



General Assembly

January Session, 2007

Raised Bill No. 7108

LCO No. 3969

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Referred to Committee on Banks

Introduced by:

(BA)

AN ACT PROHIBITING BANK BRANCHING IN CERTAIN RETAIL LOCATIONS.

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

1 Section 1. Subsections (a) to (c), inclusive, of section 36a-145 of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (a) As used in this section:

5 (1) "Affiliate" means any company that controls, is controlled by, or
6 is under common control with, another company.

7 ~~[(1)]~~ (2) "Branch" means any office at a fixed location of a
8 Connecticut bank, other than the main office, at which deposits are
9 received, checks paid and money lent and which, at a minimum, is
10 open for banking business Monday through Friday, except as provided
11 in subsection (a) of section 36a-23.

12 (3) "Commercial activities" means activities in which a bank holding
13 company, a financial holding company, a national bank or a national
14 bank financial subsidiary may not engage under federal law.

15 [(2)] (4) "Consolidate" means to combine within the same
16 neighborhood, without substantially affecting the nature of the
17 business or customers served, (A) two or more branches into a single
18 branch; (B) one or more branches and one or more limited branches
19 into a single branch or limited branch; (C) two or more limited
20 branches into a single limited branch; or (D) one or more branches or
21 limited branches into a main office.

22 [(3)] (5) "Limited branch" means any office at a fixed location of a
23 Connecticut bank at which banking business is conducted other than
24 the main office, branch or mobile branch.

25 [(4)] (6) "Mobile branch" means any office of a Connecticut bank at
26 which banking business is conducted which is in fact moved or
27 transported to one or more predetermined locations in accordance
28 with a predetermined schedule.

29 [(5)] (7) "Relocate" means to move within the same immediate
30 neighborhood without substantially affecting the nature of the
31 business or customers served.

32 (b) (1) With the approval of the commissioner, any Connecticut
33 bank may establish a branch in this state. The commissioner shall not
34 approve the establishment of a branch under this subsection unless the
35 commissioner considers whether: (A) Establishment of the branch is
36 consistent with safe and sound banking practices; and (B) the branch
37 will promote the public convenience and advantage. The
38 commissioner shall not approve the establishment of any branch under
39 this subsection unless the commissioner makes the findings required
40 under section 36a-34. No Connecticut bank may establish or maintain a
41 branch in this state on the premises or property of an affiliate if the
42 affiliate engages in commercial activities.

43 (2) For a period of three years following the issuance of its final
44 certificate of authority pursuant to subsection (l) of section 36a-70, a
45 Connecticut bank may, with thirty days' prior notice to the

46 commissioner, establish a branch in this state if the proposed branch
47 was approved as part of the application to organize such bank, unless
48 the commissioner requires an approval pursuant to subdivision (1) of
49 this subsection.

50 (3) With the approval of the commissioner, any Connecticut bank
51 may convert a limited branch in this state to a branch. The
52 commissioner shall not approve a conversion under this subdivision
53 unless the commissioner considers such factors and makes such
54 findings under subdivision (1) of this subsection as the commissioner
55 deems applicable.

56 (c) (1) With the approval of the commissioner, any Connecticut bank
57 may establish in this state a limited branch that provides limited
58 services or is open for limited time periods. The commissioner shall
59 not approve the establishment of a limited branch under this
60 subdivision unless the commissioner considers such factors and makes
61 such findings under subdivision (1) of subsection (b) of this section as
62 the commissioner deems applicable. The commissioner shall approve
63 such establishment if the commissioner determines that: (A) The
64 interest of the neighborhood where the limited branch is to be located
65 will be served to advantage by the establishment of the proposed
66 branch, and (B) the proposed products, services and banking hours are
67 appropriate to meet the convenience and needs of the neighborhood.
68 No Connecticut bank may establish or maintain a limited branch in
69 this state on the premises or property of an affiliate if the affiliate
70 engages in commercial activities.

71 (2) For a period of three years following the issuance of its final
72 certificate of authority pursuant to subsection (l) of section 36a-70, a
73 Connecticut bank may, with thirty days' prior notice to the
74 commissioner, establish a limited branch in this state if the proposed
75 limited branch was approved as part of the application to organize
76 such bank, unless the commissioner requires an approval pursuant to
77 subdivision (1) of this subsection.

78 (3) With the approval of the commissioner, any Connecticut bank
79 may convert a branch in this state to a limited branch. The
80 commissioner shall not approve a conversion under this subdivision
81 unless the commissioner considers such factors and makes such
82 findings under subdivision (1) of subsection (b) of this section as the
83 commissioner deems applicable, and the commissioner determines
84 that alternative banking services are available in the neighborhood so
85 that any reduction in services will not result in unmet banking needs.

86 (4) With the approval of the commissioner, any Connecticut bank
87 may establish in this state a special need limited branch that provides
88 limited services or is open for limited time periods in order to meet a
89 special need of the neighborhood in which such limited branch is to be
90 located. The commissioner shall not approve the establishment of a
91 special need limited branch under this subdivision unless the
92 commissioner considers such factors and makes such findings and
93 determinations under subdivision (1) of this subsection as the
94 commissioner deems necessary.

95 (5) A limited branch shall be conspicuously identified as a branch of
96 the Connecticut bank. The commissioner may condition the approval
97 of such branch with any other requirement that the commissioner
98 deems necessary or appropriate for the protection of depositors or the
99 Connecticut bank.

100 Sec. 2. Section 36a-410 of the general statutes is repealed and the
101 following is substituted in lieu thereof (*Effective from passage*):

102 As used in sections 36a-410 to 36a-413, inclusive, as amended by this
103 act, unless the context otherwise requires:

104 (1) "Affiliate" has the same meaning as provided in subsection (a) of
105 section 36a-145, as amended by this act;

106 [(1)] (2) "Branch" means a domestic branch as defined in 12 USC
107 Section 1813, as from time to time amended, except that "branch"

108 includes any branch bank, branch office, branch agency, additional
109 office, or any branch place of business at which fiduciary or trust
110 powers are exercised;

111 (3) "Commercial activities" has the same meaning as provided in
112 subsection (a) of section 36a-145, as amended by this act;

113 [(2)] (4) "Connecticut holding company" means any holding
114 company whose home state is this state;

115 [(3)] (5) "De novo branch" means a branch of a bank or an out-of-
116 state bank other than a foreign bank, which:

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

118 (B) Does not become a branch of such bank or out-of-state bank as
119 the result of (i) the acquisition by the bank or out-of-state bank of an
120 insured depository institution or a branch of an insured depository
121 institution; or (ii) the conversion, merger or consolidation of any such
122 institution or branch;

123 [(4)] (6) "Home state" means: (A) With respect to a federally-
124 chartered bank, the state in which the main office of the bank is
125 located; (B) with respect to a foreign bank, the state which is the home
126 state of the foreign bank under the International Bank Act of 1978, 12
127 USC Section 3101 et seq., as from time to time amended, if any, or the
128 foreign country by which such bank is chartered; (C) with respect to a
129 state-chartered bank, the state by which such bank is chartered; (D)
130 with respect to a bank holding company, the state in which the total
131 deposits of all banking subsidiaries of such company are the largest on
132 the later of July 1, 1966, or the date on which the company became a
133 bank holding company under the federal Bank Holding Company Act
134 of 1956, 12 USC Section 1841 et seq., as from time to time amended,
135 and in the case of any such company that holds a banking subsidiary
136 that functions solely in a trust or fiduciary capacity, the state in which
137 the total of such trust or fiduciary assets of such subsidiaries were the

138 largest on the date such company became a bank holding company;
139 and (E) with respect to a savings and loan holding company, the state
140 in which the total deposits of all savings and loan association
141 subsidiaries of such company were the largest on the date on which
142 the company became a savings and loan holding company and, in the
143 case of any such company that holds a savings and loan association
144 subsidiary that functions solely in a trust or fiduciary capacity, the
145 state in which the total of such trust or fiduciary assets of such
146 subsidiaries were the largest on the date on which such company
147 became a savings and loan holding company;

148 [(5)] (7) "Out-of-state holding company" means any holding
149 company whose home state is a state other than this state or whose
150 home state is a foreign country.

151 Sec. 3. Subsection (a) of section 36a-412 of the general statutes is
152 repealed and the following is substituted in lieu thereof (*Effective from*
153 *passage*):

154 (a) (1) Any out-of-state bank, whether or not owned or controlled by
155 an out-of-state holding company, may, with the approval of the
156 commissioner, merge or consolidate with or acquire a branch or
157 significant part of the assets or ten per cent or more of the stock of a
158 bank provided such bank has been in existence and continuously
159 operating for at least five years, unless the commissioner waives this
160 requirement, where the institution resulting from any such merger or
161 consolidation is an out-of-state bank, provided the laws of the home
162 state of such out-of-state bank authorize, under conditions no more
163 restrictive than those imposed by the laws of this state as determined
164 by the commissioner, a bank to merge or consolidate with or purchase
165 a branch or significant part of the assets or ten per cent or more of the
166 stock of an out-of-state bank whose home state is such state. Such
167 merger, consolidation or acquisition shall not take place if the out-of-
168 state bank, including all insured depository institutions which are
169 affiliates of the out-of-state bank, upon consummation of the merger,

170 consolidation or acquisition, would control thirty per cent or more of
171 the total amount of deposits of insured depository institutions in this
172 state, unless the commissioner permits a greater percentage of such
173 deposits. Any such merger, consolidation or acquisition of assets or
174 stock shall be effected in accordance with and subject to the filing
175 requirements and any limitations imposed by the laws of this state
176 with respect to mergers, consolidations and acquisitions between
177 banks. Any such out-of-state bank that engages in business in this state
178 shall comply with the requirements of section 33-920 or subsection (a)
179 of section 33-1210. Before approving any such merger, consolidation or
180 acquisition, the commissioner shall make such considerations,
181 determinations and findings as required by the laws of this state with
182 respect to mergers, consolidations and acquisitions between banks
183 and, in addition, shall consider whether such merger, consolidation or
184 acquisition can reasonably be expected to produce benefits to the
185 public and whether such benefits clearly outweigh possible adverse
186 effects, including, but not limited to, an undue concentration of
187 resources and decreased or unfair competition. The commissioner shall
188 not approve such merger, consolidation or acquisition unless the
189 commissioner considers whether: (A) The investment and lending
190 policies of the out-of-state bank, in the case of a merger or acquisition
191 of assets, or the proposed investment and lending policies of the bank,
192 in the case of an acquisition of stock, or of the institution that will
193 result from a consolidation, are consistent with safe and sound
194 banking practices and will benefit the economy of this state; (B) the
195 services of the bank or branch to be acquired, or of the institution that
196 will result from a merger, or the proposed services of the institution
197 that will result from a consolidation, are consistent with safe and
198 sound banking practices and will benefit the economy of this state; (C)
199 the merger, consolidation or acquisition will not substantially lessen
200 competition in the banking industry of this state; (D) in the case of a
201 merger or consolidation or the acquisition of twenty-five per cent or
202 more of such stock, the out-of-state bank (i) has sufficient capital to
203 ensure, and agrees to ensure, that the bank to be acquired or the

204 institution that will result from the merger or consolidation will
205 comply with applicable minimum capital requirements, and (ii) has
206 sufficient managerial resources to operate the bank to be acquired or
207 the institution that will result from the merger or consolidation in a
208 safe and sound manner; and (E) the out-of-state bank is in compliance
209 with applicable minimum capital requirements. The commissioner
210 shall not approve such merger, consolidation or acquisition unless the
211 commissioner makes the findings required by section 36a-34. Any out-
212 of-state bank that merges or consolidates with or acquires a branch
213 pursuant to this subdivision may establish additional branches in this
214 state.

215 (2) Any out-of-state bank, other than a foreign bank, may, with the
216 approval of the commissioner, and in accordance with the provisions
217 of this subdivision, establish a de novo branch in this state. Such
218 establishment shall not take place unless the laws of the home state of
219 such out-of-state bank authorize, under conditions no more restrictive
220 than those imposed by the laws of this state, as determined by the
221 commissioner, a bank to establish a de novo branch in the home state
222 of such out-of-state bank, provided the commissioner may waive such
223 reciprocity requirement for the establishment of a de novo branch the
224 activities of which are limited to the exercise of fiduciary or trust
225 powers if the commissioner finds that such establishment will result in
226 net new benefits to this state. Any request for such waiver of
227 reciprocity submitted by an out-of-state bank shall include a detailed
228 statement of the reasons for the request and statistical and other
229 information to support a finding of such net new benefits. Any such
230 establishment shall be effected in accordance with and subject to the
231 filing requirements and any limitations imposed by section 36a-145.
232 Any such out-of-state bank that engages in business in this state shall
233 comply with the requirements of section 33-920 or subsection (a) of
234 section 33-1210. Before approving any such establishment, the
235 commissioner shall make such considerations, determinations and
236 findings as required by section 36a-145 and, in addition, shall consider
237 whether such establishment can reasonably be expected to produce

238 benefits to the public and whether such benefits clearly outweigh
239 possible adverse effects, including, but not limited to, an undue
240 concentration of resources and decreased or unfair competition. The
241 commissioner shall not approve such establishment unless the
242 commissioner considers whether: (A) The investment and lending
243 policies of the out-of-state bank are consistent with safe and sound
244 banking practices and will benefit the economy of this state; (B) the
245 proposed services of the branch are consistent with safe and sound
246 banking practices and will benefit the economy of this state; (C) the
247 establishment will not substantially lessen competition in this state; (D)
248 the out-of-state bank is adequately managed and will continue to be
249 adequately managed upon establishment of such branch; and (E) the
250 out-of-state bank is in compliance with applicable minimum capital
251 requirements. The commissioner shall not approve such establishment
252 unless the commissioner makes the findings required by section
253 36a-34. An out-of-state bank which has established a de novo branch in
254 this state in accordance with this subdivision may establish additional
255 branches in this state, provided the activities of such additional
256 branches of an out-of-state bank for which the commissioner waived
257 such reciprocity requirement shall be limited to the exercise of
258 fiduciary or trust powers. As used in this subdivision, "net new
259 benefits" means (i) initial capital investments, including any new
260 construction, (ii) job creation plans, including, but not limited to, the
261 number of jobs to be created and the average wage rates for each
262 category of such jobs, (iii) the potential for increasing state and
263 municipal tax revenues from increased economic activity and
264 increased employment, (iv) consumer and business services and other
265 benefits to the state, local community and citizens, and (v) such other
266 matters as the commissioner may deem necessary or advisable.

267 (3) Any out-of-state bank, regardless of whether it has a branch in
268 this state, may merge or consolidate with or acquire a branch in this
269 state of an out-of-state bank that has a branch in this state.

270 (4) (A) Except as provided in this section, the laws of this state shall

271 apply to any branch in this state of an out-of-state bank to the same
272 extent as such laws would apply if the branch were a federal bank,
273 provided the following laws shall apply to any branch in this state of
274 an out-of-state bank to the same extent as such laws apply to a branch
275 of a Connecticut bank: (i) Community reinvestment laws including
276 sections 36a-30 to 36a-33, inclusive, (ii) consumer protection laws
277 including sections 36a-41 to 36a-45, inclusive, 36a-290 to 36a-304,
278 inclusive, 36a-306, 36a-307, 36a-315 to 36a-323, inclusive, 36a-645 to
279 36a-647, inclusive, 36a-690, 36a-695 to 36a-700, inclusive, 36a-705 to
280 36a-707, inclusive, 36a-715 to 36a-718, inclusive, 36a-725, 36a-726, 36a-
281 755 to 36a-759, inclusive, 36a-770 to 36a-788, inclusive, and 36a-800 to
282 36a-810, inclusive, (iii) fair lending laws including sections 36a-16, 36a-
283 737, 36a-740 and 36a-741, and (iv) branching laws including sections
284 36a-23 and 36a-145.

285 (B) Except as provided in this section, an out-of-state bank, other
286 than a federally-chartered out-of-state bank, that establishes a branch
287 in this state may conduct any activity at such branch (i) if such activity
288 is permissible under the laws of the home state of such out-of-state
289 bank, and (ii) to the same extent as such activity is permissible for
290 either a Connecticut bank or a branch in this state of a federally-
291 chartered out-of-state bank. If the commissioner determines that a
292 branch in this state of an out-of-state bank, other than a federally-
293 chartered out-of-state bank, is being operated in violation of any
294 applicable law of this state or in an unsafe and unsound manner, the
295 commissioner may take any enforcement action authorized under this
296 title against such out-of-state bank to the same extent as if such branch
297 were a Connecticut bank, provided the commissioner shall promptly
298 give notice of such action to the home state banking regulator of such
299 out-of-state bank and, to the extent practicable, shall consult and
300 cooperate with such regulator in pursuing and resolving such action.

301 (5) Any out-of-state bank that merges or consolidates with or
302 acquires the assets of a bank or establishes in this state a de novo
303 branch shall be subject to the supervision and examination of the

304 commissioner pursuant to regulations adopted by the commissioner in
305 accordance with chapter 54 and shall make reports to the
306 commissioner as required by the laws of this state. The commissioner
307 may examine and supervise the Connecticut branches of any such out-
308 of-state bank and may enter into agreements with other state or federal
309 banking regulators or similar regulators in a foreign country
310 concerning such examinations or supervision. Any such agreement
311 may include provisions concerning the assessment or sharing of fees
312 for such examination or supervision. Unless waived by the
313 commissioner, the provisions of this section shall apply to the
314 acquisition of the assets of any bank from the receiver of such bank by
315 any out-of-state bank.

316 (6) No out-of-state bank may establish or maintain a branch in this
317 state on the premises or property of an affiliate if the affiliate engages
318 in commercial activities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	36a-145(a) to (c)
Sec. 2	<i>from passage</i>	36a-410
Sec. 3	<i>from passage</i>	36a-412(a)

Statement of Purpose:

To prohibit a Connecticut bank or an out-of-state bank from establishing or maintaining a branch in this state on the premises or property of an affiliate if the affiliate engages in commercial activities.

[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.]