§ 143-b. Acquisition by companies of control of banking institutions. 1. It shall be unlawful except with the prior approval of the superintendent 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 company which has submitted to the superintendent a plan of acquisition pursuant to section one hundred forty-three-a 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 the superintendent's discretion, upon the application of a banking institution or any company which, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such banking institution, determine whether or not the ownership, control or holding of such voting stock would constitute control of such banking institution for purposes of this section.

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

3. Upon receipt of such application, the superintendent shall post

notice of the receipt thereof upon the bulletin board of the department of financial services. The superintendent shall by order grant or deny the application and shall state the reasons for such grant or denial. 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 department of financial services. In determining whether or not to approve any such application, the superintendent shall take into consideration (i) the declaration of policy contained in section ten of the chapter, (ii) whether the effect of such action shall be consistent with adequate or sound banking and the preservation thereof, or result in a consolidation of assets beyond limits consistent with effective competition, (iii) whether such acquisition of control may result in such a lessening of competition as to be injurious to the interest of the public or tend toward monopoly, and (iv) primarily, the public interest and the needs and convenience thereof.

4. 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.

5. 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 provisions of subdivisions one, two and three of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of a company which has control of a banking institution. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section. The provisions of subdivision three of this section shall be applicable to an application made under this section by a legal representative.

The term "legal representative," for the purposes of this section, shall mean one duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal representative and one acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

If any provision of this section, or the application of such provision to any individual, company, corporation or circumstance, shall be held invalid, the remainder of this section, and the application thereof to anyone other than one to which it is held invalid, shall not be affected thereby.