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

7446

I N S E N A T E

April 12, 2010

Introduced by Sen. FOLEY -- (at request of the Banking Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law, in relation to bank holding companies, to simplify and streamline the application of the bank holding company provisions and to repeal certain provisions of such law relating thereto

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

Section 1. Section 141 of the banking law, as added by chapter 146 of the laws of 1961, subdivision 1 as amended by chapter 1 of the laws of 1984, subdivision 2 as amended by chapter 119 of the laws of 1973, subdivisions 3, 5 and 6 as amended by chapter 950 of the laws of 1969 and subdivision 8 as added by chapter 417 of the laws of 1982, is amended to read as follows:

S 141. Definitions. 1. "Banking institution," when used in this article, means a bank, a trust company [or a national banking association, the principal office of which institution is located in this state. Unless otherwise provided by any provision of this article, or unless the context requires otherwise, the term "banking institution" shall also mean], a stock-form savings bank or a stock-form savings and loan association[, the principal office of which institution is located in this state].

2. "Company," when used in this article, means any corporation, partnership, trust, unincorporated association, joint stock association or similar organization organized under the laws of the state of New York, or if not so organized, doing business in the state of New York, or any individual residing or doing business in the state of New York, or any combination of individuals which combination is residing or is doing business in the state of New York, any combination of the foregoing which combination is residing or is doing business in the state of New York, or any such individual and any of the foregoing acting in concert, but shall not include (a) any corporation the majority of the stock of which is owned by the United States or by any state UNLESS THE SUPER-

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

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INTENDENT DETERMINES THAT IT WOULD BE IN THE PUBLIC INTEREST TO DEEM SUCH A CORPORATION TO CONSTITUTE A COMPANY, or (b) any corporation or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is the carrying on of propaganda, or otherwise attempting to influence legislation UNLESS THE SUPERINTENDENT DETERMINES THAT IT WOULD BE IN THE PUBLIC INTEREST TO DEEM SUCH A CORPORATION, COMMUNITY CHEST, FUND, OR FOUNDATION TO CONSTITUTE A COMPANY, or (c) any corporation or partnership owning or controlling stock acquired in connection with an underwriting of securities and which is held only for such period of time as will permit the sale thereof upon a reasonable basis.

3. "Bank holding company," when used in this article, means any company which (a) directly or indirectly, or through a subsidiary or subsidiaries, owns, controls, or holds with power to vote (i) [more than] ten per centum OR MORE of the voting stock of a company which is or becomes a bank holding company by virtue of this article, or (ii) ten per centum or more of the voting stock of [each of two or more] A banking [institutions] INSTITUTION, [or (iii) if such company is a banking institution, more than ten per centum of the voting stock of any one banking institution,] or (b) controls in any manner the election of a majority of the directors of (i) [each of two or more] A banking [institutions] INSTITUTION, OR (ii) a company which is or becomes a bank holding company by virtue of this article, [or (iii) if such company is a banking institution, another banking institution,] or (c) is a company, [if such company is not a banking institution,] for the benefit of whose stockholders or members ten per centum or more of the voting stock of [each of two or more] A banking [institutions] INSTITUTION or of a company which is or becomes a bank holding company by virtue of this article is held, directly or indirectly, by a trustee or trustees, or (d) [is a company for the benefit of whose stockholders or members, if such company is a banking institution, ten per centum or more of the voting stock of any other banking institution, or ten per centum or more of the voting stock of any company which is or becomes a bank holding company by virtue of this article, is hereafter acquired and held by a trustee or trustees, or (e)] through a combination of (i) ownership, control or holding, directly or indirectly, of voting stock and (ii) voting stock [hereinafter acquired] and held, directly or indirectly, by a trustee or trustees for the benefit of the members or stockholders of such company, if such voting stock is voting stock of one or more banking institutions or of one of more companies which are or become bank holding companies by virtue of this article, as the case may be, is a company which would be a bank holding company if the aggregate of such voting stock were either entirely owned, controlled or held, directly or indirectly, by such company or entirely held, directly or indirectly, by a trustee or trustees for the benefit of the members or stockholders of such company. Notwithstanding the foregoing, no company shall be a bank holding company by virtue of its ownership or control of EITHER stock ACQUIRED in a fiduciary capacity, except where such stock is held for the benefit of the stockholders or members of such company[, nor shall any]; OR VOTING RIGHTS OF STOCK ACQUIRED IN THE COURT OF A PROXY SOLICITATION BY A company formed and operated for the sole purpose of participating in [a] proxy [solicitation be a bank holding company] SOLICITATIONS by virtue of its control of voting rights of stock in any banking institution or

bank holding company acquired in the course of such [solicitation] SOLICITATIONS.

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

5.] "Subsidiary," when used in this article, means (a) any company ten per centum or more of whose voting stock is directly or indirectly, or through a subsidiary or subsidiaries, owned, controlled, or held with power to vote, by a bank holding company; or (b) any company the election of a majority of whose directors is controlled in any manner by a bank holding company; or (c) any company ten per centum or more of whose voting stock is directly or indirectly owned, controlled, or held with power to vote, by a trustee or trustees for the benefit of the stockholders or members of a bank holding company; or (d) any company at least ten per centum of the voting stock of which is directly or indirectly, or through a subsidiary or subsidiaries, owned, controlled or held with power to vote by a combination of a bank holding company and by a trustee or trustees for the benefit of the stockholders or members of such bank holding company. For purposes of this subdivision [five], voting stock shall not be deemed to include voting stock owned by the United States or by any company wholly owned by the United States. Any company having any of the relationships with a bank holding company described in clauses (a), (b), (c) or (d) of this subdivision [five] shall be deemed to be a subsidiary of such bank holding company.

[6.] 5. "Doing business," when used in this article, shall include the maintenance by a foreign company of [its principal] A place of business in this state, or the conduct by a foreign company of operations in this state, or the acquisition, owning or holding by a foreign company of any stock or assets of any banking institution or any company which directly or indirectly owns, controls or holds with power to vote ten per centum or more of the voting stock of a banking institution.

[7.] 6. "Banking subsidiary," when used in this article, means a subsidiary that is a banking institution, and a "non-banking subsidiary" means a subsidiary that is not a banking institution.

[8. "Out-of-state bank holding company", when used in this article, means a bank holding company as defined in Title twelve United States Code Section 1841 which conducted its principal banking business in a state other than this state or in the District of Columbia on July first, nineteen hundred sixty-six or the date on which such company became a bank holding company, whichever was the last to occur. The jurisdiction in which an out-of-state bank holding company conducts its principal banking business is that state or the District of Columbia in which the total deposits of such company and its banking subsidiaries are largest.]

S 2. Section 142 of the banking law, as added by chapter 146 of the laws of 1961, subdivision 1 as amended by section 18 of part O of chapter 59 of the laws of 2006, subdivision 2 as amended by chapter 702 of the laws of 2006 and paragraph (b) of subdivision 3 as amended by chapter 256 of the laws of 1986, is amended to read as follows:

S 142. Limitations on, and regulation of, bank holding companies. 1. [It shall be unlawful except with the prior approval of the banking board by a three-fifths vote of all the members thereof (a) for any action to be taken that causes any company to become a bank holding company; (b) for any action to be taken that causes a banking institution to become, or to be merged or consolidated with, a subsidiary of a bank holding company; (c) for any bank holding company, or for any trustee or trustees acting for the benefit of the stockholders or members of any bank holding company, to acquire direct or indirect ownership or control of any voting stock of any banking institution if, after such acquisition, such company or such trustee or trustees or both will directly or indirectly own, control or hold more than five per centum of the voting stock of such banking institution; (d) for any bank holding company or subsidiary thereof to acquire all or substantially all of the assets of a banking institution; or (e) for any bank holding company to merge or consolidate with another bank holding company. For the purposes of this section, the term "bank holding company" shall be deemed to include any successor thereof. Any company desiring to take any action requiring approval under this subdivision shall submit an application therefor, in writing, to the superintendent and pay to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. If such action includes the acquisition of all the capital stock of one or more corporations organized under or subject to the provisions of article three, six or ten of this chapter, there shall be submitted in duplicate together with such application a written plan of acquisition of such stock in a form satisfactory to the superintendent and containing the information required by subdivision one of section one hundred forty-three-a of this article and a certificate which complies with the provisions of subdivision two of said section one hundred forty-three-a. Upon receipt of such application, the superintendent shall post notice of the receipt thereof upon the bulletin board of the banking department. The superintendent shall submit such application together with his or her recommendations in regard thereto and all papers, correspondence and other information in his or her possession and relating thereto, to the banking board which shall by order grant or deny the application and shall state the reasons for such grant or denial. An order granting such application may be made only by three-fifths vote of all the members thereof. An order shall be issued within one hundred twenty days after the date of the submission of the application to the superintendent and a copy thereof shall be posted upon the bulletin board of the banking department. In determining whether or not to approve any such application, the banking board shall take into consideration (i) the declaration of policy contained in section ten of this chapter, (ii) whether the effect of such action shall be either to result in the formation of a bank holding company or to expand the size or extent of the resulting or acquiring bank holding company beyond limits consistent with adequate or sound banking and the preservation thereof, or result in a concentration of assets beyond limits consistent with effective competition, (iii) whether such formation, merger, consolidation or acquisition may result in such a lessening of competition as to be injurious to the interest of the public or tend toward monopoly, and (iv) primarily, the public interest and the needs and convenience thereof.

2. The limitations in subdivision one of this section and the provisions of section one hundred forty-three-b of this article shall not apply to (a) stock acquired by a banking institution in good faith

in a fiduciary capacity, except where such stock is held for the benefit of the stockholders of such banking institutions, or (b) stock acquired by a banking institution 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 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 and in the ordinary course of business, but any stock so acquired after the effective date of this act shall be disposed of within a period of two years from the date upon which it was acquired unless the superintendent shall authorize such banking institution, in writing, to hold such stock for a longer period, or (c) additional stock acquired by a bank holding company or a subsidiary thereof in a banking institution in which such bank holding company or subsidiary owned or controlled ten per centum of the voting stock prior to such acquisition, or (d) stock dividends, stock splits or additional stock acquired by a bank holding company, or by any subsidiary thereof, in the exercise of its pre-emptive right as a stockholder, (e) any merger or consolidation between banking institutions that are subsidiaries of the same bank holding company, or any acquisition by a banking institution of all or substantially all of the assets of another banking institution that is a subsidiary of the same bank holding company, or, (f) for a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe in writing, the acquisition of control of a banking institution or bank holding company by a legal representative. For purposes of this subdivision, "legal representative" shall have the same meaning as prescribed in subdivision five of section one hundred forty-three-b of this article.

3. (a)] It shall be unlawful for any person knowingly to borrow, directly or indirectly, any money or property for the purpose of enabling such person to pay for or to hold shares of stock of a bank holding company from any subsidiary of such bank holding company, unless such borrowing is made upon security having an ascertained market value of at least fifteen per centum more than the amount thereof. Any person knowingly violating the provisions of this [paragraph (a) of this] subdivision [three] shall, for each offense, forfeit to the people of the state twice the amount of such borrowing.

[(b)] 2. Except in conformity with such rules and regulations as may be promulgated by the superintendent, it shall be unlawful for any executive officer or director of a bank holding company to borrow any sum of money from any subsidiary of such bank holding company. Every executive officer or director of such bank holding company violating the provisions of this [paragraph] SUBDIVISION shall, for each offense, forfeit to the people of the state twice the amount of such borrowing or borrowings.

S 3. Subdivision 2 of section 142-a of the banking law is REPEALED and subdivisions 3 and 4, as added by chapter 380 of the laws of 1971 and as renumbered by chapter 9 of the laws of 1996, are amended to read as follows:

[3.] 2. As used in this section, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a banking institution, whether through the ownership of voting stock of such banking institution, the ownership of voting stock of any company which possesses such power or otherwise. Control shall be presumed to exist if any company, directly or indirectly, owns, controls or holds with the power to vote

ten per centum or more of the voting stock of any banking institution or of any company which owns, controls or holds with power to vote ten [percentum] PERCENT or more of the voting stock of such banking institution, but no person shall be deemed to control a banking institution solely by reason of his being an officer or director of such banking institution or company. AS USED IN THIS SECTION, THE TERMS "BANK HOLDING COMPANY" AND "BANKING INSTITUTION" SHALL HAVE THE MEANINGS AS DEFINED IN SECTION ONE HUNDRED FORTY-ONE OF THIS ARTICLE, EXCEPT THAT THE DEFINITION OF "BANK HOLDING COMPANY" IS MODIFIED TO CHANGE THE PHRASE "A BANKING INSTITUTION" WHEREVER IT APPEARS THEREIN TO "ONE OR MORE BANKING INSTITUTIONS" AND THE DEFINITION OF "BANKING INSTITUTION" IS MODIFIED TO ADD A NATIONAL BANKING ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH IS LOCATED IN THIS STATE.

[4.] 3. As used in this section, the term "village" shall mean either an incorporated or unincorporated village.

S 4. Subdivision 2 of section 143 of the banking law is renumbered subdivision 1 and subdivision 3, as added by chapter 255 of the laws of 1973 and paragraph (a) of subdivision 3 as amended by chapter 702 of the laws of 2006, is amended to read as follows:

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

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

and an opportunity to be heard, that the public interest requires such revocation.

(c) For the purposes of this subdivision, the terms "subsidiary", "banking institution" and "bank holding company" shall each be given the same meaning as is contained in their respective definition in section one hundred forty-one of this [chapter] ARTICLE, except that the definition of ["bank holding company" is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions", and the definition of] the term "banking institution" is modified to include NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, AND a foreign banking corporation maintaining a branch in this state.

(d) All other restrictions and limitations imposed by this chapter on executive officers and directors of bank holding companies shall continue in effect.

S 5. Subdivisions 1, 3 and 4 of section 143-a of the banking law, subdivision 1 as amended by chapter 1 of the laws of 1984, the opening paragraph of subdivision 1 and subdivision 3 as amended by chapter 702 of the laws of 2006, the closing paragraph of subdivision 1 as amended by section 19 of part O of chapter 59 of the laws of 2006 and subdivision 4 as amended by chapter 52 of the laws of 1968, are amended to read as follows:

1. A company having capital stock OR MEMBERSHIP INTERESTS may acquire all the capital stock OR MEMBERSHIP INTERESTS of one or more corporations organized under or subject to the provisions of article three, six, or ten of this chapter, provided THAT (a) [that] such corporation or corporations are directly or indirectly controlled prior to such acquisition by the persons or entities that directly or indirectly control such company and (b) [that] such persons or entities will continue to control such company thereafter. Such company and such corporation or corporations shall submit in duplicate to the superintendent a written plan of acquisition of such stock. Such plan shall be in form satisfactory to the superintendent, shall specify each corporation the stock of which is to be acquired by the company and shall prescribe the terms and conditions of the acquisition and the mode of carrying it into effect, including the manner of exchanging the shares of each of the corporations for shares or other securities of the company. Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of the company.

At the time of submission to the superintendent of the written plan of acquisition of stock, an investigation fee as prescribed pursuant to section eighteen-a of this chapter shall be paid to the superintendent[; provided, however, that if the plan of acquisition has been submitted in connection with an application submitted by the company pursuant to section one hundred forty-two of this article, no investigation fee shall be payable pursuant to this section].

3. If no action to be taken pursuant to the plan of acquisition requires the prior approval of the banking board pursuant to section [one hundred forty-two or] one hundred forty-three-b of this article, the superintendent shall approve or disapprove of a proposed plan of acquisition within one hundred twenty days after the submission of such plan of acquisition [to him], and in determining whether or not to approve any such plan the superintendent shall take into consideration the declaration of policy contained in section ten of this chapter. If any action to be taken pursuant to the plan of acquisition requires such

prior approval of the banking board, the superintendent shall submit such plan of acquisition together with his OR HER recommendations in regard thereto and all papers, correspondence and other information in his OR HER possession and relating thereto, to the banking board for its approval or disapproval as part of the application submitted to it pursuant to [said] SUCH section [one hundred forty-two or] one hundred forty-three-b. If the superintendent or the banking board, AS REQUIRED, shall approve such plan of acquisition, the superintendent shall file the plan, together with such certificates and the original of the approval of the superintendent or a certified copy of the approving resolution of the banking board, in the office of the superintendent. Upon such filing in the office of the superintendent, the plan, and the acquisitions provided for therein, shall become effective, unless a later date is specified in the plan, in which event the plan and such acquisitions shall become effective upon such later date.

4. Any stockholder of any such corporation, entitled to vote on such plan of acquisition, who does not assent thereto shall, subject to and by complying with section six thousand twenty-two of this chapter, have the right to receive payment of the fair value of [his] SUCH STOCKHOLDER'S shares and the other rights and benefits provided by such section.

S 6. Subdivisions 1 and 4 of section 143-b of the banking law, subdivision 1 as amended by chapter 793 of the laws of 1980 and subdivision 4 as added by chapter 950 of the laws of 1969, are amended to read as follows:

1. It shall be unlawful except with the prior approval of the banking board by a three-fifths vote of all the members thereof for any company to acquire control of any banking institution, directly or indirectly, provided, however, that the provisions of this section shall not apply to a [bank holding company, a] company which has submitted to the superintendent a plan of acquisition pursuant to section one hundred forty-three-a [or stock described in subdivision two of section one hundred forty-two] OF THIS ARTICLE FOR AN ACQUISITION NOT INVOLVING A CHANGE OF CONTROL OF THE BANKING INSTITUTION. As used in this section, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a banking institution, whether through the ownership of voting stock of such banking institution, the ownership of voting stock of any company which possesses such power or otherwise. Control shall be presumed to exist if any company, directly or indirectly, owns, controls or holds with the power to vote ten per centum or more of the voting stock of any banking institution or of any company which owns, controls or holds with power to vote ten per centum or more of the voting stock of such banking institution, but no person shall be deemed to control a banking institution solely by reason of his OR HER being an officer or director of such banking institution or company. The superintendent may in his OR HER discretion, upon the application of a banking institution or any company which, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such banking institution, determine whether or not the ownership, control or holding of such voting stock would constitute control of such banking institution for purposes of this section.

4. [This section shall not apply to the exercise of control in a national banking association if the acquisition of such control or its exercise is subject to approval or disapproval pursuant to federal law.] A COMPANY DOES NOT CONTROL A BANKING INSTITUTION BY VIRTUE OF ITS OWNERSHIP OR CONTROL OF: (A) STOCK ACQUIRED BY A COMPANY IN GOOD FAITH IN A

FIDUCIARY CAPACITY, EXCEPT WHERE SUCH STOCK IS HELD FOR THE BENEFIT OF STOCKHOLDERS OR MEMBERS OF SUCH COMPANY; (B) VOTING RIGHTS OF STOCK ACQUIRED IN THE COURSE OF A PROXY SOLICITATION BY A COMPANY FORMED FOR THE SOLE PURPOSE OF PARTICIPATING IN PROXY SOLICITATIONS BY VIRTUE OF ITS CONTROL OF VOTING RIGHTS OF STOCK ACQUIRED IN THE COURSE OF SUCH SOLICITATION; (C) STOCK ACQUIRED BY A COMPANY IN CONNECTION WITH ITS UNDERWRITING OF SECURITIES IF SUCH SHARES ARE HELD ONLY FOR SUCH PERIOD OF TIME AS WILL PERMIT THE SALE THEREOF ON A REASONABLE BASIS; (D) STOCK ACQUIRED BY A COMPANY 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, PROVIDED THAT ANY STOCK SO ACQUIRED SHALL BE DISPOSED OF WITHIN A PERIOD OF TWO YEARS FROM THE DATE UPON WHICH IT WAS ACQUIRED UNLESS THE SUPERINTENDENT SHALL, IN WRITING, AUTHORIZE SUCH BANKING INSTITUTION TO HOLD SUCH STOCK FOR A LONGER PERIOD; OR (E) STOCK DIVIDENDS, STOCK SPLITS, OR ADDITIONAL STOCK ACQUIRED BY A BANK HOLDING COMPANY, OR BY ANY SUBSIDIARY THEREOF, IN EXERCISE OF ITS PREEMPTIVE RIGHT AS A STOCKHOLDER.

S 7. Section 144 of the banking law is REPEALED.

S 8. Subdivision 6 of section 39 of the banking law, as amended by section 1 of part FF of chapter 59 of the laws of 2004, is amended to read as follows:

6. As used in this section, "bank holding company" shall have the same meaning as that term is defined in section one hundred forty-one of this chapter[, except that such definition is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions"].

S 9. Paragraph (b) of subdivision 8 of section 100-c of the banking law, as added by chapter 239 of the laws of 1986, is amended to read as follows:

(b) For the purpose of this subdivision, (i) the term "bank holding company" shall be given the same meaning as is contained in the definition of such term in section one hundred forty-one of this chapter, [except that such definition is modified by substituting the words "a banking institution" for the phrase "each of two or more banking institutions" wherever such phrase appears,] and (ii) the term "trust company" shall be given the same meaning as is contained in the definition of such term in subdivision seven of this section, except that such term shall be deemed to include, in addition to the entities listed in such subdivision, any banking, trust or financial company, corporation or association, organized under the laws of the United States, whether or not having its principal office outside this state, or of any state of the United States, which is duly authorized to exercise fiduciary powers.

S 10. Paragraph (a) of subdivision 1 of section 105 of the banking law, as amended by chapter 380 of the laws of 1971 and as designated by chapter 9 of the laws of 1996, is amended to read as follows:

(a) No bank or trust company or officer, director, agent or employee thereof, shall transact any part of its usual business of banking at any place other than its principal office, except that a bank or trust company may open and occupy one or more branch offices at any location in the state, provided: (i) that the requirements of section twenty-nine of this chapter are met and (ii) that, except for the city or village in which its principal office is located, in no event shall a branch be opened and occupied pursuant to this subdivision in a city or village with a population of fifty thousand or less in which is already located the principal office of another bank, trust company or national banking

association, other than a bank holding company, if such bank holding company is a banking institution, or a banking subsidiary of a bank holding company (as such terms "bank holding company", "banking institution" and "banking subsidiary" are defined in [article three-A] SECTION ONE HUNDRED FORTY-ONE of this chapter) EXCEPT THAT THE DEFINITION OF "BANK HOLDING COMPANY" IS MODIFIED TO CHANGE THE PHRASE "A BANKING INSTITUTION" WHEREVER IT APPEARS THEREIN TO "ONE OR MORE BANKING INSTITUTIONS" AND THE DEFINITION OF "BANKING INSTITUTION" IS MODIFIED TO ADD A NATIONAL BANKING ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, except, in the case of a conversion pursuant to the provisions of this article, branch offices occupied immediately prior thereto or except for the purpose of acquiring by merger, sale or otherwise the business and property of a bank, trust company or national banking association, whether in liquidation or doing business in the usual course.

S 11. Paragraph (c) of subdivision 2 of section 240 of the banking law, as amended by chapter 380 of the laws of 1971 and as relettered by chapter 9 of the laws of 1996, is amended to read as follows:

(c) Except for the city or village in which its principal office is located, no branch office may be opened and occupied pursuant to paragraph (a) of this subdivision in any city or village with a population of fifty thousand or less and in which is ALREADY located the principal office of a bank, trust company or national banking association, other than a bank holding company, if such bank holding company is a banking institution, or a banking subsidiary of a bank holding company, as such terms "bank holding company", "banking institution" and "banking subsidiary" are defined in [article three-A] SECTION ONE HUNDRED FORTY-ONE of this chapter EXCEPT THAT THE DEFINITION OF "BANK HOLDING COMPANY" IS MODIFIED TO CHANGE THE PHRASE "A BANKING INSTITUTION" WHEREVER IT APPEARS THEREIN TO "ONE OR MORE BANKING INSTITUTIONS" AND THE DEFINITION OF "BANKING INSTITUTION" IS MODIFIED TO ADD A NATIONAL BANKING ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE.

S 12. Paragraph (b) of subdivision 2 of section 396 of the banking law, as amended by chapter 349 of the laws of 1986, is amended to read as follows:

(b) Except for the city or village in which its principal office is located, no branch office may hereafter be opened and occupied pursuant to paragraph (a) of this subdivision in any city or village with a population of less than thirty thousand and in which is ALREADY located the principal office of a bank, trust company or national banking association, other than a bank holding company, if such bank holding company is a banking institution, or a banking subsidiary of a bank holding company, as such terms "bank holding company", "banking institution" and "banking subsidiary" are defined in [article three-A] SECTION ONE HUNDRED FORTY-ONE of this chapter EXCEPT THAT THE DEFINITION OF "BANK HOLDING COMPANY" IS MODIFIED TO CHANGE THE PHRASE "A BANKING INSTITUTION" WHEREVER IT APPEARS THEREIN TO "ONE OR MORE BANKING INSTITUTIONS" AND THE DEFINITION OF "BANKING INSTITUTION" IS MODIFIED TO ADD A NATIONAL BANKING ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE.

S 13. Paragraphs (a), (b) and (c) of subdivision 3 of section 130 of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

(a) No executive officer of a bank or trust company may be an executive officer, director or trustee of another bank or trust company,

savings bank, savings and loan association, national bank [in this state, federal savings and loan association], FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking board pursuant to the provisions of [subparagraph] PARAGRAPH (b) of this subdivision, except that [(1)] an executive officer of a bank or trust company which is a subsidiary of a bank holding company may be (i) an executive officer and (ii) a director of the bank holding company and of one or more banking institutions which are subsidiaries of such bank holding company[; and (2) an executive officer of a bank or trust company owned by savings banks pursuant to subdivision eighteen of section two hundred thirty-five, or by savings and loan associations or federal savings and loan associations located in this state pursuant to section three hundred seventy-nine-a, may be (i) an executive officer and (ii) a director or trustee of one of the stockholders of such a bank or trust company of which he is an executive officer; provided, however, that except as stated in the foregoing exceptions, an executive officer of a bank or trust company, who on the effective date of this act is an executive officer, director or trustee of another bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking board, until the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner].

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

(c) For the purposes of this subdivision, the terms "subsidiary", "banking institution" and "bank holding company" shall each be given the same meaning as is contained in their respective definition in section one hundred forty-one of this chapter, except that the definition of ["bank holding company" is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions", and the definition of] the term "banking institution" is modified to include A NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS IN THIS STATE, AND a foreign banking corporation maintaining a branch in this state.

S 14. Subdivision 5 of section 136 of the banking law, as amended by section 16 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

5. With the written plan of conversion submitted under subdivision two [hereof] OF THIS SECTION, there shall be paid to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter[; provided, however, that no investigation fee shall be payable under this subdivision with respect to a merger to which subdivision two of section one hundred thirty-six-b of this article is applicable], and with the written plan of merger submitted under subdivision three [hereof] OF THIS SECTION there shall be paid to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter.

S 15. Subdivision 2 of section 136-a of the banking law, as amended by chapter 509 of the laws of 1977 and the closing paragraph as amended by section 17 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

2. In the case of each such acquisition, a written plan providing for the acquisition by the bank or trust company of the assets of the national banking association shall be submitted, in duplicate, by the bank or trust company to the superintendent. Such plan shall be in form satisfactory to the superintendent, shall specify the selling and the acquiring corporation, and shall prescribe the terms and conditions of the acquisition and the mode of carrying it into effect.

At the time of submission for action by the superintendent of the written plan of acquisition of assets, an investigation fee as prescribed pursuant to section eighteen-a of this chapter shall be paid to the superintendent[; provided, however, that no investigation fee shall be payable under this subdivision with respect to an acquisition to which subdivision two of section one hundred thirty-six-b of this article is applicable].

S 16. Section 136-b of the banking law, as amended by chapter 55 of the laws of 1965, is amended to read as follows:

S 136-b. Approval of superintendent. [1.] The superintendent shall approve or disapprove of a proposed merger as authorized by section one hundred thirty-six of this [chapter] ARTICLE or a proposed acquisition of all or a substantial part of the assets of a national banking association as authorized by section one hundred thirty-six-a of this [chapter] ARTICLE, as the case may be, within one hundred twenty days after the submission of the proposed plan thereof to him OR HER. In determining whether to so approve, the superintendent shall take into consideration (i) the declaration of policy contained in section ten of this chapter, (ii) whether the effect of such merger or acquisition shall be either to expand the size or extent of the resulting or acquiring institution beyond limits consistent with adequate and sound banking and the preservation thereof or result in a concentration of assets beyond limits consistent with effective competition, (iii) whether such merger or acquisition may result in such a lessening of competition as to be injurious to the interests of the public or tend toward monopoly and (iv) primarily, the public interest and the needs and convenience thereof. If the superintendent shall approve such proposed merger or acquisition, he OR SHE shall file the plan, together with such certificates and the original of the approval of the superintendent, in the office of the superintendent, and, in the case of merger, a duplicate of the plan, together with a duplicate of each of such certificates and a duplicate of the superintendent's approval, shall be filed in the office of the

clerk of the county in which the principal office of the receiving corporation is located. Upon such filing in the office of the superintendent, the merger or acquisition shall become effective, unless a later date is specified in the plan, in which event the merger or acquisition shall become effective upon such later date.

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

S 17. Section 209 of the banking law, as added by chapter 255 of the laws of 1973, is amended to read as follows:

S 209. Restrictions on executive officers of foreign banking corporations and national banks. 1. No executive officer of a foreign banking corporation maintaining a branch in this state may be an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, national bank, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state, [federal savings and loan association located in this state,] bank holding company or another foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking board pursuant to the provisions of subdivision three of this section, except that an executive officer of a foreign banking corporation maintaining a branch in this state which is a subsidiary of a bank holding company may be (i) an executive officer and (ii) a director of the bank holding company of which such foreign banking corporation is a subsidiary, and of one or more of the banking institutions which are subsidiaries of such bank holding company[; and provided, however, that, except as stated in the foregoing exceptions, an executive officer of a foreign banking corporation maintaining a branch in this state, who on the effective date of this act is an executive officer, director or trustee of a bank or trust company, savings bank, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or another foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking board, until the expiration of the term of such office

or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner].

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

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

4. For the purposes of this subdivision, the terms "subsidiary", "banking institution" and "bank holding company" shall each be given the same meaning as is contained in their respective definition in section one hundred forty-one of this chapter, except that the definition of ["bank holding company" is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions", and the definition of] the term "banking institution" is modified to include A NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, AND a foreign banking corporation maintaining a branch in this state.

5. All other restrictions and limitations imposed by this chapter on executive officers and directors of foreign banking corporations maintaining a branch in this state and on national banks, FEDERAL SAVINGS

BANKS AND FEDERAL SAVINGS ASSOCIATIONS, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state, shall continue in effect.

S 18. Section 225-b of the banking law, as amended by chapter 9 of the laws of 1996, is amended to read as follows:

S 225-b. Applicability of certain sections to out-of-state banks. Except as otherwise provided in this section, nothing in article five or article five-B of this chapter shall apply to an out-of-state bank authorized to open, occupy and maintain a branch pursuant to the provisions of this article. Any reference in this chapter (other than in article five or article five-B) to a foreign bank, foreign corporation or foreign banking corporation shall be deemed to be a reference to an out-of-state bank authorized to open, occupy and maintain a branch pursuant to the provisions of this article. Notwithstanding the foregoing, (a) the provisions of sections two hundred two-h (Repayment of deposits standing in the names of minors, trustees, joint depositors or custodians; interpleader in certain actions), two hundred three (Change of location, name or business) and two hundred four (Reports of foreign banking corporations; penalties) of this chapter shall apply with equal force and effect to out-of-state banks authorized to open, occupy or maintain branches pursuant to the provisions of this article; and (b) the provisions of section three hundred ninety-nine-a, subdivision three of section one hundred thirty, subdivision [three] TWO of section one hundred forty-three, subdivision five of section two hundred forty-seven and subdivision five of section three hundred ninety-nine of this chapter with respect to restrictions on executive officers or directors of foreign banking corporations and the provisions of sections twenty, twenty-six, thirty, thirty-one and six hundred thirty-four, subdivision two of section thirteen, subdivisions eleven and twelve of section six hundred five, subdivision four of section six hundred six and paragraph (a) of subdivision one of section fourteen of this chapter, shall not apply to out-of-state banks authorized to open, occupy or maintain branches pursuant to the provisions of this article.

S 19. Paragraphs (a), (b) and (c) of subdivision 5 of section 247 of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

(a) No executive officer of a savings bank may be an executive officer, director or trustee of another savings bank, or of a bank or trust company, savings and loan association, national bank, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state, [federal savings and loan association located in this state,] bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking board pursuant to the provisions of [subparagraph] PARAGRAPH (b) of this subdivision[, except that an executive officer of a savings bank may be (1) an executive officer and (2) a director of a trust company owned by savings banks, pursuant to subdivision eighteen of section two hundred thirty-five of this chapter, if one of the stockholders of such trust company is the savings bank of which he is an executive officer; provided, however, that, except as stated in the foregoing exceptions, an executive officer of a savings bank who on the effective date of this act is an executive officer, director or trustee of another savings bank, bank or trust company, savings and loan association, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office without permission from the banking board, until

the expiration of the term of such office or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner].

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

(c) For the purposes of this subdivision, the term "bank holding company" shall be given the same meaning as is contained in section one hundred forty-one of this chapter, [except that the definition is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions",] and the definition of the term, "banking institution" is modified to include a NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, AND A foreign banking corporation maintaining a branch in this state.

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

(a) No executive officer of a savings and loan association may be an executive officer, director or trustee of another savings and loan association, bank or trust company, savings bank, national bank, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state, [federal savings and loan association located in this state,] bank holding company or foreign banking corporation maintaining a branch in this state unless permission therefor has been granted by the banking board pursuant to paragraph (b) of this subdivision[, except that an executive officer of a savings and loan association may be (1) an executive officer and (2) a director of a trust company owned by savings and loan association or federal savings and loan associations located in this state, pursuant to section three hundred seventy-nine-a of this chapter, if one of the stockholders of such trust company is a savings and loan association of which he is an executive officer; provided, however, that, except as stated in the foregoing exceptions, an executive officer of a savings and loan association, who on the effective date of this act is an executive officer, director or trustee of another savings and loan association, bank or trust company, savings bank, national bank located in this state, federal savings and loan association located in this state, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office, without permission from the banking board, until the expiration of the term of such office or

the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner].

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

(c) For the purposes of this subdivision, the term "bank holding company" shall be given the same meaning as is contained in section one hundred forty-one of this chapter, [except that the definition is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions",] and the definition of the term "banking institution" is modified to include a NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, AND A foreign banking corporation maintaining a branch in this state.

S 21. The section heading and subdivisions 1, 2 and 3 of section 399-a of the banking law, as added by chapter 255 of the laws of 1973, are amended to read as follows:

Restrictions on holding of certain offices by executive officers of federal savings [and loan] BANKS AND FEDERAL SAVINGS associations. 1. No executive officer of a federal savings [and loan] BANK OR FEDERAL SAVINGS association THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS located in this state may be an executive officer, director or trustee of a savings and loan association, bank or trust company, savings bank, bank holding company or foreign banking corporation maintaining a branch in this state, unless permission therefor has been granted by the banking board pursuant to subdivision two of this section, [except that an executive officer of a federal savings and loan association located in this state may be (1) an executive officer and (2) a director of a trust company owned by savings and loan associations or federal savings and loan associations located in this state, pursuant to section three hundred seventy-nine-a of this chapter, if one of the stockholders of such trust company is the federal savings and loan association of which he is an executive officer;] provided, however, that[, except as stated in the foregoing exceptions,] an executive officer of a federal savings and loan association located in this state, who on the effective date of this [act] SECTION is an executive officer, director or trustee of a savings and loan association, bank or trust company, savings bank, bank holding company or foreign banking corporation maintaining a branch in this state, may continue to hold such other office without permission from the banking board, until the expiration of the term of such office

or the close of business on the last day of December, nineteen hundred seventy-four, whichever occurs sooner.

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

3. For the purposes of this subdivision, the term "bank holding company" shall be given the same meaning as is contained in section one hundred forty-one of this chapter, [except that the definition is modified by deleting the phrase "each of two or more" and substituting the word "institution" for "institutions",] and the definition of the term "banking institution" is modified to include a NATIONAL BANK, FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION, THE PRINCIPAL OFFICE OF WHICH INSTITUTION IS LOCATED IN THIS STATE, AND A foreign banking corporation maintaining a branch in this state.

S 22. The closing paragraph of subdivision 1 of section 601 of the banking law, as amended by section 58 of part O of chapter 59 of the laws of 2006, is amended to read as follows:

At the time of submission for action by the superintendent of the written plan of merger, an investigation fee as prescribed pursuant to section eighteen-a of this chapter shall be paid to the superintendent[; provided, however, that no investigation fee shall be payable under this subdivision with respect to a merger to which subdivision two of section six hundred one-b of this article is applicable].

S 23. Subdivision 2 of section 601-b of the banking law is REPEALED.

S 24. Section 222 of the banking law is amended by adding a new subdivision 10 to read as follows:

10. THE TERM "BANKING INSTITUTION" MEANS ANY BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR BRANCH OF A FOREIGN BANKING CORPORATION THE DEPOSITS OF WHICH ARE INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION, WHICH IS INCORPORATED, CHARTERED, ORGANIZED OR LICENSED UNDER THE LAWS OF THIS STATE OR ANY OTHER STATE OF THE UNITED STATES.

S 25. Section 223-a of the banking law, as added by chapter 9 of the laws of 1996, is amended to read as follows:

S 223-a. Limitations on acquisition of a newly chartered New York bank. An acquisition transaction in which the resulting or consolidated corporation is an out-of-state bank is hereby prohibited if the effect thereof is to terminate the separate existence of a [New York bank] BANKING INSTITUTION that has been chartered less than five years, unless the superintendent finds that the [New York bank] BANKING INSTITUTION to be acquired was not chartered directly or indirectly by the out-of-state bank, its officers, directors or principal stockholders, or any other person in a position to exercise control over such out-of-state bank;

provided, however, that the prohibitions contained in this section shall not apply if the superintendent finds that the [New York bank] BANKING INSTITUTION does not have the capacity to continue to conduct its business independently in a manner consistent with the public interest and the interests of depositors, creditors, and stockholders; and provided further that the prohibitions contained in this section shall not apply to an out-of-state bank which, prior to the acquisition transaction otherwise prohibited by this section, lawfully maintained one or more branches in this state.

S 26. Subdivision (a) of section 4002 of the banking law, as amended by chapter 302 of the laws of 2003, is amended to read as follows:

(a) Notwithstanding any other provisions of law, every incorporator of a corporation shall, in addition to any other requirements which may be imposed by the superintendent, submit simultaneously with an application, his or her fingerprints in such form and in such manner as specified by the division of criminal justice services, but in any event, no less than two digit imprints. Every applicant filing an application to acquire control [of any bank holding company under section one hundred forty-two of this chapter or] of any banking institution under sections one hundred forty-three-a and one hundred forty-three-b of this chapter shall, in addition to any other requirements which may be imposed by the superintendent, submit simultaneously with an application, his or her fingerprints in such form and in such manner as specified by the division of criminal justice services, but in any event, no less than two digit imprints. The superintendent shall submit the fingerprints to the division of criminal justice services for the purpose of conducting a criminal history search and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the prescribed processing fees. The superintendent shall request that the division submit such fingerprints to the federal bureau of investigation, together with the processing fees prescribed by such bureau, for the purpose of conducting a criminal history search and returning a report thereon.

S 27. Any registration of a bank holding company pursuant to section 144 of the banking law as in effect as of the date prior to the effective date of this act shall expire on the effective date of this act.

S 28. This act shall take effect immediately.