3 bilitator of any such corporation or private banker organized under and
4 subject to the provisions of the banking law, persons, partnerships and
5 corporations organized under or subject to the provisions of the insur-
6 ance law, the superintendent of insurance as conservator, liquidator or
7 rehabilitator of any such person, partnership or corporation organized
8 under or subject to the provisions of the insurance law who or which (1)
9 own any property on which there is a building defined in the multiple
10 dwelling law as an old law tenement or who or which hold a mortgage or
11 other lien on such property, or

12 S 255. Paragraph (c) of subdivision 3 of section 279 of the real prop-
13 erty law, as added by chapter 15 of the laws of 1980, is amended to read
14 as follows:

15 (c) discloses in advance on a uniform disclosure statement, prescribed
16 by the banking AND FINANCIAL SERVICES board, the relevant provisions of
17 the graduated payment mortgage loan including:

18 (i) a side by side comparison of interest rates and other terms that
19 differ between a non-graduated payment mortgage loan and a graduated
20 payment mortgage loan;

21 (ii) payment schedules for both types of loans and the total payment
22 in dollars over the full term of each loan;

23 (iii) a statement prominently displayed that borrowers have the option
24 to elect a non-graduated payment mortgage loan; and

25 (iv) a description of the conversion option.

26 S 256. Paragraphs (f) and (g) of subdivision 1, paragraphs (a), (b),
27 (e) and (i) of subdivision 2, paragraph (b) of subdivision 3 and subdivi-
28 sions 4, 8 and 9 of section 280 of the real property law, as added by
29 chapter 613 of the laws of 1993, are amended to read as follows:

30 (f) Banking AND FINANCIAL SERVICES board. The board established pursu-
31 ant to section thirteen of the banking law.

32 (g) Superintendent of banks AND FINANCIAL SERVICES. The position
33 established pursuant to section twelve of the banking law as the head of
34 the [banking] department OF BANKING AND FINANCIAL SERVICES and pursuant
35 to section thirteen of the banking law as the chairman and executive
36 head of the banking AND FINANCIAL SERVICES board.

37 (a) the loan to value ratio shall be determined by the banking AND
38 FINANCIAL SERVICES board; and

39 (b) subject to such rules or regulations as the banking AND FINANCIAL
40 SERVICES board shall adopt, any authorized lender or any successor or
41 assign of such authorized lender which suspends, ceases or makes late
42 payments to a mortgagor under a reverse mortgage loan shall be subject
43 to forfeiture (as liquidated damages to such mortgagor and not as a
44 penalty) of twice the interest which would otherwise have been earned
45 during the period in which payments were suspended, ceased or made late,
46 provided that said authorized lender or any successor or assign of such
47 authorized lender shall have the right to make payments pursuant to said
48 loan agreement within fifteen days of each payment date, without penal-
49 ty; and

50 (e) the authorized lender must deliver to an applicant such disclo-
51 sures as may be required by the banking AND FINANCIAL SERVICES board
52 which shall describe the relevant portions of the reverse mortgage being
53 offered, and shall include but not be limited to the following items:

54 (i) except for a tenure reverse mortgage loan, a schedule of payments
55 to and from the mortgagor and the total payments in dollars over the

1 term of the reverse mortgage loan for both the mortgagor and mortgagee
2 depending on the type of reverse mortgage loan being offered;
3 (ii) a statement prominently displayed advising applicants to consult
4 with appropriate authorities regarding tax and estate planning conse-
5 quences of a reverse mortgage;
6 (iii) where applicable a description of prepayment and refinancing
7 features;
8 (iv) the interest rate and, except for a tenure reverse mortgage loan,
9 the total interest payable on the loan;
10 (v) a statement concerning the compliance of the lender with the
11 criteria established by the banking AND FINANCIAL SERVICES board that an
12 authorized lender must meet before it may make reverse mortgage loans
13 pursuant to this section; and
14 (vi) a statement setting forth those events which would terminate the
15 reverse mortgage loan; and
16 (i) subject to such rules or regulations as the banking AND FINANCIAL
17 SERVICES board may adopt, a reverse mortgage loan shall be made at
18 either a fixed or variable rate of interest.
19 (b) provide for the maintenance of an escrow account by the authorized
20 lender for purposes of payment of real property taxes, insurance on the
21 property securing the loan, or any other fees and expenses as may be
22 permitted by banking AND FINANCIAL SERVICES board regulation;
23 4. The banking AND FINANCIAL SERVICES board shall adopt those rules or
24 regulations as it considers appropriate to govern reverse mortgage loans
25 made pursuant to this section. No reverse mortgage loan shall be made
26 unless it conforms to the requirements of this section and such rules
27 and regulations as the banking AND FINANCIAL SERVICES board may adopt
28 except those reverse mortgage loans made pursuant to section two hundred
29 eighty-a of this article. A reverse mortgage loan made by any authorized
30 lender, national banking association, federal savings and loan associ-
31 ation or federal credit union in conformity with applicable federal laws
32 and regulations specifically regulating reverse mortgage loans shall be
33 deemed to conform to the requirements of this section unless such
34 reverse mortgage loan fails to conform to such rules and regulations as
35 the banking AND FINANCIAL SERVICES board has expressly declared to be
36 neither preempted by, nor otherwise inconsistent with such federal laws
37 or regulations. Those rules or regulations shall include, but are not
38 limited to, the form and contents of any disclosure statement, with the
39 exception of the counseling statement prepared by the New York state
40 office for the aging pursuant to paragraph (g) of subdivision two of
41 this section, that authorized lenders must provide to mortgagors.
42 8. In a term reverse mortgage loan, the real property securing the
43 reverse mortgage loan may be reappraised by an independent appraiser at
44 the end of the loan term. If the value of the real property has appre-
45 ciated, the term of the reverse mortgage may be extended or refinanced,
46 however, the total reverse mortgage loan amount may not exceed such
47 amount or ratio as may be determined by the banking AND FINANCIAL
48 SERVICES board. The refinancing of the reverse mortgage loan shall be
49 provided by the original authorized lender or by any other authorized
50 lender designated by the mortgagee.
51 9. The principal, including any accrued but unpaid interest, of a
52 reverse mortgage loan agreement entered into pursuant to this section
53 may be insured by the mortgagor. If such insurance is purchased from or
54 otherwise provided by any agency of the state of New York the mortgagor
55 shall be granted the right, for a term reverse mortgage loan, to refi-
56 nance or extend the reverse mortgage loan at the end of the term,

1 subject to such rules or regulations as the banking AND FINANCIAL
2 SERVICES board may adopt. The authorized lender shall have the option to
3 choose between refinancing or extending the reverse mortgage loan.
4 Subject to obtaining an adequate increase in the insurance and subject
5 to such rules and regulations as the banking AND FINANCIAL SERVICES
6 board may adopt, the total reverse mortgage loan amount shall not exceed
7 such amount or loan to value ratio as may be determined by the banking
8 AND FINANCIAL SERVICES board. The refinancing of the reverse mortgage
9 loan shall be provided by the original authorized lender or by any other
10 authorized lender designated by the mortgagee.

11 S 257. Paragraphs (d), (f) and (g) of subdivision 1, subdivisions 2,
12 4, 8, and 9 of section 280-a of the real property law, as added by chap-
13 ter 613 of the laws of 1993, are amended to read as follows:

14 (d) Authorized lender. Any bank, trust company, national banking asso-
15 ciation, savings bank, savings and loan association, federal savings
16 bank, federal savings and loan association, credit union, or federal
17 credit union or any licensed mortgage banker approved for the making of
18 reverse mortgage loans by the superintendent of banks AND FINANCIAL
19 SERVICES or any entity exempted from licensing pursuant to section five
20 hundred ninety of the banking law and approved for the making of reverse
21 mortgage loans by the superintendent of banks AND FINANCIAL SERVICES.

22 (f) Banking AND FINANCIAL SERVICES board. The board established pursu-
23 ant to section thirteen of the banking law.

24 (g) Superintendent of banks AND FINANCIAL SERVICES. The position
25 established pursuant to section twelve of the banking law as the head of
26 the [banking] department OF BANKING AND FINANCIAL SERVICES and pursuant
27 to section thirteen of the banking law as the chairman and executive
28 head of the banking AND FINANCIAL SERVICES board.

29 2. A reverse mortgage loan pursuant to this section shall be subject
30 to the following:

31 (a) the mortgagor shall be granted lifetime possession of the subject
32 premises of the real property which is the security for the reverse
33 mortgage loan, as long as such real property remains the mortgagors'
34 principal residence and subject to a limited waiver of the right of
35 foreclosure as determined by the banking AND FINANCIAL SERVICES board;
36 and

37 (b) the term of the reverse mortgage, except for a tenure reverse
38 mortgage loan, shall be for a period of ten years or less; and

39 (c) the loan to value ratio shall be determined by the banking AND
40 FINANCIAL SERVICES board; and

41 (d) subject to such rules or regulations as the banking AND FINANCIAL
42 SERVICES board shall adopt, for that period of time commencing at the
43 end of the loan term or ten years after the reverse mortgage loan
44 commences, whichever occurs first, and ending at such time as the
45 reverse mortgage loan is paid in full, the authorized lender, at its
46 option, may receive no more than twenty percent of the future appreci-
47 ation of the property securing the reverse mortgage loan as full or
48 partial consideration for the making of a reverse mortgage loan;
49 provided, however, that such future appreciation shall be limited by
50 such rules and regulations as the banking AND FINANCIAL SERVICES board
51 may adopt or the authorized lender may charge a fixed rate of interest
52 on the outstanding balance of monies advanced under the reverse mortgage
53 agreement or any combination thereof. Said reverse mortgage loan shall
54 not come due and shall be extended until the voluntary relinquishment by
55 the mortgagors of possessory interest in such real property, the real
56 property no longer being the mortgagors' principal residence, the death

1 of the mortgagors, or such other events as may be determined by the
2 banking AND FINANCIAL SERVICES board. Any such appreciation shall not be
3 considered interest for the purposes of any law regulating the maximum
4 rate of interest which may be charged, taken or received including
5 sections 190.40 and 190.42 of the penal law; and
6 (e) the authorized lender shall maintain an escrow account for the
7 purposes of paying real property taxes, insurance premiums of the prop-
8 erty securing the reverse mortgage loan, or for the payment of any other
9 fees and expenses as may be permitted by banking AND FINANCIAL SERVICES
10 board regulation; and
11 (f) subject to such rules or regulations as the banking AND FINANCIAL
12 SERVICES board may adopt, an authorized lender or any successor or
13 assign of such authorized lender which [may] suspends, ceases or makes
14 late payments to a mortgagor under a reverse mortgage loan shall be
15 subject to forfeiture (as liquidated damages to such mortgagor and not
16 as a penalty) of twice the interest which would otherwise have been
17 earned during the period in which payments were suspended, ceased, or
18 made late, provided that said authorized lender or any successor or
19 assign of such authorized lender shall have the right to make payments
20 pursuant to said loan agreement within fifteen days of each payment date
21 without penalty; and
22 (g) an authorized lender must deliver to an applicant such disclosures
23 as may be required by the banking AND FINANCIAL SERVICES board which
24 shall describe the relevant portions of the reverse mortgage being
25 offered, and shall include but not be limited to the following items:
26 (i) except for a tenure reverse mortgage loan, a schedule of payments
27 to and from the mortgagor and the total payments in dollars over the
28 term of the reverse mortgage loan for both the mortgagor and mortgagee,
29 depending on the type of reverse mortgage loan being offered;
30 (ii) a statement prominently displayed advising applicants to consult
31 with appropriate authorities regarding tax and estate planning conse-
32 quences of a reverse mortgage;
33 (iii) where applicable a description of prepayment and refinancing
34 features;
35 (iv) to the extent determinable at or prior to the inception of the
36 reverse mortgage loan, the interest rate and, except for a tenure
37 reverse mortgage loan, the total interest payable on the reverse mort-
38 gage loan;
39 (v) a statement concerning the compliance of the lender with the
40 criteria established by the banking AND FINANCIAL SERVICES board that an
41 authorized lender must meet before it may make reverse mortgage loans
42 pursuant to this section; and
43 (vi) a statement setting forth those events which would terminate the
44 reverse mortgage loan; and
45 (h) the outstanding balance may be prepaid in full by the mortgagor
46 without penalty at any time during the reverse mortgage loan term; and
47 (i) an authorized lender is prohibited from using or attaching any
48 property or asset of the mortgagor except the real property securing the
49 reverse mortgage loan in settlement of a reverse mortgage obligation;
50 and
51 (j) an authorized lender must deliver to the applicant upon applica-
52 tion, if available, a statement prepared by the local or county office
53 for the aging on the advisability and availability of independent coun-
54 seling and information services. Further, no reverse mortgage commitment
55 shall be issued by the authorized lender until the applicant presents,
56 in writing, a statement that the terms of the reverse mortgage loan have

1 been explained to them by an attorney, a housing and urban development
2 certified counselor or any other counseling service as indicated on the
3 statement supplied by the county or local office for the aging or a
4 signed affidavit indicating that the applicant, although made aware of
5 the importance of counseling and its local availability through the
6 provision of such information by the authorized lender, chooses not to
7 utilize any of the aforementioned available services. The form of such
8 statement and affidavit shall be developed by the New York state office
9 for the aging; and

10 (k) a reverse mortgage pursuant to this section shall expressly and
11 conspicuously bear a legend identifying it as such; and

12 (l) subject to such rules or regulations as the banking AND FINANCIAL
13 SERVICES board may adopt, a reverse mortgage loan shall be made at
14 either a fixed or variable rate of interest; and

15 (m) in the event that an authorized lender or holder of the reverse
16 mortgage loan intends to initiate foreclosure proceedings the mortgagor
17 shall have the right to designate a third party who shall be notified.
18 In the event that the mortgagor has not designated a third party to
19 receive such notice of foreclosure, then the authorized lender or the
20 holder of said reverse mortgage loan shall notify the local or county
21 office for the aging of its intent to commence foreclosure proceedings.
22 Such entity shall take appropriate action to protect the interests of
23 the mortgagor.

24 4. The banking AND FINANCIAL SERVICES board shall adopt those rules or
25 regulations as it considers appropriate to govern reverse mortgage loans
26 made pursuant to this section. No reverse mortgage loan shall be made
27 unless it conforms to the requirements of this section and such rules
28 and regulations as the banking AND FINANCIAL SERVICES board may adopt
29 except those reverse mortgage loans made pursuant to section two hundred
30 eighty of this article. A reverse mortgage loan made by any authorized
31 lender, national banking association, federal savings and loan associ-
32 ation or federal credit union in conformity with applicable federal laws
33 and regulations specifically regulating reverse mortgage loans shall be
34 deemed to conform to the requirements of this section unless such
35 reverse mortgage loan fails to conform to such rules and regulations as
36 the banking AND FINANCIAL SERVICES board has expressly declared to be
37 neither preempted by, nor otherwise inconsistent with such federal laws
38 or regulations. Those rules or regulations shall include, but are not
39 limited to:

40 (a) any limitations on the taking of a percentage of the future appre-
41 ciation of the real property securing the reverse mortgage loan as
42 consideration for making the reverse mortgage loan;

43 (b) the execution by an authorized lender of a limited waiver of the
44 right of foreclosure;

45 (c) with the exception of the counseling statement prepared by the New
46 York state office for the aging pursuant to paragraph (j) of subdivision
47 two of this section, the form and contents of any disclosure statement
48 that authorized lenders must provide to mortgagors.

49 8. In a term reverse mortgage loan, the real property securing the
50 reverse mortgage may be reappraised by an independent appraiser at the
51 end of the loan term. If the value of the property has appreciated, the
52 term of the reverse mortgage may be extended or refinanced; however the
53 total reverse mortgage loan amount may not exceed such amount or loan to
54 value ratio as may be determined by the banking AND FINANCIAL SERVICES
55 board. The refinancing of the reverse mortgage loan shall be provided by

1 the original authorized lender or by any other authorized lender designated by the mortgagee.

3 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.

19 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:

22 (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.

30 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:

33 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.

42 (b) No exemption shall be granted pursuant to this section, unless:

43 (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

50 (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.

53 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:

55 3. Every mortgage investing institution shall deposit funds from a real property tax escrow account of a mortgagor in a banking institution

1 whose deposits are insured by a federal agency or a licensed branch of a
2 foreign banking corporation whose deposits are insured by a federal
3 agency. Notwithstanding the foregoing provisions of this subdivision,
4 the banking AND FINANCIAL SERVICES board shall have the power, by a
5 three-fifths vote of all its members, to exempt from the requirements of
6 this subdivision any banking organization which does not receive depos-
7 its or share accounts from the general public.

8 S 261. Subdivision 9 of section 90 of chapter 784 of the laws of 1951,
9 constituting the defense emergency act of 1951, as added by chapter 654
10 of the laws of 1961, is amended to read as follows:

11 9. "Superintendent," when used in this article, shall mean the super-
12 intendent of banks AND FINANCIAL SERVICES.

13 S 262. Section 94 of chapter 784 of the laws of 1951, constituting the
14 defense emergency act of 1951, as added by chapter 654 of the laws of
15 1961, is amended to read as follows:

16 S 94. The banking AND FINANCIAL SERVICES board. 1. During a period of
17 acute emergency affecting any area within this state, the superintendent
18 shall have power to call meetings of the banking AND FINANCIAL SERVICES
19 board created by section thirteen of the banking law upon such period of
20 notice as he may deem appropriate in view of the condition of acute
21 emergency and the urgency of the business to be transacted at such meet-
22 ing. The superintendent shall give notice of such meeting by making such
23 reasonable efforts as in his judgment circumstances may permit to notify
24 each member of the banking AND FINANCIAL SERVICES board of the time and
25 place of such meeting. Failure of any member of the banking AND FINAN-
26 CIAL SERVICES board to receive actual notice of such a meeting shall not
27 affect the power of the members present thereat or the superintendent to
28 act as prescribed in subdivision two of this section.

29 2. At any meeting of the banking AND FINANCIAL SERVICES board convened
30 during a period of acute emergency affecting any area within this state,
31 the members present, if three or more in number, may, by the vote of a
32 majority of such members present, take any action which the banking AND
33 FINANCIAL SERVICES board is empowered to take pursuant to the banking
34 law. If less than three members shall appear pursuant to notice given
35 by the superintendent in accordance with subdivision one of this
36 section, the superintendent may by general or specific regulation,
37 directive or order, take any action which the banking AND FINANCIAL
38 SERVICES board is empowered to take pursuant to the banking law.

39 S 263. Subdivisions 1, 1-a and 3 of section 4 and subdivision 3 of
40 section 12 of section 1 of chapter 174 of the laws of 1968 constituting
41 the New York State urban development corporation act, subdivisions 1,
42 1-a and 3 of section 4 as amended by chapter 280 of the laws of 1984 and
43 subdivision 3 of section 12 as amended by chapter 508 of the laws of
44 1985, are amended to read as follows:

45 (1) There is hereby created the New York state urban development
46 corporation. The corporation shall be a corporate governmental agency of
47 the state, constituting a political subdivision and public benefit
48 corporation. Its membership shall consist of nine directors as follows:
49 the superintendent of banks AND FINANCIAL SERVICES, the chairman of the
50 New York state science and technology foundation, and seven directors to
51 be appointed by the governor with the advice and consent of the senate.
52 From the seven directors appointed by him OR HER, the governor shall
53 designate the chairman of the corporation and two others who shall all
54 serve at the pleasure of the governor. Of the four remaining directors,
55 one of such directors first appointed by the governor after the effec-
56 tive date of this subdivision as amended shall serve for a term ending

1 January first next succeeding his OR HER appointment, one of such direc-
2 tors shall serve for a term ending one year from such date, one of such
3 directors shall serve for a term ending two years from such date, and
4 one of such directors shall serve for a term ending three years from
5 such date. Their successors shall serve for terms of four years each.
6 Directors shall continue in office until their successors have been
7 appointed and qualified. In the event of a vacancy occurring in the
8 office of a director by death, resignation or otherwise, the governor
9 shall appoint a successor with the advice and consent of the senate to
10 serve for the balance of the unexpired term. The governor shall appoint
11 the president of the corporation, with the advice and consent of the
12 senate, who shall be the chief executive officer of the corporation and
13 who shall serve at the pleasure of the governor. Such president may be
14 one of the directors appointed by the governor.

15 (1-a) The superintendent of banks AND FINANCIAL SERVICES and the
16 chairman of the New York state science and technology foundation each
17 may designate a person from his OR HER department to represent him OR
18 HER at all meetings of the corporation from which such director may be
19 absent. Any representative so designated shall have the power to attend
20 and to vote at any meeting of the corporation from which the director so
21 designating him OR HER is absent, with the same force and effect as if
22 the director designating him OR HER were present and voting. Such
23 designation shall be by written notice filed with the [chairman] CHAIR
24 of the corporation by the director making the designation. The desig-
25 nation of each such person shall continue until revoked at any time by
26 written notice to the [chairman] CHAIR by the director making the desig-
27 nation. Such designation shall not limit the power of the director
28 making the designation to attend and vote in person at any meeting of
29 the corporation.

30 (3) Such directors other than the superintendent of banks AND FINAN-
31 CIAL SERVICES, the chairman of the New York state science and technology
32 foundation, and any director who serves as president of the corporation
33 may engage in private employment, or in a profession or business. The
34 corporation, its directors, officers and employees shall be subject to
35 the provisions of sections seventy-three and seventy-four of the public
36 officers law.

37 (3) Notwithstanding any provision of this act to the contrary, the
38 superintendent of banks AND FINANCIAL SERVICES and the chairman of the
39 New York state science and technology foundation shall not serve as a
40 director, trustee or member of any such subsidiary corporation.

41 S 264. Section 14 of the state finance law is amended to read as
42 follows:

43 S 14. Departmental statements. In addition to the annual department
44 reports prescribed by law, the head of each department of the state, on
45 or before the fifteenth day of October in each year, shall submit to the
46 governor a statement of the sources, amounts and disposition of all
47 money received by such department, its divisions, bureaus or officers
48 for the preceding fiscal year other than money appropriated for such
49 department by the legislature or money which was paid by such department
50 into the treasury. Such statement shall include a description of the
51 nature and the amount of each fund, if any, then under the supervision
52 or control of such department or the head thereof or under the super-
53 vision or control of any division, bureau, commission, board or other
54 organization therein or under the supervision or control of the head or
55 any other officer of such division, bureau, commission, board or organ-
56 ization, which was derived from any source whether or not deposited in

1 the treasury, a citation of the statute authorizing the creation or
2 establishment of each such fund and the nature and amount of any
3 payments made therefrom during the preceding fiscal year. The director
4 of the budget in the executive department shall make rules, which shall
5 be approved by the governor, regulating the form and contents of such
6 statements. Copies of such statements shall be simultaneously furnished
7 to the senate finance committee and the assembly ways and means commit-
8 tee for their information.

9 The governor, in such form and with such explanation as he may desire,
10 shall transmit to the legislature, with the annual budget, a recapitu-
11 lation or summary of the information contained in such statements
12 arranged under appropriate headings for each department. The provisions
13 of this section shall not apply to any funds received by the superinten-
14 dent of banks AND FINANCIAL SERVICES or the superintendent of insurance
15 in a fiduciary capacity or to the state teachers' retirement fund, or
16 any state employees' retirement and pension fund, but such exemption
17 from the application of this section shall not affect any other
18 provision of law requiring a report or statement of such funds.

19 S 265. The closing paragraph of section 106 of the state finance law,
20 as amended by chapter 583 of the laws of 1941, is amended to read as
21 follows:

22 This section shall not apply to any funds held by the superintendent
23 of banks AND FINANCIAL SERVICES or the superintendent of insurance in a
24 fiduciary capacity.

25 S 266. The section heading, subdivision 1 and subdivision 4 of section
26 215 of the state finance law, the section heading and subdivision 4 as
27 added by chapter 705 of the laws of 1993 and subdivision 1 as amended by
28 chapter 291 of the laws of 2004, are amended to read as follows:

29 Responsibilities of commissioner of economic development, comptroller,
30 commissioner of taxation and finance and superintendent of banks AND
31 FINANCIAL SERVICES. 1. The commissioner of economic development shall
32 administer the program pursuant to section two hundred nineteen of this
33 article, including all decisions with respect to the application and use
34 of the program for eligible projects; market and promote the program
35 pursuant to section two hundred twenty-three of this article; after
36 consulting with the comptroller, the commissioner of taxation and
37 finance and the superintendent of banks AND FINANCIAL SERVICES, issue
38 rules and regulations for the operation of the program pursuant to
39 section two hundred twenty-four of this article.

40 4. The superintendent of banks AND FINANCIAL SERVICES' responsibil-
41 ities for the program shall be limited to marketing and promoting the
42 program pursuant to section two hundred twenty-three of this article.

43 S 267. Section 224 of the state finance law, as added by chapter 705
44 of the laws of 1993, is amended to read as follows:

45 S 224. Rules and regulations. The commissioner of economic development
46 shall, in consultation with the comptroller, the commissioner of taxa-
47 tion and finance and the superintendent of banks AND FINANCIAL SERVICES,
48 promulgate rules and regulations necessary and reasonable for the opera-
49 tion of the program.

50 S 268. Subdivision 1 of section 218 of the labor law, as amended by
51 chapter 190 of the laws of 1990, and the opening paragraph as amended by
52 chapter 304 of the laws of 2007, is amended to read as follows:

53 1. If the commissioner determines that an employer has violated a
54 provision of article six (payment of wages), article nineteen (minimum
55 wage act), article nineteen-A, section two hundred twelve-a, section two
56 hundred twelve-b, section one hundred sixty-one (day of rest) or section

1 one hundred sixty-two (meal periods) of this chapter, or a rule or regu-
2 lation promulgated thereunder, the commissioner shall issue to the
3 employer an order directing compliance therewith, which shall describe
4 particularly the nature of the alleged violation. In addition to direct-
5 ing payment of wages, benefits or wage supplements found to be due, such
6 order, if issued to an employer who previously has been found in
7 violation of those provisions, rules or regulations, or to an employer
8 whose violation is willful or egregious, shall direct payment to the
9 commissioner of an additional sum as a civil penalty in an amount equal
10 to double the total amount found to be due. In no case shall the order
11 direct payment of an amount less than the total wages, benefits or wage
12 supplements found by the commissioner to be due, plus the appropriate
13 civil penalty. Where the violation is for a reason other than the
14 employer's failure to pay wages, benefits or wage supplements found to
15 be due, the order shall direct payment to the commissioner of a civil
16 penalty in an amount not to exceed one thousand dollars for a first
17 violation, two thousand dollars for a second violation or three thousand
18 dollars for a third or subsequent violation. In assessing the amount of
19 the penalty, the commissioner shall give due consideration to the size
20 of the employer's business, the good faith of the employer, the gravity
21 of the violation, the history of previous violations and, in the case of
22 wages, benefits or supplements violations, the failure to comply with
23 recordkeeping or other non-wage requirements.

24 Where there is a violation of section one hundred ninety-eight-b of
25 this chapter, the order shall direct payment back to the employee of the
26 amount of wages, supplements or other thing of value unlawfully received
27 plus interest at the rate of interest then in effect, as prescribed by
28 the superintendent of banks AND FINANCIAL SERVICES pursuant to section
29 fourteen-a of the banking law per annum from the date of the payback,
30 return, donation or contribution to the date of payment, and shall
31 include such other relief as may be appropriate, including rehiring or
32 reinstatement of the employee to his or her former position, back wages,
33 and restoration of seniority. In addition, the commissioner shall order
34 payment of a civil penalty of at least twenty-five hundred dollars but
35 not more than five thousand dollars per violation. In assessing the
36 amount of the penalty, the commissioner shall give due consideration to
37 the size of the employer's business, the good faith of the employer, the
38 gravity of the violation, the history of previous violations.

39 S 268-a. Subdivision 1 of section 219 of the labor law, as amended by
40 chapter 417 of the laws of 1987, is amended to read as follows:

41 1. If the commissioner determines that an employer has failed to pay
42 wages, benefits or wage supplements required pursuant to article six
43 (payment of wages), article nineteen (minimum wage act) or article nine-
44 teen-a of this chapter, or a rule or regulation promulgated thereunder,
45 the commissioner shall issue to the employer an order directing compli-
46 ance therewith, which shall describe particularly the nature of the
47 alleged violation. Such order shall direct payment of wages or supple-
48 ments found to be due, including interest at the rate of interest then
49 in effect as prescribed by the superintendent of banks AND FINANCIAL
50 SERVICES pursuant to section fourteen-a of the banking law per annum
51 from the date of the underpayment to the date of the payment.

52 S 269. Subdivision 8 of section 220 of the labor law, as amended by
53 chapter 7 of the laws of 2008, is amended to read as follows:

54 8. Hearings. Before issuing an order or determination as provided in
55 subdivision seven of this section, the fiscal officer shall order a
56 hearing thereon at a time and place to be specified, and shall give

1 notice thereof, together with a copy of such complaint or the purpose
2 thereof, or a statement of the facts disclosed upon such investigation,
3 which notice shall be served personally or by mail on any person
4 affected thereby; such person shall have an opportunity to be heard in
5 respect to the matters complained of at the time and place specified in
6 such notice, which time shall be not less than five days from the
7 service of the notice personally or by mail. The fiscal officer in such
8 hearing shall be deemed to be acting in a judicial capacity, and shall
9 have the right to issue subpoenas, administer oaths and examine
10 witnesses. The enforcement of a subpoena issued under this section shall
11 be regulated by the civil practice law and rules. Such hearing shall be
12 expeditiously conducted and upon such hearing the fiscal officer shall
13 determine the issues raised thereon and shall make and file an order in
14 the office of the fiscal officer stating such determination, and forth-
15 with serve a copy of such order, with a notice of the filing thereof,
16 upon the parties to such proceeding, personally or by mail. Such order
17 shall direct payment of wages or supplements found to be due, including
18 interest at the rate of interest then in effect as prescribed by the
19 superintendent of banks AND FINANCIAL SERVICES pursuant to section four-
20 teen-a of the banking law per annum from the date of the underpayment to
21 the date of the payment, provided, however, that such interest rate
22 shall not apply to subdivision eight-c of this section.

23 In addition to directing payment of wages or supplements including
24 interest found to be due, such order may direct payment of a further sum
25 as a civil penalty in an amount not exceeding twenty-five percent of the
26 total amount found to be due. In assessing the amount of the penalty,
27 due consideration shall be given to the size of the employer's business,
28 the good faith of the employer, the gravity of the violation, the histo-
29 ry of previous violations and the failure to comply with recordkeeping
30 or other non-wage requirements. Where the fiscal officer is the commis-
31 sioner, the penalty shall be paid to the commissioner for deposit in the
32 state treasury. Where the fiscal officer is a city comptroller or other
33 analogous officer, the penalty shall be paid to said officer for deposit
34 in the city treasury.

35 Upon the entry of such order any party aggrieved thereby may commence
36 a proceeding for the review thereof pursuant to article seventy-eight of
37 the civil practice law and rules within thirty days from the notice of
38 the filing of the said order in the office of the fiscal officer. Said
39 proceeding shall be commenced directly in the appellate division of the
40 supreme court. If such order is not reviewed, or is so reviewed and the
41 final decision is in favor of the complainant and the order involves or
42 relates to the rate of wages paid or the supplements provided on such
43 public work, the complainant or any other person affected may within six
44 months after the service of notice of the filing of said order, or the
45 notice of entry of said final decision on review, institute an action
46 against the person found violating this act for the recovery of the
47 difference between the sum actually paid or provided and the amount
48 which should have been paid or provided, together with interest at the
49 rate of interest provided herein, as determined by said order or deci-
50 sion, as the case may be, from and after the date of the filing of said
51 verified complaint, with the fiscal officer or of the filing of the
52 fiscal officer's report of investigation made on his own initiative.
53 Provided that no proceeding for judicial review as provided herein shall
54 then be pending and the time for initiation of such proceeding shall
55 have expired, the fiscal officer may file with the county clerk of the
56 county where the employer resides or has a place of business the order

1 of the fiscal officer containing the amount found to be due. The filing
2 of such order shall have the full force and effect of a judgment duly
3 docketed in the office of such clerk. The order may be enforced by and
4 in the name of the fiscal officer in the same manner, and with like
5 effect, as that prescribed by the civil practice law and rules for the
6 enforcement of a money judgment.

7 S 270. Paragraphs c and f of subdivision 2 of section 220-b of the
8 labor law, as amended by chapter 304 of the laws of 1989, are amended to
9 read as follows:

10 c. The fiscal officer shall cause an investigation to be made to
11 determine whether any amounts are due to the laborers, workmen or
12 mechanics, or on their respective behalves, on such public improvement,
13 for labor performed after the commencement of the three-year period
14 immediately preceding the filing of the complaint or the commencement of
15 the investigation on his own initiative, as the case may be, and shall
16 order a hearing thereon at a time and place to be specified and shall
17 give notice thereof, together with a copy of such complaint, or a state-
18 ment of the facts disclosed upon such investigation, which notice shall
19 be served personally or by mail on all interested persons, including the
20 person complained against and upon the financial officer of the civil
21 division interested; such person complained against shall have an oppor-
22 tunity to be heard in respect to the matters complained of, at the time
23 and place specified in such notice, which time shall be not less than
24 five days from the service of said notice. The fiscal officer in such an
25 investigation shall be deemed to be acting in a judicial capacity and
26 shall have the rights to issue subpoenas, administer oaths and examine
27 witnesses. The enforcement of a subpoena issued under this section shall
28 be regulated by the civil practice law and rules. Such investigation and
29 hearing shall be expeditiously conducted, and upon such hearing and
30 investigation, the fiscal officer shall determine the issues raised
31 thereon and shall make and file an order in his office stating such
32 determination and forthwith serve a copy of such order, either
33 personally or by mail, together with notice of filing, upon the finan-
34 cial officer of the civil division interested, and the parties to such
35 proceedings and, if the fiscal officer be the comptroller or other anal-
36 ogous officer of a city, upon the commissioner. Such order shall direct
37 payment of wages or supplements found to be due, including interest at
38 the rate of interest then in effect as prescribed by the superintendent
39 of banks AND FINANCIAL SERVICES pursuant to section fourteen-a of the
40 banking law per annum from the date of the underpayment to the date of
41 the payment.

42 f. If the financial officer of the civil division interested fails to
43 pay to the claimant the amount of the claim as determined by the fiscal
44 officer within ten days after the expiration of the contractor's time to
45 commence a proceeding for review of the fiscal officer's order or, if
46 such a proceeding has been commenced, within ten days after entry and
47 service of a court order confirming the fiscal officer's order, the
48 civil division interested shall pay to the claimant interest on the
49 claim at the rate of interest then in effect as prescribed by the super-
50 intendent of banks AND FINANCIAL SERVICES pursuant to section fourteen-a
51 of the banking law from the date the financial officer was required to
52 pay the claim as provided herein to the date of payment; provided,
53 however, this paragraph shall not apply if the failure of the financial
54 officer of the civil division interested to pay the amount of the claim
55 is pursuant to court order.

1 S 271. Paragraph c of subdivision 5 of section 235 of the labor law,
2 as amended by chapter 547 of the laws of 1998, is amended to read as
3 follows:

4 c. If the order directs the payment to specified employees of wages
5 found to be due and unpaid, including interest at a rate not less than
6 six per centum per year and not more than the rate of interest then in
7 effect as prescribed by the superintendent of banks AND FINANCIAL
8 SERVICES pursuant to section fourteen-a of the banking law per annum
9 from the time such wages should have been paid, the financial officer of
10 such public agency shall, upon the service to him of such order, pay to
11 such employees from the trust money withheld the amounts specified in
12 such order and shall pay the civil penalty as provided herein, provided
13 no review proceeding pursuant to the provisions of article seventy-eight
14 of the civil practice law and rules is commenced within thirty days of
15 the date said order was filed in the office of the fiscal officer. If
16 such review is timely commenced, the money withheld shall remain in
17 trust pending final disposition of the review proceeding. In determining
18 the rate of interest to be imposed the fiscal officer shall consider the
19 size of the employer's business, the good faith of the employer, the
20 gravity of the violation, the history of previous violations of the
21 employer, successor or substantially-owned affiliated entity or any
22 successor of the contractor or subcontractor, any officer of the
23 contractor or subcontractor who knowingly participated in the violation
24 of this article, and any of the partners if the contractor or subcon-
25 tractor is a partnership or any of the five largest shareholders of the
26 contractor or subcontractor, as determined by the fiscal officer, and
27 the failure to comply with recordkeeping or other non-wage requirements.

28 S 272. Paragraphs (a), (b) and (c) of subdivision 39 of section 100 of
29 the economic development law, as added by chapter 1008 of the laws of
30 1984, are amended to read as follows:

31 (a) To assist the superintendent of banks AND FINANCIAL SERVICES to
32 solicit, evaluate, develop and provide information to banking corpo-
33 rations, principally engaged in doing business within the state, about
34 various methods used by banking corporations to provide financing for
35 businesses engaged in the export of products and services to foreign
36 countries.

37 (b) The commissioner shall evaluate such information as may be avail-
38 able to the department and help identify local regional banking corpo-
39 rations currently serving the state exporters and shall assist the
40 superintendent of banks AND FINANCIAL SERVICES in determining the status
41 of local and regional banking corporations in export financing so that
42 in cooperation with the banking department, a program shall be developed
43 by which new banking corporations may be brought into the export financ-
44 ing sector and potential and current state exporters may be given a
45 wider choice of available financing sources for medium and small export
46 transactions.

47 (c) The commissioner shall further inform the superintendent of banks
48 AND FINANCIAL SERVICES of any changes which the department projects may
49 occur in the international business community about which the commis-
50 sioner may become aware so that the superintendent of banks AND FINAN-
51 CIAL SERVICES may provide the most timely and accurate information to
52 the state banking community.

53 S 273. Subdivision 8 of section 262 of the economic development law,
54 as added by chapter 615 of the laws of 1987 and such section as renum-
55 bered by chapter 300 of the laws of 1988, is amended to read as follows:

1 8. Implementation. In implementing the program, the department shall
2 promulgate rules and regulations formulated after consultation with the
3 department of environmental conservation, the energy office and the
4 superintendent of banks AND FINANCIAL SERVICES. Such rules and regu-
5 lations may include, but not be limited to, requirements for applica-
6 tions and supporting materials and criteria for the selection of cooper-
7 ating financial institutions.

8 S 274. Subdivisions 1 and 1-a of section 1802 of the public authori-
9 ties law, as amended by chapter 118 of the laws of 1990, are amended to
10 read as follows:

11 1. There is hereby created the "New York job development authority."
12 The authority shall be a body corporate and politic constituting a
13 public benefit corporation. Its members shall consist of the commission-
14 er of economic development, the commissioner of labor, the commissioner
15 of agriculture and markets, and the superintendent of banks AND FINAN-
16 CIAL SERVICES, serving ex officio, and seven members to be appointed by
17 the governor with the advice and consent of the senate. Each member
18 appointed by the governor shall be a citizen of the United States and a
19 resident of the state.

20 1-a. The commissioner of economic development, the commissioner of
21 labor, the commissioner of agriculture and markets, and the superinten-
22 dent of banks AND FINANCIAL SERVICES each may designate a person from
23 his department to represent him at all meetings of the authority from
24 which such member may be absent. Any representative so designated shall
25 have the power to attend and to vote at any meeting of the authority
26 from which the member so designating him is absent, with the same force
27 and effect as if the member designating him were present and voting.
28 Such designation shall be by written notice to the chairman by the
29 member making the designation. Such designation shall not limit the
30 power of the member making the designation to attend and vote in person
31 at any meeting of the authority.

32 S 275. Paragraph c of subdivision 2 of section 10 of the general
33 municipal law, as amended by chapter 623 of the laws of 1998, is amended
34 to read as follows:

35 c. The governing board of a local government, in which a banking
36 development district has been designated by the superintendent of banks
37 AND FINANCIAL SERVICES pursuant to section ninety-six-d of the banking
38 law, may designate a bank, trust company or national bank located in
39 such district for the deposit of public funds, the disposition of which
40 is not otherwise provided for by law, received by the chief fiscal offi-
41 cer or other officer authorized by law to make such deposits. Such
42 designation shall be by resolution of the governing board or, in the
43 case of a city, such other body as may be authorized or required by law
44 to designate depositories. Such resolution shall specify the maximum
45 amount which may be kept on deposit at any time with such bank, trust
46 company or national bank located in such district. Subject to an agree-
47 ment between such governing board and such banking institution, public
48 funds deposited in such banking institution may earn a fixed interest
49 rate which is at or below such banking institution's posted two year
50 certificate of deposit rate. In those instances where there is such an
51 agreement, its terms and conditions shall also be specified in the
52 resolution. Any such designation, amount, or agreement provisions may
53 be changed at any time by further resolution.

54 S 276. Subdivision 4 of section 11 of the general municipal law, as
55 amended by chapter 708 of the laws of 1992, is amended to read as
56 follows:

1 4. Notwithstanding any other provision of law, the governing board of
2 a local government may authorize the aforementioned officers to turn
3 over the physical custody and safekeeping of the evidences of the
4 investments made pursuant to this section to (a) any bank or trust
5 company incorporated in this state, or (b) any national bank located in
6 this state, or (c) any private banker duly authorized by the superinten-
7 dent of banks AND FINANCIAL SERVICES of this state to engage in business
8 here. All such private bankers shall, as private bankers, maintain a
9 permanent capital of not less than one million dollars in this state.
10 The said officers may direct such bank, trust company or private banker
11 to register and hold any such evidences of investments in its custody,
12 in the name of its nominee. Such officers may deposit or authorize such
13 bank, trust company or private banker, to deposit, or arrange for the
14 deposit of any such evidences of investments with a federal reserve bank
15 or other book-entry transfer system operated by a federally regulated
16 entity to be credited to an account as to which the ownership of, and
17 other interests in, such evidences of investments may be transferred by
18 entries on the books of such federal reserve bank or other book-entry
19 transfer system operated by a federally regulated entity without phys-
20 ical delivery of any such evidences of investments. The records of any
21 such bank, trust company or private banker shall show, at all times, the
22 ownership of such evidences of investments, and they shall, when held in
23 the possession of such bank, trust company or private banker be, at all
24 times, kept separate from the assets of such bank, trust company or
25 private banker. All evidences of investments delivered to a bank, trust
26 company, or private banker pursuant to this subdivision shall be held by
27 such bank, trust company or private banker pursuant to a written custo-
28 dial agreement as set forth in paragraph a of subdivision three of
29 section ten of this article. When any such evidences of investments are
30 so registered in the name of a nominee, such bank, trust company or
31 private banker shall be absolutely liable for any loss occasioned by the
32 acts of such nominee with respect to such evidences of investments.

33 S 277. Subdivision 18 of section 305 of the education law, as added by
34 chapter 1008 of the laws of 1984, is amended to read as follows:

35 18. The commissioner shall cooperate with the superintendent of banks
36 AND FINANCIAL SERVICES and the commissioner of commerce in the creation
37 of educational programs to be offered in conjunction with and in support
38 of the export finance awareness program of the department of banks and
39 the department of commerce. Such assistance may include, but shall not
40 be limited to, the development of specific training programs, identifi-
41 cation of potential training needs, provision of facilities for training
42 and the identification of potential trainees. Further activity by the
43 commissioner shall require that a designee of the commissioner attend
44 each and every export awareness advisory board meeting, formally report
45 to the commissioner, and have the commissioner contact the superinten-
46 dent of banks AND FINANCIAL SERVICES and the commissioner of commerce so
47 that the superintendent of banks AND FINANCIAL SERVICES may coordinate
48 the activities of each of these components in the area of training.

49 S 278. Section 658 of the education law, as added by chapter 942 of
50 the laws of 1974, is amended to read as follows:

51 S 658. Supervision by the superintendent of banks AND FINANCIAL
52 SERVICES. The corporation in its administration of student loan
53 programs shall be subject to the supervision and examination of the
54 superintendent of banks AND FINANCIAL SERVICES, but shall not be deemed
55 to be a banking organization nor required to pay a fee for any such
56 supervision or examination.

1 S 279. Subdivision 7 of section 695-d of the education law, as added
2 by chapter 546 of the laws of 1997, is amended to read as follows:

3 7. During the term of any contract with a program manager, the comp-
4 troller shall conduct an examination of such manager and its handling of
5 accounts. Such examination shall be conducted at least biennially if
6 such manager is not otherwise subject to periodic examination by the
7 superintendent of banks AND FINANCIAL SERVICES, the federal deposit
8 insurance corporation or other similar entity.

9 S 280. Subdivision 1 of section 178-a of the retirement and social
10 security law, as amended by chapter 674 of the laws of 1992, is amended
11 to read as follows:

12 1. Notwithstanding any other provision of law, including the
13 provisions of the administrative code of the city of New York and the
14 education law, the public officer or officers designated by law as the
15 custodian of a fund are authorized, in accordance with the provisions of
16 this section, to turn over the physical custody and safekeeping of any
17 stock or other securities, in registered or bearer form, owned by such
18 fund to (a) any state bank or trust company located in this state, or
19 (b) any national bank located in this state, or (c) any private banker
20 duly authorized by the superintendent of banks AND FINANCIAL SERVICES of
21 this state to engage in business here. All such private bankers shall,
22 as private bankers, maintain a permanent capital of not less than one
23 million dollars in this state. Transfers of stocks or securities must
24 receive the prior consent of the trustees of such fund, under such terms
25 and conditions as they may specify. The custodian of such fund may
26 direct such bank, trust company or private banker to register and hold
27 any such stock or securities in its custody, in the name of its nominee.
28 The custodian of such fund may also authorize such bank, trust company
29 or private banker to deposit, or arrange for the deposit, of such stock
30 or securities in a clearing corporation (as defined in article eight of
31 the uniform commercial code). In addition, the custodian of such fund
32 may deposit, or authorize such bank, trust company or private banker, to
33 deposit, or arrange for the deposit of any of such securities the prin-
34 cipal and interest of which the United States, or any department, agency
35 or instrumentality thereof has agreed to pay, or has guaranteed payment,
36 with a federal reserve bank to be credited to an account as to which the
37 ownership of, and other interests in, such securities may be transferred
38 by entries on the books of such federal reserve bank without physical
39 delivery of any securities. The records of such bank, trust company or
40 private banker shall show, at all times, the ownership of such stock and
41 securities, and they shall, when held in the possession of such bank,
42 trust company or private banker be, at all times, kept separate from the
43 assets of such bank, trust company or private banker. When any such
44 stock or securities are so registered in the name of a nominee, such
45 bank, trust company or private banker shall be absolutely liable for any
46 loss occasioned by the acts of such nominee with respect to such stock
47 or securities.

48 S 281. Subparagraphs 9 and 10 of paragraph (b) of section 11-1.1 of
49 the estates, powers and trusts law, as amended by chapter 501 of the
50 laws of 1970, are amended to read as follows:

51 (9) To employ any bank or trust company incorporated in this state,
52 any national bank located in this state or any private banker duly
53 authorized by the superintendent of banks AND FINANCIAL SERVICES of this
54 state to engage in business here (who, as private banker, maintains a
55 permanent capital of not less than one million dollars) as custodian of
56 any stock or other securities held as a fiduciary, and the cost thereof,

1 except in the case of a corporate fiduciary, shall be a charge upon the
2 estate or trust. The records of such bank, trust company or private
3 banker shall at all times show the ownership of such stock or other
4 securities. Such stock or other securities shall at all times be kept
5 separate from the assets of such bank, trust company or private banker
6 and may be kept by such bank, trust company or private banker

7 (A) in a manner such that all certificates representing the securities
8 from time to time constituting the assets of a particular estate, trust
9 or other fiduciary account are held separate from those of all other
10 estates, trusts or accounts; or

11 (B) in a manner such that, without certification as to ownership
12 attached, certificates representing securities of the same class of the
13 same issuer and from time to time constituting assets of particular
14 estates, trusts or other fiduciary accounts are held in bulk, including,
15 to the extent feasible, the merging of certificates of small denomi-
16 nation into one or more certificates of large denomination, provided
17 that a bank, trust company or private banker, when operating under the
18 method of safekeeping security certificates described in this subpara-
19 graph (B), shall be subject to such rules and regulations as, in the
20 case of state chartered institutions, the state banking AND FINANCIAL
21 SERVICES board and, in the case of national banking associations, the
22 comptroller of the currency may from time to time issue. Such bank,
23 trust company or private banker shall, on demand by the fiduciary,
24 certify in writing the securities held by it for such estate, trust or
25 fiduciary account.

26 (10) To cause any stock or other securities (hereinafter referred to
27 as "securities") held by any bank or trust company, when acting as fidu-
28 ciary, whether alone or jointly with an individual, with the consent of
29 the individual fiduciary, if any (who is hereby authorized to give such
30 consent), to be registered and held in the name of a nominee of such
31 bank or trust company without disclosure of the fiduciary relationship;
32 and, in the case of an individual acting as fiduciary, to direct any
33 bank or trust company incorporated under the laws of this state, any
34 national bank located in this state or any private banker duly author-
35 ized by the superintendent of banks AND FINANCIAL SERVICES of this state
36 to engage in business here (who, as private banker, maintains a perma-
37 nent capital of not less than one million dollars) to register and hold
38 any securities deposited with such bank, trust company or private banker
39 (hereinafter referred to as "bank") in the name of a nominee of such
40 bank. The bank shall not redeliver such securities to the individual
41 fiduciary, who authorized their registration in the name of a nominee of
42 the bank, without first registering the securities in the name of the
43 individual fiduciary, as such. But, any sale of such securities by the
44 bank at the direction of the individual fiduciary shall not be treated
45 as a redelivery. The bank may make any disposition of such securities
46 which is authorized or directed by an order or decree of the court
47 having jurisdiction of the estate or trust. Any such bank shall be abso-
48 lutely liable for any loss occasioned by the acts of its nominee with
49 respect to the securities so registered. The records of the bank shall
50 at all times show the ownership of any such securities and of those held
51 in bearer form. Such securities and those held in bearer form shall at
52 all times be kept separate from the assets of the bank and may be kept
53 by such bank

54 (A) in a manner such that all certificates representing the securities
55 from time to time constituting the assets of a particular estate, trust

1 or other fiduciary account are held separate from those of all other
2 estates, trusts or accounts; or

3 (B) in a manner such that, without certification as to ownership
4 attached, certificates representing securities of the same class of the
5 same issuer and from time to time constituting assets of particular
6 estates, trusts or other fiduciary accounts are held in bulk, including,
7 to the extent feasible, the merging of certificates of small denomi-
8 nation into one or more certificates of large denomination, provided
9 that a bank, when operating under the method of safekeeping security
10 certificates described in this subparagraph (B), shall be subject to
11 such rules and regulations as, in the case of state chartered insti-
12 tutions, the state banking AND FINANCIAL SERVICES board and, in the case
13 of national banking associations, the comptroller of the currency may
14 from time to time issue. Such bank or trust company shall, on demand by
15 any party to an accounting by such bank or trust company as fiduciary or
16 on demand by the attorney for such party, certify in writing the securi-
17 ties held by such bank or trust company as such fiduciary.

18 S 282. Paragraph (a) and subparagraph (B) of paragraph (c) of section
19 11-1.6 of the estates, powers and trusts law, such section as renumbered
20 by chapter 686 of the laws of 1967 and paragraph (c) as amended by chap-
21 ter 501 of the laws of 1970, are amended to read as follows:

22 (a) Every fiduciary shall keep property received as fiduciary separate
23 from his OR HER individual property. He OR SHE shall not invest or
24 deposit such property with any corporation or other person doing busi-
25 ness under the banking law, or with any other person or institution, in
26 his OR HER own name, but all transactions by him OR HER affecting such
27 property shall be in his name as fiduciary; provided, however, that any
28 bank or trust company, when acting as fiduciary, whether alone or joint-
29 ly with an individual, may with the consent of the individual fiduciary,
30 if any (who is hereby authorized to give such consent), register and
31 hold stock or other securities (referred to in this section as "securi-
32 ties") in the name of the nominee of such bank or trust company; and
33 provided, further, that any individual acting as fiduciary is authorized
34 to direct any bank or trust company incorporated under the laws of this
35 state, any national bank located in this state or any private banker
36 duly authorized by the superintendent of banks AND FINANCIAL SERVICES of
37 this state to engage in business here (who, as private banker, maintains
38 a permanent capital of not less than one million dollars) to register
39 and hold any securities in the name of a nominee of such bank, trust
40 company or private banker (referred to in this section as "bank"). Such
41 bank shall not redeliver such securities to the individual fiduciary,
42 who authorized their registration in the name of a nominee of the bank,
43 without first registering the securities in the name of the individual
44 fiduciary, as such. But, any sale of such securities by the bank at the
45 direction of the individual fiduciary shall not be treated as a redeliv-
46 ery. The bank may make any disposition of such securities which is
47 authorized or directed by an order or decree of the court having juris-
48 diction of the estate or trust.

49 (B) in a manner such that, without certification as to ownership
50 attached, certificates representing securities of the same class of the
51 same issuer and from time to time constituting assets of particular
52 estates, trusts or other fiduciary accounts are held in bulk, including,
53 to the extent feasible, the merging of certificates of small denomi-
54 nation into one or more certificates of large denomination, provided
55 that a bank, when operating under the method of safekeeping security
56 certificates described in this subparagraph (B), shall be subject to

1 such rules and regulations as, in the case of state chartered insti-
2 tutions, the state banking AND FINANCIAL SERVICES board and, in the case
3 of national banking associations, the comptroller of the currency may
4 from time to time issue. Such banks shall, on demand by the fiduciary,
5 certify in writing the securities held for such fiduciary.

6 S 283. Paragraph (a) of section 11-1.8 of the estates, powers and
7 trusts law, as amended by chapter 498 of the laws of 1980, is amended to
8 read as follows:

9 (a) Notwithstanding any other provision of law, any bank or trust
10 company, when acting as fiduciary and any bank, trust company or private
11 banker, when holding securities as custodian for a fiduciary pursuant to
12 S 11-1.1(b) (9), is authorized to deposit, or arrange through a
13 subcustodian or otherwise for the deposit, with the federal reserve bank
14 in its district of any securities the principal and interest of which
15 the United States or any department, agency or instrumentality thereof
16 has agreed to pay, or has guaranteed payment, to be credited to one or
17 more accounts on the books of said federal reserve bank in the name of
18 such bank, trust company or private banker, to be designated fiduciary
19 or safekeeping accounts, to which account other similar securities may
20 be credited. A bank, trust company or private banker so depositing secu-
21 rities with a federal reserve bank shall be subject to such rules and
22 regulations with respect to the making and maintenance of such deposit
23 as, in the case of state chartered institutions, the state banking AND
24 FINANCIAL SERVICES board, and, in the case of national banking associ-
25 ations, the comptroller of the currency, may from time to time issue.
26 The records of such bank, trust company or private banker shall at all
27 times show the ownership of the securities held in such account. Owner-
28 ship of, and other interests in, the securities credited to such account
29 may be transferred by entries on the books of said federal reserve bank
30 without physical delivery of any securities. A bank, trust company or
31 private banker acting as custodian for a fiduciary shall, on demand by
32 the fiduciary, certify in writing to the fiduciary the securities so
33 deposited by such bank, trust company or private banker with such feder-
34 al reserve bank for the account of such fiduciary. A fiduciary shall, on
35 demand by any party to its accounting or on demand by the attorney for
36 such party, certify in writing to such party the securities deposited by
37 such fiduciary with such federal reserve bank for its account as such
38 fiduciary.

39 S 284. Paragraph (a) of section 11-1.9 of the estates, powers and
40 trusts law, as amended by chapter 498 of the laws of 1980, is amended to
41 read as follows:

42 (a) Notwithstanding any other provision of law, any fiduciary (as
43 defined in section 1-2.7) holding securities in its fiduciary capacity,
44 any bank, trust company or private banker holding securities as a custo-
45 dian or managing agent, and any bank, trust company or private banker
46 holding securities as custodian for a fiduciary pursuant to section
47 11-1.1 (b)(9), is authorized to deposit or arrange through a subcusto-
48 dian or otherwise for the deposit of such securities in a clearing
49 corporation (as defined in article eight of the Uniform Commercial
50 Code). When such securities are so deposited, certificates representing
51 securities of the same class of the same issuer may be merged and held
52 in bulk in the name of the nominee of such clearing corporation with any
53 other such securities deposited in such clearing corporation by any
54 person regardless of the ownership of such securities, and certificates
55 of small denomination may be merged into one or more certificates of
56 larger denomination. The records of such fiduciary and the records of

1 such bank, trust company or private banker acting as custodian, as
2 managing agent or as custodian for a fiduciary shall at all times show
3 the name of the party for whose account the securities are so deposited.
4 Ownership of, and other interests in, such securities may be transferred
5 by bookkeeping entry on the books of such clearing corporation without
6 physical delivery of certificates representing such securities. A bank,
7 trust company or private banker so depositing securities pursuant to
8 this section shall be subject to such rules and regulations as, in the
9 case of state chartered institutions, the state banking AND FINANCIAL
10 SERVICES board and, in the case of national banking associations, the
11 comptroller of the currency may from time to time issue. A bank, trust
12 company or private banker acting as custodian for a fiduciary shall, on
13 demand by the fiduciary, certify in writing to the fiduciary the securi-
14 ties so deposited by such bank, trust company or private banker in such
15 clearing corporation for the account of such fiduciary. A fiduciary
16 shall, on demand by any party to a judicial proceeding for the settle-
17 ment of such fiduciary's account or on demand by the attorney for such
18 party, certify in writing to such party the securities deposited by such
19 fiduciary in such clearing corporation for its account as such fiduci-
20 ary.

21 S 285. Subdivision 7 of section 130 of the general business law, as
22 amended by chapter 950 of the laws of 1990, is amended to read as
23 follows:

24 7. Subdivision one of this section shall not apply to a person who, or
25 a partnership which, has duly filed a certificate of continued use of
26 firm name under article seven of the partnership law, or to a private
27 banker duly authorized by the superintendent of banks AND FINANCIAL
28 SERVICES to engage in business pursuant to the provisions of the banking
29 law or to a partnership of attorneys and counsellors-at-law engaged in
30 the practice of their profession, and subdivision three of this section
31 shall not apply to such a person or partnership who has filed a certif-
32 icate of discontinuance under subdivision ten of this section.

33 S 286. Paragraph (g) of subdivision 1 of section 359-f of the general
34 business law, as amended by chapter 980 of the laws of 1946, is amended
35 to read as follows:

36 (g) Any security which under the laws of this state is a legal invest-
37 ment for savings banks or trust funds, and any securities which are
38 underwritten or sold by any corporation under the supervision of the
39 superintendent of banks AND FINANCIAL SERVICES of the state of New York.

40 S 287. Subdivision 2 of section 396-a of the general business law, as
41 amended by chapter 310 of the laws of 1962, is amended to read as
42 follows:

43 2. Whenever the superintendent of banks AND FINANCIAL SERVICES shall
44 report a violation of this section to the attorney-general or the attor-
45 ney-general shall believe from evidence satisfactory to him that a
46 violation of this section has occurred, the attorney-general may bring
47 an action in the name of the superintendent or in behalf of the people
48 of the state, as the case may be, to enjoin further violation. In the
49 action preliminary relief may be granted as under article sixty-three of
50 the civil practice law and rules.

51 S 288. Subdivision 6 of section 684 of the general business law, as
52 added by chapter 730 of the laws of 1980, is amended to read as follows:

53 6. This article shall not be applicable to any transaction relating to
54 a bank credit card plan. "Bank credit card plan" means a credit card
55 plan in which the issuers of credit cards are only: banks regulated by
56 or under the supervision of the Federal Reserve Board; the Federal

1 Deposit Insurance Corporation; the Controller of the Currency of the
2 United States; or the Superintendent of Banks AND FINANCIAL SERVICES of
3 this state; or persons controlling such banks, provided that the assets
4 of such a bank or banks represent a majority of the assets on a consol-
5 idated basis of any holding company system of which such card issuers
6 may be a party; or, persons controlled by such banks.

7 S 289. Subsections (a) and (c) of section 4402 of the insurance law
8 are amended to read as follows:

9 (a) "Employee welfare fund" or "fund" means any trust fund or other
10 fund established or maintained jointly by one or more employers together
11 with one or more labor organizations, whether directly or through trus-
12 tees, to provide employee benefits by the purchase of insurance or annu-
13 ity contracts or otherwise, and to which is paid or contracted to be
14 paid anything, other than income from investments of such fund for the
15 benefit of employees employed in this state, and, if the principal
16 office of the employer is located outside of the state, for at least
17 twenty such employees; provided, however, that such term shall not
18 include any such fund where its over-all management is vested, alone or
19 jointly with other trustees, in a corporate trustee which is subject to
20 supervision by the superintendent of banks AND FINANCIAL SERVICES of any
21 state or is a member of the federal reserve system.

22 (c) "Trustee" means the person or group of persons who or which is
23 charged with or has the general power of administration over an employee
24 welfare fund and may include a pension board or committee, a board of
25 individual trustees, a board of administration or the like; provided,
26 however, such term shall not include a corporate trustee which is
27 subject to supervision by the superintendent of banks AND FINANCIAL
28 SERVICES of any state or is a member of the federal reserve system; nor
29 shall such term include any insurer licensed under the laws of this
30 state or authorized to do business herein.

31 S 290. Subsection (b) of section 4403 of the insurance law is amended
32 to read as follows:

33 (b) If it is found that the conditions which originally required
34 registration with the superintendent have ceased to exist and that new
35 conditions exist which would not require the registration of an employee
36 welfare fund with either the superintendent of banks AND FINANCIAL
37 SERVICES or the superintendent of insurance, then the superintendent of
38 insurance may, on application of the trustees or on his OR HER own
39 motion, cancel the registration of such fund.

40 S 291. Subsection (a) of section 7316 of the insurance law, as added
41 by chapter 540 of the laws of 1998, is amended to read as follows:

42 (a) (1) Upon compliance with the requirements of this section, the
43 life insurance business conducted by all savings and insurance banks as
44 defined in [article six-A] ARTICLES SIX AND SIX-B of the banking law may
45 be converted into and transferred to a corporation formed as set forth
46 in subsection (b) of this section and licensed as a mutual life insur-
47 ance company to do the kinds of insurance business specified in para-
48 graphs one, two and three of subsection (a) of section one thousand one
49 hundred thirteen of this chapter. Such conversion and transfer shall be
50 effected pursuant to a plan approved by the superintendent and the
51 superintendent of banks AND FINANCIAL SERVICES. Such plan shall be
52 submitted by the trustees of savings banks life insurance fund to the
53 superintendent and the superintendent of [banking] BANKS AND FINANCIAL
54 SERVICES in writing and shall set forth in full the terms and conditions
55 thereof.

1 (2) Prior to the submission thereof to the superintendent and the
2 superintendent of banks AND FINANCIAL SERVICES, such plan shall be
3 approved by the vote of at least three-fourths of the trustees of
4 savings banks life insurance fund and then by the vote of at least
5 three-fourths of all the savings and insurance banks at a meeting of all
6 such banks called for the purpose of submitting such plan to such banks
7 for approval. Written notice of such meeting shall be given to each such
8 bank by first class mail addressed to the chairman or president of the
9 bank at the bank's principal office not less than thirty days prior to
10 the date of such meeting. Such notice shall state the purpose for which
11 the meeting is called and shall be accompanied by a true and complete
12 copy of such plan. At such meeting the vote of each such bank shall be
13 cast by the chairman or president thereof or by an officer thereof
14 designated by the chairman or president in a writing addressed to and
15 received by the secretary of savings banks life insurance fund prior to
16 the date of such meeting. The results of the vote and the minutes of the
17 meeting shall be submitted to the superintendent and the superintendent
18 of banks AND FINANCIAL SERVICES.

19 (3) The superintendent and the superintendent of banks AND FINANCIAL
20 SERVICES each may approve the plan if he finds that it conforms to the
21 requirements of law and is fair and equitable to the holders of insur-
22 ance policies issued by the life insurance departments of the savings
23 and insurance banks. The plan submitted shall include a filing in
24 accordance with section thirteen hundred twenty-two of this chapter
25 which shows that the proposed mutual insurer's risk based capital level
26 is in excess of the company action level and there is no company action
27 level event. Upon the approval by the superintendent and the superinten-
28 dent of banks AND FINANCIAL SERVICES of the plan, the trustees of
29 savings banks life insurance fund shall form a corporation as set forth
30 in subsection (b) of this section to which the life insurance business
31 conducted by all the savings and insurance banks shall be transferred.

32 S 292. Subdivision (f) of section 204 of the limited liability company
33 law is amended to read as follows:

34 (f) shall not contain the following words, or any abbreviation or
35 derivative thereof:

36 acceptance	guaranty
37 annuity	indemnity
38 assurance	insurance
39 attorney	investment
40 bank	lawyer
41 benefit	loan
42 bond	mortgage
43 casualty	savings
44 doctor	surety
45 endowment	title
46 fidelity	trust
47 finance	underwriter

48 unless the approval of the superintendent of banks AND FINANCIAL
49 SERVICES or the superintendent of insurance, as appropriate, is attached
50 to the articles of organization or unless the word "doctor" or "lawyer"
51 or an abbreviation or derivative thereof is used in a context that
52 clearly denotes a purpose other than the practice of law or medicine;

53 S 293. Clause (B) of subparagraph (5) of paragraph (a) of section 301
54 of the not-for-profit corporation law, as amended by chapter 9 of the
55 laws of 1983, is amended to read as follows:

1 (B) Shall not contain any of the following words, or any abbreviation
2 or derivative thereof:

3 acceptance	fidelity	mortgage
4 annuity	finance	savings
5 assurance	guaranty	surety
6 bank	indemnity	title
7 bond	insurance	trust
8 casualty	investment	underwriter
9 doctor	lawyer	
10 endowment	loan	

11 unless the approval of the superintendent of banks AND FINANCIAL
12 SERVICES or the superintendent of insurance, as appropriate, is attached
13 to the certificate of incorporation, or application for authority or
14 amendment thereof; or that the word "doctor", "lawyer", or the phrase
15 "state police" or "state trooper" or an abbreviation or derivation ther-
16 eof, may be used in the name of a corporation the membership of which is
17 composed exclusively of doctors, lawyers, state policemen or state
18 troopers, respectively.

19 S 294. Paragraph (k) of section 404 of the not-for-profit corporation
20 law, as amended by chapter 139 and as relettered by chapter 431 of the
21 laws of 1993, is amended to read as follows:

22 (k) Every certificate of incorporation for a corporation which has as
23 its exclusive purpose the promotion of the interests of savings bank
24 life insurance or the promotion of the interests of member banks may, if
25 the approval of the superintendent of banks AND FINANCIAL SERVICES is
26 endorsed thereon or annexed thereto, use as a part of the corporate name
27 any of the words or phrases, or any abbreviation or derivative thereof,
28 set forth in subparagraph (5) of paragraph (a) of section 301 (Corporate
29 name; general).

30 S 295. Subparagraph (B) of paragraph (3) of subdivision (a) of section
31 121-102 of the partnership law, as added by chapter 950 of the laws of
32 1990, is amended to read as follows:

33 (B) may not contain the following words, or any abbreviation or deriv-
34 ative thereof:

35 acceptance	indemnity
36 annuity	insurance
37 assurance	investment
38 bank	lawyer
39 benefit	loan
40 bond	mortgage
41 casualty	savings
42 doctor	surety
43 endowment	title
44 fidelity	trust
45 finance	underwriter
46 guaranty	

47 unless the approval of the superintendent of banks AND FINANCIAL
48 SERVICES or the superintendent of insurance, as appropriate, is attached
49 to the certificate of limited partnership; or unless the word "doctor"
50 or "lawyer" or an abbreviation or derivative thereof is used in a
51 context which clearly denotes a purpose other than the practice of law
52 or medicine.

53 S 296. Section 4-a of the banking law, as added by chapter 665 of the
54 laws of 1975, is amended to read as follows:

1 S 4-a. Banks to display signs. Every banking organization having as
2 its purpose or among its purposes the receipt of deposits, shall contin-
3 uously display a sign, or signs, as prescribed by the superintendent of
4 banks AND FINANCIAL SERVICES, at each station or window within the state
5 where deposits are usually and normally received in its principal place
6 of business and in all its branches indicating whether deposits are
7 insured, and if insured the name of the insurer and the extent to which
8 each depositor is insured. Signs in non-insured banking organizations
9 shall clearly and legibly state "DEPOSITS NOT INSURED", all in letters
10 of the same size and character. No sign shall appear in any non-insured
11 bank with regard to insurance or deposits except as herein prescribed.

12 S 297. Section 4-b of the banking law, as added by chapter 665 of the
13 laws of 1975, is amended to read as follows:

14 S 4-b. Advertising. Every such non-insured banking organization shall
15 include in all its advertising within the state with reference to depos-
16 it accounts the statement substantially as follows: "DEPOSITS NOT
17 INSURED". Where such advertising is printed the statement shall be of
18 such size and print to be clearly legible, all letters in such statement
19 being of the same size and character. No further reference shall be
20 contained in the advertising of non-insured banking organizations with
21 reference to the insurance of depositors which shall tend to be mislead-
22 ing in connection therewith. The non-English equivalent of the insurance
23 statement may be used in any advertisement provided that the entire
24 advertisement is in such language and that the translation has had the
25 prior approval of the superintendent of banks AND FINANCIAL SERVICES.

26 S 298. Section 202-f of the banking law, as amended by chapter 496 of
27 the laws of 1993, is amended to read as follows:

28 S 202-f. Restrictions on loans, purchases of securities and total
29 liabilities of any one person to New York branch or agency of foreign
30 bank. Before opening a branch or agency in this state, and annually
31 thereafter so long as a branch or agency is maintained in this state, a
32 foreign banking corporation, licensed pursuant to article two of this
33 chapter, shall certify to the superintendent the amount of its paid-in
34 capital stock, its surplus fund and its undivided profits, each
35 expressed in the currency of the country of its incorporation, the
36 dollar equivalent of which amount, as determined by the superintendent,
37 shall be deemed to be the amount of its capital stock, surplus fund and
38 undivided profits. Loans, purchases and discounts of notes, bills of
39 exchange, bonds, debentures and other obligations, and extensions of
40 credit and acceptances by a branch or agency of a foreign banking corpo-
41 ration within this state shall be subject to the same limitations as to
42 amount in relation to capital stock, surplus fund, and undivided profits
43 as are applicable to banks and trust companies pursuant to article three
44 of this chapter, provided, however, that with the prior approval of the
45 superintendent of banks AND FINANCIAL SERVICES, the capital notes and
46 capital debentures of such foreign banking corporation may be treated as
47 capital stock in computing such limitations.

48 S 299. Section 206 of the banking law, as amended by chapter 154 of
49 the laws of 2007, is amended to read as follows:

50 S 206. Termination of existence. When a foreign banking corporation
51 licensed pursuant to article two of this chapter is dissolved or its
52 authority or existence is otherwise terminated or cancelled in the
53 jurisdiction of its incorporation, a certificate of the superintendent
54 of banks AND FINANCIAL SERVICES, or official performing the equivalent
55 function as to records of banking corporations, of the jurisdiction of
56 incorporation of such foreign banking corporation attesting to the

1 occurrence of any such event or a certified copy of an order or decree
2 of a court of such jurisdiction directing the dissolution of such
3 foreign banking corporation, the termination of its existence or the
4 cancellation of its authority shall be delivered to the superintendent.
5 The filing of the certificate, order or decree shall have the same
6 effect as the revocation of its license under section forty of this
7 chapter. The superintendent shall continue as agent of the foreign bank-
8 ing corporation upon whom process against it may be served in any action
9 or special proceeding based upon any liability or obligation incurred by
10 the foreign banking corporation within this state prior to the filing of
11 such certificate, order or decree and he shall promptly cause a copy of
12 such process to be mailed by registered mail, return receipt requested,
13 to such foreign corporation at the post office address on file in his
14 office specified for such purpose. The post office address may be
15 changed in the manner provided in section two hundred of this article.

16 S 300. Subdivision 1 of section 221-a of the banking law, as amended
17 by chapter 281 of the laws of 1992, is amended to read as follows:

18 1. No person, co-partnership, association, corporation or other entity
19 shall establish, maintain or use one or more offices in this state as
20 the representative of one or more foreign banking corporations unless
21 the foreign banking corporation to be represented has first obtained a
22 license from the superintendent of banks AND FINANCIAL SERVICES. Enti-
23 ties lawfully registered pursuant to this article on or before September
24 first, nineteen hundred ninety-two shall be deemed licensed pursuant to
25 this section until September first, nineteen hundred ninety-four,
26 provided however that the superintendent may require the submission of
27 any additional documents or materials relating to the business activ-
28 ities of the registrant as he or she may deem necessary or appropriate.

29 S 301. Subdivision 1 of section 228-f of the banking law, as added by
30 chapter 1 of the laws of 1994, is amended to read as follows:

31 1. The investment companies shall make an annual report of their
32 conditions to the governor, the legislature and the superintendent of
33 banks AND FINANCIAL SERVICES, on or before January first of each year.

34 S 302. Paragraph (a) of subdivision 13 and paragraph (a) of subdivi-
35 sion 14 of section 235 of the banking law, as amended by chapter 645 of
36 the laws of 1950, are amended to read as follows:

37 (a) Such corporation shall have all franchises necessary to operate in
38 territory in which at least seventy-five per centum of its gross income
39 is earned. Such corporation shall file with the superintendent of banks
40 AND FINANCIAL SERVICES and make public in each year a statement and a
41 report giving the income account covering the previous fiscal year and a
42 balance sheet showing in reasonable detail the assets and liabilities at
43 the end of the year.

44 (a) Such corporation shall have been in existence for a period of not
45 less than eight fiscal years and at no time within such period of eight
46 fiscal years next preceding the date of such investment shall said
47 corporation have failed to pay promptly and regularly the matured prin-
48 cipal and interest of all its indebtedness direct, assumed, or guaran-
49 teed, but the period of life of the corporation, together with the peri-
50 od of life of any predecessor corporation or corporations from which a
51 major portion of its property was acquired by consolidation, merger or
52 purchase, shall be considered together in determining the required peri-
53 od; and such corporation shall file with the superintendent of banks AND
54 FINANCIAL SERVICES and make public in each year a statement and a report
55 giving the income account covering the previous fiscal year and a

1 balance sheet showing in reasonable detail the assets and liabilities at
2 the end of the year.

3 S 303. Subdivisions 7 and 8 of section 237 of the banking law, subdivi-
4 vision 7 as amended and subdivision 8 as added by chapter 86 of the laws
5 of 1975, are amended to read as follows:

6 7. Subject to any regulations and restrictions prescribed by the
7 superintendent of banks AND FINANCIAL SERVICES, a savings bank shall
8 have power to act as trustee under a retirement plan established pursu-
9 ant to the provisions of the act of congress entitled "Self-employed
10 Individuals Tax Retirement Act of 1962", and provisions of law contained
11 therein as amended, provided that the provisions of such retirement plan
12 require the funds of such trust to be invested exclusively in deposits
13 in savings banks. In the event that any such retirement plan which, in
14 the judgment of the savings bank, constituted a qualified plan under the
15 provisions of said Self-employed Individuals Tax Retirement Act of 1962,
16 and provisions of law contained therein as amended, and the regulations
17 promulgated thereunder at the time the trust was established and
18 accepted by the savings bank is subsequently determined not to be such a
19 qualified plan or subsequently ceases to be such a qualified plan, in
20 whole or in part, the savings bank may, nevertheless, continue to act as
21 trustee of any deposits theretofore made under such plan and to dispose
22 of the same in accordance with the directions of the depositor and the
23 beneficiaries thereof. No savings bank, in respect to deposits made
24 under this subdivision, shall be bound by any provision of this chapter
25 restricting or limiting the amount of deposits which a savings bank may
26 accept, or be required to segregate such deposits from other deposits of
27 such savings banks, provided, however, that a savings bank shall keep
28 appropriate records showing in proper detail all transactions engaged in
29 under the authority of this subdivision.

30 8. Subject to any regulations and restrictions prescribed by the
31 superintendent of banks AND FINANCIAL SERVICES, a savings bank shall
32 have power to act as trustee of an individual retirement account estab-
33 lished pursuant to the provisions of the act of congress entitled
34 "Employee Retirement Income Security Act of 1974", provided that the
35 provisions of the written governing instrument creating the trust
36 require the funds of such trust to be invested exclusively in deposits
37 in savings banks. In the event that any such individual retirement
38 account, which in the judgment of the savings bank, constituted a quali-
39 fied individual retirement account under the provisions of said Employee
40 Retirement Income Security Act of 1974 and the regulations promulgated
41 thereunder at the time the trust was established and accepted by the
42 savings bank is subsequently determined not to be such a qualified indi-
43 vidual retirement account or subsequently ceases to be such a qualified
44 individual retirement account, in whole or in part, the savings bank
45 may, nevertheless, continue to act as trustee of any deposits thereto-
46 fore made under such individual retirement account and to dispose of the
47 same in accordance with the directions of the depositor and the benefi-
48 ciaries thereof. No savings bank, in respect to deposits made under this
49 subdivision, shall be bound by any provision of this chapter restricting
50 or limiting the amount of deposits which a savings bank may accept, or
51 be required to segregate such deposits from other deposits of such
52 savings banks, provided, however, that a savings bank shall keep appro-
53 priate records showing in proper detail all transactions engaged in
54 under the authority of this subdivision.

1 S 304. Paragraph (b) of subdivision 1 of section 246 of the banking
2 law, as amended by chapter 102 of the laws of 1982, is amended to read
3 as follows:

4 (b) Notwithstanding the provisions of the foregoing paragraph of this
5 section, a vacancy now existing or hereafter occurring in the board of
6 trustees of a savings bank, which savings bank resulted from the merger
7 of two or more savings banks or one or more savings and loan associ-
8 ations and a savings bank, may be filled, even though the remaining
9 number of trustees exceeds twenty, by election thereto of one or more of
10 the three highest ranking officers of the savings bank who are not then
11 trustees, provided (1) that the superintendent of banks AND FINANCIAL
12 SERVICES shall have given his prior written approval that such vacancy
13 be filled, (2) that the election of such officer or officers shall not
14 result in having more than three active officers on the board of trus-
15 tees at any one time, and (3) that the total number of trustees shall in
16 no event exceed the number authorized by the merger agreement.

17 S 305. Subdivision 2 of section 258 of the banking law, as amended by
18 chapter 546 of the laws of 1952, is amended to read as follows:

19 2. Any school in the state of New York may collect from time to time
20 amounts of money from the pupils of such school and any philanthropic
21 agency incorporated for philanthropic purposes, if such agency be so
22 authorized by certificate of the superintendent of banks AND FINANCIAL
23 SERVICES, may collect from time to time amounts of money from the chil-
24 dren or persons under the direction or guidance of, or the promotion of
25 whose welfare is an object of, such philanthropic agency. As to each
26 such school, such money shall be collected by or under the supervision
27 of, the principal or superintendent of such school or by, or under the
28 supervision of, any person designated for that purpose by the board of
29 education or other authority having jurisdiction over such school. As to
30 each such philanthropic agency, such money shall be collected by, or
31 under the supervision of, the superintendent or other designated head of
32 such agency. All money so collected shall, not later than the day
33 following the day of collection, be deposited in some savings bank in
34 the state, be used for the purchase of shares in any savings and loan
35 association organized under this law, or under the laws of the United
36 States, whose principal office is located in the state of New York, or
37 be deposited in any trust company or state or national bank located in
38 the state and having an interest department. All money so collected
39 from any person shall be deposited, or used to purchase shares, in his
40 name; provided, however, that if the principal, superintendent, desig-
41 nated person or agency head by whom, or under whose supervision, such
42 money was collected shall deem the amount of money so collected at any
43 one time to be insufficient for the opening of individual accounts, such
44 money shall be deposited, or used to purchase shares, in the name of
45 such principal, superintendent, designated person or agency head, in
46 trust, to be by him eventually transferred to the credit of the respec-
47 tive persons to whom the same belongs, and pending such transfer, said
48 principal, superintendent, designated person or agency head shall
49 furnish to the depository institution or savings and loan association
50 receiving such money the name, signature, address, age and place of
51 birth of each person from whom such money was collected, and such other
52 data concerning such person as the institution may require. Any deposi-
53 tary institution or savings and loan association authorized to receive
54 any amounts collected by a school or philanthropic agency in accordance
55 with this subdivision, may, on the request of any person authorized by
56 this subdivision to collect such amounts for such school or philanthrop-

1 ic agency, send a collector to such school or philanthropic agency to
2 receive and receipt for same. Any certificate of authorization issued to
3 a philanthropic agency by the superintendent of banks AND FINANCIAL
4 SERVICES in accordance with this subdivision shall specify the period
5 for which such authorization is to be effective and the area in which
6 collections may be made, and may specify any other terms or conditions
7 upon which such authorization is granted. Any such authorization may be
8 terminated by the superintendent of banks AND FINANCIAL SERVICES by
9 written notice served upon the philanthropic agency or mailed to it at
10 its last known address. As used in this subdivision with reference to
11 the placing of amounts with a depository institution or savings and loan
12 association, the words "the day following the day of collection" shall
13 mean the next day, after the day of collection, on which such institu-
14 tion or association is open for business. As used in this subdivision,
15 the words "philanthropic agency" shall be deemed to include, without
16 limitation a corporation, not organized for profit, engaged in promoting
17 the welfare of seamen.

18 S 306. Section 282 of the banking law, as added by chapter 259 of the
19 laws of 1934, is amended to read as follows:

20 S 282. Creation of fund. Any seventy-five or more savings banks organ-
21 ized under the laws of the state of New York whose deposits aggregate
22 not less than fifty per cent of the total deposit liabilities of all the
23 savings banks in the state, may enter into an agreement (hereinafter
24 called the agreement) subject to the approval of the superintendent of
25 banks AND FINANCIAL SERVICES to create a fund (hereinafter called the
26 fund) and from time to time make such contributions to such fund as the
27 said agreement may provide for, for the purpose of insuring deposits
28 and/or otherwise protecting the interests of depositors in the banks
29 (hereinafter referred to as member banks) which become parties to the
30 said agreement. Once this agreement has become effective, if at any
31 subsequent time there should be fewer member banks than the number
32 required to create the fund, the remaining member banks are authorized
33 to continue the fund.

34 S 307. Section 283 of the banking law, as added by chapter 259 of the
35 laws of 1934, is amended to read as follows:

36 S 283. Management of fund. The fund shall be collected, held, adminis-
37 tered and disbursed by a corporate trustee or a board of trustees
38 composed of individuals who are trustees of mutual savings banks, either
39 of which shall be approved by the superintendent of banks AND FINANCIAL
40 SERVICES, which corporate trustee or board of trustees are hereinafter
41 referred to as the trustee. In the event there be a board of individual
42 trustees, a majority of them at any time in office shall constitute a
43 quorum, and the vote of a majority at any meeting, provided a quorum be
44 present, shall be determinative and any action taken pursuant thereto be
45 the action of the trustee.

46 S 308. Section 284 of the banking law, as added by chapter 259 of the
47 laws of 1934, is amended to read as follows:

48 S 284. Agreement; filing and provisions thereof. The agreement when
49 approved by the superintendent of banks AND FINANCIAL SERVICES shall be
50 executed by the savings banks parties thereto and filed in his office.
51 The agreement may be executed in any number of counterparts, all of
52 which taken together shall constitute the original. The agreement shall
53 name the trustee and contain suitable provisions for the removal or
54 resignation of the trustee, or if the trustee named be a board of trus-
55 tees, for the removal or resignation of any or all of them, and for the
56 appointment of a successor trustee or for the filling of vacancies in

1 such board of trustees, whether caused by death, resignation, disquali-
2 fication or removal; it shall also provide the amount of the initial
3 contributions to the fund and the manner of making subsequent calls, and
4 may contain such limitations thereon as the superintendent shall
5 approve, but all such initial contributions to the fund and payments
6 pursuant to further calls shall be made ratably by all the member banks
7 in proportion to their several deposit liabilities, except that the
8 superintendent of banks AND FINANCIAL SERVICES may exempt from any such
9 call in whole or in part any member bank or banks the condition of which
10 makes such exemption in his opinion desirable; it may also provide for
11 the liquidation of the fund pursuant to rules and regulations for that
12 purpose acceptable to the superintendent of banks AND FINANCIAL
13 SERVICES, provided that on any such liquidation the liabilities incurred
14 or assumed by the trustee pursuant to the provisions hereof shall first
15 be paid and the balance, if any, be distributed among the member banks
16 pro rata according to their contributions; and the agreement may simi-
17 larly provide for the change or amendment thereof with the approval of
18 the superintendent of banks AND FINANCIAL SERVICES and with such
19 approval may be amended in such manner as may be provided therein; and
20 the agreement shall also define the powers of the trustee, which may be
21 all or any one or more of the powers hereinafter set forth, together
22 with any additional powers not inconsistent with the powers herein
23 enumerated or with the purposes of the fund, set forth in the agreement.

24 S 309. Subdivisions 2, 5, 6, 8, and 9 of section 285 of the banking
25 law, subdivisions 2, 8 and 9 as added by chapter 259 of the laws of 1934
26 and subdivisions 5 and 6 as amended by chapter 352 of the laws of 1938,
27 are amended to read as follows:

28 2. To buy any assets owned by any member bank at the book value there-
29 of notwithstanding such value may exceed the market value thereof, or
30 such other value as the trustee may elect either with or without an
31 agreement providing for the repurchase of the same at such price or
32 value and at such time and subject to such conditions as may be agreed
33 upon by the trustee in its discretion and to make loans or advances to
34 any member bank upon such terms and conditions as may seem desirable and
35 with such security as the trustee may determine or without security; in
36 any agreement of repurchase or repayment it may be provided that the
37 savings bank receiving such loan or advance or making such sale of
38 assets may not be obligated to repay the same or repurchase such assets
39 until the superintendent of banks AND FINANCIAL SERVICES shall certify
40 that such savings bank is in a safe and sound condition to make such
41 repurchase or repayment.

42 5. To make contributions to the surplus fund of any member bank upon
43 such terms and conditions for the use and the repayment thereof and
44 evidenced in such manner as the superintendent of banks AND FINANCIAL
45 SERVICES may approve, and such savings bank may make such repayment as
46 such agreement may provide notwithstanding any provisions of law; but no
47 such agreement shall require such repayment except if, as and when the
48 surplus and surplus fund of such savings bank shall be not less than
49 five per centum of the amount due its depositors nor shall any such
50 agreement require any payment on account of such contribution in such an
51 amount as to reduce the surplus and surplus fund of such savings bank
52 below five per centum of the amount owed its depositors. The agreement
53 may provide the manner in which the surplus and surplus fund shall be
54 computed for the purpose of this subdivision. Such contributions shall
55 not constitute a liability of such member bank except as herein
56 provided.

1 6. If it shall appear by certificate of the superintendent of banks
2 AND FINANCIAL SERVICES filed in his office, that any member bank to
3 which the trustee with the approval of the superintendent has made any
4 loan or advance, or to the surplus fund of which it has made a contrib-
5 ution, or from which the trustee has purchased any asset at a price in
6 excess of the market value thereof, would but for such loan, advance,
7 contribution or purchase be in such condition that the superintendent
8 might take possession of the business and property of the same pursuant
9 to law, or that any such member bank to which the trustee with the
10 approval of the superintendent has made any loan or advance, or to the
11 surplus fund of which it has made a contribution, or from which the
12 trustee has purchased any asset at a price in excess of the market value
13 thereof, or the deposits in which have been insured by the fund in whole
14 or in part shall have committed such an act or is in such condition that
15 the superintendent might take possession of the business and property of
16 the same pursuant to law, the trustee shall have the right if it so
17 elects, and in such case the superintendent, on such conditions and
18 subject to such rules and regulations as he shall prescribe, shall
19 permit the trustee to take possession and control forthwith of the prop-
20 erty and business of such bank and operate and/or liquidate the same.
21 The trustee may, while carrying on such business, pay to such bank out
22 of the moneys in or available to the fund such sums as the agreement may
23 authorize as the trustee deems necessary for the protection of the
24 bank's depositors.

25 8. The trustee, with the approval of the superintendent of banks AND
26 FINANCIAL SERVICES may at any time after it has taken over the control,
27 possession and operation of any bank under subdivision six [hereof] OF
28 THIS SECTION discontinue the business of such bank and proceed to liqui-
29 date its affairs. The trustee may use the assets in the fund to pay to
30 the depositors of any such savings bank out of moneys in or available to
31 the fund the excess, if any, or such portion thereof as the agreement
32 may provide, of the full amount of their respective deposits over the
33 dividends received therefor on such liquidation.

34 9. To carry out the provisions [aforesaid] OF THIS SECTION, the trus-
35 tee shall have and may exercise all the rights, powers, privileges and
36 franchises of any savings bank taken over by it, and at any time, with
37 the approval of the superintendent of banks AND FINANCIAL SERVICES, to
38 suspend the authority of the trustees of any savings bank and exercise
39 the powers and duties of such trustees, and in addition to the forego-
40 ing, in the event it shall operate and/or liquidate any such savings
41 bank it shall have and may exercise all of the rights and powers which
42 the superintendent of banks AND FINANCIAL SERVICES would have pursuant
43 to law in connection with the operation and/or liquidation of such bank
44 and be subject to the same duties and supervision. The trustee, or any
45 duly authorized agent of the trustee, in connection with the operation
46 and/or liquidation of any such bank may execute, acknowledge and deliver
47 in the name of such bank, and under its seal, or may authorize any offi-
48 cer or officers of any such bank to execute, acknowledge and deliver in
49 the name of such bank and under its seal any instrument affecting or
50 relating to the property, business or affairs of such bank, and in the
51 event any such officer is so authorized by the trustee, such authori-
52 zation shall be deemed the authorization of the board of trustees of
53 such bank and he may swear or affirm the usual certificate of acknowl-
54 edgment to the effect that he executed the same and such seal was
55 affixed by the authority of the board of trustees thereof. Any instru-

1 ment executed in any manner provided herein shall be valid and effectual
2 for all purposes.

3 S 310. The first undesignated paragraph of section 329 of the banking
4 law, as amended by chapter 845 of the laws of 1965, is amended to read
5 as follows:

6 On or before the first day of February in each year, every safe depos-
7 it company shall make a written report to the superintendent of banks
8 AND FINANCIAL SERVICES which shall contain a statement of its condition
9 on the morning of the first day of January in said year. Every such
10 report shall be subscribed and affirmed as true under the penalties of
11 perjury, according to the best of their knowledge and belief, by the two
12 principal officers in charge of the affairs of the safe deposit company
13 at the time of such subscription and shall state that the usual business
14 of the safe deposit company has been transacted at the location required
15 by this article and not elsewhere.

16 S 311. Subdivision 1 of section 366 of the banking law, as amended by
17 chapter 849 of the laws of 1964, is amended to read as follows:

18 1. The term "licensed casher of checks" means any individual, partner-
19 ship, unincorporated association or corporation duly licensed by the
20 superintendent of banks AND FINANCIAL SERVICES to engage in business
21 pursuant to the provisions of this article.

22 S 312. Section 380-a of the banking law, as added by chapter 430 of
23 the laws of 1965, is amended to read as follows:

24 S 380-a. Power to purchase mortgage, loan or investment. Subject to
25 such regulations and restrictions as the superintendent of banks AND
26 FINANCIAL SERVICES may prescribe therefor, an association may acquire by
27 purchase any mortgage, loan or [invetsment] INVESTMENT which by the
28 provisions of this article it is authorized to make and hold.

29 S 313. Section 382-a of the banking law, as amended by chapter 86 of
30 the laws of 1975, is amended to read as follows:

31 S 382-a. Power to act as trustee under self-employed retirement trust
32 and of individual retirement account; investment in savings account. 1.
33 Subject to any regulations and restrictions prescribed by the super-
34 intendent of banks AND FINANCIAL SERVICES, a savings and loan associ-
35 ation shall have power to act as trustee under a retirement plan estab-
36 lished pursuant to the provisions of the act of congress entitled
37 "Self-employed Individuals Tax Retirement Act of 1962", and provisions
38 of law contained therein as amended, provided that the provisions of
39 such retirement plan require the funds of such trust to be invested
40 exclusively in deposits in savings and loan associations and federal
41 savings and loan associations whose principal offices are located in
42 this state. In the event that any such retirement plan, which in the
43 judgment of the association, constituted a qualified plan under the
44 provisions of said Self-employed Individuals Tax Retirement Act of 1962,
45 and provisions of law contained therein as amended, and the regulations
46 promulgated thereunder at the time the trust was established and
47 accepted by the association is subsequently determined not to be such a
48 qualified plan or subsequently ceases to be such a qualified plan, in
49 whole or in part, the association may, nevertheless, continue to act as
50 trustee of any deposits theretofore made under such plan and to dispose
51 of the same in accordance with the directions of the depositor and the
52 beneficiaries thereof. No association, in respect to deposits made under
53 this subdivision, shall be required to segregate such deposits from
54 other deposits of such association, provided, however, that the associ-
55 ation shall keep appropriate records showing in proper detail all trans-
56 actions engaged in under the authority of this subdivision. As used in

1 this subdivision, the term "deposits" shall include shares issued by the
2 association and time deposits held pursuant to section three hundred
3 seventy-eight-a of this [chapter] ARTICLE.

4 2. Subject to any regulations and restrictions prescribed by the
5 superintendent of banks AND FINANCIAL SERVICES, a savings and loan asso-
6 ciation shall have power to act as trustee of an individual retirement
7 account established pursuant to the provisions of the act of congress
8 entitled "Employee Retirement Income Security Act of 1974" provided that
9 the provisions of the written governing instrument creating the trust
10 require the funds of such trust to be invested exclusively in deposits
11 in savings and loan associations and federal savings and loan associ-
12 ations whose principal offices are located in this state. In the event
13 that any such individual retirement account, which in the judgment of
14 the association, constituted a qualified individual retirement account
15 under the provisions of said Employee Retirement Income Security Act of
16 1974 and the regulations promulgated thereunder at the time the trust
17 was established and accepted by the association is subsequently deter-
18 mined not to be such a qualified individual retirement account or subse-
19 quently ceases to be such a qualified individual retirement account, in
20 whole or in part, the association may, nevertheless, continue to act as
21 trustee of any deposits theretofore made under such individual retire-
22 ment account and to dispose of the same in accordance with the
23 directions of the depositor and the beneficiaries thereof. No associ-
24 ation, in respect to deposits made under this subdivision, shall be
25 required to segregate such deposits from other deposits of such associ-
26 ation, provided, however, that the association shall keep appropriate
27 records showing in proper detail all transactions engaged in under the
28 authority of this subdivision. As used in this subdivision, the term
29 "deposits" shall include shares issued by the association and time
30 deposits held pursuant to section three hundred seventy-eight-a of this
31 [chapter] ARTICLE.

32 S 314. Subdivision 5 of section 390 of the banking law, as amended by
33 chapter 225 of the laws of 1976, is amended to read as follows:

34 5. Subject to any regulations and restrictions prescribed by the
35 superintendent of banks AND FINANCIAL SERVICES, a savings and loan asso-
36 ciation may accept deposits, including demand deposits, without the
37 issuance of a passbook in connection therewith, and may issue such other
38 evidences of its obligation to repay such deposits as may be appropriate
39 to safeguard the interests of the depositors and of the savings and loan
40 association.

41 S 315. Subdivisions 9 and 10 of section 420-a of the banking law, as
42 added by chapter 848 of the laws of 1966, are amended to read as
43 follows:

44 9. The fund shall be subject to an examination by the superintendent
45 of banks AND FINANCIAL SERVICES at least once in each calendar year.

46 10. Within three days, Saturdays, Sundays and holidays excepted, after
47 each meeting of the trustees of the fund, the secretary or other officer
48 of the fund in charge of the minutes of the proceedings of the trustees
49 shall transmit to the superintendent of banks AND FINANCIAL SERVICES at
50 his office in Albany three certified copies of the minutes of every
51 meeting of the trustees for his information.

52 S 316. Paragraph (d) of subdivision 1 of section 495 of the banking
53 law, as added by chapter 481 of the laws of 1959, is amended to read as
54 follows:

55 (d) Any fact or condition exists which, if it had existed at the time
56 of the original application for such license, clearly would have

1 warranted the superintendent of banks AND FINANCIAL SERVICES in refusing
2 to issue such license originally.

3 S 317. Section 498-b of the banking law, as added by chapter 598 of
4 the laws of 1957, is amended to read as follows:

5 S 498-b. Regulations and rulings. The superintendent of banks AND
6 FINANCIAL SERVICES is hereby authorized and empowered to make such
7 general rules and regulations, and such specific rulings, demands and
8 findings as may be necessary for the proper conduct of the business
9 authorized and licensed under and for the enforcement of this article.

10 S 318. Section 513 of the banking law, as amended by chapter 360 of
11 the laws of 1984, is amended to read as follows:

12 S 513. Reports to superintendent. On or before the first day of April
13 in each year, every investment company shall make a written report to
14 the superintendent of banks AND FINANCIAL SERVICES which shall contain a
15 statement of its condition on the morning of the first day of January in
16 said year and shall be in the form and contain the matters prescribed by
17 the superintendent. The superintendent may, however, in his discretion
18 accept from an investment company which has branches in a foreign coun-
19 try or countries, a report containing a statement of its condition as of
20 a date not later than the first day of January and not earlier than the
21 first day of November in the preceding year. Every such report shall be
22 subscribed and affirmed as true under the penalties of perjury, accord-
23 ing to the best of their knowledge and belief, by the two principal
24 officers of the investment company at the time of such subscription, and
25 shall state that the usual business of the investment company has been
26 transacted at the location or locations required by this article and not
27 elsewhere.

28 Every such investment company shall also make such other special
29 reports to the superintendent as he may from time to time require, which
30 shall be in such form and filed at such date as may be prescribed by the
31 superintendent and shall, if required by him, be subscribed and affirmed
32 as true under the penalties of perjury.

33 S 319. Section 550 of the banking law, as amended by chapter 833 of
34 the laws of 1969, is amended to read as follows:

35 S 550. Incorporation; organization certificate. When authorized by the
36 superintendent as provided in article two of this chapter, five or more
37 persons may form a corporation to be known as a mutual trust investment
38 company. Such persons shall subscribe and acknowledge and submit to the
39 superintendent of banks AND FINANCIAL SERVICES at his office an organ-
40 ization certificate in duplicate which shall specifically state:

41 1. The name by which the mutual trust investment company is to be
42 known and the investment purpose of its formation under [the following]
43 section five hundred fifty-one OF THIS ARTICLE.

44 2. The place where its principal office is to be located.

45 3. The amount of its capital stock and the number of shares into which
46 such capital stock shall be divided.

47 4. The full name, residence and post-office address of each of the
48 incorporators and the number of shares subscribed for by each.

49 5. The term of its existence, which may be perpetual.

50 6. The number of its directors, which shall not be less than five and
51 the names and addresses of the persons who shall be its directors until
52 the first annual meeting of stockholders.

53 Such certificate may provide for the manner in which the stock of the
54 corporation may be transferred and for the number of directors necessary
55 to constitute a quorum.

1 When the superintendent shall have endorsed his OR HER approval on the
2 organization certificate as provided in article two of this chapter, the
3 corporate existence shall begin.

4 S 320. Subdivision 9 of section 554 of the banking law, as added by
5 chapter 488 of the laws of 1960, is amended to read as follows:

6 9. "Superintendent" means the superintendent of banks AND FINANCIAL
7 SERVICES.

8 S 321. Section 631 of the banking law, as amended by chapter 684 of
9 the laws of 1938, is amended to read as follows:

10 S 631. Actions against directors, trustees, managers or officers for
11 violation of their official duties. At any time while the superintendent
12 is in possession of the property and business of any corporation, he may
13 within six years after the cause of action has accrued institute and
14 maintain in his name as superintendent of banks AND FINANCIAL SERVICES
15 against its directors, trustees, managers or officers, or any of them,
16 any action or proceeding which is vested in such corporation or in the
17 stockholders or creditors thereof.

18 S 322. The opening paragraph of section 669 of the banking law, as
19 amended by chapter 339 of the laws of 1967, is amended to read as
20 follows:

21 S 669. Unauthorized use of the term "bank" or "trust company." Any
22 person not authorized by the superintendent of banks AND FINANCIAL
23 SERVICES, who:

24 S 323. Subdivision 4 of section 303 of the personal property law, as
25 added by chapter 641 of the laws of 1984, is amended to read as follows:

26 4. As an alternative to the credit service charge provided for above,
27 a retail seller may contract for in a retail [instalment] INSTALLMENT
28 contract and charge, receive and collect a credit service charge calcu-
29 lated on the unpaid balances of an amount computed as provided in the
30 second paragraph of subdivision one above, for the time outstanding
31 according to a generally accepted actuarial method at rates that may
32 vary from time to time and in accordance with the provisions of the
33 contract. On any contract with a variable rate credit service charge
34 made pursuant to this subdivision the rate shall be determined at regu-
35 lar intervals as set forth in the contract and in accordance with such
36 regulations as the banking AND FINANCIAL SERVICES board shall prescribe
37 but said rate shall not vary more often than once in any three month
38 period and shall be based on a published index that is (a) readily
39 available, (b) independently verifiable, (c) beyond the control of the
40 retail seller and (d) approved by the superintendent.

41 The banking AND FINANCIAL SERVICES board shall adopt regulations with
42 respect to retail installment contracts that provide for a variable rate
43 of credit-service charge, including but not limited to: (a) providing
44 for disclosure to the buyer by the retail seller of the circumstances
45 under which the rate may increase, any limitations on the increase, the
46 effect of an increase and an example of the payment terms that would
47 result from an increase; (b) providing for disclosure to the buyer by
48 the retail seller of a history of the fluctuations of the index over a
49 reasonable period of time; and (c) providing for notice to the buyer by
50 the retail seller prior to any rate increase or change in the terms of
51 payment.

52 S 324. Subdivision 4 of section 404 of the personal property law, as
53 added by chapter 641 of the laws of 1984, is amended to read as follows:

54 4. As an alternative to the credit service charge provided for above,
55 a seller may, in a retail [instalment] INSTALLMENT contract or obli-
56 gation, contract for and, if so contracted for, the holder may charge,

1 receive and collect a credit service charge calculated on the unpaid
2 principal balances of the contract for the time each is outstanding,
3 according to a generally accepted actuarial method at rates that may
4 vary from time to time and in accordance with the provisions of the
5 contract or obligation. On any contract or obligation with a variable
6 rate credit service charge made pursuant to this subdivision, each rate
7 shall be determined at regular intervals as set forth in the contract or
8 obligation and in accordance with such regulations as the banking AND
9 FINANCIAL SERVICES board shall prescribe but said rate shall not vary
10 more often than once in any three month period and shall be based on a
11 published index that is (a) readily available, (b) independently verifi-
12 able, (c) beyond the control of the holder, and (d) approved by the
13 superintendent.

14 The banking AND FINANCIAL SERVICES board shall adopt regulations with
15 respect to retail installment contracts or obligations that provide for
16 a variable rate of credit service charge, including but not limited to:
17 (a) providing for disclosure to the buyer by the holder of the circum-
18 stances under which the rate may increase, any limitations on the
19 increase, the effect of an increase and an example of the payment terms
20 that would result from an increase; (b) providing for disclosure to the
21 buyer by the holder of a history of the fluctuations of the index over a
22 reasonable period of time; and (c) providing for notice to the buyer
23 from the holder prior to any rate increase or change in the terms of
24 payment.

25 S 325. Paragraph (a) of subdivision 3 of section 413 of the personal
26 property law, as amended by chapter 1 of the laws of 1994, is amended to
27 read as follows:

28 (a) A seller may, in a retail instalment credit agreement, contract
29 for and, if so contracted for, the seller or holder thereof may charge,
30 receive and collect the service charge authorized by this article, which
31 service charge shall not exceed the rate or rates agreed upon by the
32 seller and the buyer, including, in accordance with the provisions of
33 the credit agreement, rates that may vary, from time to time computed,
34 for the purposes of this section, on the outstanding indebtedness from
35 month to month, or if the service charge so computed is less than seven-
36 ty cents for any month, seventy cents. If the credit agreement provides
37 for a variable rate of service charge, such rate shall be determined at
38 regular intervals as set forth in the credit agreement and in accordance
39 with such regulations as the banking AND FINANCIAL SERVICES board shall
40 prescribe but said rate shall not vary more often than once in any three
41 month period and shall be based on a published index that is (a) readily
42 available, (b) independently verifiable, (c) beyond the control of the
43 seller and (d) approved by the superintendent, (e) such charges in cred-
44 it agreements shall be based on the index values, or the index numbers
45 plus or minus additional percentage points provided, however, that vari-
46 ations in the charge must correspond directly to the movements of the
47 index values plus or minus additional percentage points only. Once such
48 charge is established no lending institution may add any factors to
49 increase the charge other than variations in the established index with-
50 out the prior approval of the banking AND FINANCIAL SERVICES board.

51 The banking AND FINANCIAL SERVICES board shall adopt regulations with
52 respect to credit agreements that provide for a variable rate of service
53 charge, including but not limited to: (a) providing for disclosure to
54 the buyer by the seller of the circumstances under which the rate may
55 increase, any limitations on the increase, the effect of an increase and
56 an example of the payment terms that would result from an increase; (b)

1 providing for disclosure to the buyer by the seller of a history of the
2 fluctuations of the index over a reasonable period of time; and (c)
3 providing for notice to the buyer by the seller prior to any rate
4 increase or change in the terms of payment. The regulations shall allow
5 a seller, holder or financing agency after choosing an approved index to
6 choose a spread and a minimum and maximum rate of service charge at its
7 discretion. A retail instalment credit agreement, whether it provides
8 for a fixed or variable service charge, may provide for an introductory
9 rate of service charge at either a fixed or variable rate, provided that
10 the terms of such introductory rate, including, if applicable, the date
11 on which the introductory rate shall terminate, are disclosed to the
12 buyer. Such disclosure shall be contained on an application form or
13 pre-approved written solicitation as specified pursuant to subdivisions
14 one and one-a of section five hundred twenty of the general business
15 law. A change in the service charge rate upon expiration of an introduc-
16 tory rate shall not be considered a variable rate or a change in terms.
17 The service charge rate in effect after expiration of an introductory
18 rate may apply to all amounts due under the credit agreement regardless
19 of when incurred, and disclosure of the same shall be provided to the
20 buyer in the written agreement.

21 S 326. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of
22 the business corporation law, as amended by chapter 555 of the laws of
23 1993, is amended to read as follows:

24 (B) Shall not contain any of the following words, or any abbreviation
25 or derivative thereof:

26 acceptance	endowment	loan
27 annuity	fidelity	mortgage
28 assurance	finance	savings
29 bank	guaranty	surety
30 benefit	indemnity	title
31 bond	insurance	trust
32 casualty	investment	underwriter
33 doctor	lawyer	

34 unless the approval of the superintendent of banks AND FINANCIAL
35 SERVICES or the superintendent of insurance, as appropriate, is attached
36 to the certificate of incorporation, or application for authority or
37 amendment thereof; or that the word "doctor" or "lawyer" or an abbrevi-
38 ation or derivation thereof is used in the name of a university faculty
39 practice corporation formed pursuant to section fourteen hundred twelve
40 of the not-for-profit corporation law or a professional service corpo-
41 ration formed pursuant to article fifteen of this chapter, or a foreign
42 professional service corporation authorized to do business in this state
43 pursuant to article fifteen-A of this chapter, the members or sharehold-
44 ers of which are composed exclusively of doctors or lawyers, respective-
45 ly, or are used in a context which clearly denotes a purpose other than
46 the practice of law or medicine.

47 S 327. Subparagraphs 5 and 8 of paragraph (b) of section 302 of the
48 business corporation law, subparagraph 8 of paragraph (b) as amended by
49 chapter 619 of the laws of 1976 and as renumbered by chapter 892 of the
50 laws of 1981, are amended to read as follows:

51 (5) Shall not prevent an "investment company" as defined in an act of
52 congress entitled "Investment Company Act of 1940" from including the
53 word "finance" or "bond" as part of its name, if the approval of the
54 superintendent of banks AND FINANCIAL SERVICES is attached to the
55 certificate of incorporation, application for authority, or amendment
56 thereof.

1 (8) Shall not prevent a bank holding company, as long as it is
2 required to be registered under article III-A of the banking law or
3 under the federal Bank Holding Company Act, as each may be amended from
4 time to time, from using the words "bank", "banker" or "trusts" or any
5 abbreviation, derivative or combination thereof as part of its corporate
6 name, if the approval of the superintendent of banks AND FINANCIAL
7 SERVICES is attached to the certificate of incorporation, application
8 for authority, or amendment thereof.

9 S 328. Paragraph (y) of subdivision 6 of section 470.00 of the penal
10 law, as added by chapter 489 of the laws of 2000, is amended to read as
11 follows:

12 (y) any business or agency engaged in any activity which the super-
13 intendent of banks AND FINANCIAL SERVICES or the United States Secretary
14 of the Treasury determines, by regulation, to be an activity which is
15 similar to, related to, or a substitute for activity which any business
16 as described in this subdivision is authorized to engage.

17 S 329. Subdivision 61 of section 2.10 of the criminal procedure law,
18 as added by chapter 321 of the laws of 1992, is amended to read as
19 follows:

20 61. Investigators employed by the criminal investigations bureau when
21 assigned to such bureau by the superintendent of banks AND FINANCIAL
22 SERVICES and acting pursuant to their special duties as set forth in
23 article two-B of the banking law; provided, however, that nothing in
24 this subdivision shall be deemed to authorize such officer to carry,
25 possess, repair or dispose of a firearm unless the appropriate license
26 therefor has been issued pursuant to section 400.00 of the penal law.

27 S 330. Subdivision 2 of section 1107 of the surrogate's court proce-
28 dure act, as amended by chapter 655 of the laws of 1978, is amended to
29 read as follows:

30 2. The public administrators shall deposit to their respective credit
31 all moneys by them severally collected and received within 5 days after
32 receipt in demand, time, thrift or other accounts in one or more banks
33 or trust companies designated by the mayor, comptroller and commissioner
34 of finance for the deposit of moneys of the city of New York or in such
35 accounts in savings banks or savings and loan associations located in
36 their respective counties. All interest received on such deposits shall
37 be credited to the respective estates. In case of the insolvency or
38 involuntary liquidation of the depository all money so deposited shall
39 be entitled to equal priority of payment with that given by law to
40 deposits of money by the state superintendent of banks AND FINANCIAL
41 SERVICES.

42 S 331. Subdivision 1 of section 1208 of the surrogate's court proce-
43 dure act, as amended by chapter 655 of the laws of 1993, is amended to
44 read as follows:

45 1. All moneys collected shall be deposited by the public administrator
46 in a state or national bank, savings bank, savings and loan association
47 or trust company and shall, in case of the insolvency or voluntary or
48 involuntary liquidation of the depository be entitled to equal priority
49 of payment with that given by law to deposits of moneys by the state
50 superintendent of banks AND FINANCIAL SERVICES.

51 S 332. Subparagraph (vi) of paragraph (a) of subdivision 1 of section
52 1310 of the surrogate's court procedure act, as amended by chapter 260
53 of the laws of 1968, is amended to read as follows:

54 (vi) a balance of money due on an accepted claim or account payable,
55 on account of dividends payable by the superintendent of banks AND

1 FINANCIAL SERVICES in liquidation of bank assets, to, or to the estate
2 of, or to a beneficiary designated by, a depositor or
3 S 333. Subdivision (a) of section 209 of the civil practice law and
4 rules is amended to read as follows:

5 (a) Cause of action accruing in foreign country. Where a cause of
6 action, whether originally accrued in favor of a resident or non-resi-
7 dent of the state, accrued in a foreign country with which the United
8 States or any of its allies were then or subsequently at war, or terri-
9 tory then or subsequently occupied by the government of such foreign
10 country, the time which elapsed between the commencement of the war, or
11 of such occupation, and the termination of hostilities with such coun-
12 try, or of such occupation, is not a part of the time within which the
13 action must be commenced. This section shall neither apply to nor in any
14 manner affect an action brought pursuant to section six hundred twenty-
15 five of the banking law against a banking organization or against the
16 superintendent of banks AND FINANCIAL SERVICES.

17 S 334. Subparagraphs (ii) and (iii) of paragraph 3 of subdivision (1)
18 of section 5205 of the civil practice law and rules, as amended by chap-
19 ter 24 of the laws of 2009, are amended to read as follows:

20 (ii) The superintendent of banks AND FINANCIAL SERVICES shall deter-
21 mine the amount of the adjustment based on the change in the Consumer
22 Price Index for All Urban Consumers, New York-Northern New Jersey-Long
23 Island, NY-NJ-CT-PA, published by the U.S. Department of Labor, Bureau
24 of Labor Statistics, for the most recent three-year period ending on
25 December thirty-first preceding the adjustment, with each adjusted
26 amount rounded to the nearest twenty-five dollars.

27 (iii) Beginning on April first, two thousand twelve, and at each
28 three-year interval ending on April first thereafter, the superintendent
29 of banks AND FINANCIAL SERVICES shall publish the current dollar amount
30 of the exemption provided in this section, subdivisions (e) and (h) of
31 section fifty-two hundred twenty-two, subdivision (a) of section fifty-
32 two hundred thirty and subdivision (e) of section fifty-two hundred
33 thirty-two of this [chapter] ARTICLE, together with the date of the next
34 scheduled adjustment. The publication shall be substantially in the form
35 set below:

36 CURRENT DOLLAR AMOUNT OF EXEMPTION FROM ENFORCEMENT OF JUDGMENT UNDER
37 NEW YORK CIVIL PRACTICE LAW AND RULES Sections 5205(l), 5222(e),
38 5222(h), 5230(a), and 5232(e)

39 The following is the current dollar amount of exemption from enforce-
40 ment of money judgments under CPLR sections 5205(l), 5222(e), 5222(h),
41 5230(a), and 5232(e), as required by CPLR section 5205(l)(3):

42 (Amount)

43 This amount is effective on April 1, (year) and shall not apply to
44 cases commenced before April 1, (year). The next adjustment is scheduled
45 for April 1, (year).

46 S 335. Section 7701 of the civil practice law and rules, as amended
47 by chapter 193 of the laws of 1976, is amended to read as follows:

48 S 7701. Special proceeding relating to express trust. A special
49 proceeding may be brought to determine a matter relating to any express
50 trust except a voting trust, a mortgage, a trust for the benefit of
51 creditors, a trust to carry out any plan of reorganization of real prop-
52 erty acquired on foreclosure or otherwise of a mortgage or mortgages
53 against which participation certificates have been issued and guaranteed
54 by a corporation and for which the superintendent of insurance or the
55 superintendent of banks AND FINANCIAL SERVICES has been or may hereafter
56 be appointed rehabilitator or liquidator or conservator, a trust to

1 carry out any plan of reorganization pursuant to sections one hundred
2 nineteen through one hundred twenty-three of the real property law or
3 pursuant to section seventy-seven B of the national bankruptcy act, and
4 trusts for cemetery purposes, as provided for by sections 8-1.5 and
5 8-1.6 of the estates, powers and trusts law.

6 Any party to the proceeding shall have the right to examine the trus-
7 tees, under oath, either before or after filing an answer or objections,
8 as to any matter relating to their administration of the trust, in
9 accordance with the provisions of article thirty-one OF THIS CHAPTER.

10 S 336. This act shall take effect immediately; provided, however:

11 (a) That the amendments to subdivision four of section 2405 of the
12 public authorities law made by section seventeen of this act shall be
13 subject to the expiration and reversion of such subdivision pursuant to
14 section 16 of chapter 915 of the laws of 1982, as amended, when upon
15 such date the provisions of section eighteen of this act shall take
16 effect.

17 (b) That the amendments to subdivision 6 of section 2405-b of the
18 public authorities law made by section nineteen of this act shall not
19 affect the repeal of such section and shall be deemed repealed there-
20 with.

21 (c) That the amendments to subdivision 6 of section 2405-c of the
22 public authorities law made by section twenty-one of this act shall not
23 affect the repeal of such section and shall be deemed repealed there-
24 with.

25 (d) Section forty of this act shall take effect on the same date and
26 in the same manner as subdivision d of section 28 of chapter 472 of the
27 laws of 2008, takes effect.

28 (e) That the amendments to subdivisions 3, 4 and 5 of section 12-a of
29 the banking law made by section forty-nine of this act shall not affect
30 the repeal of such section and shall be deemed repealed therewith.

31 (f) That the amendments to paragraph b of subdivision 19 of section 42
32 of the banking law made by section sixty-eight of this act shall not
33 affect the repeal of such subdivision and shall be deemed repealed ther-
34 ewith.

35 (g) Sections 70, 201, 209 and 211 of this act shall take effect on the
36 same date and in the same manner as subdivision e of section 28 of chap-
37 ter 472 of the laws of 2008, takes effect.

38 (h) That the amendments to subdivision 1 of section 96-d of the bank-
39 ing law made by section seventy-three of this act shall be subject to
40 the expiration and reversion of such subdivision pursuant to section 4
41 of chapter 526 of the laws of 1998, as amended, when upon such date the
42 provisions of section seventy-four of this act shall take effect.

43 (i) That the amendments to paragraph (b) of subdivision 5 of section
44 96-d of the banking law made by section seventy-three of this act shall
45 not affect the repeal of such subdivision and shall be deemed repealed
46 therewith.