

103^D CONGRESS
2^D SESSION

H. R. 3841

AN ACT

To amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

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To amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Interstate Banking Efficiency Act of 1994”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—INTERSTATE BANKING AND BRANCHING

- Sec. 101. Interstate banking.
- Sec. 102. Interstate branching by national banks.
- Sec. 103. Interstate branching by State banks.
- Sec. 104. Branching by foreign banks.
- Sec. 105. Interstate consolidations.
- Sec. 106. Branch closures.
- Sec. 107. Prohibition against deposit production offices.
- Sec. 108. Federal Reserve Board study on bank fees.
- Sec. 109. Restatement of existing law.

TITLE II—CRA EVALUATIONS

- Sec. 201. State-by-State CRA evaluations of depository institutions with interstate branches.

1 **TITLE I—INTERSTATE BANKING**
 2 **AND BRANCHING**

3 **SEC. 101. INTERSTATE BANKING.**

4 (a) INTERSTATE ACQUISITIONS.—Section 3(d) of the
 5 Bank Holding Company Act of 1956 (12 U.S.C. 1842(d))
 6 is amended to read as follows:

7 “(d) INTERSTATE ACQUISITIONS.—

8 “(1) APPROVALS AUTHORIZED.—

9 “(A) IN GENERAL.—Subject to paragraph
 10 (2), the Board may approve an application
 11 under this section by a bank holding company
 12 to acquire, directly or indirectly, any voting
 13 shares of, interest in, or all or substantially all
 14 of the assets of any additional bank or any
 15 bank holding company located in any State
 16 other than the home State of the applicant
 17 bank holding company.

18 “(B) CONCENTRATION LIMITS.—

1 “(i) IN GENERAL.—The Board may
2 not approve an application under subpara-
3 graph (A) if—

4 “(I) the applicant (including all
5 insured depository institutions which
6 are affiliates of the applicant) con-
7 trols, or upon completion of the acqui-
8 sition would control, more than 10
9 percent of the total amount of insured
10 depository institution deposits in the
11 United States; or

12 “(II) the applicant (including all
13 insured depository institutions which
14 are affiliates of the applicant) con-
15 trols, or upon completion of the acqui-
16 sition would control, 30 percent or
17 more of the total amount of insured
18 depository institution deposits in the
19 State in which the bank to be ac-
20 quired is located.

21 “(ii) WAIVER BY STATE.—A State
22 may waive the application of clause (i)(II)
23 to an acquisition in such State.

24 “(2) APPLICABILITY OF STATE LAW TO ACQUI-
25 SITIONS.—

1 “(A) INAPPLICABILITY OF CERTAIN STATE
2 LAWS TO ACQUISITIONS.—Subject to paragraph
3 (3), any acquisition described in paragraph
4 (1)(A) which has been approved under this sec-
5 tion may be consummated notwithstanding any
6 law of any State that would prohibit or other-
7 wise limit such acquisition on the basis of—

8 “(i) the location or size of the acquir-
9 ing company or any subsidiary of such
10 company;

11 “(ii) the number of bank subsidiaries
12 of such company; or

13 “(iii) any other factor that—

14 “(I) directly or indirectly, has the
15 effect of prohibiting or limiting the
16 acquisition of shares or control of a
17 bank or bank holding company located
18 in such State by an out-of-State bank
19 holding company; and

20 “(II) is not applied with similar
21 effect with respect to acquisitions of
22 banks or bank holding companies lo-
23 cated in such State by bank holding
24 companies located in the State.

1 “(B) APPLICABILITY OF STATE LAW ON
2 THE FORM OF ACQUISITION.—

3 “(i) IN GENERAL.—Notwithstanding
4 any other provision of this subsection and
5 subject to clause (ii), any law of a host
6 State which—

7 “(I) is in existence on the date of
8 the enactment of the Interstate Bank-
9 ing Efficiency Act of 1994 or is en-
10 acted after such date; and

11 “(II) allows an out-of-State bank
12 or bank holding company to establish
13 a bank in the host State only by ac-
14 quiring an existing bank in the host
15 State,

16 shall apply with respect to the establish-
17 ment or acquisition of a bank in the host
18 State under this subsection.

19 “(ii) APPLICABILITY OF PROVISIONS
20 RELATING TO MINIMUM PERIOD OF EXIST-
21 ENCE OF ACQUIRED BANK.—In the case of
22 any State law referred to in clause (i)
23 which is enacted after the date of the en-
24 actment of the Interstate Banking Effi-
25 ciency Act of 1994 and requires the bank

1 to be acquired to have been in existence
2 (as of the date of the transaction) for a pe-
3 riod of time greater than 5 years, such law
4 shall be applied under clause (i) by sub-
5 stituting ‘5-year period’ for such greater
6 period.

7 “(3) APPLICABILITY OF STATE LAW TO INTER-
8 STATE BANKING OPERATIONS.—

9 “(A) STATE TAXATION AUTHORITY NOT
10 AFFECTED.—No provision of this subsection
11 shall be construed as affecting the authority of
12 any State or political subdivision of any State
13 to apply and administer any tax or method of
14 taxation to any bank, bank holding company, or
15 foreign bank, or any affiliate of any bank or
16 bank holding company, to the extent such tax
17 or tax method is otherwise permissible by or
18 under the Constitution of the United States of
19 America or other Federal law.

20 “(B) APPLICABILITY OF DEPOSIT CAPS
21 AND ANTITRUST LAWS.—No provision of this
22 subsection shall be construed as affecting—

23 “(i) the authority of any State to limit
24 the percentage of the total amount of in-
25 sured depository institution deposits in the

1 State which may be held or controlled by
2 any bank to the extent the application of
3 such limitation does not discriminate
4 against out-of-State banks or bank holding
5 companies; or

6 “(ii) the applicability of the antitrust
7 laws or any State law which is similar to
8 the antitrust laws.

9 “(4) DEFINITIONS.—For purposes of this sub-
10 section, the following definitions shall apply:

11 “(A) ANTITRUST LAWS.—The term ‘anti-
12 trust laws’—

13 “(i) has the same meaning as in sub-
14 section (a) of the 1st section of the Clay-
15 ton Act; and

16 “(ii) includes section 5 of the Federal
17 Trade Commission Act to the extent such
18 section 5 relates to unfair methods of com-
19 petition.

20 “(B) DEPOSITS.—The term ‘deposits’ has
21 the same meaning as in section 3(l) of the Fed-
22 eral Deposit Insurance Act.

23 “(C) HOME STATE.—The term ‘home
24 State’ means, with respect to a bank holding
25 company, the State in which the total deposits

1 of all banking subsidiaries of such company
2 were the largest on the later of July 1, 1966,
3 or the date on which the company becomes a
4 bank holding company.

5 “(D) HOST STATE.—The term ‘host State’
6 means, with respect to a bank holding company
7 acquiring or establishing a bank in a State
8 other than such company’s home State, the
9 State in which the bank being acquired or es-
10 tablished is located.

11 “(E) INSURED DEPOSITORY INSTITU-
12 TION.—The term ‘insured depository institu-
13 tion’ has the same meaning as in section 3 of
14 the Federal Deposit Insurance Act.

15 “(F) OUT-OF-STATE BANK HOLDING COM-
16 PANY.—The term ‘out-of State bank holding
17 company’ means, with respect to any State, a
18 bank holding company the home State of which
19 is another State.”.

20 (b) SUBSIDIARY DEPOSITORY INSTITUTIONS AS
21 AGENTS.—Section 18 of the Federal Deposit Insurance
22 Act (12 U.S.C. 1828) by adding at the end the following
23 new subsection:

24 “(q) SUBSIDIARY DEPOSITORY INSTITUTIONS AS
25 AGENTS FOR CERTAIN AFFILIATES.—

1 “(1) IN GENERAL.—Any depository institution
2 subsidiary of a depository institution holding com-
3 pany may receive deposits, renew time deposits, close
4 loans, disburse proceeds of loans, and receive pay-
5 ments on loans and other obligations as agent for a
6 depository institution affiliate located in another
7 State.

8 “(2) DEPOSITORY INSTITUTION ACTING AS
9 AGENT IS NOT A BRANCH.—Notwithstanding any
10 other provision of law, a depository institution acting
11 as agent in accordance with paragraph (1) for a de-
12 pository institution affiliate shall not be considered
13 to be a branch of the affiliate.

14 “(3) ACTIVITIES AS AGENT.—Paragraph (1)
15 shall not be construed as authorizing a State depository
16 institution to engage in activities as an agent
17 in which such institution is not authorized to engage
18 as principal under the laws of the State in which
19 such institution acts as agent.

20 “(4) PLAN ON MEETING LOCAL CREDIT
21 NEEDS.—

22 “(A) IN GENERAL.—If a depository insti-
23 tution holding company controls any depository
24 institution which acts as agent for another de-
25 pository institution subsidiary of such company

1 pursuant to paragraph (1), the depository insti-
2 tution holding company shall file a local credit
3 needs plan with the appropriate Federal bank-
4 ing agency for the subsidiary which acts as
5 agent before the date on which the subsidiary
6 begins acting as agent.

7 “(B) LOCAL CREDIT NEEDS PLAN DE-
8 FINED.—The term ‘local credit needs plan’
9 means a plan for meeting local credit needs in
10 the communities served by any depository insti-
11 tution subsidiary (of a bank holding company)
12 which acts as agent pursuant to paragraph (1),
13 which includes an estimate of the extent to
14 which the amount of the anticipated savings at-
15 tributable to the use of depository institution
16 subsidiaries as agents under this subsection will
17 be available to meet such local credit needs.”.

18 (c) EFFECTIVE DATE.—The amendment made by
19 this section shall apply after the end of the 12-month pe-
20 riod beginning on the date of the enactment of this Act.

21 **SEC. 102. INTERSTATE BRANCHING BY NATIONAL BANKS.**

22 Section 5155 of the Revised Statutes (12 U.S.C. 36)
23 is amended—

24 (1) by redesignating subsections (d) through (h)
25 as subsections (g) through (k), respectively;

1 (2) by inserting after subsection (c) the follow-
2 ing new subsections:

3 “(d) INTERSTATE BRANCHING BY NATIONAL
4 BANKS.—

5 “(1) APPROVALS OF ACQUISITION OF EXISTING
6 BRANCHES AUTHORIZED.—Subject to paragraphs
7 (3) and (4) and subsections (e) and (f), after the
8 end of the 3-year period beginning on the date of the
9 enactment of the Interstate Banking Efficiency Act
10 of 1994, the Comptroller of the Currency may ap-
11 prove an application to allow a national bank to—

12 “(A) acquire a bank or branch located out-
13 side the home State of such bank in a State in
14 which the bank does not maintain a branch;
15 and

16 “(B) operate such bank or branch (includ-
17 ing any branch of such bank) as a branch,
18 if the conditions established in paragraph (6) are
19 met.

20 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT
21 INTERSTATE BRANCHING THROUGH DE NOVO
22 BRANCHES.—Subject to subsections (e) and (f), the
23 Comptroller of the Currency may approve an appli-
24 cation by a national bank to establish and operate
25 a de novo branch outside the home State of such

1 bank in a State in which the bank does not maintain
2 a branch if—

3 “(A) there is in effect in the host State a
4 law that—

5 “(i) expressly permits all out-of-State
6 banks to establish de novo branches in
7 such State; and

8 “(ii) applies equally to national and
9 State banks; and

10 “(B) the conditions established in para-
11 graph (6) are met.

12 “(3) STATE ‘OPT-OUT’ ELECTION TO PROHIBIT
13 INTERSTATE BRANCHING BY ACQUISITION OF EXIST-
14 ING BANKS.—

15 “(A) IN GENERAL.—An application by a
16 national bank to establish a branch in a State
17 other than the home State of such bank
18 through the acquisition of an existing bank or
19 branch in the host State may not be approved
20 by the Comptroller of the Currency if there is
21 in effect in the host State a law which—

22 “(i) expressly prohibits all out-of-
23 State banks from acquiring a branch lo-
24 cated in such State through the acquisition

1 of an existing bank or branch in the host
2 State;

3 “(ii) was enacted during the period
4 beginning on January 1, 1990, and ending
5 3 years after the date of the enactment of
6 the Interstate Banking Efficiency Act of
7 1994; and

8 “(iii) applies equally to national and
9 State banks.

10 “(B) EFFECT OF PROHIBITION.—A na-
11 tional bank whose home State has in effect a
12 prohibition described in subparagraph (A) may
13 not acquire or establish, under this subsection,
14 a branch located in any other State.

15 “(4) STATE LAWS REQUIRING MINIMUM PERIOD
16 OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE
17 BANKS.—

18 “(A) LAWS ENACTED BEFORE INTERSTATE
19 BANKING ACT.—In the case of a State in which
20 a law is in effect which—

21 “(i) allows an out-of-State bank or
22 bank holding company to establish a bank
23 in the host State only by acquiring a bank
24 or branch (in the host State) which has
25 been in existence for not less than the min-

1 imum time period specified in such law;
2 and

3 “(ii) took effect on or before the date
4 of the enactment of the Interstate Banking
5 Efficiency Act of 1994,

6 an out-of-State national bank which has no
7 branch in such State may establish a branch in
8 the State under this subsection only by acquir-
9 ing a bank or branch which has been in exist-
10 ence for not less than the minimum time period
11 specified in such law.

12 “(B) SUBSEQUENT ENACTMENTS.—In the
13 case of a State in which a law is in effect
14 which—

15 “(i) allows an out-of-State bank or
16 bank holding company to establish a
17 branch in the host State only by acquiring
18 a bank or branch (in the host State) which
19 has been in existence for not less than the
20 minimum time period specified in such law;
21 and

22 “(ii) took effect after the date of the
23 enactment of the Interstate Banking Effi-
24 ciency Act of 1994,

1 an out-of-State national bank which has no
2 branch in such State may establish a branch in
3 the State under this subsection only by acquir-
4 ing a bank or branch which has been in exist-
5 ence for not less than the lesser of the mini-
6 mum time period specified in such law or 5
7 years.

8 “(5) EARLY APPROVAL AUTHORIZED IF STATE
9 LAW PERMITS.—The Comptroller of the Currency
10 may approve an application under paragraph (1) be-
11 fore the expiration of the 3-year period described in
12 such paragraph if the State in which the branch is
13 or will be located has in effect a law which expressly
14 permits interstate branching by all national and
15 State banks.

16 “(6) CONDITIONS APPLICABLE TO THE ESTAB-
17 LISHMENT OR ACQUISITION OF INTERSTATE
18 BRANCHES.—The Comptroller of the Currency may
19 approve an application under paragraph (1) or (2)
20 by a national bank to acquire or establish a branch
21 only if—

22 “(A) the national bank is adequately cap-
23 italized (as defined under section 38 of the Fed-
24 eral Deposit Insurance Act) as of the date the
25 application is filed; and

1 “(B) the Comptroller of the Currency de-
2 termines that—

3 “(i) the national bank will continue to
4 be adequately capitalized upon the con-
5 summation of the acquisition or establish-
6 ment of the branch; and

7 “(ii) on the basis of an evaluation
8 conducted by the Comptroller, the manage-
9 ment of the bank has the necessary man-
10 agement skills to manage the operations of
11 the bank upon the consummation of the
12 acquisition or establishment of the branch.

13 “(e) PROVISIONS APPLICABLE TO APPLICATION AND
14 APPROVAL PROCESS.—

15 “(1) CONSULTATION WITH STATE BANK SUPER-
16 VISOR.—In determining whether to grant approval
17 of an application under subsection (d), the Comp-
18 troller of the Currency shall consider the views of
19 any appropriate State bank supervisor of the bank
20 which submits the application regarding the bank’s
21 compliance with applicable State community rein-
22 vestment laws.

23 “(2) COMPLIANCE WITH STATE FILING RE-
24 QUIREMENTS.—

1 “(A) IN GENERAL.—An out-of-State na-
2 tional bank that files an application under sub-
3 section (d) to acquire or establish a branch
4 within a host State shall—

5 “(i) comply with any filing require-
6 ment of the host State that—

7 “(I) is not discriminatory in na-
8 ture; and

9 “(II) is similar in effect to any
10 requirement imposed by the host
11 State on a nonbanking corporation
12 from another State that seeks to en-
13 gage in business in the host State;
14 and

15 “(ii) submit a copy of the application
16 to the State bank supervisor of the host
17 State.

18 “(B) PENALTY FOR FAILURE TO COM-
19 PLY.—The Comptroller of the Currency may
20 not approve an application under subsection (d)
21 by an out-of-State national bank which materi-
22 ally fails to comply with subparagraph (A) with
23 respect to such application.

24 “(3) CONCENTRATION LIMITS.—

1 “(A) IN GENERAL.—The Comptroller of
2 the Currency may not approve an application
3 by a bank under subsection (d) if—

4 “(i) the bank (including all insured
5 depository institutions which are affiliates
6 of the bank) controls, or upon completion
7 of the acquisition would control, more than
8 10 percent of the total amount of insured
9 depository institution deposits in the
10 United States; or

11 “(ii) the bank (including all insured
12 depository institutions which are affiliates
13 of the bank) controls, or upon completion
14 of the acquisition would control, 30 percent
15 or more of the total amount of insured de-
16 pository institution deposits in the State in
17 which the proposed branch would be lo-
18 cated.

19 “(B) NOT APPLICABLE TO DE NOVO OUT-
20 OF-STATE BRANCHES.—Subparagraph (A) shall
21 not apply to the establishment of a de novo
22 branch outside the home State of a national
23 bank.

24 “(C) WAIVER BY STATE.—A State may
25 waive the application of subparagraph (A)(ii) to

1 the acquisition of banks or branches in such
2 State.

3 “(4) CONSIDERATION OF BANK AFFILIATES.—

4 In determining whether to grant approval of an ap-
5 plication under subsection (d) with respect to a pro-
6 posed branch by a national bank which, as of the
7 date of the application, does not have a branch in
8 the host State (of the proposed branch), the Comp-
9 troller of the Currency shall take into account the
10 most recent written evaluation under section 807 of
11 the Community Reinvestment Act of 1977 of each
12 bank affiliate of the bank which submits the applica-
13 tion.

14 “(5) DEFINITIONS.—For purposes of this sub-
15 section and subsections (d) and (f) the following
16 definitions shall apply:

17 “(A) AFFILIATE.—The term ‘affiliate’ has
18 the same meaning as in section 2(k) of the
19 Bank Holding Company Act of 1956.

20 “(B) ANTITRUST LAWS.—The term ‘anti-
21 trust laws’—

22 “(i) has the same meaning as in sub-
23 section (a) of the 1st section of the Clay-
24 ton Act; and

1 “(ii) includes section 5 of the Federal
2 Trade Commission Act to the extent such
3 section 5 relates to unfair methods of com-
4 petition.

5 “(C) DE NOVO BRANCH.—The term ‘de
6 novo branch’ means a branch of a national
7 bank which—

8 “(i) is originally established by the na-
9 tional bank as a branch; and

10 “(ii) does not become a branch of
11 such bank as a result of—

12 “(I) the acquisition by the bank
13 of an insured depository institution or
14 a branch of an insured depository in-
15 stitution; or

16 “(II) the conversion, merger, or
17 consolidation of any such institution
18 or branch.

19 “(D) DEPOSITS.—The term ‘deposits’ has
20 the same meaning as in section 3(l) of the Fed-
21 eral Deposit Insurance Act.

22 “(E) HOME STATE.—The term ‘home
23 State’ means, with respect to a national bank,
24 the State in which the main office of the bank
25 is located.

1 “(F) HOST STATE.—The term ‘host State’
2 means any State in which a national bank es-
3 tablishes or maintains a branch other than the
4 home State of such bank.

5 “(G) INSURED DEPOSITORY INSTITU-
6 TION.—The term ‘insured depository institu-
7 tion’ has the same meaning as in section
8 3(c)(2) of the Federal Deposit Insurance Act.

9 “(H) OUT-OF-STATE BANK.—The term
10 ‘out-of-State bank’ means, with respect to any
11 State, a bank whose home State is another
12 State.

13 “(I) OUT-OF-STATE BANK HOLDING COM-
14 PANY.—The term ‘out-of-State bank’ means,
15 with respect to any State, a bank holding com-
16 pany whose home State (as defined in section
17 3(d)(4)(D) of the Bank Holding Company Act
18 of 1956) is another State.

19 “(J) STATE BANK.—The term ‘State bank’
20 has the same meaning as in section 3(a)(2) of
21 the Federal Deposit Insurance Act.

22 “(K) STATE BANK SUPERVISOR.—The
23 term ‘State bank supervisor’ has the same
24 meaning as in section 3(r) of the Federal
25 Deposit Insurance Act.

1 “(f) APPLICABILITY OF STATE AND FEDERAL LAW
2 TO INTERSTATE BRANCHING OPERATIONS.—

3 “(1) CERTAIN STATE LAWS APPLICABLE TO NA-
4 TIONAL BANK BRANCHES.—

5 “(A) IN GENERAL.—Any branch of an out-
6 of-State national bank shall be subject to the
7 laws of the host State with respect to intrastate
8 branching, consumer protection, fair lending,
9 and community reinvestment as if the branch
10 were a branch of a bank chartered by that
11 State, except to the extent any such State law
12 is preempted by Federal law regarding the
13 same subject.

14 “(B) PROHIBITION ON DISCRIMINATORY
15 EFFECT.—Notwithstanding subparagraph (A),
16 a branch of an out-of-State national bank shall
17 not be subject to a State law described in such
18 subparagraph to the extent the Comptroller of
19 the Currency determines that the application of
20 the law has, or would have, a discriminatory ef-
21 fect on the branch in comparison with the effect
22 the application of such law has with respect to
23 branches of a bank chartered by the State.

24 “(C) ENFORCEMENT OF APPLICABLE
25 STATE LAWS.—The provisions of any State law

1 to which a branch of a national bank is subject
2 under this paragraph shall be enforced, with re-
3 spect to such branch, by the Comptroller of the
4 Currency.

5 “(2) TREATMENT OF BRANCH AS BANK.—All
6 laws of a host State, other than the laws described
7 in paragraph (1) or laws pertaining to the applica-
8 tion or administration of any tax or method of tax-
9 ation, shall apply to a branch (in such State) of an
10 out-of-State national bank in the same manner and
11 to the same extent such laws would apply if the
12 branch were a national bank located in that State.

13 “(3) STATE TAXATION AUTHORITY NOT AF-
14 FECTED.—No provision of this subsection or sub-
15 section (d) or (e) shall be construed as affecting the
16 authority of any State or political subdivision of any
17 State to apply and administer any tax or method of
18 taxation to any national bank, including any branch
19 of a national bank, any bank holding company which
20 controls a national bank, or any affiliate of any such
21 bank or bank holding company to the extent such
22 tax or tax method is otherwise permissible by or
23 under the Constitution of the United States of
24 America or other Federal law.

1 “(4) STATE-IMPOSED NOTICE REQUIRE-
2 MENTS.—A host State may impose any notification
3 or reporting requirement on a branch established or
4 acquired under subsection (d) if the requirement—

5 “(A) does not discriminate against out-of-
6 State banks or bank holding companies; and

7 “(B) is not preempted by any Federal law
8 regarding the same subject.

9 “(5) APPLICABILITY OF DEPOSIT CAPS AND
10 ANTITRUST LAWS.—No provision of this subsection
11 or subsection (d) or (e) shall be construed as affect-
12 ing—

13 “(A) the authority of any State to limit the
14 percentage of the total amount of insured de-
15 pository institution deposits in the State which
16 may be held or controlled by any bank (includ-
17 ing all insured depository institutions which are
18 affiliates of the bank) to the extent the applica-
19 tion of such limitation does not discriminate
20 against out-of-State banks or bank holding
21 companies; or

22 “(B) the applicability of the antitrust laws
23 or any State law which is similar to the anti-
24 trust laws.”; and

1 (3) in subsection (i) (as so redesignated by the
2 amendment made by paragraph (1) of this section),
3 by striking “The term” and inserting “BRANCH.—
4 Except as provided in section 18(q) of the Federal
5 Deposit Insurance Act, the term”.

6 **SEC. 103. INTERSTATE BRANCHING BY STATE BANKS.**

7 (a) IN GENERAL.—The Federal Deposit Insurance
8 Act (12 U.S.C. 1811 et seq.) is amended by adding at
9 the end the following new section:

10 **“SEC. 44. STATE BANK BRANCHES.**

11 “(a) CONSENT OF CORPORATION.—

12 “(1) ESTABLISHMENT OF BRANCHES.—No
13 State nonmember insured bank (except a District
14 bank) may establish and operate any new domestic
15 branch without the prior written consent of the
16 Corporation.

17 “(2) CHANGE OF LOCATION OF STATE BANK
18 OFFICES AND BRANCHES.—No State nonmember in-
19 sured bank (except a District bank) may move the
20 main office or any domestic branch of such bank
21 from 1 location to another without the prior written
22 consent of the Corporation.

23 “(3) CHANGE OF LOCATION OF INSURED
24 BRANCH OF FOREIGN BANK.—No foreign bank may

1 move any insured branch from 1 location to another
2 without the prior written consent of the Corporation.

3 “(4) FACTORS TO BE CONSIDERED.—The Cor-
4 poration shall consider the factors enumerated in
5 section 6 in making any determination under this
6 subsection.

7 “(b) ESTABLISHMENT OF FOREIGN BRANCHES.—

8 “(1) IN GENERAL.—No State nonmember in-
9 sured bank shall establish or operate any foreign
10 branch without the prior written consent of the
11 Corporation.

12 “(2) CONDITIONS AND REGULATIONS.—The
13 Corporation may establish such conditions and pre-
14 scribe such regulations for the establishment and op-
15 eration of foreign branches of State nonmember
16 banks as the Corporation may determine to be
17 appropriate.

18 “(c) INTERSTATE BRANCHING BY STATE BANKS.—

19 “(1) APPROVALS OF ACQUISITION OF EXISTING
20 BRANCHES AUTHORIZED.—Subject to paragraphs
21 (3) and (4) and subsections (d) and (e), after the
22 end of the 3-year period beginning on the date of the
23 enactment of the Interstate Banking Efficiency Act
24 of 1994, the appropriate Federal banking agency

1 may approve an application under this section to
2 allow an insured State bank to—

3 “(A) acquire a bank or branch located out-
4 side the home State of such bank in a State in
5 which the bank does not maintain a branch;
6 and

7 “(B) operate such bank or branch (includ-
8 ing any branch of such bank) as a branch,
9 if the conditions established in paragraph (6) are
10 met.

11 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT
12 INTERSTATE BRANCHING THROUGH DE NOVO
13 BRANCHES.—Subject to subsections (d) and (e), the
14 appropriate Federal banking agency may approve an
15 application by a State bank to establish and operate
16 a de novo branch outside the home State of such
17 bank in a State in which the bank does not maintain
18 a branch if—

19 “(A) there is in effect in the host State a
20 law that—

21 “(i) expressly permits all out-of-State
22 banks to establish de novo branches in
23 such State; and

24 “(ii) applies equally to national and
25 State banks; and

1 “(B) the conditions established in para-
2 graph (6) are met.

3 “(3) STATE ‘OPT-OUT’ ELECTION TO PROHIBIT
4 INTERSTATE BRANCHING BY ACQUISITION OF EXIST-
5 ING BANKS.—

6 “(A) IN GENERAL.—An application by an
7 insured State bank to establish a branch in a
8 State other than the home State of such bank
9 through the acquisition of an existing bank or
10 branch in the host State may not be approved
11 by the appropriate Federal banking agency if
12 there is in effect in the host State a law
13 which—

14 “(i) expressly prohibits all out-of-
15 State banks from acquiring a branch lo-
16 cated in such State through the acquisition
17 of an existing bank or branch in the host
18 State;

19 “(ii) was enacted during the period
20 beginning on January 1, 1990, and ending
21 3 years after the date of the enactment of
22 the Interstate Banking Efficiency Act of
23 1994; and

24 “(iii) applies equally to national and
25 State banks.

1 “(B) EFFECT OF PROHIBITION.—An in-
2 sured State bank whose home State has in ef-
3 fect a prohibition described in subparagraph
4 (A) may not acquire or establish, under sub-
5 section (c), a branch located in any other State.

6 “(4) STATE LAWS REQUIRING MINIMUM PERIOD
7 OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE
8 BANKS.—

9 “(A) LAWS ENACTED BEFORE INTERSTATE
10 BANKING ACT.—In the case of a State in which
11 a law is in effect which—

12 “(i) allows an out-of-State bank or
13 bank holding company to establish a bank
14 in the host State only by acquiring a bank
15 or branch (in the host State) which has
16 been in existence for not less than the min-
17 imum time period specified in such law;
18 and

19 “(ii) took effect on or before the date
20 of the enactment of the Interstate Banking
21 Efficiency Act of 1994,

22 an out-of-State insured State bank which has
23 no branch in such State may establish a branch
24 in the State under this subsection only by ac-
25 quiring a bank or branch which has been in ex-

1 istence for not less than the minimum time pe-
2 riod specified in such law.

3 “(B) SUBSEQUENT ENACTMENTS.—In the
4 case of a State in which a law is in effect
5 which—

6 “(i) allows an out-of-State bank or
7 bank holding company to establish a
8 branch in the host State only by acquiring
9 a bank or branch (in the host State) which
10 has been in existence for not less than the
11 minimum time period specified in such law;
12 and

13 “(ii) took effect after the date of the
14 enactment of the Interstate Banking Effi-
15 ciency Act of 1994,

16 an out-of-State insured State bank which has
17 no branch in such State may establish a branch
18 in the State under this subsection only by ac-
19 quiring a bank or branch which has been in ex-
20 istence for not less than the lesser of the mini-
21 mum time period specified in such law or 5
22 years.

23 “(5) EARLY APPROVAL AUTHORIZED IF STATE
24 LAW PERMITS.—The appropriate Federal banking
25 agency may approve an application under paragraph

1 (1) before the expiration of the 3-year period de-
2 scribed in such paragraph if the State in which the
3 branch is or will be located has in effect a law which
4 expressly permits interstate branching by all na-
5 tional and State banks.

6 “(6) CONDITIONS APPLICABLE TO THE ESTAB-
7 LISHMENT OR ACQUISITION OF INTERSTATE
8 BRANCHES.—The appropriate Federal banking agen-
9 cy may approve an application under paragraph (1)
10 or (2) by an insured State bank to acquire or estab-
11 lish a branch only if—

12 “(A) the bank is adequately capitalized (as
13 defined under section 38) as of the date the ap-
14 plication is filed;

15 “(B) the bank is authorized to establish
16 branches in other States under the law of the
17 home State of the bank; and

18 “(C) the appropriate Federal banking
19 agency determines that—

20 “(i) the bank will continue to be ade-
21 quately capitalized upon the consummation
22 of the acquisition or establishment of the
23 branch; and

24 “(ii) on the basis of an evaluation
25 conducted by the agency, the management

1 of the bank has the necessary management
2 skills to manage the operations of the bank
3 upon the consummation of the acquisition
4 or establishment of the branch.

5 “(d) PROVISIONS APPLICABLE TO APPLICATION AND
6 APPROVAL PROCESS.—

7 “(1) CONSULTATION WITH STATE BANK SUPER-
8 VISOR.—In determining whether to grant approval
9 of an application under subsection (c), the appro-
10 priate Federal banking agency shall consider the
11 views of any appropriate State bank supervisor of
12 the bank which submits the application regarding
13 the bank’s compliance with applicable State commu-
14 nity reinvestment laws.

15 “(2) COMPLIANCE WITH STATE FILING RE-
16 QUIREMENTS.—

17 “(A) IN GENERAL.—An out-of-State in-
18 sured State bank that files an application under
19 subsection (c) to acquire or establish a branch
20 within a host State shall—

21 “(i) comply with any filing require-
22 ment of the host State that—

23 “(I) is not discriminatory in na-
24 ture; and

1 “(II) is similar in effect to a re-
2 quirement imposed by the host State
3 on a nonbanking corporation from an-
4 other State that seeks to engage in
5 business in the host State; and

6 “(ii) submit a copy of the application
7 to the State bank supervisor of the host
8 State.

9 “(B) PENALTY FOR FAILURE TO COM-
10 PLY.—The appropriate Federal banking agency
11 may not approve an application under sub-
12 section (c) by an insured State bank which ma-
13 terially fails to comply with subparagraph (A)
14 with respect to such application.

15 “(3) CONCENTRATION LIMITS.—

16 “(A) IN GENERAL.—The appropriate Fed-
17 eral banking agency may not approve an appli-
18 cation by a bank under subsection (c) if—

19 “(i) the bank (including all insured
20 depository institutions which are affiliates
21 of the bank) controls, or upon completion
22 of the acquisition would control, more than
23 10 percent of the total amount of insured
24 depository institution deposits in the
25 United States; or

1 “(ii) the bank (including all insured
2 depository institutions which are affiliates
3 of the bank) controls, or upon completion
4 of the acquisition would control, 30 percent
5 or more of the total amount of insured de-
6 pository institution deposits in the State in
7 which the proposed branch would be lo-
8 cated.

9 “(B) NOT APPLICABLE TO DE NOVO OUT-
10 OF-STATE BRANCHES.—Subparagraph (A) shall
11 not apply to the establishment of a de novo
12 branch outside the home State of an insured
13 State bank.

14 “(C) WAIVER BY STATE.—A State may
15 waive the application of subparagraph (A)(ii) to
16 the acquisition of banks or branches in such
17 State.

18 “(4) CONSIDERATION OF BANK AFFILIATES.—
19 In determining whether to grant approval of an ap-
20 plication under subsection (c) with respect to a pro-
21 posed branch by an insured State bank which, as of
22 the date of the application, does not have a branch
23 in the host State (of the proposed branch), the ap-
24 propriate Federal banking agency shall take into ac-
25 count the most recent written evaluation under sec-

1 tion 807 of the Community Reinvestment Act of
2 1977 of each bank affiliate of the bank which sub-
3 mits the application.

4 “(e) APPLICABILITY OF STATE AND FEDERAL LAW
5 TO INTERSTATE BRANCHING OPERATIONS.—

6 “(1) STATE LAWS APPLICABLE TO BRANCHES
7 OF OUT-OF-STATE BANKS.—

8 “(A) IN GENERAL.—Subject to subsection
9 (d), any branch of an out-of-State insured State
10 bank shall be subject to the laws of the host
11 State as if such branch were a branch of a
12 bank chartered by that State.

13 “(B) ACTIVITIES OF BRANCHES.—An in-
14 sured State bank that establishes a branch in
15 a host State may not conduct any activity at
16 such branch that is not permissible for a bank
17 chartered by the host State.

18 “(C) RESERVATION OF CERTAIN RIGHTS
19 TO STATES.—No provision of this subsection or
20 subsection (c) or (d) shall be construed as limit-
21 ing in any way the right of a State to—

22 “(i) determine the authority of State
23 banks chartered in that State to establish
24 and maintain branches; or

1 “(ii) supervise, regulate, and examine
2 State banks chartered by that State.

3 “(2) STATE TAXATION AUTHORITY NOT AF-
4 FECTED.—No provision of this subsection or sub-
5 section (c) or (d) shall be construed as affecting the
6 authority of any State or political subdivision of any
7 State to apply and administer any tax or method of
8 taxation to any State bank, including any branch of
9 a State bank, any bank holding company which con-
10 trols any State bank, or any affiliate of any such
11 bank or bank holding company to the extent such
12 tax or tax method is otherwise permissible by or
13 under the Constitution of the United States of
14 America or other Federal law.

15 “(3) STATE-IMPOSED NOTICE REQUIRE-
16 MENTS.—A host State may impose any notification
17 or reporting requirement on a branch established or
18 acquired under subsection (c) if the requirement—

19 “(A) does not discriminate against out-of-
20 State banks or bank holding companies; and

21 “(B) is not preempted by any Federal law
22 regarding the same subject.

23 “(4) APPLICABILITY OF DEPOSIT CAPS AND
24 ANTITRUST LAWS.—No provision of this subsection

1 or subsection (c) or (d) shall be construed as affect-
2 ing—

3 “(A) the authority of any State to limit the
4 percentage of the total amount of insured de-
5 pository institution deposits in the State which
6 may be held or controlled by any bank (includ-
7 ing all insured depository institutions which are
8 affiliates of the bank) to the extent the applica-
9 tion of such limitation does not discriminate
10 against out-of-State banks or bank holding
11 companies; or

12 “(B) the applicability of the antitrust laws
13 or any State law which is similar to the anti-
14 trust laws.

15 “(f) COORDINATION OF EXAMINATION AUTHOR-
16 ITY.—

17 “(1) IN GENERAL.—A host State bank super-
18 visor may examine a branch operated in the host
19 State by an out-of-State insured State bank to—

20 “(A) determine compliance with host State
21 laws regarding banking, community reinvest-
22 ment, fair lending, consumer protection, and
23 permissible activities; and

1 “(B) ensure that the activities of the
2 branch do not constitute a significant risk to
3 the safe and sound operation of the branch.

4 “(2) ENFORCEMENT.—If the State bank super-
5 visor of a host State described in paragraph (1) de-
6 termines that there is a violation of host State law
7 concerning the activities being conducted by a
8 branch operated in such State by an out-of-State in-
9 sured State bank or that the branch is being oper-
10 ated in an unsafe and unsound manner, such host
11 State bank supervisor or, to the extent authorized by
12 the law of the host State, a State law enforcement
13 officer may undertake such enforcement actions or
14 proceedings as would be permitted under host State
15 law if the branch were a bank chartered by the host
16 State.

17 “(3) COOPERATIVE AGREEMENT.—The State
18 bank supervisors of 1 or more States may enter into
19 cooperative agreements to facilitate State regulatory
20 supervision of State banks and branches, including
21 cooperative agreements relating to the coordination
22 of examinations and joint participation in examina-
23 tions.

24 “(4) FEDERAL REGULATORY AUTHORITY.—No
25 provision of this section shall be construed as limit-

1 ing the authority of any Federal banking agency to
2 examine any bank or branch of a bank for which the
3 agency is the appropriate Federal banking agency.

4 “(g) DEFINITIONS.—For purposes of this section, the
5 following definitions shall apply:

6 “(1) ANTITRUST LAWS.—The term ‘antitrust
7 laws’—

8 “(A) has the same meaning as in sub-
9 section (a) of the 1st section of the Clayton
10 Act; and

11 “(B) includes section 5 of the Federal
12 Trade Commission Act to the extent such sec-
13 tion 5 relates to unfair methods of competition.

14 “(2) DE NOVO BRANCH.—The term ‘de novo
15 branch’ means a branch of a bank which—

16 “(A) is originally established by the bank
17 as a branch; and

18 “(B) does not become a branch of such
19 bank as a result of—

20 “(i) the acquisition by the bank of an
21 insured depository institution or a branch
22 of an insured depository institution; or

23 “(ii) the conversion, merger, or con-
24 solidation of any such institution or
25 branch.

1 “(3) HOME STATE.—The term ‘home State’
2 means, with respect to a State bank, the State by
3 whom the bank is chartered.

4 “(4) HOST STATE.—The term ‘host State’
5 means the State in which a bank establishes or
6 maintains a branch other than the home State of the
7 bank.

8 “(5) OUT-OF-STATE BANK.—The term ‘out-of-
9 State bank holding company’ means, with respect to
10 any State, a bank whose home State is another
11 State.

12 “(6) OUT-OF-STATE BANK HOLDING COM-
13 PANY.—The term ‘out-of-State bank’ means, with
14 respect to any State, a bank holding company whose
15 home State (as defined in section 3(d)(4)(D) of the
16 Bank Holding Company Act of 1956) is another
17 State.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 Section 3(o) of the Federal Deposit Insurance Act (12
20 U.S.C. 1813(o)) is amended to read as follows:

21 “(o) DEFINITIONS RELATING TO DOMESTIC AND
22 FOREIGN BRANCHES.—

23 “(1) BRANCH.—The term ‘branch’ means a do-
24 mestic branch or a foreign branch, except when such

1 term is used in connection with the term ‘Federal
2 branch’ or ‘insured branch’.

3 “(2) DOMESTIC BRANCH.—The term ‘domestic
4 branch’ includes any branch bank, branch office,
5 branch agency, additional office, or any branch lo-
6 cated in any State at which deposits are received,
7 checks are paid, or money is lent.

8 “(3) FOREIGN BRANCH.—The term ‘foreign
9 branch’ means any office or place at which banking
10 operations are conducted and which is not located in
11 any State.”.

12 **SEC. 104. BRANCHING BY FOREIGN BANKS.**

13 (a) IN GENERAL.—Section 5(a) of the International
14 Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to
15 read as follows:

16 “(a) INTERSTATE BRANCHING AND AGENCY OPER-
17 ATIONS.—

18 “(1) FEDERAL BRANCH OR AGENCY.—Subject
19 to the provisions of this Act and with the prior writ-
20 ten approval by the Board and the Comptroller of
21 the Currency of an application, a foreign bank may
22 establish and operate a Federal branch or agency in
23 any State outside the home State of such foreign
24 bank to the extent that the establishment and oper-
25 ation of such branch would be permitted under sec-

1 tion 5155 of the Revised Statutes if the foreign bank
2 were a national bank whose home State (as defined
3 in subsection (e)(5) of such section) is the same
4 State as the home State of the foreign bank.

5 “(2) STATE BRANCH OR AGENCY.—Subject to
6 the provisions of this Act and with the prior written
7 approval by the Board and the appropriate State
8 bank supervisor of an application, a foreign bank
9 may establish and operate a State branch or agency
10 in any State outside the home State of such foreign
11 bank to the extent that such establishment and oper-
12 ation would be permitted under section 44 of the
13 Federal Deposit Insurance Act if the foreign bank
14 were a State bank whose home State (as defined in
15 subsection (g) of such section) is the same State as
16 the home State of the foreign bank.

17 “(3) CRITERIA FOR DETERMINATION.—In ap-
18 proving an application under paragraph (1) or (2),
19 the Board and (in the case of an application under
20 paragraph (1)) the Comptroller of the Currency—

21 “(A) shall apply the standards applicable
22 to the establishment of a foreign bank office in
23 the United States under section 7(d); and

24 “(B) may not approve an application un-
25 less the Board and (in the case of an applica-

1 tion under paragraph (1)) the Comptroller of
2 the Currency—

3 “(i) determine that the foreign bank’s
4 financial resources, including the capital
5 level of the bank, are equivalent to those
6 required for a domestic bank to be ap-
7 proved for branching under section 5155 of
8 the Revised Statutes and section 44 of the
9 Federal Deposit Insurance Act; and

10 “(ii) consult with the Secretary of the
11 Treasury regarding capital equivalency.

12 “(4) REQUIREMENT FOR A SEPARATE SUBSIDI-
13 ARY.—If the Board or the Comptroller of the Cur-
14 rency, taking into account differing regulatory or ac-
15 counting standards, finds that adherence by a for-
16 eign bank to capital requirements equivalent to those
17 imposed under section 5155 of the Revised Statutes
18 and section 44 of the Federal Deposit Insurance Act
19 could be verified only if the banking activities of
20 such bank in the United States are carried out in a
21 domestic banking subsidiary within the United
22 States, the Board and the Comptroller of the Cur-
23 rency may approve an application under paragraph
24 (1) subject to a requirement that the foreign bank

1 or company controlling the foreign bank establish a
2 domestic banking subsidiary in the United States.

3 “(5) ADDITIONAL AUTHORITY FOR INTERSTATE
4 BRANCHES AND AGENCIES OF FOREIGN BANKS.—
5 Notwithstanding paragraphs (1) and (2), a foreign
6 bank may, with the approval of the Comptroller of
7 the Currency, establish and operate a Federal
8 branch or Federal agency or, with the approval of
9 the Board and the appropriate State bank super-
10 visor, a State branch or State agency in any State
11 outside the foreign bank’s home State if—

12 “(A) the establishment and operation of a
13 branch or agency is expressly permitted by the
14 State in which the branch or agency is to be es-
15 tablished; and

16 “(B) in the case of a Federal or State
17 branch, the branch receives only such deposits
18 as would be permissible for a corporation orga-
19 nized under section 25A of the Federal Reserve
20 Act.”.

21 (b) CONTINUED AUTHORITY FOR LIMITED
22 BRANCHES, AGENCIES, OR COMMERCIAL LENDING COM-
23 PANIES.—Section 5(b) of the International Banking Act
24 of 1978 (12 U.S.C. 3103(b)) is amended by adding at the
25 end the following new sentence: “Notwithstanding sub-

1 section (a), a foreign bank may continue to operate, after
2 the enactment of the Interstate Banking Efficiency Act
3 of 1994, any Federal branch, State branch, Federal agen-
4 cy, State agency, or commercial lending company subsidi-
5 ary which such bank was operating on the day before the
6 date of the enactment of such Act to the extent the
7 branch, agency, or subsidiary continues, after the enact-
8 ment of such Act, to engage in operations which were law-
9 ful under the laws in effect on the day before such date.”.

10 (c) CLARIFICATION OF BRANCHING RULES IN THE
11 CASE OF A FOREIGN BANK WITH A DOMESTIC BANK
12 SUBSIDIARY.—Section 5 of the International Banking Act
13 of 1978 (12 U.S.C. 3103) is amended by adding at the
14 end the following new subsection:

15 “(d) CLARIFICATION OF BRANCHING RULES IN THE
16 CASE OF A FOREIGN BANK WITH A DOMESTIC BANK
17 SUBSIDIARY.—In the case of a foreign bank that has a
18 domestic bank subsidiary within the United States—

19 “(1) the fact that such bank controls a domes-
20 tic bank shall not affect the authority of the foreign
21 bank to establish Federal and State branches or
22 agencies to the extent permitted under subsection
23 (a); and

24 “(2) the fact that the domestic bank is con-
25 trolled by a foreign bank which has Federal or State

1 branches or agencies in States other than the home
2 State of such domestic bank shall not affect the au-
3 thority of the domestic bank to establish branches
4 outside the home State of the domestic bank to the
5 extent permitted under section 5155(d) of the Re-
6 vised Statutes or section 44 of the Federal Deposit
7 Insurance Act, as the case may be.”.

8 (d) HOME STATE DETERMINATIONS.—Section 5(c)
9 of the International Banking Act of 1978 (12 U.S.C.
10 3103(c)) is amended to read as follows:

11 “(c) DETERMINATION OF HOME STATE OF FOREIGN
12 BANK.—For the purposes of this section—

13 “(1) in the case of a foreign bank that has any
14 branch, agency, subsidiary commercial lending com-
15 pany, or subsidiary bank in more than 1 State, the
16 home State of the foreign bank is the 1 State of
17 such States which is selected by the foreign bank or,
18 in default of any such selection, by the Board; and

19 “(2) in the case of a foreign bank that does not
20 have a branch, agency, subsidiary commercial lend-
21 ing company, or subsidiary bank in more than 1
22 State, the home State of the foreign bank is the
23 State in which the foreign bank has a branch, agen-
24 cy, subsidiary commercial lending company, or sub-
25 sidiary bank.”.

1 **SEC. 105. INTERSTATE CONSOLIDATIONS.**

2 Section 18(d) of the Federal Deposit Insurance Act
3 (12 U.S.C. 1828(d)) is amended to read as follows:

4 “(d) INTERSTATE CONSOLIDATIONS.—

5 “(1) CONSOLIDATIONS AUTHORIZED.—

6 “(A) IN GENERAL.—Except as provided in
7 section 3(d)(1)(B) of the Bank Holding Com-
8 pany Act of 1956 and notwithstanding any
9 other provision of Federal law or any provision
10 of State law (other than a law referred to in
11 subparagraph (B)), a bank holding company
12 which has bank subsidiaries in more than 1
13 State may, with the prior written approval by
14 the responsible agency (as determined in ac-
15 cordance with section 18(c)(2) of the Federal
16 Deposit Insurance Act) of an application and
17 subject to the requirements of subsection (c),
18 combine 2 or more of such banks into a single
19 bank by means of merger, consolidation, or
20 other similar transaction in accordance with
21 such subsection after the end of the 18-month
22 period beginning on the date of the enactment
23 of the Interstate Banking Efficiency Act of
24 1994.

25 “(B) EXCEPTION FOR STATES WHICH PRO-
26 HIBIT THE ACQUISITION OF A BRANCH BY ANY

1 OUT-OF-STATE BANK.—No bank which is lo-
2 cated in a State in which a law described in
3 section 5155(d)(3)(A) of the Revised Statutes
4 of the United States or section 44(c)(3)(A) is in
5 effect may be a party to a merger, consolida-
6 tion, or other similar transaction under sub-
7 paragraph (A) with any other bank affiliate of
8 such bank.

9 “(C) EXCEPTION FOR CERTAIN BANKS AC-
10 QUIRED DURING TRANSITION PERIOD.—No
11 bank subsidiary of a bank holding company, or
12 any branch of any such bank—

13 “(i) control of which was acquired, di-
14 rectly or indirectly, by such company after
15 the end of the 18-month period beginning
16 on the date of the enactment of the Inter-
17 state Banking Efficiency Act of 1994; and

18 “(ii) which is located in a State in
19 which the company did not control any
20 bank or branch as of the end of such 18-
21 month period,

22 may be a party to a merger, consolidation, or
23 other similar transaction under subparagraph
24 (A) with any other bank affiliate of such bank
25 before the end of the 3-year period beginning

1 on such date of enactment, unless the State in
2 which the bank or branch is located is a State
3 referred to in section 5155(d)(5) of the Revised
4 Statutes of the United States or section
5 44(c)(5).

6 “(2) EFFECT OF STATE PROHIBITION ON
7 BRANCHING.—If a branch which results from a
8 transaction under paragraph (1) is located in a
9 State in which a law—

10 “(A) takes effect after the consummation
11 of the transaction;

12 “(B) is enacted during the period begin-
13 ning on January 1, 1990, and ending 3 years
14 after the date of the enactment of the Inter-
15 state Banking Efficiency Act of 1994;

16 “(C) expressly prohibits all out-of-State
17 banks from acquiring a branch located in such
18 State through the acquisition of an existing
19 bank in the host State; and

20 “(D) applies equally to national and State
21 banks,

22 the branch shall be promptly converted back into a
23 bank as the bank existed before such transaction, in
24 accordance with regulations of the Federal banking
25 agency or State bank supervisor which had jurisdic-

1 tion over the bank which was converted into a
2 branch.

3 “(3) APPLICABILITY OF STATE AND FEDERAL
4 LAW TO INTERSTATE BRANCHING OPERATIONS.—If
5 a branch which results from a transaction under
6 paragraph (1) is the branch of a national bank, sec-
7 tion 5155(f) of the Revised Statutes of the United
8 States shall apply with respect to such branch.

9 “(4) STATE TAXATION AUTHORITY NOT AF-
10 FECTED.—No provision of this subsection shall be
11 construed as affecting the authority of any State or
12 political subdivision of any State to apply and ad-
13 minister any tax or method of taxation to any bank
14 subsidiary or additional branch resulting from a con-
15 solidation or other transaction under paragraph (1)
16 or (2), any bank holding company which controls
17 any bank or branch resulting from any such consoli-
18 dation or other transaction, or any affiliate of any
19 such bank or company to the extent such tax or tax
20 method is otherwise permissible by or under the
21 Constitution of the United States of America or
22 other Federal law.

23 “(5) PLAN ON MEETING LOCAL CREDIT
24 NEEDS.—The responsible agency (as determined
25 under subsection (c)(2)) may not approve any appli-

1 cation for any consolidation or other transaction
2 under this subsection unless the responsible agency
3 has considered a plan submitted by the applicant
4 bank holding company for meeting local credit needs
5 in the communities served by any bank subsidiary of
6 the company which is involved in the proposed con-
7 solidation or transaction, including the extent to
8 which the amount of the anticipated savings attrib-
9 utable to the proposed consolidation or other trans-
10 action will be available to meet such local credit
11 needs.”.

12 **SEC. 106. BRANCH CLOSURES.**

13 Section 42 of the Federal Deposit Insurance Act (12
14 U.S.C. 1831r-1) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(d) BRANCH CLOSURES IN INTERSTATE BANKING
17 OR BRANCHING OPERATIONS.—

18 “(1) NOTICE REQUIREMENTS.—In the case of
19 an interstate bank which proposes to close any
20 branch in a low- or moderate income area, the notice
21 required under subsection (b)(2) shall contain the
22 mailing address of the appropriate Federal banking
23 agency and a statement that comments on the pro-
24 posed closing of such branch may be mailed to such
25 agency.

1 “(2) ACTION REQUIRED BY APPROPRIATE FED-
2 ERAL BANKING AGENCY.—If, in the case of a branch
3 referred to in paragraph (1)—

4 “(A) a person from the area in which such
5 branch is located—

6 “(i) submits a written request relating
7 to the closing of such branch to the appro-
8 priate Federal banking agency; and

9 “(ii) includes a statement of specific
10 reasons for the request, including a discus-
11 sion of the adverse effect of such closing
12 on the availability of banking services in
13 the area affected by the closing of the
14 branch; and

15 “(B) the agency concludes that the request
16 is not frivolous,

17 the agency shall consult with community leaders in
18 the affected area and convene a meeting of rep-
19 resentatives of the agency with community leaders in
20 the affected area and such other individuals, organi-
21 zations, and depository institutions (as defined in
22 section 19(b)(1)(A) of the Federal Reserve Act) as
23 the agency may determine to be appropriate, to ex-
24 plore the feasibility of obtaining adequate alternative
25 facilities and services for the affected area, including

1 the establishment of a new branch by another depos-
2 itory institution, the chartering of a new depository
3 institution, or the establishment of a community de-
4 velopment credit union, following the closing of the
5 branch.

6 “(3) NO AFFECT ON CLOSING.—No action by
7 the appropriate Federal banking agency under para-
8 graph (2) shall affect the authority of an interstate
9 bank to close a branch (including the timing of such
10 closing) if the requirements of subsections (a) and
11 (b) have been met by such bank with respect to the
12 branch being closed.

13 “(4) DEFINITIONS.—For purposes of this sub-
14 section, the following definitions shall apply:

15 “(A) INTERSTATE BANK DEFINED.—The
16 term ‘interstate bank’ means a bank which
17 maintains branches in more than 1 State.

18 “(B) LOW- OR MODERATE-INCOME
19 AREA.—The term ‘low- or moderate-income
20 area’ means a census tract for which the me-
21 dian family income is—

22 “(i) less than 80 percent of the me-
23 dian family income for the metropolitan
24 statistical area (as designated by the Di-
25 rector of the Office of Management and

1 Budget) in which the census tract is lo-
2 cated; or

3 “(ii) in the case of a census tract
4 which is not located in a metropolitan sta-
5 tistical area, less than 80 percent of the
6 median family income for the State in
7 which the census tract is located, as deter-
8 mined without taking into account family
9 income in metropolitan statistical areas in
10 such State.”.

11 **SEC. 107. PROHIBITION AGAINST DEPOSIT PRODUCTION**
12 **OFFICES.**

13 (a) REGULATIONS.—Before the end of the 120-day
14 period beginning on the date of the enactment of the
15 Interstate Banking Efficiency Act of 1994, each appro-
16 priate Federal banking agency shall prescribe regulations
17 which prohibit any person from using any authority to en-
18 gage in interstate branching pursuant to this title, or any
19 amendment made by this title to any other provision of
20 law, primarily for the purpose of deposit production.

21 (b) GUIDELINES FOR MEETING CREDIT NEEDS.—
22 Regulations issued under subsection (a) shall include
23 guidelines to ensure that each interstate branch meets the
24 credit needs of the community and market area in which
25 the branch operates.

1 (c) LIMITATION ON OUT-OF-STATE LOANS.—

2 (1) LIMITATION.—Regulations issued under
3 subsection (a) shall require that if the percentage of
4 outstanding loans made by an interstate branch to
5 borrowers located in the host State of, or market
6 area served by, the branch is less than half the aver-
7 age of such percentage for all Federal depository in-
8 stitutions and State depository institutions having
9 their principal place of operations in the host State
10 or that market area—

11 (A) the appropriate Federal banking agen-
12 cy for the branch shall review the loan portfolio
13 of the branch and determine whether the
14 branch is reasonably meeting the credit needs
15 of the community and market area in which the
16 branch operates; and

17 (B) if the agency determines that the
18 branch is not reasonably meeting those needs—

19 (i) the branch shall be closed, and

20 (ii) the person which established the
21 branch may not open a new branch in that
22 State unless the person provides reasonable
23 assurances to the satisfaction of the appro-
24 priate Federal banking agency that the
25 new branch will reasonably meet the credit

1 needs of the community and market area
2 in which the new branch will operate.

3 (2) CONSIDERATIONS.—In making a determina-
4 tion under paragraph (1)(A) regarding an interstate
5 branch, the appropriate Federal banking agency
6 shall consider—

7 (A) whether the branch was acquired as
8 part of the purchase of a failed or failing depos-
9 itory institution;

10 (B) whether the branch has a higher con-
11 centration of commercial and credit card lend-
12 ing; and

13 (C) the ratings received by the branch in
14 evaluations under the Community Reinvestment
15 Act of 1977.

16 (d) APPLICATION.—This section shall not apply to
17 any interstate branch acquired before January 1, 1992,
18 as part of any consolidation or merger of depository insti-
19 tutions.

20 (e) DEFINITIONS.—For the purposes of this section,
21 the following definitions shall apply:

22 (1) APPROPRIATE FEDERAL BANKING AGEN-
23 CY.—The term “appropriate Federal banking agen-
24 cy” has the same meaning as in section 3 of the
25 Federal Deposit Insurance Act.

1 (2) BRANCH.—The term “branch” means any
2 office, agency, or other place of business located in
3 any State at which deposits are received, checks
4 paid, or money lent.

5 (3) FEDERAL DEPOSITORY INSTITUTION AND
6 STATE DEPOSITORY INSTITUTION.—The terms
7 “Federal depository institution” and “State depository
8 institution” have the same meanings as in section
9 3 of the Federal Deposit Insurance Act.

10 (4) HOST STATE DEFINED.—The term “host
11 State” means the State in which a bank establishes
12 or maintains a branch, other than—

13 (A) in the case of a insured State bank,
14 the State in which the bank is chartered;

15 (B) in the case of a national bank, the
16 State in which the main office of the bank is located;
17 and

18 (C) in the case of a bank holding company,
19 the State in which the total deposits of all bank
20 subsidiaries of such company is the greatest.

21 (5) INTERSTATE BRANCH.—The term “inter-
22 state branch” means a branch established pursuant
23 to the authority referred to in subsection (a).

24 (6) PRINCIPAL PLACE OF OPERATIONS.—The
25 term “principal place of operations” means the State

1 in which the total deposits of all bank subsidiaries
2 of a person are greatest.

3 (7) STATE DEFINED.—The term “State” has
4 the same meaning as in section 3 of the Federal De-
5 posit Insurance Act.

6 **SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK**
7 **FEES.**

8 (a) IN GENERAL.—Section 1002 of the Financial In-
9 stitutions Reform, Recovery, and Enforcement Act of
10 1989 (12 U.S.C. 1811 note) is amended to read as follows:

11 **“SEC. 1002. SURVEY OF BANK FEES AND SERVICES.**

12 “(a) ANNUAL SURVEY REQUIRED.—The Board of
13 Governors of the Federal Reserve System shall obtain a
14 sample, which is representative by geographic location and
15 size of the institution, of—

16 “(1) certain retail banking services provided by
17 insured depository institutions; and

18 “(2) the fees, if any, which are imposed by such
19 institutions for providing such service, including fees
20 imposed for not sufficient funds, deposit items re-
21 turned, and automated teller machines.

22 “(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

23 “(1) PREPARATION.—The Board of Governors
24 of the Federal Reserve System shall prepare a report

1 of the results of each survey conducted pursuant to
2 subsection (a).

3 “(2) CONTENTS OF THE REPORT.—Each report
4 prepared pursuant to paragraph (1) shall include—

5 “(A) a description of any discernible trend,
6 in the Nation as a whole and in each State, in
7 the cost and availability of retail banking serv-
8 ices which delineates differences on the basis of
9 size of the institution and engagement in
10 multistate activity; and

11 “(B) a description of the correlation, if
12 any, among the following factors:

13 “(i) An increase or decrease in the
14 amount of any deposit insurance premium
15 assessed by the Federal Deposit Insurance
16 Corporation against insured depository in-
17 stitutions.

18 “(ii) An increase or decrease in the
19 amount of the fees imposed by such insti-
20 tutions for providing retail banking serv-
21 ices.

22 “(iii) A decrease in the availability of
23 such services.

24 “(3) SUBMISSION TO CONGRESS.—The Board
25 of Governors of the Federal Reserve System shall

1 submit each annual report to the Congress not later
2 than June 1 of each calendar year.”.

3 (b) SUNSET.—The requirements of subsection (a)
4 shall not apply after the end of the 7-year period begin-
5 ning on the date of enactment of this Act.

6 **SEC. 109. RESTATEMENT OF EXISTING LAW.**

7 No provision of this title and no amendment made
8 by this title to any other provision of law shall be con-
9 strued as affecting in any way the right of any State, or
10 any political subdivision of any State, to impose or main-
11 tain a nondiscriminatory franchise tax or other non-
12 property tax instead of a franchise tax in accordance with
13 section 3124 of title 31, United States Code.

14 **TITLE II—CRA EVALUATIONS**

15 **SEC. 201. STATE-BY-STATE CRA EVALUATIONS OF DEPOSI-**
16 **TORY INSTITUTIONS WITH INTERSTATE**
17 **BRANCHES.**

18 Section 807 of the Community Reinvestment Act of
19 1977 (12 U.S.C. 2906) is amended by adding at the end
20 the following new subsection:

21 “(d) INSTITUTIONS WITH INTERSTATE
22 BRANCHES.—

23 “(1) STATE-BY-STATE EVALUATION.—In the
24 case of a regulated financial institution which main-
25 tains 1 or more domestic branches located outside

1 the State in which the institution’s principal place of
2 business is located (hereafter in this subsection re-
3 ferred to as the ‘home State’), the appropriate Fed-
4 eral financial supervisory agency shall prepare—

5 “(A) a written evaluation of the entire in-
6 stitution’s record of performance under this
7 Act, as required by subsections (a), (b), and (c)
8 of this section; and

9 “(B) for each State in which the institu-
10 tion maintains 1 or more domestic branches
11 (including the institution’s home State), a sepa-
12 rate written evaluation of the institution’s
13 record of performance within such State under
14 this Act, as required by subparagraphs (A) and
15 (B) of subsection (b)(1) of this section.

16 “(2) CONTENT OF STATE LEVEL EVALUA-
17 TION.—A written evaluation prepared pursuant to
18 paragraph (1)(B) of this subsection shall report the
19 information required by such paragraph separately
20 for each metropolitan area (as defined by the appro-
21 priate Federal financial supervisory agency) in which
22 the regulated financial institution maintains 1 or
23 more domestic branch offices and separately for the
24 nonmetropolitan portion of the State if the institu-

1 tion maintains 1 or more domestic branch offices in
2 such nonmetropolitan area.”.

Passed the House of Representatives March 22,
1994.

Attest:

Clerk.

HR 3841 EH—2

HR 3841 EH—3

HR 3841 EH—4

HR 3841 EH—5