

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3841

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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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1994

Mr. NEAL of North Carolina (for himself, Mr. McCOLLUM, Mr. LAFALCE, Mr. VENTO, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. KANJORSKI, Mr. KENNEDY, Mr. FLAKE, Mr. MFUME, Mr. LAROCO, Mr. ORTON, Mr. KLEIN, Mrs. MALONEY, Ms. PRYCE of Ohio, Mr. LINDER, Mr. LAZIO, Mr. BACHUS of Alabama, Mrs. ROUKEMA, Mr. MCCANDLESS, and Mr. KING) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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## A BILL

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. Prohibition against deposit production offices.
- Sec. 107. 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, as determined under  
12 regulations of the Board; or

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

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

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

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

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

13                   “(ii) the number of bank subsidiaries  
14                   of such company; or

15                   “(iii) any other factor that—

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

22                           “(II) is not applied with similar  
23                           effect with respect to acquisitions of  
24                           banks or bank holding companies lo-

1 cated in such State by bank holding  
2 companies located in the State.

3 “(B) APPLICABILITY OF STATE LAW ON  
4 THE FORM OF ACQUISITION.—

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

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

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

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

21 “(ii) APPLICABILITY OF PROVISIONS  
22 RELATING TO MINIMUM PERIOD OF EXIST-  
23 ENCE OF ACQUIRED BANK.—In the case of  
24 any State law referred to in clause (i)  
25 which is enacted after the date of the en-

1 actment of the Interstate Banking Effi-  
2 ciency Act of 1994 and requires the bank  
3 to be acquired to have been in existence  
4 (as of the date of the transaction) for a pe-  
5 riod of time greater than 5 years, such law  
6 shall be applied under clause (i) by sub-  
7 stituting ‘5-year period’ for such greater  
8 period.

9 “(3) APPLICABILITY OF STATE LAW TO INTER-  
10 STATE BANKING OPERATIONS.—

11 “(A) STATE TAXATION AUTHORITY NOT  
12 AFFECTED.—No provision of this subsection  
13 shall be construed as affecting the authority of  
14 any State or political subdivision of any State  
15 to apply and administer any tax or method of  
16 taxation to any bank holding company or for-  
17 eign bank, or any additional bank or bank hold-  
18 ing company, when such tax or tax method is  
19 otherwise permissible by or under the Constitu-  
20 tion of the United States or other Federal law.

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

24 “(i) the authority of any State to limit  
25 the percentage of the total amount of in-

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

7           “(ii) the applicability of any Federal  
8           antitrust law or any State antitrust law  
9           that does not discriminate against out-of-  
10          State banks or bank holding companies.

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

13               “(A) HOME STATE.—The term ‘home  
14               State’ means, with respect to a bank holding  
15               company, the State in which the total deposits  
16               of all banking subsidiaries of such company  
17               were the largest on the later of July 1, 1966,  
18               or the date on which the company becomes a  
19               bank holding company.

20               “(B) HOST STATE.—The term ‘host State’  
21               means, with respect to a bank holding company  
22               acquiring or establishing a bank in a State  
23               other than such company’s home State, the  
24               State in which the bank being acquired or es-  
25               tablished is located.

1           “(C) INSURED DEPOSITORY INSTITU-  
2           TION.—The term ‘insured depository institu-  
3           tion’ has the same meaning as in section 3 of  
4           the Federal Deposit Insurance Act.

5           “(D) OUT-OF-STATE BANK HOLDING COM-  
6           PANY.—The term ‘out-of State bank holding  
7           company’ means, with respect to any State, a  
8           bank holding company the home State of which  
9           is another State.”.

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

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

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

16           (1) by redesignating subsections (d) through (h)  
17           as subsections (g) through (k), respectively; and

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

20          “(d) INTERSTATE BRANCHING BY NATIONAL  
21 BANKS.—

22           “(1) APPROVALS OF ACQUISITION OF EXISTING  
23           BRANCHES AUTHORIZED.—Subject to paragraph (3)  
24           and subsections (e) and (f), after the end of the 3-  
25           year period beginning on the date of the enactment

1 of the Interstate Banking Efficiency Act of 1994,  
2 the Comptroller of the Currency may approve an ap-  
3 plication under this section to allow a national bank  
4 to acquire and operate a branch located outside the  
5 home State of such bank if the conditions estab-  
6 lished in paragraph (5) are met.

7 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT  
8 INTERSTATE BRANCHING THROUGH DE NOVO  
9 BRANCHES.—Subject to subsections (e) and (f), the  
10 Comptroller of the Currency may approve an appli-  
11 cation by a national bank to establish a de novo  
12 branch in a State other than the home State of such  
13 bank if—

14 “(A) there is in effect in the host State a  
15 law that—

16 “(i) expressly permits all out-of-State  
17 banks to establish de novo branches in  
18 such State; and

19 “(ii) applies equally to national and  
20 State banks; and

21 “(B) the conditions established in para-  
22 graph (5) are met.

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

1           “(A) IN GENERAL.—An application by a  
2 national bank to establish a branch in a State  
3 other than the home State of such bank  
4 through the acquisition of an existing bank or  
5 branch in the host State may not be approved  
6 by the Comptroller of the Currency if there is  
7 in effect in the host State a law that—

8           “(i) was enacted during the period be-  
9 ginning on January 1, 1990, and ending 3  
10 years after the date of the enactment of  
11 the Interstate Banking Efficiency Act of  
12 1994;

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

17           “(iii) applies equally to national and  
18 State banks.

19           “(B) EFFECT OF PROHIBITION.—A na-  
20 tional bank whose home State is a State that  
21 has in effect a prohibition described in subpara-  
22 graph (A) may not acquire or establish a  
23 branch located in any other State under this  
24 subsection.

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

9           “(5) CONDITIONS APPLICABLE TO THE ESTAB-  
10          LISHMENT OR ACQUISITION OF INTERSTATE  
11          BRANCHES.—The Comptroller of the Currency may  
12          approve an application under paragraph (1) or (2)  
13          by a national bank to acquire or establish a branch  
14          only if—

15               “(A) the national bank is adequately cap-  
16               italized (as defined under section 38 of the Fed-  
17               eral Deposit Insurance Act) as of the date the  
18               application is filed; and

19               “(B) the Comptroller of the Currency de-  
20               termines that—

21                       “(i) the national bank will continue to  
22                       be adequately capitalized (as so defined)  
23                       upon consummation of the acquisition or  
24                       establishment of the branch; and

1           “(ii) on the basis of an evaluation  
2           conducted by the Comptroller, the manage-  
3           ment of the bank has the necessary man-  
4           agement skills to manage the extended op-  
5           erations of the bank upon consummation  
6           of the acquisition or establishment of the  
7           branch.

8           “(e) PROVISIONS APPLICABLE TO APPLICATION AND  
9 APPROVAL PROCESS.—

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

18           “(2) COMPLIANCE WITH STATE FILING RE-  
19 QUIREMENTS.—

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

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

1                   “(I) is not discriminatory in na-  
2                   ture; and

3                   “(II) is similar in effect to any  
4                   requirement imposed by the host  
5                   State on a nonbanking corporation  
6                   from another State that seeks to en-  
7                   gage in business in the host State;  
8                   and

9                   “(ii) submit a copy of the application  
10                  to the State bank supervisor of the host  
11                  State.

12                  “(B) PENALTY FOR FAILURE TO COM-  
13                  PLY.—The Comptroller of the Currency may  
14                  not approve an application under subsection (d)  
15                  by an out-of-State national bank which materi-  
16                  ally fails to comply with clause (i) or (ii) of sub-  
17                  paragraph (A) with respect to such application.

18                  “(3) CONCENTRATION LIMITS.—

19                  “(A) IN GENERAL.—The Comptroller of  
20                  the Currency may not approve an acquisition by  
21                  a bank under subsection (d) of a branch located  
22                  in a State other than the home State of such  
23                  bank if—

24                  “(i) the bank (including all insured  
25                  depository institutions which are affiliates

1 of the bank) controls, or upon completion  
2 of the acquisition would control, more than  
3 10 percent of the total amount of insured  
4 depository institution deposits in the Unit-  
5 ed States, as determined under regulations  
6 which the Board of Governors of the Fed-  
7 eral Reserve System shall prescribe; or

8 “(ii) the bank (including all insured  
9 depository institutions which are affiliates  
10 of the bank) controls, or upon completion  
11 of the acquisition would control, 30 percent  
12 or more of the total amount of insured de-  
13 pository institution deposits in the State in  
14 which the branch to be acquired is located,  
15 as determined under regulations which the  
16 Board of Governors of the Federal Reserve  
17 System shall prescribe.

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

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

1           “(4) DEFINITIONS.—For purposes of this sub-  
2 section and subsections (d) and (f) the following  
3 definitions shall apply:

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

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

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

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

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

18           “(B) HOME STATE.—The term ‘home  
19 State’ means, with respect to a national bank,  
20 the State in which the main office of the bank  
21 is located.

22           “(C) HOST STATE.—The term ‘host State’  
23 means any State in which a national bank es-  
24 tablishes or maintains a branch other than the  
25 home State of such bank.

1           “(D) INSURED DEPOSITORY INSTITU-  
2           TION.—The term ‘insured depository institu-  
3           tion’ has the same meaning as in section  
4           3(c)(2) of the Federal Deposit Insurance Act.

5           “(E) OUT-OF-STATE BANK.—The term  
6           ‘out-of-State bank’ means, with respect to any  
7           State, a bank whose home State is another  
8           State.

9           “(F) STATE BANK SUPERVISOR.—The  
10          term ‘State bank supervisor’ has the same  
11          meaning as in section 3(r) of the Federal De-  
12          posit Insurance Act.

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

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

17                         “(A) IN GENERAL.—Any branch of a na-  
18                         tional bank which is established or acquired  
19                         under subsection (d) shall be subject to the laws  
20                         of the host State with respect to intrastate  
21                         branching, consumer protection, fair lending,  
22                         and community reinvestment as if the branch  
23                         were a branch of a bank chartered by that  
24                         State except to the extent any such State law

1 is preempted by Federal law regarding the  
2 same subject.

3 “(B) PROHIBITION ON DISCRIMINATORY  
4 EFFECT.—Notwithstanding subparagraph (A),  
5 a branch of a national bank which is established  
6 or acquired under subsection (d) shall not be  
7 subject to a State law described in such sub-  
8 paragraph to the extent the Comptroller of the  
9 Currency determines that the application of the  
10 law has, or would have, a discriminatory effect  
11 on the branch in comparison with the effect the  
12 application of such law has with respect to  
13 branches of a bank chartered by the State.

14 “(C) ENFORCEMENT OF APPLICABLE  
15 STATE LAWS.—The provisions of any State law  
16 to which a branch of a national bank is subject  
17 under this subparagraph shall be enforced, with  
18 respect to such branch, by the Comptroller of  
19 the Currency.

20 “(2) TREATMENT OF BRANCH AS BANK.—All  
21 laws of a host State, other than the laws described  
22 in paragraph (1) or laws pertaining to the applica-  
23 tion or administration of any tax or method of tax-  
24 ation, shall apply to a branch (in such State) of an  
25 out-of-State national bank in the same manner and

1 to the same extent such laws would apply if the  
2 branch were a national bank located in that State.

3 “(3) STATE TAXATION AUTHORITY NOT AF-  
4 FECTED.—No provision of this subsection or sub-  
5 section (d) or (e) 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 national bank, including any branch  
9 of a national bank, or any bank holding company  
10 which controls a national bank, to the extent such  
11 tax or tax method is otherwise permissible by or  
12 under the Constitution of the United States of  
13 America or other Federal law.

14 “(4) STATE-IMPOSED CONDITIONS ON INTER-  
15 STATE BRANCHING.—Subject to paragraphs (3) and  
16 (5), a host State may impose any notification or re-  
17 porting requirement on a branch established or ac-  
18 quired under subsection (d)(1) 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 “(5) APPLICABILITY OF DEPOSIT CAPS AND  
24 ANTITRUST LAWS.—No provision of this subsection

1 or subsection (d) or (e) 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 any Federal anti-  
13 trust law or any State antitrust law that does  
14 not discriminate against out-of-State banks or  
15 bank holding companies.”.

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

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

20 **“SEC. 45. STATE BANK BRANCHES.**

21 “(a) CONSENT OF CORPORATION.—

22 “(1) ESTABLISHMENT OF BRANCHES.—No  
23 State nonmember insured bank (except a District  
24 bank) may establish and operate any new domestic

1 branch without the prior written consent of the  
2 Corporation.

3 “(2) CHANGE OF LOCATION OF STATE BANK  
4 OFFICES AND BRANCHES.—No State nonmember in-  
5 sured bank (except a District bank) may move the  
6 main office or any domestic branch of such bank  
7 from 1 location to another without the prior written  
8 consent of the Corporation.

9 “(3) CHANGE OF LOCATION OF INSURED  
10 BRANCH OF FOREIGN BANK.—No foreign bank may  
11 move any insured branch from 1 location to another  
12 without the prior written consent of the Corporation.

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

17 “(b) ESTABLISHMENT OF FOREIGN BRANCHES.—

18 “(1) IN GENERAL.—No State nonmember in-  
19 sured bank shall establish or operate any foreign  
20 branch without the prior written consent of the  
21 Corporation.

22 “(2) CONDITIONS AND REGULATIONS.—The  
23 Corporation may establish such conditions and pre-  
24 scribe such regulations for the establishment and op-  
25 eration of foreign branches of State nonmember

1 banks as the Corporation may determine to be  
2 appropriate.

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

4 “(1) APPROVALS OF ACQUISITION OF EXISTING  
5 BRANCHES AUTHORIZED.—Subject to paragraph (3)  
6 and subsections (d) and (e), after the end of the 3-  
7 year period beginning on the date of the enactment  
8 of the Interstate Banking Efficiency Act of 1994, an  
9 insured State bank may acquire and operate a  
10 branch located outside the home State of such bank  
11 with the prior written approval of the appropriate  
12 Federal banking agency of an application by such  
13 bank if the conditions established in paragraph (5)  
14 are met.

15 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT  
16 INTERSTATE BRANCHING THROUGH DE NOVO  
17 BRANCHES.—Subject to subsections (d) and (e), the  
18 appropriate Federal banking agency may approve an  
19 application by a State bank to establish a de novo  
20 branch in a State other than the home State of such  
21 bank if—

22 “(A) there is in effect in the host State a  
23 law that—

1           “(i) expressly permits all out-of-State  
2           banks to establish de novo branches in  
3           such State; and

4           “(ii) applies equally to national and  
5           State banks; and

6           “(B) the conditions established in para-  
7           graph (5) are met.

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

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

18           “(i) was enacted during the period be-  
19          ginning on January 1, 1990, and ending 3  
20          years after the date of the enactment of  
21          the Interstate Banking Efficiency Act of  
22          1994;

23           “(ii) expressly prohibits all out-of-  
24          State banks from acquiring a branch lo-

1 cated in such State through the acquisition  
2 of an existing bank in the host State; and

3 “(iii) applies equally to national and  
4 State banks.

5 “(B) EFFECT OF PROHIBITION.—An in-  
6 sured State bank whose home State is a State  
7 that has in effect a prohibition described in  
8 subparagraph (A) may not acquire or establish  
9 a branch located in any other State under sub-  
10 section (c).

11 “(4) EARLY APPROVAL AUTHORIZED IF STATE  
12 LAW PERMITS.—The appropriate Federal banking  
13 agency may approve an application under paragraph  
14 (1) before the expiration of the 3-year period de-  
15 scribed in such paragraph if the State in which the  
16 branch is or will be located has in effect a law which  
17 expressly permits interstate branching by all na-  
18 tional and State banks.

19 “(5) CONDITIONS APPLICABLE TO THE ESTAB-  
20 LISHMENT OR ACQUISITION OF INTERSTATE  
21 BRANCHES.—The appropriate Federal banking agen-  
22 cy may approve an application under paragraph (1)  
23 or (2) by an insured State bank to acquire or estab-  
24 lish a branch only if—

1           “(A) the bank is adequately capitalized (as  
2 defined under section 38) as of the date the ap-  
3 plication is filed;

4           “(B) the bank is authorized to establish  
5 branches in other States under the law of the  
6 home State of the bank; and

7           “(C) the appropriate Federal banking  
8 agency determines that—

9                   “(i) the bank will continue to be ade-  
10 quately capitalized (as so defined) upon  
11 consummation of the acquisition or estab-  
12 lishment of the branch; and

13                   “(ii) on the basis of an evaluation  
14 conducted by the agency, the management  
15 of the bank has the necessary management  
16 skills to manage the bank upon completion  
17 of the acquisition or establishment of the  
18 branch.

19           “(d) PROVISIONS APPLICABLE TO APPLICATION AND  
20 APPROVAL PROCESS.—

21                   “(1) CONSULTATION WITH STATE BANK SUPER-  
22 VISOR.—In determining whether to grant approval  
23 of an application under subsection (c), the appro-  
24 priate Federal banking agency shall consider the  
25 views of any appropriate State bank supervisor of

1 the bank which submits the application regarding  
2 the bank's compliance with applicable State commu-  
3 nity reinvestment laws.

4 “(2) COMPLIANCE WITH STATE FILING RE-  
5 QUIREMENTS.—

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

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

12 “(I) is not discriminatory in na-  
13 ture; and

14 “(II) is similar in effect to a re-  
15 quirement imposed by the host State  
16 on a nonbanking corporation from an-  
17 other State that seeks to engage in  
18 business in the host State; and

19 “(ii) submit a copy of the application  
20 to the State bank supervisor of the host  
21 State.

22 “(B) PENALTY FOR FAILURE TO COM-  
23 PLY.—The appropriate Federal banking agency  
24 may not approve an application under sub-  
25 section (c) by an insured State bank which ma-

1           terially fails to comply with clause (i) or (ii) of  
2           subparagraph (A) with respect to such applica-  
3           tion.

4           “(3) CONCENTRATION LIMITS.—

5           “(A) IN GENERAL.—The appropriate Fed-  
6           eral banking agency may not approve an acqui-  
7           sition by a bank under subsection (c) of a  
8           branch located in a State other than the home  
9           State of such bank if—

10           “(i) the bank (including all insured  
11           depository institutions which are affiliates  
12           of the bank) controls, or upon completion  
13           of the acquisition would control, more than  
14           10 percent of the total amount of insured  
15           depository institution deposits in the Unit-  
16           ed States, as determined under regulations  
17           which the Board of Governors of the Fed-  
18           eral Reserve System shall prescribe; or

19           “(ii) 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, 30 percent  
23           or more of the total amount of insured de-  
24           pository institution deposits in the State in  
25           which the branch to be acquired is located,

1 as determined under regulations which the  
2 Board of Governors of the Federal Reserve  
3 System shall prescribe.

4 “(B) NOT APPLICABLE TO DE NOVO OUT-  
5 OF-STATE BRANCHES.—Subparagraph (A) shall  
6 not apply to the establishment of a de novo  
7 branch outside the home State of an insured  
8 State bank.

9 “(C) WAIVER BY STATE.—A State may  
10 waive the application of subparagraph (A)(ii) to  
11 the acquisition of branches in such State.

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

14 “(1) STATE LAWS APPLICABLE TO BRANCHES  
15 OF OUT-OF-STATE BANKS.—

16 “(A) IN GENERAL.—Subject to subsection  
17 (d) and paragraph (2), any branch of an out-  
18 of-State insured State bank shall be subject to  
19 the laws of the host State as if such branch  
20 were a branch of a bank chartered by that  
21 State.

22 “(B) ACTIVITIES OF BRANCHES.—An in-  
23 sured State bank that establishes a branch in  
24 a host State may not conduct any activity at

1           such branch that is not permissible for a bank  
2           chartered by the host State.

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

7                   “(i) determine the authority of State  
8                   banks chartered in that State to establish  
9                   and maintain branches; or

10                   “(ii) supervise, regulate, and examine  
11                   State banks chartered by that State.

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

23           “(3) STATE IMPOSED CONDITIONS ON INTER-  
24           STATE BRANCHING.—Subject to paragraphs (2) and  
25           (4), a host State may impose any notification or re-

1 reporting requirement on a branch established or ac-  
2 quired under subsection (c) if the requirement—

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

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

7 “(4) APPLICABILITY OF DEPOSIT CAPS AND  
8 ANTITRUST LAWS.—No provision of this subsection  
9 or subsection (c) or (d) shall be construed as affect-  
10 ing—

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

20 “(B) the applicability of any Federal anti-  
21 trust law or any State antitrust law that does  
22 not discriminate against out-of-State banks or  
23 bank holding companies.

24 “(f) COORDINATION OF EXAMINATION AUTHOR-  
25 ITY.—

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

4                   “(A) determine compliance with host State  
5           laws regarding banking, community reinvest-  
6           ment, fair lending, consumer protection, and  
7           permissible activities; and

8                   “(B) ensure that the activities of the  
9           branch do not constitute a serious risk to the  
10          safe and sound operation of the branch.

11          “(2) ENFORCEMENT.—If the State bank super-  
12          visor of a host State described in paragraph (1) de-  
13          termines that there is a violation of host State law  
14          concerning the activities being conducted by a  
15          branch operated in such State by an out-of-State in-  
16          sured State bank or that the branch is being oper-  
17          ated in an unsafe and unsound manner, such host  
18          State bank supervisor may undertake such enforce-  
19          ment actions or proceedings as would be permitted  
20          under host State law if such branch were a bank  
21          chartered by the host State.

22          “(3) COOPERATIVE AGREEMENT.—The State  
23          bank supervisors of 1 or more States may enter into  
24          cooperative agreements to facilitate State regulatory  
25          supervision of State banks, including cooperative

1 agreements relating to the coordination of examina-  
2 tions and joint participation in examinations.

3 “(4) FEDERAL REGULATORY AUTHORITY.—

4 “(A) IN GENERAL.—No provision of this  
5 section shall be construed as limiting the au-  
6 thority of any Federal banking agency to exam-  
7 ine any bank or branch of a bank for which the  
8 agency is the appropriate Federal banking  
9 agency.

10 “(B) REVIEW OF INTERSTATE AGREE-  
11 MENTS.—If the appropriate Federal banking  
12 agency determines that the States have failed to  
13 reach an agreement under paragraph (3), or  
14 that such an agreement fails to adequately pro-  
15 tect the appropriate deposit insurance fund, the  
16 appropriate Federal banking agency shall not  
17 defer to State examinations of the out-of-State  
18 branches.

19 “(g) DEFINITIONS.—For purposes of this section, the  
20 following definitions apply:

21 “(1) DE NOVO BRANCH.—The term ‘de novo  
22 branch’ means a branch of a bank which—

23 “(A) is originally established by the bank  
24 as a branch; and

1           “(B) does not become a branch of such  
2 bank as a result of—

3           “(i) the acquisition by the bank of a  
4 bank or branch; or

5           “(ii) the conversion, merger, or con-  
6 solidation of any bank or branch.

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

10           “(3) HOST STATE.—The term ‘host State’  
11 means the State in which a bank establishes or  
12 maintains a branch other than the home State of the  
13 bank.

14           “(4) OUT-OF-STATE BANK.—The term ‘out-of-  
15 State bank’ means, with respect to any State, a  
16 bank whose home State is another State.”.

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

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

21           “(a) INTERSTATE BANKING OPERATIONS.—

22           “(1) FEDERAL BRANCH OR AGENCY.—Subject  
23 to the provisions of this Act and with the prior writ-  
24 ten approval of the Board and the Comptroller of  
25 the Currency, a foreign bank may establish and op-

1 erate a Federal branch or agency in any State out-  
2 side the home State of such foreign bank to the ex-  
3 tent that the establishment and operation of such  
4 branch would be permitted under section 5155 of  
5 the Revised Statutes if the foreign bank were a na-  
6 tional bank whose home State (as defined in sub-  
7 section (e)(4) of such section) is the same State as  
8 the home State of the foreign bank.

9 “(2) STATE BRANCH OR AGENCY.—Subject to  
10 the provisions of this Act and with the prior written  
11 approval of the Board and the appropriate State  
12 bank supervisor, a foreign bank may establish and  
13 operate a State branch or agency in any State out-  
14 side the home State of such foreign bank to the ex-  
15 tent that such establishment and operation would be  
16 permitted under section 45 of the Federal Deposit  
17 Insurance Act if the foreign bank were a State bank  
18 whose home State (as defined in subsection (g) of  
19 such section) is the same State as the home State  
20 of the foreign bank.

21 “(3) CRITERIA FOR DETERMINATION.—In ap-  
22 proving an application under paragraph (1) or (2),  
23 the Board and (in the case of an application under  
24 paragraph (1)) the Comptroller of the Currency—

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

4           “(B) may not approve an application un-  
5 less the Board and (in the case of an applica-  
6 tion under paragraph (1)) the Comptroller of  
7 the Currency—

8           “(i) determine that the foreign bank’s  
9 financial resources, including the capital  
10 level of the bank, are equivalent to those  
11 required for a domestic bank to be ap-  
12 proved for branching under section 5155 of  
13 the Revised Statutes and section 45 of the  
14 Federal Deposit Insurance Act; and

15           “(ii) in the case of the first applica-  
16 tion by such foreign bank under paragraph  
17 (1) or (2) after the date of the enactment  
18 of the Interstate Banking Efficiency Act of  
19 1994, consult with the Secretary of the  
20 Treasury regarding capital equivalency.

21           “(4) REQUIREMENT FOR A SEPARATE SUBSIDI-  
22 ARY.—If the Board or the Comptroller of the Cur-  
23 rency, taking into account differing regulatory or ac-  
24 counting standards, finds that adherence by a for-  
25 eign bank to capital requirements equivalent to those

1 imposed under section 5155 of the Revised Statutes  
2 and section 45 of the Federal Deposit Insurance Act  
3 could be verified only if the banking activities of  
4 such bank in the United States are carried out in a  
5 domestic banking subsidiary within the United  
6 States, the Board and the Comptroller of the Cur-  
7 rency may approve an application under paragraph  
8 (1) subject to a requirement that the foreign bank  
9 or company controlling the foreign bank establish a  
10 domestic banking subsidiary in the United States.

11 “(5) ADDITIONAL AUTHORITY FOR INTERSTATE  
12 BRANCHES AND AGENCIES OF FOREIGN BANKS.—  
13 Notwithstanding paragraphs (1) and (2) and section  
14 4(h), a foreign bank may, with the approval of the  
15 Comptroller of the Currency, establish and operate  
16 a Federal branch or Federal agency or, with the ap-  
17 proval of the Board and the appropriate State bank  
18 supervisor, a State branch or State agency in any  
19 State outside the foreign bank’s home State if—

20 “(A) the establishment and operation of a  
21 branch or agency is expressly permitted by the  
22 State in which the branch or agency is to be es-  
23 tablished; and

24 “(B) in the case of a Federal or State  
25 branch, the branch receives only such deposits

1 as would be permissible for a corporation orga-  
2 nized under section 25A of the Federal Reserve  
3 Act.”.

4 (b) CONTINUED AUTHORITY FOR LIMITED  
5 BRANCHES, AGENCIES, OR COMMERCIAL LENDING COM-  
6 PANIES.—Section 5(b) of the International Banking Act  
7 of 1978 (12 U.S.C. 3103(b)) is amended by adding at the  
8 end the following new sentence: “Notwithstanding sub-  
9 section (a), a foreign bank may continue to operate, after  
10 the enactment of the Interstate Banking Efficiency Act  
11 of 1994, any Federal branch, State branch, Federal agen-  
12 cy, State agency, or commercial lending company subsidi-  
13 ary which such bank was operating on the day before the  
14 date of the enactment of such Act to the extent the  
15 branch, agency, or subsidiary continues, after the enact-  
16 ment of such Act, to engage in operations which were law-  
17 ful under the laws in effect on the day before such date.”.

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

23 “(d) CLARIFICATION OF BRANCHING RULES IN THE  
24 CASE OF A FOREIGN BANK WITH A DOMESTIC BANK

1 SUBSIDIARY.—In the case of a foreign bank that has a  
2 domestic bank subsidiary within the United States—

3 “(1) the fact that such bank controls a domes-  
4 tic bank shall not affect the authority of the foreign  
5 bank to establish Federal and State branches or  
6 agencies to the extent permitted under subsection  
7 (a); and

8 “(2) the fact that the domestic bank is con-  
9 trolled by a foreign bank which has Federal or State  
10 branches or agencies in States other than the home  
11 State of such domestic bank shall not affect the au-  
12 thority of the domestic bank to establish branches  
13 outside the home State of the domestic bank to the  
14 extent permitted under section 5155(d) of the Re-  
15 vised Statutes or section 45 of the Federal Deposit  
16 Insurance Act, as the case may be.”.

17 (d) HOME STATE DETERMINATIONS.—

18 (1) METHOD OF DETERMINING.—Section 4(h)  
19 of the International Banking Act of 1978 (12 U.S.C.  
20 3102(h)) is amended—

21 (A) by striking “in the State in which such  
22 branch or agency is located”; and

23 (B) by adding at the end the following sen-  
24 tence: “For the purposes of section 5155(c) of  
25 the Revised Statutes, the home State of a for-

1           eign bank shall be the bank’s home State as de-  
2           termined under section 5(c).”.

3           (2) SINGLE STATE DETERMINATIONS.—Section  
4           5(c) of the International Banking Act of 1978 (12  
5           U.S.C. 3103(c)) is amended to read as follows:

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

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

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

21 **SEC. 105. INTERSTATE CONSOLIDATIONS.**

22          Section 18(d) of the Federal Deposit Insurance Act  
23 (12 U.S.C. 1828(d)) is amended to read as follows:

24          “(d) INTERSTATE CONSOLIDATIONS.—

25                  “(1) CONSOLIDATIONS AUTHORIZED.—

1           “(A) IN GENERAL.—Except as provided in  
2 section 3(d)(1) of the Bank Holding Company  
3 Act of 1956 and notwithstanding any other pro-  
4 vision of Federal law or any provision of State  
5 law (other than a law referred to in subpara-  
6 graph (B)), a bank holding company which has  
7 bank subsidiaries in more than 1 State may,  
8 after the end of the 18-month period beginning  
9 on the date of the enactment of the Interstate  
10 Banking Efficiency Act of 1994 and subject to  
11 the requirements of subsection (c), combine 2  
12 or more of such banks into a single bank by  
13 means of merger, consolidation, or other similar  
14 transaction in accordance with such subsection.

15           “(B) EXCEPTION FOR STATES WHICH PRO-  
16 HIBIT THE ACQUISITION OF A BRANCH BY ANY  
17 OUT-OF-STATE BANK.—No bank which is lo-  
18 cated in a State in which a law described in  
19 section 5155(d)(3)(A) of the Revised Statutes  
20 of the United States or section 45(c)(3)(A) is in  
21 effect may be a party to a merger, consolida-  
22 tion, or other similar transaction under sub-  
23 paragraph (A) with any other bank affiliate of  
24 such bank.

1           “(C) EXCEPTION FOR CERTAIN BANKS AC-  
2           QUIRED DURING TRANSITION PERIOD.—No  
3           bank subsidiary of a bank holding company, or  
4           any branch of any such bank—

5                   “(i) control of which was acquired, di-  
6                   rectly or indirectly, by such company after  
7                   the end of the 18-month period beginning  
8                   on the date of the enactment of the Inter-  
9                   state Banking Efficiency Act of 1994; and

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

14           may be a party to a merger, consolidation, or  
15           other similar transaction under subparagraph  
16           (A) with any other bank affiliate of such bank  
17           before the end of the 3-year period beginning  
18           on such date of enactment, unless the State in  
19           which the bank or branch is located is a State  
20           referred to in section 5155(d)(4) of the Revised  
21           Statutes of the United States or section  
22           45(c)(4).

23           “(2) ADDITIONAL BRANCHES.—

24                   “(A) IN GENERAL.—The consolidated bank  
25           which results from a transaction under para-

1 graph (1) may, subject to compliance with all  
2 applicable Federal or State laws relating to the  
3 establishment, acquisition, or operation of a  
4 branch, establish or acquire, and operate, addi-  
5 tional branches at any location where the con-  
6 solidated bank, or any preexisting bank which  
7 was part of such transaction, could have estab-  
8 lished or acquired, and operated, a branch if  
9 the consolidated or preexisting bank had not  
10 been a party to the transaction.

11 “(B) EXCEPTION FOR CERTAIN STATES.—  
12 Subparagraph (A) shall not apply in any State  
13 in which the establishment or acquisition, and  
14 operation, of any additional branches of a con-  
15 solidated bank is prohibited by any provision of  
16 State law which was in existence on the date of  
17 the enactment of the Interstate Banking Effi-  
18 ciency Act of 1994.

19 “(3) EFFECT OF STATE PROHIBITION ON  
20 BRANCHING.—If a branch which results from a  
21 transaction under paragraph (1) is located in a  
22 State in which a law—

23 “(A) takes effect after the consummation  
24 of the transaction;

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

5           “(C) expressly prohibits all out-of-State  
6           banks from acquiring a branch located in such  
7           State through the acquisition of an existing  
8           bank in the host State; and

9           “(D) applies equally to national and State  
10          banks,

11          the branch shall be promptly converted back into a  
12          bank as the bank existed before such transaction, in  
13          accordance with regulations of the Federal banking  
14          agency or State bank supervisor which had jurisdic-  
15          tion over the bank which was converted into a  
16          branch.

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

23          “(5) STATE TAXATION AUTHORITY NOT AF-  
24          FECTED.—No provision of this subsection shall be  
25          construed as affecting the authority of any State or

1 political subdivision of any State to apply and ad-  
2 minister any tax or method of taxation to any bank  
3 subsidiary or additional branch resulting from a con-  
4 solidation or other transaction under paragraph (1)  
5 or (2), or to any bank holding company which con-  
6 trols any bank or branch resulting from any such  
7 consolidation or other transaction, to the extent such  
8 tax or tax method is otherwise permissible by or  
9 under the Constitution of the United States of  
10 America or other Federal law.

11 “(6) PLAN ON MEETING LOCAL CREDIT  
12 NEEDS.—The responsible agency (as determined  
13 under subsection (c)(2)) may not approve any appli-  
14 cation for any consolidation or other transaction  
15 under this subsection unless the responsible agency  
16 has considered a plan submitted by the applicant  
17 bank holding company for meeting local credit needs  
18 in the communities served by any bank subsidiary of  
19 the company which is involved in the proposed con-  
20 solidation or transaction, including the extent to  
21 which the amount of the anticipated savings attrib-  
22 utable to the proposed consolidation or other trans-  
23 action will be available to meet such local credit  
24 needs.”.

1 **SEC. 106. PROHIBITION AGAINST DEPOSIT PRODUCTION**  
2 **OFFICES.**

3 (a) REGULATIONS.—Before the end of the 120-day  
4 period beginning on the date of the enactment of the  
5 Interstate Banking Efficiency Act of 1994, the appro-  
6 priate Federal banking agency shall prescribe regulations  
7 which prohibit any person from using any authority to en-  
8 gage in interstate branching pursuant to this title, or any  
9 amendment made by this title to any other provision of  
10 law, primarily for the purpose of deposit production.

11 (b) GUIDELINES FOR MEETING CREDIT NEEDS.—  
12 Regulations issued under subsection (a) shall include  
13 guidelines to ensure that each interstate branch meets the  
14 credit needs of the community and market area in which  
15 the branch operates.

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

17 (1) LIMITATION.—Regulations issued under  
18 subsection (a) shall require that if the percentage of  
19 outstanding loans made by an interstate branch to  
20 borrowers located in the host State of, or market  
21 area served by, the branch is less than half the aver-  
22 age of such percentage for all Federal depository in-  
23 stitutions and State depository institutions having  
24 their principal place of operations in the host State  
25 or that market area—

1 (A) the appropriate Federal banking agen-  
2 cy for the branch shall review the loan portfolio  
3 of the branch and determine whether the  
4 branch is reasonably meeting the credit needs  
5 of the community and market area in which the  
6 branch operates; and

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

9 (i) the branch shall be closed, and

10 (ii) the person which established the  
11 branch may not open a new branch in that  
12 State unless the person provides reasonable  
13 assurances to the satisfaction of the appro-  
14 priate Federal banking agency that the  
15 new branch will reasonably meet the credit  
16 needs of the community and market area  
17 in which the new branch will operate.

18 (2) CONSIDERATIONS.—In making a determina-  
19 tion under paragraph (1)(A) regarding an interstate  
20 branch, the appropriate Federal banking agency  
21 shall consider—

22 (A) whether the branch was acquired as  
23 part of the purchase of a failed or failing depos-  
24 itory institution;

1 (B) whether the branch has a higher con-  
2 centration of commercial and credit card lend-  
3 ing; and

4 (C) the ratings received by the branch in  
5 evaluations under the Community Reinvestment  
6 Act of 1977.

7 (d) APPLICATION.—This section shall not apply to  
8 any interstate branch acquired before January 1, 1992,  
9 as part of any consolidation or merger of depository insti-  
10 tutions.

11 (e) DEFINITIONS.—For the purposes of this sec-  
12 tion—

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

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

21 (3) FEDERAL DEPOSITORY INSTITUTION AND  
22 STATE DEPOSITORY INSTITUTION.—The terms  
23 “Federal depository institution” and “State depository  
24 institution” have the same meanings as in sec-  
25 tion 3 of the Federal Deposit Insurance Act.

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

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

6           (B) in the case of a national bank, the  
7 State in which the main office of the bank is lo-  
8 cated; and

9           (C) in the case of a bank holding company,  
10 the State in which the total deposits of all bank  
11 subsidiaries of such company is the largest.

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

15           (6) PRINCIPAL PLACE OF OPERATIONS.—The  
16 term “principal place of operations” means the State  
17 in which the total deposits of all bank subsidiaries  
18 of a person are largest.

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

22 **SEC. 107. RESTATEMENT OF EXISTING LAW.**

23           No provision of this title and no amendment made  
24 by this title to any other provision of law shall be con-  
25 strued as affecting in any way the right of any State, or

1 any political subdivision of any State, to impose or main-  
2 tain a nondiscriminatory franchise tax or other non-  
3 property tax instead of a franchise tax in accordance with  
4 section 3124 of title 31, United States Code.

## 5 **TITLE II—CRA EVALUATIONS**

### 6 **SEC. 201. STATE-BY-STATE CRA EVALUATIONS OF DEPOSI-** 7 **TORY INSTITUTIONS WITH INTERSTATE** 8 **BRANCHES.**

9 Section 807 of the Community Reinvestment Act of  
10 1977 (12 U.S.C. 2906) is amended by adding at the end  
11 the following new subsection:

12 “(d) INSTITUTIONS WITH INTERSTATE  
13 BRANCHES.—

14 “(1) STATE-BY-STATE EVALUATION.—In the  
15 case of a regulated financial institution which main-  
16 tains 1 or more domestic branches located outside  
17 the State in which the institution’s principal place of  
18 business is located (hereafter in this subsection re-  
19 ferred to as the ‘home State’), the appropriate Fed-  
20 eral financial supervisory agency shall prepare—

21 “(A) a written evaluation of the entire in-  
22 stitution’s record of performance under this  
23 Act, as required by subsections (a), (b), and (c)  
24 of this section; and

1           “(B) for each State in which the institu-  
2           tion maintains 1 or more domestic branches  
3           (including the institution’s home State), a sepa-  
4           rate written evaluation of the institution’s  
5           record of performance within such State under  
6           this Act, as required by subparagraphs (A) and  
7           (B) of subsection (b)(1) of this section.

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

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