

Union Calendar No. 248

103^D CONGRESS
2^D SESSION

H. R. 3841

[Report No. 103-448]

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.

MARCH 22, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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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.

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. LAROCCHO, 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

MARCH 22, 1994

Additional sponsor: Mr. HINCHEY

MARCH 22, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on February 10, 1994]

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. 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.*

7 **TITLE I—INTERSTATE BANKING**
8 **AND BRANCHING**

9 **SEC. 101. INTERSTATE BANKING.**

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

13 “(d) *INTERSTATE ACQUISITIONS.*—

14 “(1) *APPROVALS AUTHORIZED.*—

1 “(A) *IN GENERAL.*—Subject to paragraph
2 (2), the Board may approve an application
3 under this section by a bank holding company to
4 acquire, directly or indirectly, any voting shares
5 of, interest in, or all or substantially all of the
6 assets of any additional bank or any bank hold-
7 ing company located in any State other than the
8 home State of the applicant bank holding com-
9 pany.

10 “(B) *CONCENTRATION LIMITS.*—

11 “(i) *IN GENERAL.*—The Board may
12 not approve an application under subpara-
13 graph (A) if—

14 “(I) the applicant (including all
15 insured depository institutions which
16 are affiliates of the applicant) controls,
17 or upon completion of the acquisition
18 would control, more than 10 percent of
19 the total amount of insured depository
20 institution deposits in the United
21 States; or

22 “(II) the applicant (including all
23 insured depository institutions which
24 are affiliates of the applicant) controls,
25 or upon completion of the acquisition

1 *would control, 30 percent or more of*
2 *the total amount of insured depository*
3 *institution deposits in the State in*
4 *which the bank to be acquired is lo-*
5 *cated.*

6 “(ii) *WAIVER BY STATE.—A State may*
7 *waive the application of clause (i)(II) to an*
8 *acquisition in such State.*

9 “(2) *APPLICABILITY OF STATE LAW TO ACQUSI-*
10 *TIONS.—*

11 “(A) *INAPPLICABILITY OF CERTAIN STATE*
12 *LAWS TO ACQUISITIONS.—Subject to paragraph*
13 *(3), any acquisition described in paragraph*
14 *(1)(A) which has been approved under this sec-*
15 *tion may be consummated notwithstanding any*
16 *law of any State that would prohibit or other-*
17 *wise limit such acquisition on the basis of—*

18 “(i) *the location or size of the acquir-*
19 *ing company or any subsidiary of such*
20 *company;*

21 “(ii) *the number of bank subsidiaries*
22 *of such company; or*

23 “(iii) *any other factor that—*

24 “(I) *directly or indirectly, has the*
25 *effect of prohibiting or limiting the ac-*

1 *quisition of shares or control of a bank*
2 *or bank holding company located in*
3 *such State by an out-of-State bank*
4 *holding company; and*

5 *“(II) is not applied with similar*
6 *effect with respect to acquisitions of*
7 *banks or bank holding companies lo-*
8 *cated in such State by bank holding*
9 *companies located in the State.*

10 *“(B) APPLICABILITY OF STATE LAW ON THE*
11 *FORM OF ACQUISITION.—*

12 *“(i) IN GENERAL.—Notwithstanding*
13 *any other provision of this subsection and*
14 *subject to clause (ii), any law of a host*
15 *State which—*

16 *“(I) is in existence on the date of*
17 *the enactment of the Interstate Bank-*
18 *ing Efficiency Act of 1994 or is en-*
19 *acted after such date; and*

20 *“(II) allows an out-of-State bank*
21 *or bank holding company to establish a*
22 *bank in the host State only by acquir-*
23 *ing an existing bank in the host State,*

1 *shall apply with respect to the establishment*
2 *or acquisition of a bank in the host State*
3 *under this subsection.*

4 “(i) *APPLICABILITY OF PROVISIONS*
5 *RELATING TO MINIMUM PERIOD OF EXIST-*
6 *ENCE OF ACQUIRED BANK.—In the case of*
7 *any State law referred to in clause (i)*
8 *which is enacted after the date of the enact-*
9 *ment of the Interstate Banking Efficiency*
10 *Act of 1994 and requires the bank to be ac-*
11 *quired to have been in existence (as of the*
12 *date of the transaction) for a period of time*
13 *greater than 5 years, such law shall be ap-*
14 *plied under clause (i) by substituting ‘5-*
15 *year period’ for such greater period.*

16 “(3) *APPLICABILITY OF STATE LAW TO INTER-*
17 *STATE BANKING OPERATIONS.—*

18 “(A) *STATE TAXATION AUTHORITY NOT AF-*
19 *FECTED.—No provision of this subsection shall*
20 *be construed as affecting the authority of any*
21 *State or political subdivision of any State to*
22 *apply and administer any tax or method of tax-*
23 *ation to any bank, bank holding company, or*
24 *foreign bank, or any affiliate of any bank or*
25 *bank holding company, to the extent such tax or*

1 *tax method is otherwise permissible by or under*
2 *the Constitution of the United States of America*
3 *or other Federal law.*

4 “(B) *APPLICABILITY OF DEPOSIT CAPS AND*
5 *ANTITRUST LAWS.—No provision of this sub-*
6 *section shall be construed as affecting—*

7 *“(i) the authority of any State to limit*
8 *the percentage of the total amount of in-*
9 *sured depository institution deposits in the*
10 *State which may be held or controlled by*
11 *any bank to the extent the application of*
12 *such limitation does not discriminate*
13 *against out-of-State banks or bank holding*
14 *companies; or*

15 *“(ii) the applicability of the antitrust*
16 *laws or any State law which is similar to*
17 *the antitrust laws.*

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

20 *“(A) 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 Clayton*
24 *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 “(B) DEPOSITS.—The term ‘deposits’ has
6 the same meaning as in section 3(l) of the Fed-
7 eral Deposit Insurance Act.

8 “(C) HOME STATE.—The term ‘home State’
9 means, with respect to a bank holding company,
10 the State in which the total deposits of all bank-
11 ing subsidiaries of such company were the larg-
12 est on the later of July 1, 1966, or the date on
13 which the company becomes a bank holding com-
14 pany.

15 “(D) HOST STATE.—The term ‘host State’
16 means, with respect to a bank holding company
17 acquiring or establishing a bank in a State other
18 than such company’s home State, the State in
19 which the bank being acquired or established is
20 located.

21 “(E) INSURED DEPOSITORY INSTITUTION.—
22 The term ‘insured depository institution’ has the
23 same meaning as in section 3 of the Federal De-
24 posit Insurance Act.

1 “(F) *OUT-OF-STATE BANK HOLDING COM-*
2 *PANY.—The term ‘out-of State bank holding com-*
3 *pany’ means, with respect to any State, a bank*
4 *holding company the home State of which is an-*
5 *other State.’”.*

6 (b) *SUBSIDIARY DEPOSITORY INSTITUTIONS AS*
7 *AGENTS.—Section 18 of the Federal Deposit Insurance Act*
8 *(12 U.S.C. 1828) by adding at the end the following new*
9 *subsection:*

10 “(q) *SUBSIDIARY DEPOSITORY INSTITUTIONS AS*
11 *AGENTS FOR CERTAIN AFFILIATES.—*

12 “(1) *IN GENERAL.—Any depository institution*
13 *subsidiary of a depository institution holding com-*
14 *pany may receive deposits, renew time deposits, close*
15 *loans, disburse proceeds of loans, and receive pay-*
16 *ments on loans and other obligations as agent for a*
17 *depository institution affiliate located in another*
18 *State.*

19 “(2) *DEPOSITORY INSTITUTION ACTING AS AGENT*
20 *IS NOT A BRANCH.—Notwithstanding any other provi-*
21 *sion of law, a depository institution acting as agent*
22 *in accordance with paragraph (1) for a depository in-*
23 *stitution affiliate shall not be considered to be a*
24 *branch of the affiliate.*

1 “(3) *ACTIVITIES AS AGENT.*—Paragraph (1)
2 *shall not be construed as authorizing a State deposi-*
3 *tory institution to engage in activities as an agent in*
4 *which such institution is not authorized to engage as*
5 *principal under the laws of the State in which such*
6 *institution acts as agent.*

7 “(4) *PLAN ON MEETING LOCAL CREDIT NEEDS.*—

8 “(A) *IN GENERAL.*—*If a depository institu-*
9 *tion holding company controls any depository*
10 *institution which acts as agent for another de-*
11 *pository institution subsidiary of such company*
12 *pursuant to paragraph (1), the depository insti-*
13 *tution holding company shall file a local credit*
14 *needs plan with the appropriate Federal banking*
15 *agency for the subsidiary which acts as agent be-*
16 *fore the date on which the subsidiary begins act-*
17 *ing as agent.*

18 “(B) *LOCAL CREDIT NEEDS PLAN DE-*
19 *FINED.*—*The term ‘local credit needs plan’*
20 *means a plan for meeting local credit needs in*
21 *the communities served by any depository insti-*
22 *tution subsidiary (of a bank holding company)*
23 *which acts as agent pursuant to paragraph (1),*
24 *which includes an estimate of the extent to which*
25 *the amount of the anticipated savings attrib-*

1 *utable to the use of depository institution sub-*
2 *sidaries as agents under this subsection will be*
3 *available to meet such local credit needs.”.*

4 *(c) EFFECTIVE DATE.—The amendment made by this*
5 *section shall apply after the end of the 12-month period be-*
6 *ginning on the date of the enactment of this Act.*

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

8 *Section 5155 of the Revised Statutes (12 U.S.C. 36)*
9 *is amended—*

10 *(1) by redesignating subsections (d) through (h)*
11 *as subsections (g) through (k), respectively;*

12 *(2) by inserting after subsection (c) the following*
13 *new subsections:*

14 *“(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—*

15 *“(1) APPROVALS OF ACQUISITION OF EXISTING*
16 *BRANCHES AUTHORIZED.—Subject to paragraphs (3)*
17 *and (4) and subsections (e) and (f), after the end of*
18 *the 3-year period beginning on the date of the enact-*
19 *ment of the Interstate Banking Efficiency Act of*
20 *1994, the Comptroller of the Currency may approve*
21 *an application to allow a national bank to—*

22 *“(A) acquire a bank or branch located out-*
23 *side the home State of such bank in a State in*
24 *which the bank does not maintain a branch; and*

1 “(B) operate such bank or branch (includ-
2 ing any branch of such bank) as a branch,
3 if the conditions established in paragraph (6) are
4 met.

5 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT
6 INTERSTATE BRANCHING THROUGH DE NOVO
7 BRANCHES.—Subject to subsections (e) and (f), the
8 Comptroller of the Currency may approve an applica-
9 tion by a national bank to establish and operate a de
10 novo branch outside the home State of such bank in
11 a State in which the bank does not maintain a
12 branch if—

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

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

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

20 “(B) the conditions established in para-
21 graph (6) are met.

22 “(3) STATE ‘OPT-OUT’ ELECTION TO PROHIBIT
23 INTERSTATE BRANCHING BY ACQUISITION OF EXIST-
24 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 through
4 the acquisition of an existing bank or branch in
5 the host State may not be approved by the
6 Comptroller of the Currency if there is in effect
7 in the host State a law which—

8 “(i) expressly prohibits all out-of-State
9 banks from acquiring a branch located in
10 such State through the acquisition of an ex-
11 isting bank or branch in the host State;

12 “(ii) was enacted during the period be-
13 ginning on January 1, 1990, and ending 3
14 years after the date of the enactment of the
15 Interstate Banking Efficiency Act of 1994;
16 and

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

19 “(B) *EFFECT OF PROHIBITION.*—A national
20 bank whose home State has in effect a prohibi-
21 tion described in subparagraph (A) may not ac-
22 quire or establish, under this subsection, a
23 branch located in any other State.

1 “(4) *STATE LAWS REQUIRING MINIMUM PERIOD*
2 *OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE*
3 *BANKS.—*

4 “(A) *LAWS ENACTED BEFORE INTERSTATE*
5 *BANKING ACT.—In the case of a State in which*
6 *a law is in effect which—*

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

13 “(ii) *took effect on or before the date of*
14 *the enactment of the Interstate Banking Ef-*
15 *iciency Act of 1994,*

16 *an out-of-State national bank which has no*
17 *branch in such State may establish a branch in*
18 *the State under this subsection only by acquiring*
19 *a bank or branch which has been in existence for*
20 *not less than the minimum time period specified*
21 *in such law.*

22 “(B) *SUBSEQUENT ENACTMENTS.—In the*
23 *case of a State in which a law is in effect*
24 *which—*

1 “(i) allows an out-of-State bank or
2 bank holding company to establish a branch
3 in the host State only by acquiring a bank
4 or branch (in the host State) which has been
5 in existence for not less than the minimum
6 time period specified in such law; and

7 “(ii) took effect after the date of the en-
8 actment of the Interstate Banking Effi-
9 ciency Act of 1994,

10 an out-of-State national bank which has no
11 branch in such State may establish a branch in
12 the State under this subsection only by acquiring
13 a bank or branch which has been in existence for
14 not less than the lesser of the minimum time pe-
15 riod specified in such law or 5 years.

16 “(5) EARLY APPROVAL AUTHORIZED IF STATE
17 LAW PERMITS.—The Comptroller of the Currency may
18 approve an application under paragraph (1) before
19 the expiration of the 3-year period described in such
20 paragraph if the State in which the branch is or will
21 be located has in effect a law which expressly permits
22 interstate branching by all national and State banks.

23 “(6) CONDITIONS APPLICABLE TO THE ESTAB-
24 LISHMENT OR ACQUISITION OF INTERSTATE
25 BRANCHES.—The Comptroller of the Currency may

1 *approve an application under paragraph (1) or (2)*
2 *by a national bank to acquire or establish a branch*
3 *only if—*

4 *“(A) the national bank is adequately cap-*
5 *italized (as defined under section 38 of the Fed-*
6 *eral Deposit Insurance Act) as of the date the*
7 *application is filed; and*

8 *“(B) the Comptroller of the Currency deter-*
9 *mines that—*

10 *“(i) the national bank will continue to*
11 *be adequately capitalized upon the con-*
12 *summation of the acquisition or establish-*
13 *ment of the branch; and*

14 *“(ii) on the basis of an evaluation con-*
15 *ducted by the Comptroller, the management*
16 *of the bank has the necessary management*
17 *skills to manage the operations of the bank*
18 *upon the consummation of the acquisition*
19 *or establishment of the branch.*

20 *“(e) PROVISIONS APPLICABLE TO APPLICATION AND*
21 *APPROVAL PROCESS.—*

22 *“(1) CONSULTATION WITH STATE BANK SUPER-*
23 *VISOR.—In determining whether to grant approval of*
24 *an application under subsection (d), the Comptroller*
25 *of the Currency shall consider the views of any appro-*

1 *priate State bank supervisor of the bank which sub-*
2 *mits the application regarding the bank's compliance*
3 *with applicable State community reinvestment laws.*

4 “(2) *COMPLIANCE WITH STATE FILING REQUIRE-*
5 *MENTS.—*

6 “(A) *IN GENERAL.—An out-of-State na-*
7 *tional bank that files an application under sub-*
8 *section (d) to acquire or establish a branch with-*
9 *in 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 any*
15 *requirement 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 COMPLY.—*
23 *The Comptroller of the Currency may not ap-*
24 *prove an application under subsection (d) by an*
25 *out-of-State national bank which materially fails*

1 to comply with subparagraph (A) with respect to
2 such application.

3 “(3) CONCENTRATION LIMITS.—

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

7 “(i) the bank (including all insured de-
8 pository institutions which are affiliates of
9 the bank) controls, or upon completion of
10 the acquisition would control, more than 10
11 percent of the total amount of insured de-
12 pository institution deposits in the United
13 States; or

14 “(ii) the bank (including all insured
15 depository institutions which are affiliates
16 of the bank) controls, or upon completion of
17 the acquisition would control, 30 percent or
18 more of the total amount of insured depository
19 institution deposits in the State in
20 which the proposed branch would be located.

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

1 “(C) *WAIVER BY STATE.*—A State may
2 waive the application of subparagraph (A)(ii) to
3 the acquisition of banks or branches in such
4 State.

5 “(4) *CONSIDERATION OF BANK AFFILIATES.*—In
6 determining whether to grant approval of an applica-
7 tion under subsection (d) with respect to a proposed
8 branch by a national bank which, as of the date of
9 the application, does not have a branch in the host
10 State (of the proposed branch), the Comptroller of the
11 Currency shall take into account the most recent writ-
12 ten evaluation under section 807 of the Community
13 Reinvestment Act of 1977 of each bank affiliate of the
14 bank which submits the application.

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

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

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

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

1 “(i) 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 novo
6 branch’ means a branch of a national bank
7 which—

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

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

12 “(I) the acquisition by the bank of
13 an insured depository institution or a
14 branch of an insured depository insti-
15 tution; 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 State’
23 means, with respect to a national bank, the State
24 in which the main office of the bank 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 INSTITUTION*.—
6 The term ‘insured depository institution’ has the
7 same meaning as in section 3(c)(2) of the Fed-
8 eral Deposit Insurance Act.

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

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

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

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

1 “(f) *APPLICABILITY OF STATE AND FEDERAL LAW TO*
2 *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 State,*
11 *except to the extent any such State law is pre-*
12 *empted by Federal law regarding the same sub-*
13 *ject.*

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

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

1 *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 in*
7 *paragraph (1) or laws pertaining to the application*
8 *or administration of any tax or method of taxation,*
9 *shall apply to a branch (in such State) of an out-of-*
10 *State national bank in the same manner and to the*
11 *same extent such laws would apply if the branch were*
12 *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 tax*
22 *or tax method is otherwise permissible by or under*
23 *the Constitution of the United States of America or*
24 *other Federal law.*

1 “(4) *STATE-IMPOSED NOTICE REQUIREMENTS.*—
2 *A host State may impose any notification or report-*
3 *ing requirement on a branch established or acquired*
4 *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 ANTI-*
10 *TRUST LAWS.*—*No provision of this subsection or sub-*
11 *section (d) or (e) shall be construed as affecting—*

12 “(A) *the authority of any State to limit the*
13 *percentage of the total amount of insured deposi-*
14 *tory institution deposits in the State which may*
15 *be held or controlled by any bank (including all*
16 *insured depository institutions which are affili-*
17 *ates of the bank) to the extent the application of*
18 *such limitation does not discriminate against*
19 *out-of-State banks or bank holding companies; or*

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

23 (3) *in subsection (i) (as so redesignated by the*
24 *amendment made by paragraph (1) of this section),*
25 *by striking “The term” and inserting “BRANCH.—*

1 *Except as provided in section 18(q) of the Federal De-*
2 *posit Insurance Act, the term”.*

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

4 *(a) IN GENERAL.—The Federal Deposit Insurance Act*
5 *(12 U.S.C. 1811 et seq.) is amended by adding at the end*
6 *the following new section:*

7 **“SEC. 44. STATE BANK BRANCHES.**

8 *“(a) CONSENT OF CORPORATION.—*

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

13 *“(2) CHANGE OF LOCATION OF STATE BANK OF-*
14 *FICES AND BRANCHES.—No State nonmember insured*
15 *bank (except a District bank) may move the main of-*
16 *ice or any domestic branch of such bank from 1 loca-*
17 *tion to another without the prior written consent of*
18 *the Corporation.*

19 *“(3) CHANGE OF LOCATION OF INSURED BRANCH*
20 *OF FOREIGN BANK.—No foreign bank may move any*
21 *insured branch from 1 location to another without the*
22 *prior written consent of the Corporation.*

23 *“(4) FACTORS TO BE CONSIDERED.—The Cor-*
24 *poration shall consider the factors enumerated in sec-*

1 *tion 6 in making any determination under this sub-*
2 *section.*

3 *“(b) ESTABLISHMENT OF FOREIGN BRANCHES.—*

4 *“(1) IN GENERAL.—No State nonmember insured*
5 *bank shall establish or operate any foreign branch*
6 *without the prior written consent of the Corporation.*

7 *“(2) CONDITIONS AND REGULATIONS.—The Cor-*
8 *poration may establish such conditions and prescribe*
9 *such regulations for the establishment and operation*
10 *of foreign branches of State nonmember banks as the*
11 *Corporation may determine to be appropriate.*

12 *“(c) INTERSTATE BRANCHING BY STATE BANKS.—*

13 *“(1) APPROVALS OF ACQUISITION OF EXISTING*
14 *BRANCHES AUTHORIZED.—Subject to paragraphs (3)*
15 *and (4) and subsections (d) and (e), after the end of*
16 *the 3-year period beginning on the date of the enact-*
17 *ment of the Interstate Banking Efficiency Act of*
18 *1994, the appropriate Federal banking agency may*
19 *approve an application under this section to allow an*
20 *insured State bank to—*

21 *“(A) acquire a bank or branch located out-*
22 *side the home State of such bank in a State in*
23 *which the bank does not maintain a branch; and*

24 *“(B) operate such bank or branch (includ-*
25 *ing any branch of such bank) as a branch,*

1 *if the conditions established in paragraph (6) are*
2 *met.*

3 “(2) STATE ‘OPT-IN’ ELECTION TO PERMIT
4 INTERSTATE BRANCHING THROUGH DE NOVO
5 BRANCHES.—Subject to subsections (d) and (e), the
6 appropriate Federal banking agency may approve an
7 application by a State bank to establish and operate
8 a de novo branch outside the home State of such bank
9 in a State in which the bank does not maintain a
10 branch if—

11 “(A) there is in effect in the host State a
12 law that—

13 “(i) expressly permits all out-of-State
14 banks to establish de novo branches in such
15 State; and

16 “(ii) applies equally to national and
17 State banks; and

18 “(B) the conditions established in para-
19 graph (6) are met.

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

23 “(A) IN GENERAL.—An application by an
24 insured State bank to establish a branch in a
25 State other than the home State of such bank

1 *through the acquisition of an existing bank or*
2 *branch in the host State may not be approved by*
3 *the appropriate Federal banking agency if there*
4 *is in effect in the host State a law which—*

5 *“(i) expressly prohibits all out-of-State*
6 *banks from acquiring a branch located in*
7 *such State through the acquisition of an ex-*
8 *isting bank or branch in the host State;*

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

14 *“(iii) applies equally to national and*
15 *State banks.*

16 *“(B) EFFECT OF PROHIBITION.—An in-*
17 *sured State bank whose home State has in effect*
18 *a prohibition described in subparagraph (A)*
19 *may not acquire or establish, under subsection*
20 *(c), a branch located in any other State.*

21 *“(4) STATE LAWS REQUIRING MINIMUM PERIOD*
22 *OF EXISTENCE FOR ACQUISITIONS BY OUT-OF-STATE*
23 *BANKS.—*

1 “(A) *LAWS ENACTED BEFORE INTERSTATE*
2 *BANKING ACT.—In the case of a State in which*
3 *a law is in effect which—*

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

10 “(ii) *took effect on or before the date of*
11 *the enactment of the Interstate Banking Ef-*
12 *iciency Act of 1994,*

13 *an out-of-State insured State bank which has no*
14 *branch in such State may establish a branch in*
15 *the State under this subsection only by acquiring*
16 *a bank or branch which has been in existence for*
17 *not less than the minimum time period specified*
18 *in such law.*

19 “(B) *SUBSEQUENT ENACTMENTS.—In the*
20 *case of a State in which a law is in effect*
21 *which—*

22 “(i) *allows an out-of-State bank or*
23 *bank holding company to establish a branch*
24 *in the host State only by acquiring a bank*
25 *or branch (in the host State) which has been*

1 *in existence for not less than the minimum*
2 *time period specified in such law; and*

3 “(ii) *took effect after the date of the en-*
4 *actment of the Interstate Banking Effi-*
5 *ciency Act of 1994,*

6 *an out-of-State insured State bank which has no*
7 *branch in such State may establish a branch in*
8 *the State under this subsection only by acquiring*
9 *a bank or branch which has been in existence for*
10 *not less than the lesser of the minimum time pe-*
11 *riod specified in such law or 5 years.*

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

20 “(6) *CONDITIONS APPLICABLE TO THE ESTAB-*
21 *LISHMENT OR ACQUISITION OF INTERSTATE*
22 *BRANCHES.—The appropriate Federal banking agen-*
23 *cy may approve an application under paragraph (1)*
24 *or (2) by an insured State bank to acquire or estab-*
25 *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 agen-
8 cy determines that—

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

13 “(ii) on the basis of an evaluation con-
14 ducted by the agency, the management of
15 the bank has the necessary management
16 skills to manage the operations of the bank
17 upon the consummation of the acquisition
18 or establishment of the 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 of
23 an application under subsection (c), the appropriate
24 Federal banking agency shall consider the views of
25 any appropriate State bank supervisor of the bank

1 *which submits the application regarding the bank's*
2 *compliance with applicable State community rein-*
3 *vestment laws.*

4 “(2) *COMPLIANCE WITH STATE FILING REQUIRE-*
5 *MENTS.—*

6 “(A) *IN GENERAL.—An out-of-State insured*
7 *State bank that files an application under sub-*
8 *section (c) to acquire or establish a branch with-*
9 *in 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 COMPLY.—*
23 *The appropriate Federal banking agency may*
24 *not approve an application under subsection (c)*
25 *by an insured State bank which materially fails*

1 to comply with subparagraph (A) with respect to
2 such application.

3 “(3) CONCENTRATION LIMITS.—

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

7 “(i) the bank (including all insured de-
8 pository institutions which are affiliates of
9 the bank) controls, or upon completion of
10 the acquisition would control, more than 10
11 percent of the total amount of insured de-
12 pository institution deposits in the United
13 States; or

14 “(ii) the bank (including all insured
15 depository institutions which are affiliates
16 of the bank) controls, or upon completion of
17 the acquisition would control, 30 percent or
18 more of the total amount of insured deposi-
19 tory institution deposits in the State in
20 which the proposed branch would be located.

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

1 “(C) *WAIVER BY STATE.*—A State may
2 waive the application of subparagraph (A)(ii) to
3 the acquisition of banks or branches in such
4 State.

5 “(4) *CONSIDERATION OF BANK AFFILIATES.*—In
6 determining whether to grant approval of an applica-
7 tion under subsection (c) with respect to a proposed
8 branch by an insured State bank which, as of the date
9 of the application, does not have a branch in the host
10 State (of the proposed branch), the appropriate Fed-
11 eral banking agency shall take into account the most
12 recent written evaluation under section 807 of the
13 Community Reinvestment Act of 1977 of each bank
14 affiliate of the bank which submits the application.

15 “(e) *APPLICABILITY OF STATE AND FEDERAL LAW TO*
16 *INTERSTATE BRANCHING OPERATIONS.*—

17 “(1) *STATE LAWS APPLICABLE TO BRANCHES OF*
18 *OUT-OF-STATE BANKS.*—

19 “(A) *IN GENERAL.*—Subject to subsection
20 (d), any branch of an out-of-State insured State
21 bank shall be subject to the laws of the host State
22 as if such branch were a branch of a bank char-
23 tered by that State.

24 “(B) *ACTIVITIES OF BRANCHES.*—An in-
25 sured State bank that establishes a branch in a

1 *host State may not conduct any activity at such*
2 *branch that is not permissible for a bank char-*
3 *tered by the host State.*

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

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

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

13 “(2) *STATE TAXATION AUTHORITY NOT AF-*
14 *FECTED.—No provision of this subsection or sub-*
15 *section (c) or (d) 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 State bank, including any branch of*
19 *a State bank, any bank holding company which con-*
20 *trols any State bank, or any affiliate of any such*
21 *bank or bank holding company to the extent such tax*
22 *or tax method is otherwise permissible by or under*
23 *the Constitution of the United States of America or*
24 *other Federal law.*

1 “(3) *STATE-IMPOSED NOTICE REQUIREMENTS.*—
2 *A host State may impose any notification or report-*
3 *ing requirement on a branch established or acquired*
4 *under subsection (c) 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 “(4) *APPLICABILITY OF DEPOSIT CAPS AND ANTI-*
10 *TRUST LAWS.*—*No provision of this subsection or sub-*
11 *section (c) or (d) shall be construed as affecting—*

12 “(A) *the authority of any State to limit the*
13 *percentage of the total amount of insured deposi-*
14 *tory institution deposits in the State which may*
15 *be held or controlled by any bank (including all*
16 *insured depository institutions which are affili-*
17 *ates of the bank) to the extent the application of*
18 *such limitation does not discriminate against*
19 *out-of-State banks or bank holding companies; or*

20 “(B) *the applicability of the antitrust laws*
21 *or any State law which is similar to the anti-*
22 *trust laws.*

23 “(f) *COORDINATION OF EXAMINATION AUTHORITY.*—

1 “(1) *IN GENERAL.*—A host State bank supervisor
2 may examine a branch operated in the host State by
3 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 branch
9 do not constitute a significant risk to the safe
10 and sound operation of the branch.

11 “(2) *ENFORCEMENT.*—If the State bank super-
12 visor of a host State described in paragraph (1) deter-
13 mines that there is a violation of host State law con-
14 cerning the activities being conducted by a branch op-
15 erated in such State by an out-of-State insured State
16 bank or that the branch is being operated in an un-
17 safe and unsound manner, such host State bank su-
18 pervisor or, to the extent authorized by the law of the
19 host State, a State law enforcement officer may un-
20 dertake such enforcement actions or proceedings as
21 would be permitted under host State law if the branch
22 were a bank chartered by the host State.

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

1 *supervision of State banks and branches, including*
2 *cooperative agreements relating to the coordination of*
3 *examinations and joint participation in examina-*
4 *tions.*

5 “(4) *FEDERAL REGULATORY AUTHORITY.*—*No*
6 *provision of this section shall be construed as limiting*
7 *the authority of any Federal banking agency to exam-*
8 *ine any bank or branch of a bank for which the agen-*
9 *cy is the appropriate Federal banking agency.*

10 “(g) *DEFINITIONS.*—*For purposes of this section, the*
11 *following definitions shall apply:*

12 “(1) *ANTITRUST LAWS.*—*The term ‘antitrust*
13 *laws’—*

14 “(A) *has the same meaning as in subsection*
15 *(a) of the 1st section of the Clayton Act; and*

16 “(B) *includes section 5 of the Federal Trade*
17 *Commission Act to the extent such section 5 re-*
18 *lates to unfair methods of competition.*

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

21 “(A) *is originally established by the bank as*
22 *a branch; and*

23 “(B) *does not become a branch of such bank*
24 *as a result of—*

1 “(i) the acquisition by the bank of an
2 insured depository institution or a branch
3 of an insured depository institution; or

4 “(ii) the conversion, merger, or consoli-
5 dation of any such institution or branch.

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

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

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

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

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—Sec-
21 tion 3(o) of the Federal Deposit Insurance Act (12 U.S.C.
22 1813(o)) is amended to read as follows:

23 “(o) DEFINITIONS RELATING TO DOMESTIC AND FOR-
24 EIGN BRANCHES.—

1 “(1) *BRANCH*.—The term ‘branch’ means a do-
2 mestic branch or a foreign branch, except when such
3 term is used in connection with the term ‘Federal
4 branch’ or ‘insured branch’.

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

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

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

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

18 “(a) *INTERSTATE BRANCHING AND AGENCY OPER-*
19 *ATIONS*.—

20 “(1) *FEDERAL BRANCH OR AGENCY*.—Subject to
21 the provisions of this Act and with the prior written
22 approval by the Board and the Comptroller of the
23 Currency of an application, a foreign bank may es-
24 tablish and operate a Federal branch or agency in
25 any State outside the home State of such foreign bank

1 to the extent that the establishment and operation of
2 such branch would be permitted under section 5155 of
3 the Revised Statutes if the foreign bank were a na-
4 tional bank whose home State (as defined in sub-
5 section (e)(5) of such section) is the same State as the
6 home State of the foreign bank.

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

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

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

1 “(B) may not approve an application un-
2 less the Board and (in the case of an application
3 under paragraph (1)) the Comptroller of the
4 Currency—

5 “(i) determine that the foreign bank’s
6 financial resources, including the capital
7 level of the bank, are equivalent to those re-
8 quired for a domestic bank to be approved
9 for branching under section 5155 of the Re-
10 vised Statutes and section 44 of the Federal
11 Deposit Insurance Act; and

12 “(ii) consult with the Secretary of the
13 Treasury regarding capital equivalency.

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

1 *a requirement that the foreign bank or company con-*
2 *trolling the foreign bank establish a domestic banking*
3 *subsidiary in the United States.*

4 “(5) *ADDITIONAL AUTHORITY FOR INTERSTATE*
5 *BRANCHES AND AGENCIES OF FOREIGN BANKS.—Not-*
6 *withstanding paragraphs (1) and (2), a foreign bank*
7 *may, with the approval of the Comptroller of the Cur-*
8 *rency, establish and operate a Federal branch or Fed-*
9 *eral agency or, with the approval of the Board and*
10 *the appropriate State bank supervisor, a State branch*
11 *or State agency in any State outside the foreign*
12 *bank’s home State if—*

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

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

21 “(b) *CONTINUED AUTHORITY FOR LIMITED BRANCHES,*
22 *AGENCIES, OR COMMERCIAL LENDING COMPANIES.—Sec-*
23 *tion 5(b) of the International Banking Act of 1978 (12*
24 *U.S.C. 3103(b)) is amended by adding at the end the follow-*
25 *ing new sentence: “Notwithstanding subsection (a), a for-*

1 *foreign bank may continue to operate, after the enactment of*
2 *the Interstate Banking Efficiency Act of 1994, any Federal*
3 *branch, State branch, Federal agency, State agency, or com-*
4 *mercial lending company subsidiary which such bank was*
5 *operating on the day before the date of the enactment of*
6 *such Act to the extent the branch, agency, or subsidiary con-*
7 *tinues, after the enactment of such Act, to engage in oper-*
8 *ations which were lawful under the laws in effect on the*
9 *day before such date.”.*

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

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

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

23 *“(2) the fact that the domestic bank is controlled*
24 *by a foreign bank which has Federal or State*
25 *branches or agencies in States other than the home*

1 *State of such domestic bank shall not affect the au-*
2 *thority of the domestic bank to establish branches out-*
3 *side the home State of the domestic bank to the extent*
4 *permitted under section 5155(d) of the Revised Stat-*
5 *utes or section 44 of the Federal Deposit Insurance*
6 *Act, as the case may be.”.*

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

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

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

18 *“(2) in the case of a foreign bank that does not*
19 *have a branch, agency, subsidiary commercial lending*
20 *company, or subsidiary bank in more than 1 State,*
21 *the home State of the foreign bank is the State in*
22 *which the foreign bank has a branch, agency, subsidi-*
23 *ary commercial lending company, or subsidiary*
24 *bank.”.*

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

2 *Section 18(d) of the Federal Deposit Insurance Act (12*
3 *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 other*
9 *provision of Federal law or any provision of*
10 *State law (other than a law referred to in sub-*
11 *paragraph (B)), a bank holding company which*
12 *has bank subsidiaries in more than 1 State may,*
13 *with the prior written approval by the respon-*
14 *sible agency (as determined in accordance with*
15 *section 18(c)(2) of the Federal Deposit Insurance*
16 *Act) of an application and subject to the require-*
17 *ments of subsection (c), combine 2 or more of*
18 *such banks into a single bank by means of merg-*
19 *er, consolidation, or other similar transaction in*
20 *accordance with such subsection after the end of*
21 *the 18-month period beginning on the date of the*
22 *enactment of the Interstate Banking Efficiency*
23 *Act of 1994.*

24 *“(B) EXCEPTION FOR STATES WHICH PRO-*
25 *HIBIT THE ACQUISITION OF A BRANCH BY ANY*
26 *OUT-OF-STATE BANK.—No bank which is located*

1 *in a State in which a law described in section*
2 *5155(d)(3)(A) of the Revised Statutes of the*
3 *United States or section 44(c)(3)(A) is in effect*
4 *may be a party to a merger, consolidation, or*
5 *other similar transaction under subparagraph*
6 *(A) with any other bank affiliate of such bank.*

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

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

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

20 *may be a party to a merger, consolidation, or*
21 *other similar transaction under subparagraph*
22 *(A) with any other bank affiliate of such bank*
23 *before the end of the 3-year period beginning on*
24 *such date of enactment, unless the State in which*
25 *the bank or branch is located is a State referred*

1 to in section 5155(d)(5) of the Revised Statutes
2 of the United States or section 44(c)(5).

3 “(2) *EFFECT OF STATE PROHIBITION ON*
4 *BRANCHING.—If a branch which results from a trans-*
5 *action under paragraph (1) is located in a State in*
6 *which a law—*

7 “(A) *takes effect after the consummation of*
8 *the transaction;*

9 “(B) *is enacted during the period beginning*
10 *on January 1, 1990, and ending 3 years after*
11 *the date of the enactment of the Interstate Bank-*
12 *ing Efficiency Act of 1994;*

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

17 “(D) *applies equally to national and State*
18 *banks,*

19 *the branch shall be promptly converted back into a*
20 *bank as the bank existed before such transaction, in*
21 *accordance with regulations of the Federal banking*
22 *agency or State bank supervisor which had jurisdic-*
23 *tion over the bank which was converted into a branch.*

24 “(3) *APPLICABILITY OF STATE AND FEDERAL*
25 *LAW TO INTERSTATE BRANCHING OPERATIONS.—If a*

1 *branch which results from a transaction under para-*
2 *graph (1) is the branch of a national bank, section*
3 *5155(f) of the Revised Statutes of the United States*
4 *shall apply with respect to such branch.*

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

18 “(5) *PLAN ON MEETING LOCAL CREDIT NEEDS.—*
19 *The responsible agency (as determined under sub-*
20 *section (c)(2)) may not approve any application for*
21 *any consolidation or other transaction under this sub-*
22 *section unless the responsible agency has considered a*
23 *plan submitted by the applicant bank holding com-*
24 *pany for meeting local credit needs in the commu-*
25 *nities served by any bank subsidiary of the company*

1 *which is involved in the proposed consolidation or*
2 *transaction, including the extent to which the amount*
3 *of the anticipated savings attributable to the proposed*
4 *consolidation or other transaction will be available to*
5 *meet such local credit needs.”.*

6 **SEC. 106. BRANCH CLOSURES.**

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

10 “(d) *BRANCH CLOSURES IN INTERSTATE BANKING OR*
11 *BRANCHING OPERATIONS.*—

12 “(1) *NOTICE REQUIREMENTS.*—*In the case of an*
13 *interstate bank which proposes to close any branch in*
14 *a low- or moderate-income area, the notice required*
15 *under subsection (b)(2) shall contain the mailing ad-*
16 *dress of the appropriate Federal banking agency and*
17 *a statement that comments on the proposed closing of*
18 *such branch may be mailed to such agency.*

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

22 “(A) *a person from the area in which such*
23 *branch is located—*

1 “(i) submits a written request relating
2 to the closing of such branch to the appro-
3 priate Federal banking agency; and

4 “(ii) includes a statement of specific
5 reasons for the request, including a discus-
6 sion of the adverse effect of such closing on
7 the availability of banking services in the
8 area affected by the closing of the branch;
9 and

10 “(B) the agency concludes that the request
11 is not frivolous,

12 the agency shall consult with community leaders in
13 the affected area and convene a meeting of representa-
14 tives of the agency with community leaders in the af-
15 fected area and such other individuals, organizations,
16 and depository institutions (as defined in section
17 19(b)(1)(A) of the Federal Reserve Act) as the agency
18 may determine to be appropriate, to explore the fea-
19 sibility of obtaining adequate alternative facilities
20 and services for the affected area, including the estab-
21 lishment of a new branch by another depository insti-
22 tution, the chartering of a new depository institution,
23 or the establishment of a community development
24 credit union, following the closing of the branch.

1 “(3) *NO AFFECT ON CLOSING.*—No action by the
2 *appropriate Federal banking agency under paragraph*
3 *(2) shall affect the authority of an interstate bank to*
4 *close a branch (including the timing of such closing)*
5 *if the requirements of subsections (a) and (b) have*
6 *been met by such bank with respect to the branch*
7 *being closed.*

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

10 “(A) *INTERSTATE BANK DEFINED.*—The
11 *term ‘interstate bank’ means a bank which*
12 *maintains branches in more than 1 State.*

13 “(B) *LOW- OR MODERATE-INCOME AREA.*—
14 *The term ‘low- or moderate-income area’ means*
15 *a census tract for which the median family in-*
16 *come is—*

17 “(i) *less than 80 percent of the median*
18 *family income for the metropolitan statis-*
19 *tical area (as designated by the Director of*
20 *the Office of Management and Budget) in*
21 *which the census tract is located; or*

22 “(ii) *in the case of a census tract*
23 *which is not located in a metropolitan sta-*
24 *tistical area, less than 80 percent of the me-*
25 *diان family income for the State in which*

1 *the census tract is located, as determined*
2 *without taking into account family income*
3 *in metropolitan statistical areas in such*
4 *State.”.*

5 **SEC. 107. PROHIBITION AGAINST DEPOSIT PRODUCTION**
6 **OFFICES.**

7 *(a) REGULATIONS.—Before the end of the 120-day pe-*
8 *riod beginning on the date of the enactment of the Interstate*
9 *Banking Efficiency Act of 1994, each appropriate Federal*
10 *banking agency shall prescribe regulations which prohibit*
11 *any person from using any authority to engage in interstate*
12 *branching pursuant to this title, or any amendment made*
13 *by this title to any other provision of law, primarily for*
14 *the purpose of deposit production.*

15 *(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Reg-*
16 *ulations issued under subsection (a) shall include guidelines*
17 *to ensure that each interstate branch meets the credit needs*
18 *of the community and market area in which the branch*
19 *operates.*

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

21 *(1) LIMITATION.—Regulations issued under sub-*
22 *section (a) shall require that if the percentage of out-*
23 *standing loans made by an interstate branch to bor-*
24 *rowers located in the host State of, or market area*
25 *served by, the branch is less than half the average of*

1 *such percentage for all Federal depository institutions*
2 *and State depository institutions having their prin-*
3 *cipal place of operations in the host State or that*
4 *market area—*

5 *(A) the appropriate Federal banking agency*
6 *for the branch shall review the loan portfolio of*
7 *the branch and determine whether the branch is*
8 *reasonably meeting the credit needs of the com-*
9 *munity and market area in which the branch*
10 *operates; and*

11 *(B) if the agency determines that the branch*
12 *is not reasonably meeting those needs—*

13 *(i) the branch shall be closed, and*

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

22 *(2) CONSIDERATIONS.—In making a determina-*
23 *tion under paragraph (1)(A) regarding an interstate*
24 *branch, the appropriate Federal banking agency shall*
25 *consider—*

1 (A) *whether the branch was acquired as*
2 *part of the purchase of a failed or failing deposi-*
3 *tory institution;*

4 (B) *whether the branch has a higher con-*
5 *centration of commercial and credit card lend-*
6 *ing; and*

7 (C) *the ratings received by the branch in*
8 *evaluations under the Community Reinvestment*
9 *Act of 1977.*

10 (d) *APPLICATION.—This section shall not apply to any*
11 *interstate branch acquired before January 1, 1992, as part*
12 *of any consolidation or merger of depository institutions.*

13 (e) *DEFINITIONS.—For the purposes of this section, the*
14 *following definitions shall apply:*

15 (1) *APPROPRIATE FEDERAL BANKING AGENCY.—*
16 *The term “appropriate Federal banking agency” has*
17 *the same meaning as in section 3 of the Federal De-*
18 *posit Insurance Act.*

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

23 (3) *FEDERAL DEPOSITORY INSTITUTION AND*
24 *STATE DEPOSITORY INSTITUTION.—The terms “Fed-*
25 *eral depository institution” and “State depository in-*

1 *stitution” have the same meanings as in section 3 of*
2 *the Federal Deposit Insurance Act.*

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

6 (A) *in the case of an insured State bank,*
7 *the State in which the bank is chartered;*

8 (B) *in the case of a national bank, the State*
9 *in which the main office of the bank is located;*
10 *and*

11 (C) *in the case of a bank holding company,*
12 *the State in which the total deposits of all bank*
13 *subsidiaries of such company is the greatest.*

14 (5) *INTERSTATE BRANCH.*—The term “interstate
15 *branch” means a branch established pursuant to the*
16 *authority referred to in subsection (a).*

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

21 (7) *STATE DEFINED.*—The term “State” has the
22 *same meaning as in section 3 of the Federal Deposit*
23 *Insurance Act.*

1 **SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.**

2 (a) *IN GENERAL.*—Section 1002 of the Financial In-
3 stitutions Reform, Recovery, and Enforcement Act of 1989
4 (12 U.S.C. 1811 note) is amended to read as follows:

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

6 “(a) *ANNUAL SURVEY REQUIRED.*—The Board of Gov-
7 ernors of the Federal Reserve System shall obtain a sample,
8 which is representative by geographic location and size of
9 the institution, of—

10 “(1) certain retail banking services provided by
11 insured depository institutions; and

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

16 “(b) *ANNUAL REPORT TO CONGRESS REQUIRED.*—

17 “(1) *PREPARATION.*—The Board of Governors of
18 the Federal Reserve System shall prepare a report of
19 the results of each survey conducted pursuant to sub-
20 section (a).

21 “(2) *CONTENTS OF THE REPORT.*—Each report
22 prepared pursuant to paragraph (1) shall include—

23 “(A) a description of any discernible trend,
24 in the Nation as a whole and in each State, in
25 the cost and availability of retail banking serv-
26 ices which delineates differences on the basis of

1 *size of the institution and engagement in*
2 *multistate activity; and*

3 “(B) *a description of the correlation, if any,*
4 *among the following factors:*

5 “(i) *An increase or decrease in the*
6 *amount of any deposit insurance premium*
7 *assessed by the Federal Deposit Insurance*
8 *Corporation against insured depository in-*
9 *stitutions.*

10 “(ii) *An increase or decrease in the*
11 *amount of the fees imposed by such institu-*
12 *tions for providing retail banking services.*

13 “(iii) *A decrease in the availability of*
14 *such services.*

15 “(3) *SUBMISSION TO CONGRESS.—The Board of*
16 *Governors of the Federal Reserve System shall submit*
17 *each annual report to the Congress not later than*
18 *June 1 of each calendar year.”.*

19 “(b) *SUNSET.—The requirements of subsection (a) shall*
20 *not apply after the end of the 7-year period beginning on*
21 *the date of enactment of this Act.*

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

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

1 ical subdivision of any State, to impose or maintain a non-
 2 discriminatory franchise tax or other nonproperty tax in-
 3 stead of a franchise tax in accordance with section 3124
 4 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 BRANCHES.*—

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

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

24 “(B) for each State in which the institution
 25 maintains 1 or more domestic branches (includ-

1 *ing the institution's home State), a separate*
2 *written evaluation of the institution's record of*
3 *performance within such State under this Act, as*
4 *required by subparagraphs (A) and (B) of sub-*
5 *section (b)(1) of this section.*

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

HR 3841 RH—2

HR 3841 RH—3

HR 3841 RH—4

HR 3841 RH—5