



General Assembly

January Session, 2005

Raised Bill No. 1069

LCO No. 3017

03017_____BA_

Referred to Committee on Banks

Introduced by:
(BA)

**AN ACT CONCERNING DOMESTIC AND INTERNATIONAL BANKING
ACTIVITIES.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (c) of section 36a-53 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (c) Whenever it appears to the commissioner that any Connecticut
5 bank, Connecticut holding company, Connecticut credit union, [or]
6 Connecticut credit union service organization or any related person of
7 any such entity (1) is violating, has violated or is about to violate any
8 provision of the general statutes within the jurisdiction of the
9 commissioner, or any regulation, rule or order adopted or issued
10 thereunder, or any condition imposed in writing by the commissioner,
11 (2) is breaching, has breached or is about to breach any written
12 agreement with the commissioner, [or] (3) is engaging, has engaged or
13 is about to engage, in an unsafe or unsound practice, or (4) is using,
14 has used or is about to use such related person's position in a manner
15 contrary to the interest of any bank, Connecticut holding company,
16 Connecticut credit union, federal credit union or credit union service

17 organization, the commissioner may send notice and take action
18 against the Connecticut bank, Connecticut holding company,
19 Connecticut credit union, [or] Connecticut credit union service
20 organization or related person in accordance with section 36a-52. If the
21 commissioner finds that the actual or threatened violation, breach, [or]
22 unsafe or unsound practice or practices or use specified in such notice
23 is likely to cause insolvency or substantial dissipation of assets or
24 earnings of the Connecticut bank, Connecticut holding company,
25 Connecticut credit union or Connecticut credit union service
26 organization, or is likely to otherwise seriously prejudice the interests
27 of its depositors or members, the commissioner may incorporate a
28 finding to that effect in such notice and issue a temporary order
29 requiring the Connecticut bank, Connecticut holding company,
30 Connecticut credit union, [or] Connecticut credit union service
31 organization or related person to cease and desist from any such
32 violation, breach, [or] practice or use. The temporary order shall
33 become effective upon receipt and, unless set aside or modified by a
34 court, shall remain in effect until the effective date of a permanent
35 order or the dismissal of the matters asserted.

36 Sec. 2. Subsection (d) of section 36a-65 of the general statutes is
37 repealed and the following is substituted in lieu thereof (*Effective from*
38 *passage*):

39 (d) (1) The fee for investigating and processing each application is as
40 follows:

41 (A) Establishment of (i) a branch under subdivision (1) of subsection
42 (b) of section 36a-145, two thousand dollars; (ii) a mobile branch under
43 subdivision (1) of subsection (d) of section 36a-145, one thousand five
44 hundred dollars; (iii) a limited branch under subdivision (1) of
45 subsection (c) of section 36a-145, one thousand five hundred dollars;
46 (iv) a special need limited branch under subdivision (4) of subsection
47 (c) of section 36a-145, five hundred dollars; (v) an out-of-state branch
48 under subsection (j) of section 36a-145, a reasonable fee not to exceed

49 two thousand dollars from which any fees paid to a state other than
50 this state or to a foreign country in connection with the establishment
51 shall be deducted; and (vi) an out-of-state limited or mobile branch
52 under subsection (i) of section 36a-145, a reasonable fee not to exceed
53 one thousand five hundred dollars from which any fees paid to a state
54 other than this state or to a foreign country in connection with the
55 establishment shall be deducted.

56 (B) Sale of (i) a branch under subsection (i) of section 36a-145, two
57 thousand dollars, except there shall be no fee for the sale of a branch of
58 a Connecticut bank to another Connecticut bank or to a Connecticut
59 credit union; and (ii) a limited branch, including a special need limited
60 branch or mobile branch under subsection (i) of section 36a-145, a fee
61 not to exceed one thousand five hundred dollars.

62 (C) Relocation of (i) a main office of a Connecticut bank under
63 subsection (a) of section 36a-81, two thousand dollars; and (ii) a branch
64 or a limited branch under subsection (g) of section 36a-145, five
65 hundred dollars.

66 (D) Conversions from (i) a branch to a limited branch under
67 subdivision (3) of subsection (c) of section 36a-145; and (ii) a limited
68 branch to a branch under subdivision (3) of subsection (b) of section
69 36a-145, five hundred dollars.

70 (E) Merger or consolidation involving a Connecticut bank under
71 section 36a-125 or subsection (a) of section 36a-126, two thousand five
72 hundred dollars if two institutions are involved and five thousand
73 dollars if three or more institutions are involved.

74 (F) Acquisition of assets or business under section 36a-210, two
75 thousand five hundred dollars.

76 (G) Organization of a holding company under section 36a-181, two
77 thousand five hundred dollars.

78 (H) Organization of any Connecticut bank under section 36a-70,

79 fifteen thousand dollars, except no fee shall be required for the
80 organization of an interim Connecticut bank.

81 (I) Reorganization of a mutual savings bank or mutual savings and
82 loan association into a mutual holding company under section 36a-192,
83 five thousand dollars.

84 (J) Conversions under (i) sections 36a-135 to 36a-138, inclusive, five
85 thousand dollars; (ii) sections 36a-139, 36a-139a and 36a-469c, two
86 thousand five hundred dollars; and (iii) section 36a-139b, fifteen
87 thousand dollars.

88 (K) Acquiring, altering or improving real estate for present or future
89 use in the business of the bank or purchasing real estate adjoining any
90 parcel of real estate owned by the bank under subdivision (33) of
91 subsection (a) of section 36a-250, five hundred dollars, except that no
92 fee shall be charged for such application if it is filed in connection with
93 an application under subdivision (1) of subsection (b) or (c) of section
94 36a-145, as amended by this act.

95 (L) Investigation and processing an interstate banking transaction
96 application filed under section 36a-411 or 36a-412, two thousand five
97 hundred dollars, unless the transaction otherwise requires an
98 investigation and processing fee under this section.

99 (2) The fee for investigating and processing each acquisition
100 statement filed under section 36a-184 is two thousand five hundred
101 dollars, except if the acquisition statement is filed in connection with a
102 transaction that requires one or more applications, a reasonable fee not
103 to exceed two thousand five hundred dollars.

104 (3) Any fee for processing a notice of closing of a branch, limited
105 branch or special need limited branch under subdivision (1) of
106 subsection (f) of section 36a-145, if charged, shall not exceed two
107 thousand dollars. There shall be no fee for processing a notice of
108 closing of any mobile branch.

109 (4) The fee for a miscellaneous investigation shall be the actual cost
110 of the investigation, as such cost is determined by the commissioner.

111 Sec. 3. Subsection (e) of section 36a-70 of the general statutes is
112 repealed and the following is substituted in lieu thereof (*Effective from*
113 *passage*):

114 (e) Upon receipt of the feasibility study and financial forecast
115 required by subsection (d) of this section, the commissioner shall issue
116 an order designating a time and place for a hearing on the application.
117 Such hearing shall be held in accordance with chapter 54 not more
118 than thirty days from receipt of such feasibility study and financial
119 forecast unless the commissioner determines that good cause exists to
120 extend such time period. A copy of such feasibility study and financial
121 forecast shall be made available to the organizers. Any exhibit or
122 documentation submitted to the commissioner by the organizers at the
123 time of filing or by the preparer or preparers of the feasibility study
124 and financial forecast, other than financial statements and biographical
125 information relating to the individual organizers, shall be available for
126 public inspection prior to such hearing unless the commissioner
127 determines that good cause exists to keep any such exhibit or
128 documentation confidential.

129 Sec. 4. Subsection (f) of section 36a-70 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective from*
131 *passage*):

132 (f) The organizers shall cause to be published a copy of the
133 proposed certificate of incorporation and the time and place set for the
134 hearing [once a week for three consecutive weeks] for seven
135 consecutive days not less than twenty days prior to the date of the
136 hearing, in a newspaper designated by the commissioner published in
137 the town where the main office of the Connecticut bank is to be located
138 or, if there is no newspaper published in such town, in a newspaper
139 having a circulation therein. [; and a like copy sent by registered or
140 certified mail, return receipt requested, to each bank and out-of-state

141 bank having its main office or a branch in such town, not less than
142 twenty days prior to the hearing.]

143 Sec. 5. Subdivision (1) of subsection (b) of section 36a-145 of the
144 general statutes is repealed and the following is substituted in lieu
145 thereof (*Effective from passage*):

146 (b) (1) With the approval of the commissioner, any Connecticut
147 bank may establish a branch in this state. The commissioner shall not
148 approve the establishment of a branch under this subsection unless the
149 commissioner considers whether: (A) Establishment of the branch [will
150 result in an oversaturation of depository institutions in the town in
151 which the branch is to be located or in the area surrounding the town;
152 (B) establishment of the branch] is consistent with safe and sound
153 banking practices; [(C) the Connecticut bank seeking approval of the
154 branch intends to operate the branch on a long-term basis; and (D) the
155 Connecticut bank maintains, and will continue to maintain, a
156 reasonable ratio of loans made in the state to deposits received from
157 residents of the state. In determining whether to approve the
158 establishment of a branch under this subsection, the commissioner
159 shall not consider the existence of any office established under
160 subsection (d) of section 36a-425 by the Connecticut bank, or by a
161 holding company of which the Connecticut bank is a subsidiary, that is
162 situated at or near the location of the branch] and (B) the branch will
163 promote the public convenience and advantage. The commissioner
164 shall not approve the establishment of any branch under this
165 subsection unless the commissioner makes the findings required under
166 section 36a-34.

167 Sec. 6. Subsection (b) of section 36a-198 of the general statutes is
168 repealed and the following is substituted in lieu thereof (*Effective from*
169 *passage*):

170 (b) For purposes of section 36a-196, the subsidiary holding company
171 shall be treated as a reorganized savings institution issuing stock and
172 shall be subject to the requirements of [that] said section. In the case of

173 a stock issuance by a subsidiary holding company, the aggregate
174 amount of outstanding common stock of the subsidiary holding
175 company owned or controlled by persons other than the subsidiary
176 holding company's mutual holding company parent at the close of the
177 proposed issuance shall be less than [fifty-one] fifty per cent of the
178 subsidiary holding company's total outstanding common stock.

179 Sec. 7. Subsection (a) of section 36a-333 of the general statutes is
180 repealed and the following is substituted in lieu thereof (*Effective from*
181 *passage*):

182 (a) To secure public deposits, each qualified public depository shall
183 at all times maintain, segregated from its other assets as provided in
184 subsection (b) of this section, eligible collateral in an amount at least
185 equal to the following percentage of public deposits held by the
186 depository: (1) For any qualified public depository having a risk-based
187 capital ratio of ten per cent or greater, a sum equal to ten per cent of all
188 public deposits held by the depository; (2) for any qualified public
189 depository having a risk-based capital ratio of less than ten per cent
190 but greater than or equal to eight per cent, a sum equal to twenty-five
191 per cent of all public deposits held by the depository; (3) for any
192 qualified public depository having a risk-based capital ratio of less
193 than eight per cent but greater than or equal to three per cent, a sum
194 equal to one hundred per cent of all public deposits held by the
195 depository; (4) for any qualified public depository having a risk-based
196 capital ratio of less than three per cent, and, notwithstanding the
197 provisions of subdivisions (1) to (3), inclusive, of this subsection, for
198 any qualified public depository which has been conducting business in
199 this state for a period of less than two years except for a qualified
200 public depository that is a successor institution to a qualified public
201 depository which conducted business in this state for two years or
202 more, a sum equal to one hundred and twenty per cent of all public
203 deposits held by the depository; provided, the qualified public
204 depository and the public depositor may agree on an amount of
205 eligible collateral to be maintained by the depository that is greater

206 than the minimum amounts required under subdivisions (1) to (4),
207 inclusive, of this subsection; (5) notwithstanding the risk-based capital
208 ratio provisions of subdivisions (1) to (3), inclusive, of this subsection,
209 for any qualified public depository that is an uninsured bank, a sum
210 equal to one hundred twenty per cent of all public deposits held by the
211 depository; and (6) notwithstanding the risk-based capital ratio
212 provisions of subdivisions (1) to (3), inclusive, of this subsection, for
213 any qualified public depository that is subject to an order to cease and
214 desist, or has entered into a stipulation and agreement, or a letter of
215 understanding and agreement with a bank or credit union supervisor,
216 a sum equal to one hundred twenty per cent of all public deposits held
217 by the depository, provided, the qualified public depository and the
218 public depositor may agree on an amount of eligible collateral to be
219 maintained by the depository that is greater than the minimum
220 amounts required under subdivisions (1) to (6), inclusive, of this
221 subsection. For purposes of this subsection, the amount of all public
222 deposits held by the depository shall be determined based on either
223 the public deposits reported on the most recent [quarterly call] written
224 report filed with the commissioner pursuant to section 36a-338 or the
225 average of the public deposits reported on the four such most recent
226 [quarterly call] written reports, whichever amount is greater. For
227 purposes of this subsection, the depository's risk-based capital ratio
228 shall be determined, in accordance with applicable federal regulations
229 and regulations adopted by the commissioner in accordance with
230 chapter 54, based on the most recent quarterly call report, provided (A)
231 if, during any calendar quarter after the issuance of such report, the
232 depository experiences a decline in its risk-based capital ratio to a level
233 that would require the depository to maintain a higher amount of
234 eligible collateral under subdivisions (1) to (4), inclusive, of this
235 subsection, the depository shall increase the amount of eligible
236 collateral maintained by it to the minimum required under
237 subdivisions (1) to (4), inclusive, of this subsection based on such lower
238 risk-based capital ratio and shall notify the commissioner of its actions;
239 and (B) if, during any calendar quarter after the issuance of such

240 report, the commissioner reasonably determines that the depository's
241 risk-based capital ratio is likely to decline to a level that would require
242 the depository to maintain a higher amount of eligible collateral under
243 subdivisions (1) to (4), inclusive, of this subsection, the commissioner
244 may require that the depository increase the amount of eligible
245 collateral maintained by it to the minimum required under
246 subdivisions (1) to (4), inclusive, of this subsection based on the
247 commissioner's determination of such lower risk-based capital ratio.

248 Sec. 8. Section 36a-410 of the general statutes is repealed and the
249 following is substituted in lieu thereof (*Effective from passage*):

250 As used in sections 36a-410 to 36a-413, inclusive, unless the context
251 otherwise requires:

252 (1) "Branch" means a domestic branch as defined in 12 USC Section
253 1813, as from time to time amended, except that "branch" includes any
254 branch bank, branch office, branch agency, additional office, or any
255 branch place of business at which fiduciary or trust powers are
256 exercised;

257 (2) "Connecticut holding company" means any holding company
258 whose home state is this state;

259 (3) "De novo branch" means a branch of a bank or an out-of-state
260 bank other than a foreign bank, which:

261 (A) Is originally established by such bank or out-of-state bank; and

262 (B) Does not become a branch of such bank or out-of-state bank as
263 the result of (i) the acquisition by the bank or out-of-state bank of an
264 insured depository institution or a branch of an insured depository
265 institution; or (ii) the conversion, merger or consolidation of any such
266 institution or branch;

267 (4) "Home state" means: (A) With respect to a federally-chartered
268 bank, the state in which the main office of the bank is located; (B) with

269 respect to a foreign bank, the state which is the home state of the
270 foreign bank under the International Bank Act of 1978, 12 USC Section
271 3101 et seq., as from time to time amended, if any, or the foreign
272 country by which such bank is chartered; (C) with respect to a state-
273 chartered bank, the state by which such bank is chartered; (D) with
274 respect to a bank holding company, the state in which the total
275 deposits of all banking subsidiaries of such company are the largest on
276 the later of July 1, 1966, or the date on which the company became a
277 bank holding company under the federal Bank Holding Company Act
278 of 1956, 12 USC Section 1841 et seq., as from time to time amended,
279 and in the case of any such company that holds a banking subsidiary
280 that functions solely in a trust or fiduciary capacity, the state in which
281 the total of such trust or fiduciary assets of such subsidiaries were the
282 largest on the date such company became a bank holding company;
283 and (E) with respect to a savings and loan holding company, the state
284 in which the total deposits of all savings and loan association
285 subsidiaries of such company were the largest on the date on which
286 the company became a savings and loan holding company and, in the
287 case of any such company that holds a savings and loan association
288 subsidiary that functions solely in a trust or fiduciary capacity, the
289 state in which the total of such trust or fiduciary assets of such
290 subsidiaries were the largest on the date on which such company
291 became a savings and loan holding company;

292 (5) "Out-of-state holding company" means any holding company
293 whose home state is a state other than this state or whose home state is
294 a foreign country.

295 Sec. 9. Section 36a-428f of the general statutes is repealed and the
296 following is substituted in lieu thereof (*Effective from passage*):

297 Any foreign bank licensed to establish and maintain a state branch
298 or state agency in this state shall [apply to the commissioner for
299 approval to: (1) Change] file prior notice with the commissioner of any
300 change to (1) its place of business from the place designated in its

301 license to another place in this state; [, provided an application for such
 302 change shall be accompanied by an investigation fee of four hundred
 303 dollars; (2) change] (2) its corporate name if such change has been
 304 effected under the laws of the jurisdiction of its incorporation; and (3)
 305 [change] the business which it proposes to do in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-53(c)
Sec. 2	<i>from passage</i>	36a-65(d)
Sec. 3	<i>from passage</i>	36a-70(e)
Sec. 4	<i>from passage</i>	36a-70(f)
Sec. 5	<i>from passage</i>	36a-145(b)(1)
Sec. 6	<i>from passage</i>	36a-198(b)
Sec. 7	<i>from passage</i>	36a-333(a)
Sec. 8	<i>from passage</i>	36a-410
Sec. 9	<i>from passage</i>	36a-428f

Statement of Purpose:

To allow the Banking Commissioner to issue an order to cease and desist against any director or other related person of a Connecticut bank, Connecticut holding company, Connecticut credit union or Connecticut credit union service organization if such person is, among other things, engaging in an unsafe and unsound practice; to eliminate the application fee that a Connecticut bank shall pay in connection with an application for approval to acquire, alter or improve real estate for use by the bank if such application is filed in connection with an application to establish a branch; to provide that the commissioner may extend the thirty-day period in which a hearing shall be held on an application to organize a Connecticut bank if the commissioner determines that good cause exists to extend such time period; to reduce the number of times that the organizers of a Connecticut bank shall publish a copy of the proposed certificate of incorporation and time and place set for a hearing on an application to organize a Connecticut bank and to eliminate the requirement to send copies of such certificate and notice to each bank or out-of-state bank in the town where the Connecticut bank is to be located; to change the criteria that the commissioner shall consider in connection with an application filed by a Connecticut bank to establish a branch in this

state; to provide that in the case of a stock issuance by a subsidiary holding company persons other than its mutual holding company shall hold less than fifty per cent of the subsidiary holding company's total outstanding common stock; to provide that the amount of public deposits held by a qualified public depository shall be determined based on the amount of public deposits reported on the written report filed by such depository pursuant to section 36a-338; to clarify the definition of "home state" for purposes of interstate transactions with respect to a savings and loan holding company that holds savings and loan subsidiaries that function solely in a trust or fiduciary capacity; to replace the approval requirement with a notice requirement when any foreign bank licensed to establish and maintain a state branch in this state changes its corporate name, place of business or business which it proposes to do in this state and to eliminate the existing investigation fee of four hundred dollars required in section 36a-428f of the general statutes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]