

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-50—sSB 1109

Banks Committee

AN ACT CONCERNING BANKS

SUMMARY: This act makes various changes to the banking law. It:

1. authorizes a Connecticut bank to merge with its non-bank affiliates, as long as the result of the merger is a Connecticut bank;
2. changes reporting requirements for Connecticut banks, credit unions, and credit union service organizations that outsource electronic data processing services;
3. expands the types of agreements that the banking commissioner may enter into, alone or with federal agencies, regarding Connecticut banks, credit unions, and credit union service organizations that are insolvent or meet other specified criteria;
4. extends the existing \$500 fee for relocation of an in-state branch of a Connecticut bank to the relocation of an out-of-state branch of a Connecticut bank;
5. extends the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, and makes other changes regarding such applications;
6. amends loan-to-value limits for installments made by Connecticut banks for construction loans;
7. clarifies the notice requirement for Connecticut banks that invest a controlling interest in entities that are limited to banking functions;
8. makes changes regarding collateral requirements for qualified public depositories and the procedures upon the failure of a qualified public depository;
9. authorizes the banking commissioner to require criminal background checks for specified individuals in nonbank corporations authorized to act as trustees and business and industrial development corporations; and
10. extends to credit union senior management the commissioner's authority to require fingerprints for criminal background checks of key personnel in Connecticut credit unions.

The act also makes minor and technical changes.

EFFECTIVE DATE: July 1, 2011 for the provisions regarding background checks; October 1, 2011 for the provisions regarding electronic data processing, construction loan installments, and certain technical changes; upon passage for the remaining provisions.

§ 1 — ELECTRONIC DATA PROCESSING

By law, Connecticut banks, credit unions, and credit union service

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organizations that outsource electronic data processing services must enter into a written contract with the data processor, whether the work is done on- or off-premises. Prior law required such entities to promptly send to the banking commissioner a copy of the contract. The act eliminates this requirement, instead requiring such entities to promptly notify the commissioner of any material change in their electronic data processing services.

§ 2 — BANKING COMMISSIONER AGREEMENTS FOLLOWING INVESTIGATION

By law, the banking commissioner may enter into various agreements with Connecticut banks, credit unions, or credit union service organizations, either alone or in conjunction with specified federal agencies, if the commissioner makes certain findings after examining or investigating the financial entity. The act expands the list of permissible agreements to include (1) consent orders for such financial entities and (2) the issuance of preliminary warning letters to Connecticut credit unions or credit union service organizations. It also adds the Federal Reserve Bank or its successor as a federal agency with which the commissioner may act in regards to an agreement or other specified arrangement with a Connecticut bank.

By law, the commissioner may take such actions upon finding that the entity (1) has failed to file a report on time; (2) is insolvent; (3) has violated any banking law, regulation, rule, or order; or (4) has engaged or participated in, or is engaging or participating in, an unsafe and unsound practice.

§ 4 — CONDITIONAL PRELIMINARY APPROVAL OF EXPEDITED BANKS

The act extends by two years the application deadline for the conditional preliminary approval of expedited banks that are organized primarily to acquire failed banks, from September 30, 2011 to September 30, 2013. It permits a single application for the conditional preliminary approval of more than one such bank. Prior law required a separate application for each conditional preliminary approval.

The act also applies the existing 18-month expiration of the conditional preliminary approval to all such banks, not just those that have not begun business or consummated an initial acquisition. By law, the commissioner can extend the approval beyond 18 months.

§ 5 — CONSTRUCTION LOANS BY CONNECTICUT BANKS

The law allows Connecticut banks to make construction mortgage loans in installments as the work progresses, at the lender's discretion. The law also sets loan-to-value ratio limits for such installments. Prior law prohibited the ratio of the installment total to the property's current value from exceeding the greater of (1) 50% or (2) the final loan's proportion to the completed property value. The act deletes the first option.

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By law, these limits do not apply to loans of up to 24 months, or 36 months if approved by the banking commissioner. Different limits apply for loans insured by the Federal Housing Administration (CGS § 36a-261(k)). Different limits also apply to loans where the borrower has an agreement with a housing authority, secured by a commitment of the U.S. Department of Housing and Urban Development, to construct housing and sell the property to the housing authority upon completion (CGS § 36a-261(o)).

§ 7 — NOTICE REQUIREMENT FOR BANK INVESTMENTS IN CONTROLLING INTEREST IN ENTITIES LIMITED TO BANKING FUNCTIONS

By law, subject to certain restrictions, Connecticut banks may purchase or hold for their own accounts equity securities and equity mutual funds, including equity securities of another bank or holding company. A bank must notify the commissioner, in writing, 24 hours before making such an investment that would result in the bank having invested in the aggregate in 25% or more of a corporation's equity securities. The act explicitly excludes from the notice requirement a bank's investment in a controlling interest in an entity whose functions are limited to those that the bank may carry on directly in the exercise of its express or incidental powers. By law, such investments require the banking commissioner's approval.

For this purpose, the law defines a controlling interest as at least 51% of the equity securities issued by the entity, unless the commissioner determines that under the circumstances a lesser percentage constitutes effective working control of the entity.

§§ 8-10 — PUBLIC DEPOSITS AND QUALIFIED PUBLIC DEPOSITORIES

Definitions

The act adds two new definitions to the law's provisions regarding the protection of public deposits. It defines "business day" as any day other than a Saturday, Sunday, or day when a financial institution is closed as required or authorized by federal or state law. It defines "close of business" as the time when a financial institution closes for regular business operations on a business day.

Collateral Requirement

By law, a qualified public depository is a bank, Connecticut or federal credit union, or out-of-state bank with a Connecticut branch that receives or holds public deposits and (1) segregates eligible collateral for such deposits or (2) arranges for a letter of credit to be issued.

The act adds to the list of regulatory orders or agreements that trigger higher collateral requirements for public depositories. The law requires qualified public depositories to maintain collateral equal to a specified percentage of their public deposits. The percentage is based primarily on their risk-based capital ratio. Qualified public depositories must maintain collateral equal to at least 120% of

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public deposits they hold if they are subject to a cease and desist order or have entered into a stipulation and agreement or a letter of understanding and agreement with a bank or credit union supervisor. The act also imposes this collateral requirement on qualified public depositories that are subject to a consent order or preliminary warning letter, or have entered into a memorandum of understanding with a bank or credit union supervisor.

The act changes the method for determining the amount of public deposits a depository holds. Under prior law, the amount had to be determined based on the greater of (1) the public deposits reported on the most recent written report filed with the banking commissioner pursuant to law or (2) the average of the public deposits reported on the four most recent written reports. The act instead provides that the amount must be determined at the close of business on the day the depository receives a public deposit. It further provides that deficiencies in the required collateral requirements must be cured by the close of business on the following business day.

Procedure Upon Loss

By law, the banking commissioner must pay public officers of public deposits, pursuant to specified procedures, when the commissioner determines that there has been (1) an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or (2) the appointment of a receiver for a qualified public depository.

The act adds to the list of factors the commissioner must consider upon the failure of a public depository. Among other required procedures after such an event, each public depositor having funds on deposit in the depository must provide the banking commissioner with verified statements of such deposits disclosed by its records, plus information concerning letters of credit issued to the public depositor. The act also requires such public depositors to provide the commissioner with information about private insurance policies used to secure public deposits.

By law, the commissioner must then determine the net amount of such public deposits after deducting deposit insurance and amounts received or to be received by the public depositor pursuant to a letter of credit. The act also requires the commissioner to deduct amounts received pursuant to private insurance policies.

§§ 11, 12 & 14 — CRIMINAL BACKGROUND CHECKS

Nonbank Corporations Authorized to Act as Trustees and Business and Industrial Development Corporations

The act permits the banking commissioner to require criminal background checks for the principals, executive officers, and directors of nonbank corporations authorized to act as trustees and business and industrial development corporations. He may require them at any time, including when the corporations or organizations are applying for licenses. The commissioner may require fingerprinting or any other method of positive identification the State Police requires to conduct the background check. The background check must comply

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with existing law on procedures for background checks.

Connecticut Credit Unions

The act allows the banking commissioner to require fingerprints from a Connecticut credit union's senior management for use in criminal background checks. By law, the senior management includes the credit union's president or chief executive officer, vice president or vice CEO, chief financial officer, credit manager, and anyone occupying a similar status or performing a similar function (CGS § 36a-435b(18)). The law already authorizes the commissioner to require background checks of credit union organizers, directors, and appointed directors.

The law specifies that the commissioner may require the fingerprinting at any time, including in connection with an application to organize the credit union. The background check must comply with existing law on procedures for these checks.

§ 15 — MERGER OF BANK WITH NON-BANK AFFILIATE

Under the act, a Connecticut bank may merge with one or more of its non-bank affiliates, as long as the result of the merger is a Connecticut bank. The act provides that the merger must comply with existing law on bank mergers, with the following exception: regarding corporate procedure, including the rights of dissenting members or shareholders asserting appraisal rights, the act requires the merging affiliate to comply with the laws of its state or jurisdiction of organization. The merging affiliate must also comply with other applicable laws regarding mergers in the affiliate's state or jurisdiction of organization.

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