§ 138. Foreign branches; performance of contracts and repayment of deposits. 1. Notwithstanding section 1--301 of the uniform commercial code, any bank or trust company or national bank located in this state which in accordance with the provisions of this chapter or otherwise applicable law shall have opened and occupied a branch office or branch offices in any foreign country shall be liable for contracts to be performed at such branch office or offices and for deposits to be repaid at such branch office or offices to no greater extent than a bank, banking corporation or other organization or association for banking purposes organized and existing under the laws of such foreign country would be liable under its laws. The laws of such foreign country for the purpose of this section shall be deemed to include all acts, decrees, regulations and orders promulgated or enforced by a dominant authority asserting governmental, military or police power of any kind at the place where any such branch office is located, whether or not such dominant authority be recognized as a de facto or de jure government.

2. Notwithstanding section 1--301 of the uniform commercial code, if by action of any such dominant authority which is not recognized by the United States as the de jure government of the foreign territory concerned, any property situated in or any amount to be received in such foreign territory and carried as an asset of any branch office of such bank or trust company or national bank in such foreign territory is seized, destroyed or cancelled, then the liability of such bank or trust company or national bank for any deposit theretofore received and thereafter to be repaid by it, and for any contract theretofore made and thereafter to be performed by it, at any branch office in such foreign territory shall be reduced pro tanto by the proportion that the value (as shown by the books or other records of such bank or trust company or national bank at the time of such seizure, destruction or cancellation) of such assets bears to the aggregate of all the deposit and contract liabilities of the branch office or offices of such bank or trust company or national bank in such foreign territory, as shown at such time by the books or other records of such bank or trust company or national bank.

2-a. Notwithstanding the provisions of any law to the contrary, a bank

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

3. If any provision of this section, or the application of such provision to any bank, trust company or national bank, shall be held invalid, the remainder of this section, and the application of such section to banks, trust companies and national banks other than those to which it is held invalid, shall not be affected thereby.