

103D CONGRESS
1ST SESSION

H. R. 2235

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

MAY 20, 1993

Mr. VENTO (for himself, Mr. NEAL of North Carolina, and Mr. MCCOLLUM) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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.**

4 This Act may be cited as the “Interstate Banking Ef-
5 ficiency Act of 1993”.

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

3 **SEC. 101. NATIONWIDE 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 AND BRANCHING.—

8 “(1) IN GENERAL.—Subject to paragraphs (4),
9 (5), (6), and (7), the Board may approve an applica-
10 tion under this section by a bank holding company
11 or foreign bank to acquire, directly or indirectly, any
12 voting shares of, interest in, or all or substantially
13 all of the assets of any additional insured depository
14 institution or bank holding company located in any
15 State.

16 “(2) STATE LAW.—Subject to paragraphs (3),
17 (5), and (6), any acquisition described in paragraph
18 (1) that has been approved under this section may
19 be consummated notwithstanding any State law that
20 would prohibit or otherwise limit such acquisition on
21 the basis of—

22 “(A) the location or size of the acquiring
23 company, foreign bank, or subsidiary of such
24 company or foreign bank;

1 “(B) the number of insured depository in-
2 stitution subsidiaries of such company or for-
3 eign bank; or

4 “(C) any other factor that, directly or indi-
5 rectly has the effect of prohibiting or limiting
6 the acquisition of shares or control of an in-
7 sured depository institution or bank holding
8 company located in that State by an out-of-
9 State bank holding company or foreign bank if
10 such factor is not applied with similar effect in
11 the case of acquisitions of insured depository in-
12 stitutions or bank holding companies located in
13 such State by bank holding companies located
14 in the State.

15 “(3) STATE TAXATION AUTHORITY NOT AF-
16 FECTED.—No provision of this subsection shall be
17 construed as affecting the authority of any State or
18 political subdivision of any State to apply any tax or
19 method of taxation to any national bank, or a bank
20 holding company which controls a national bank,
21 when such tax or tax method is otherwise permis-
22 sible by or under the Constitution of the United
23 States or other Federal law.

1 “(4) CONCENTRATION LIMITS.—The Board
2 may not approve an application under paragraph (1)
3 if—

4 “(A) the applicant controls, or upon com-
5 pletion of the acquisition would control, more
6 than 10 percent of the total amount of insured
7 depository institution deposits in the United
8 States, as determined under regulations of the
9 Board; or

10 “(B) the applicant controls, or upon com-
11 pletion of the acquisition would control, 30 per-
12 cent or more of the total amount of insured de-
13 pository institution deposits in the State in
14 which the bank to be acquired is located, as de-
15 termined under regulations of the Board, except
16 that a State may waive the applicability of this
17 subparagraph.

18 “(5) APPLICABILITY OF DEPOSIT CAPS AND
19 ANTITRUST LAWS.—No provision of this subsection
20 shall be construed as affecting—

21 “(A) the authority of any State to limit the
22 percentage of the total amount of insured de-
23 pository institution deposits in the State which
24 may be held or controlled by any bank to the
25 extent the application of such limitation does

1 not discriminate against out-of-State banks or
2 bank holding companies; or

3 “(B) the applicability of any Federal anti-
4 trust law or any State antitrust law that does
5 not discriminate against out-of-State banks or
6 bank holding companies.

7 “(6) LIMITATIONS ON CONSOLIDATIONS.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), any insured depository insti-
10 tution acquired after the date of the enactment
11 of the Interstate Banking Efficiency Act of
12 1993 pursuant to paragraph (1) may not be a
13 party to any transaction under subsection (h)
14 before the end of the 3-year period beginning
15 on such date of enactment.

16 “(B) PROVISION APPLICABLE TO CERTAIN
17 INSTITUTIONS.—Subparagraph (A) shall not
18 apply with respect to any insured depository in-
19 stitution the acquisition of which occurs after
20 the date of the enactment of the Interstate
21 Banking Efficiency Act of 1993 pursuant to an
22 application or notice filed before such date with
23 any appropriate Federal banking agency or
24 State bank supervisor.

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

3 “(A) IN GENERAL.—Notwithstanding the
4 preceding paragraphs of this subsection and
5 subject to subparagraph (B), any law of a host
6 State which—

7 “(i) is in existence on the date of the
8 enactment of the Interstate Banking Effi-
9 ciency Act of 1993 or is enacted after such
10 date; and

11 “(ii) allows an out-of-State bank or
12 bank holding company to establish a bank
13 in the host State only by acquiring an ex-
14 isting bank in the host State,
15 shall apply with respect to the establishment or
16 acquisition of a bank in the host State under
17 this subsection.

18 “(B) INAPPLICABILITY OF CERTAIN PROVI-
19 SION OF STATE LAW.—In the case of any State
20 law referred to in subparagraph (A) which is
21 enacted after the date of the enactment of the
22 Interstate Banking Efficiency Act of 1993, such
23 subparagraph shall not apply with respect to
24 any provision of such law which allows the es-
25 tablishment of a bank through an acquisition

1 referred to in such subparagraph only if the
2 bank to be acquired has been in existence for
3 more than 5 years as of the date of the trans-
4 action.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall take effect on July 1, 1994.

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 (e) through (i), respectively; and

12 (2) by inserting after subsection (c) the follow-
13 ing:

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

16 “(1) IN GENERAL.—

17 “(A) APPROVALS AUTHORIZED.—Begin-
18 ning 3 years after the date of the enactment of
19 the Interstate Banking Efficiency Act of 1993,
20 the Comptroller of the Currency may approve
21 an application under this section to allow a na-
22 tional bank that is adequately capitalized (as
23 defined under section 38 of the Federal Deposit
24 Insurance Act) and adequately managed to es-
25 tablish or acquire, and operate, a branch lo-

1 cated outside the State in which the main office
2 of such bank is located, subject to paragraphs
3 (3), (4), (7), and (8).

4 “(B) CONDITIONS.—In determining wheth-
5 er to grant approval under subparagraph (A),
6 the Comptroller of the Currency shall consider
7 the views of the appropriate State bank officials
8 regarding the bank’s compliance with applicable
9 State community reinvestment laws.

10 “(C) APPLICABLE LAW.—

11 “(i) IN GENERAL.—Subject to para-
12 graphs (2), (7), and (8), any branch estab-
13 lished or acquired under subparagraph (A)
14 shall be subject to the laws of the host
15 State with respect to intrastate branching,
16 consumer protection, fair lending, and
17 community reinvestment as if it were a
18 branch of a bank chartered by that State,
19 unless such State law, is preempted by
20 Federal law regarding the same subject.
21 There shall be no discriminatory effect in
22 the application of such laws between a
23 branch of a bank chartered by the host
24 State and in-State branches of out-of-State
25 national banks. Such State laws shall be

1 enforced, with respect to branches of na-
2 tional banks by the Comptroller of the
3 Currency. All other laws of the host State
4 shall apply as if the branch was a national
5 bank situated in that State.

6 “(ii) FILING REQUIREMENT.—A host
7 State may require any national bank that
8 has its main office in another State that
9 wishes to establish a branch within the
10 host State to comply with filing require-
11 ments that are not discriminatory in na-
12 ture and that are similar in their effect to
13 those that are imposed on a corporation
14 from another State that is not engaged in
15 the business of banking and that seeks to
16 engage in business in the host State. The
17 host State may preclude any national bank
18 the main office of which is located in an-
19 other State from establishing or operating
20 a branch within the host State if that na-
21 tional bank or its branch materially fails to
22 comply with the filing requirements.

23 “(2) 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 any tax or
2 method of taxation to any national bank, including
3 any branch of a national bank, or any bank holding
4 company which controls a national bank to the ex-
5 tent such tax or tax method is otherwise permissible
6 by or under the Constitution of the United States of
7 America or other Federal law.

8 “(3) STATE ELECTION TO PROHIBIT INTER-
9 STATE BRANCHING.—

10 “(A) IN GENERAL.—The provisions of
11 paragraph (1) shall not apply to branches to be
12 located in a State which has enacted, during
13 the period beginning on January 1, 1990, and
14 ending 3 years after the date of the enactment
15 of this subsection, a law that applies equally to
16 national and State banks and that expressly
17 prohibits all out-of-State banks from establish-
18 ing or acquiring branches located in that State.

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

1 “(4) STATE ELECTION TO PERMIT INTERSTATE
2 BRANCHING.—

3 “(A) DURING THE 3-YEAR PERIOD FOL-
4 LOWING ENACTMENT.—The Comptroller of the
5 Currency may approve an application under
6 paragraph (1)(A) before the expiration of the 3-
7 year period described in paragraph (1)(A), if
8 the State in which the branch is or will be lo-
9 cated enacts a law during that period expressly
10 permitting interstate branching by all national
11 and State banks before the expiration of the
12 time period described in paragraph (1)(A).

13 “(B) AFTER THE 3-YEAR PERIOD FOLLOW-
14 ING ENACTMENT.—A State that originally elect-
15 ed, pursuant to paragraph (3), to prohibit
16 interstate branching may nonetheless elect at
17 any later time to permit interstate branching if
18 such State enacts a law expressly permitting
19 interstate branching by all national and State
20 banks.

21 “(5) STATE IMPOSED CONDITIONS ON INTER-
22 STATE BRANCHING.—

23 “(A) FILING WITH STATE BANK AUTHOR-
24 ITY.—A State may require a copy of an applica-
25 tion submitted under this section to be filed

1 with the host State banking authority in a time-
2 ly manner (and the Comptroller of the Currency
3 shall consider any timely comments of the host
4 State prior to approving that application).

5 “(B) OTHER NONDISCRIMINATORY CONDI-
6 TIONS.—Subject to paragraph (7) a State may
7 impose other conditions on a branch established
8 or acquired under paragraph (1)(A) if—

9 “(i) the conditions do not discriminate
10 against out-of-State banks or bank holding
11 companies; and

12 “(ii) the imposition of the conditions
13 is not preempted by Federal law regarding
14 the same subject.

15 “(6) CONCENTRATION LIMITS.—

16 “(A) IN GENERAL.—The Comptroller may
17 not approve an acquisition under paragraph
18 (1)(A) by a bank of a branch located in another
19 State if—

20 “(i) the bank controls, or upon com-
21 pletion of the acquisition would control,
22 more than 10 percent of the total amount
23 of insured depository institution deposits in
24 the United States, as determined under

1 regulations of the Board of Governors of
2 the Federal Reserve System; or

3 “(ii) the bank controls, or upon com-
4 pletion of the acquisition would control, 30
5 percent or more of the total amount of in-
6 sured depository institution deposits in the
7 State in which the branch to be acquired
8 is located, as determined under regulations
9 of the Board of Governors of the Federal
10 Reserve System,

11 except that a State may waive the applicability
12 of this subparagraph.

13 “(B) NOT APPLICABLE TO OUT-OF-STATE
14 BRANCHING.—Subparagraph (A) shall not
15 apply to the establishment of new branches lo-
16 cated outside the State where the main office of
17 the bank is located.

18 “(7) APPLICABILITY OF DEPOSIT CAPS AND
19 ANTITRUST LAWS.—No provision of this subsection
20 shall be construed as affecting—

21 “(A) the authority of any State to limit the
22 percentage of the total amount of insured de-
23 pository institution deposits in the State which
24 may be held or controlled by any bank to the
25 extent the application of such limitation does

1 not discriminate against out-of-State banks or
2 bank holding companies; or

3 “(B) the applicability of any Federal anti-
4 trust law or any State antitrust law that does
5 not discriminate against out-of-State banks or
6 bank holding companies.

7 “(8) APPLICABILITY OF STATE LAW ON THE
8 FORM OF ACQUISITION.—

9 “(A) IN GENERAL.—Notwithstanding the
10 preceding paragraphs of this subsection and
11 subject to subparagraph (B), any law of a host
12 State which—

13 “(i) is in existence on the date of the
14 enactment of the Interstate Banking Effi-
15 ciency Act of 1993 or is enacted after such
16 date; and

17 “(ii) allows an out-of-State bank to
18 establish a branch in the host State only
19 by acquiring an existing bank or branch in
20 the host State,

21 shall apply with respect to the establishment or
22 acquisition of a branch in the host State under
23 this subsection.

24 “(B) INAPPLICABILITY OF CERTAIN PROVI-
25 SIONS OF STATE LAW.—In the case of any

1 State law referred to in subparagraph (A)
2 which is enacted after the date of the enact-
3 ment of the Interstate Banking Efficiency Act
4 of 1993, such subparagraph shall not apply
5 with respect to any provision of such law which
6 allows the establishment of a branch through an
7 acquisition referred to in such subparagraph
8 only if the bank to be acquired has been in ex-
9 istence for more than 5 years as of the date of
10 the transaction.

11 “(C) STATE LAWS ON BANKS APPLY TO
12 BRANCHES.—For purposes of this paragraph,
13 any law of a host State which—

14 “(i) is in existence on the date of the
15 enactment of the Interstate Banking Effi-
16 ciency Act of 1993; and

17 “(ii) allows an out-of-State bank to
18 establish a bank in the host State only by
19 acquiring an existing bank in the host
20 State,

21 shall be deemed to apply to the establishment
22 of a branch in the host State by an out-of-State
23 bank.

24 “(9) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(A) HOST STATE.—The term ‘host State’
2 means the State in which a national bank es-
3 tablishes or maintains a branch other than the
4 State in which the bank has its main office and
5 is engaging in banking business.

6 “(B) INSURED DEPOSITORY INSTITU-
7 TION.—The term ‘insured depository institu-
8 tion’ has the meaning given to such term in sec-
9 tion 3(c)(2) of the Federal Deposit Insurance
10 Act.

11 “(C) OUT-OF-STATE BANK.—The term
12 ‘out-of-State bank’ means, with respect to any
13 State, a bank the main office of which is lo-
14 cated outside the State.”.

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

16 Section 18(d) of the Federal Deposit Insurance Act
17 (12 U.S.C. 1828(d)) is amended by adding at the end the
18 following:

19 “(3) INTERSTATE BRANCHING BY STATE
20 BANKS.—Beginning 3 years after the date of enact-
21 ment of the Interstate Banking Efficiency Act of
22 1993, an insured State bank that is adequately cap-
23 italized (as defined under section 38 of the Federal
24 Deposit Insurance Act) and adequately managed
25 may establish or acquire, and operate, a branch lo-

1 cated outside the State in which the bank is char-
2 tered if authorized by the law of the State in which
3 the bank is chartered, subject to paragraphs (5),
4 (6), (9), and (10).

5 “(4) APPLICABLE LAW.—

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

11 “(B) ACTIVITIES OF BRANCHES.—An in-
12 sured State bank that establishes a branch or
13 branches pursuant to paragraph (3) may not
14 conduct any activity at such branch that is not
15 permissible for a bank chartered by the host
16 State.

17 “(C) FILING REQUIREMENT.—A host State
18 may require any insured bank chartered by an-
19 other State that wishes to establish a branch
20 within the host State to comply with filing re-
21 quirements that are not discriminatory in na-
22 ture and that are similar in their effect to those
23 that are imposed on a corporation from another
24 State that is not engaged in the business of
25 banking and that seeks to engage in business in

1 the host State. The host State may preclude
2 any State bank chartered by another State
3 from establishing or operating a branch within
4 the host State if that State bank or its branch
5 materially fails to comply with the filing re-
6 quirements.

7 “(D) RESERVATION OF CERTAIN RIGHTS
8 TO STATES.—No provision of this subsection
9 shall be construed as limiting in any way the
10 right of a State to—

11 “(i) determine the authority of State
12 banks chartered in that State to establish
13 and maintain branches; or

14 “(ii) supervise, regulate, and examine
15 State banks chartered by that State.

16 “(5) STATE ELECTION TO PROHIBIT INTER-
17 STATE BRANCHING.—

18 “(A) IN GENERAL.—The provisions of
19 paragraph (3) shall not apply to branches to be
20 located in a State which has enacted, during
21 the period beginning on January 1, 1990, and
22 ending 3 years after the date of enactment of
23 this subsection, a law that applies equally to na-
24 tional and State banks and that expressly pro-

1 hibits all out-of-State banks from establishing
2 or acquiring branches located in that State.

3 “(B) EFFECT OF PROHIBITION.—A State
4 bank that is chartered by a State that has in
5 effect a prohibition under subparagraph (A)
6 may not acquire or establish a branch located
7 in any other State under the provisions of this
8 subsection.

9 “(6) STATE ELECTION TO PERMIT INTERSTATE
10 BRANCHING.—

11 “(A) DURING THE 3-YEAR PERIOD FOL-
12 LOWING ENACTMENT.—A State bank may es-
13 tablish or acquire, and operate, a branch out-
14 side the State in which the main office of the
15 bank is located, subject to the provisions of this
16 subsection, before the expiration of the 3-year
17 period described in paragraph (3), if the State
18 in which the branch will be located enacts a law
19 during that period expressly permitting inter-
20 state branching by all national and State banks
21 before the expiration of the time period de-
22 scribed in paragraph (3).

23 “(B) AFTER THE 3-YEAR PERIOD FOLLOW-
24 ING ENACTMENT.—A State that originally elect-
25 ed, pursuant to paragraph (5), to prohibit

1 interstate branching may nonetheless elect at
2 any later time to permit interstate branching if
3 such State enacts a law expressly permitting
4 interstate branching by all national and State
5 banks.

6 “(7) STATE IMPOSED CONDITIONS ON INTER-
7 STATE BRANCHING.—

8 “(A) FILING WITH STATE BANK AUTHOR-
9 ITY.—A State may require a copy of an applica-
10 tion submitted under this section to be filed
11 with the host State banking authority in a time-
12 ly manner (and the home State banking author-
13 ity and the appropriate Federal banking agency
14 shall consider any timely comments of the host
15 State prior to approving that application).

16 “(B) OTHER NONDISCRIMINATORY CONDI-
17 TIONS.—Subject to paragraph (10), a State
18 may impose other conditions on a branch estab-
19 lished or acquired under paragraph (3) if—

20 “(i) the conditions do not discriminate
21 against out-of-State banks or bank holding
22 companies; and

23 “(ii) the imposition of the conditions
24 is not preempted by Federal law regarding
25 the same subject.

1 “(8) CONCENTRATION LIMITS.—

2 “(A) IN GENERAL.—The home State bank-
3 ing authority and the appropriate Federal
4 banking agency may not approve an acquisition
5 under paragraph (1)(A) by a bank of a branch
6 located in another State if—

7 “(i) the bank controls, or upon com-
8 pletion of the acquisition would control,
9 more than 10 percent of the total amount
10 of insured depository institution deposits in
11 the United States, as determined under
12 regulations of the Board of Governors of
13 the Federal Reserve System; or

14 “(ii) the bank controls, or upon com-
15 pletion of the acquisition would control, 30
16 percent or more of the total amount of in-
17 sured depository institution deposits in the
18 State in which the branch to be acquired
19 is located, as determined under regulations
20 of the Board of Governors of the Federal
21 Reserve System,

22 except that a State may waive the applicability
23 of this subparagraph.

24 “(B) NOT APPLICABLE TO OUT-OF-STATE
25 BRANCHING.—Subparagraph (A) shall not

1 apply to the establishment of new branches lo-
2 cated outside the State where the main office of
3 the bank is located.

4 “(9) APPLICABILITY OF DEPOSIT CAPS AND
5 ANTITRUST LAWS.—No provision of this subsection
6 shall be construed as affecting—

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

14 “(B) the applicability of any Federal anti-
15 trust law or any State antitrust law that does
16 not discriminate against out-of-State banks or
17 bank holding companies.

18 “(10) APPLICABILITY OF STATE LAW ON THE
19 FORM OF ACQUISITION.—

20 “(A) IN GENERAL.—Notwithstanding the
21 preceding paragraphs of this subsection and
22 subject to subparagraph (B), any law of a host
23 State which—

24 “(i) is in existence on the date of the
25 enactment of the Interstate Banking Effi-

1 ciency Act of 1993 or is enacted after such
2 date; and

3 “(ii) allows an out-of-State bank to
4 establish a branch in the host State only
5 by acquiring an existing bank or branch in
6 the host State,

7 shall apply with respect to the establishment or
8 acquisition of a branch in the host State in ac-
9 cordance with this subsection.

10 “(B) INAPPLICABILITY OF CERTAIN PROVI-
11 SIONS OF STATE LAW.—In the case of any
12 State law referred to in subparagraph (A)
13 which is enacted after the date of the enact-
14 ment of the Interstate Banking Efficiency Act
15 of 1993, such subparagraph shall not apply
16 with respect to any provision of such law which
17 allows the establishment of a branch through an
18 acquisition referred to in such subparagraph
19 only if the bank has been in existence for more
20 than 5 years as of the date of the transaction.

21 “(C) STATE LAWS ON BANKS APPLY TO
22 BRANCHES.—For purposes of this paragraph,
23 any law of a host State which—

1 “(i) is in existence on the date of the
2 enactment of the Interstate Banking Effi-
3 ciency Act of 1993; and

4 “(ii) allows an out-of-State bank to
5 establish a bank in the host State only by
6 acquiring an existing bank in the host
7 State,

8 shall be deemed to apply to the establishment
9 of a branch in the host State by an out-of-State
10 bank.

11 “(11) COORDINATION OF EXAMINATION AU-
12 THORITY.—

13 “(A) IN GENERAL.—A host State bank su-
14 pervisory or regulatory authority may examine
15 a branch established in the host State by banks
16 chartered by another State for the purpose of
17 determining compliance with host State laws re-
18 garding banking, taxation, community reinvest-
19 ment, fair lending, consumer protection, and
20 permissible activities and to ensure that the ac-
21 tivities of the branch are conducted in a man-
22 ner consistent with sound banking principles
23 and do not constitute a serious risk to the safe-
24 ty and sound operation of the branch.

1 “(B) ENFORCEMENT.—In the event that a
2 host State bank authority as described in sub-
3 paragraph (A) determines that there is a viola-
4 tion of host State law concerning the activities
5 being conducted by the branch or that the
6 branch is being operated in a manner not con-
7 sistent with sound banking principles or in an
8 unsafe and unsound manner, such host State
9 bank authority may undertake such enforce-
10 ment actions or proceedings as would be per-
11 mitted under host State law if the branch in
12 question were a bank chartered by that host
13 State.

14 “(C) COOPERATIVE AGREEMENT.—The
15 State bank authorities from one or more States
16 are authorized to enter into cooperative agree-
17 ments to facilitate State regulatory supervision
18 of State banks, including cooperative agree-
19 ments relating to the coordination of examina-
20 tions and joint participation in examinations.

21 “(D) FEDERAL REGULATORY AUTHOR-
22 ITY.—

23 “(i) IN GENERAL.—No provision of
24 this subsection shall be construed as limit-
25 ing in any way the authority of the appro-

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

5 “(ii) REVIEW OF INTERSTATE AGREE-
6 MENTS.—If the appropriate Federal bank-
7 ing authority determines that the States
8 have failed to reach an agreement under
9 subparagraph (C), or that such an agree-
10 ment fails to adequately protect the Fed-
11 eral Deposit Insurance Fund, the appro-
12 priate Federal banking authority shall not
13 defer to State examinations of the out-of-
14 State branches.

15 “(12) DEFINITIONS.—For purposes of this sub-
16 section—

17 “(A) HOST STATE.—The term ‘host State’
18 means the State in which a bank establishes or
19 maintains a branch other than the State in
20 which the bank is chartered and engaging in
21 banking business.

22 “(B) OUT-OF-STATE BANK.—The term
23 ‘out-of-State bank’ means, with respect to any
24 State, a bank the main office of which is lo-
25 cated outside the State.”.

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

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

5 “(a) INTERSTATE BANKING OPERATIONS.—

6 “(1) IN GENERAL.—A foreign bank may estab-
7 lish and operate—

8 “(A) a Federal branch or agency, with the
9 approval of the Board and the Comptroller of
10 the Currency, in any State outside the branch’s
11 or agency’s home State to the extent that such
12 establishment and operation would be permitted
13 under section 5155 of the Revised Statutes for
14 a national bank; or

15 “(B) a State branch or agency, with the
16 approval of the Board and the appropriate reg-
17 ulatory authority of the State, in any State out-
18 side the branch’s or agency’s home State to the
19 extent that such establishment and operation
20 would be permitted under section 18(d) of the
21 Federal Deposit Insurance Act for a State
22 bank,

23 as if the foreign bank were a national bank the main
24 office of which is in the home State of the foreign
25 bank or a State bank chartered in such home State,
26 as the case may be.

1 “(2) CRITERIA FOR DETERMINATION.—In ap-
2 proving an application under paragraph (1), the
3 Board and the Comptroller of the Currency—

4 “(A) shall apply the standards for estab-
5 lishment of a foreign bank office in the United
6 States under section 7(e); and

7 “(B) may not approve an application un-
8 less the Board or the Comptroller of the Cur-
9 rency—

10 “(i) determines that the foreign
11 bank’s financial resources, including the
12 capital level, are equivalent to those re-
13 quired for a domestic bank to be approved
14 for branching under section 5155 of the
15 Revised Statutes and section 18(d) of the
16 Federal Deposit Insurance Act; and

17 “(ii) in the case of the 1st application
18 by such foreign bank under paragraph (1),
19 consults with the Secretary of the Treas-
20 ury regarding capital equivalency.

21 “(3) REQUIREMENT FOR A SEPARATE SUBSIDI-
22 ARY.—If the Comptroller of the Currency or the
23 Board, taking into account differing regulatory or
24 accounting standards, finds that adherence to cap-
25 ital requirements equivalent to those imposed under

1 section 5155 of the Revised Statutes and by section
2 18(d) of the Federal Deposit Insurance Act can be
3 verified only if banking activities are carried out in
4 a domestic banking subsidiary within the United
5 States, the Board or the Comptroller of the Cur-
6 rency may approve an application under paragraph
7 (1) subject to a requirement that the foreign bank
8 or company controlling the foreign bank establish a
9 domestic banking subsidiary in the United States.

10 “(4) ADDITIONAL AUTHORITY FOR INTERSTATE
11 BRANCHES AND AGENCIES OF FOREIGN BANKS.—
12 Notwithstanding paragraph (1) and section 4(h), a
13 foreign bank may, with the approval of the Comp-
14 troller of the Currency, establish and operate a Fed-
15 eral branch or Federal agency or, with the approval
16 of the Board and the appropriate State bank super-
17 visor, a State branch or State agency in any State
18 outside the foreign bank’s home State if—

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

23 “(B) in the case of a Federal or State
24 branch, the branch receives only such deposits
25 as would be permissible for a corporation orga-

1 nized under section 25A of the Federal Reserve
2 Act.”.

3 (b) TREATMENT OF UNITED STATES BANKING SUB-
4 SIDIARIES.—Section 5 of the International Banking Act
5 of 1978 (12 U.S.C. 3103) is amended by adding at the
6 end the following:

7 “(d) TREATMENT OF UNITED STATES SUBSIDIARY
8 OF A FOREIGN BANK.—A foreign bank that has a domes-
9 tic subsidiary within the United States may establish Fed-
10 eral and State branches and agencies outside the bank’s
11 home State to the extent permitted under section 5155(d)
12 of the Revised Statutes and section 18(d) of the Federal
13 Deposit Insurance Act.”.

14 (c) HOME STATE DETERMINATIONS.—

15 (1) METHOD OF DETERMINING.—Section 4(h)
16 of the International Banking Act of 1978 (12 U.S.C.
17 3102(h)) is amended—

18 (A) by striking the phrase “in the State in
19 which such branch or agency is located”; and

20 (B) by adding at the end the following sen-
21 tence: “For the purposes of section 5155(c) of
22 the Revised Statutes, the home State of a for-
23 eign bank shall be the bank’s home State as de-
24 termined under section 5(c).”.

1 (2) SINGLE STATE DETERMINATIONS.—Section
 2 5(c) of the Bank Holding Company Act of 1956 (12
 3 U.S.C. 3103(c)) is amended to read as follows:

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

6 “(1) the home State of a foreign bank that has
 7 branches, agencies, subsidiary commercial lending
 8 companies, or subsidiary banks, or any combination
 9 thereof, in more than 1 State, is the 1 State of such
 10 States which is selected by the foreign bank or, in
 11 default of any such selection, by the Board; and

12 “(2) the home State of a foreign bank that has
 13 branches, agencies, subsidiary commercial lending
 14 companies, or subsidiary banks, or any combination
 15 thereof, in only 1 State, is that State.”.

16 **SEC. 105. PERMISSIBLE CONSOLIDATION.**

17 Section 3 of the Bank Holding Company Act of 1956
 18 (12 U.S.C. 1842) is amended by adding at the end the
 19 following subsection:

20 “(h) PERMISSIBLE CONSOLIDATION.—

21 “(1) IN GENERAL.—Except as provided in sub-
 22 section (d)(1) and with the approval of the Board,
 23 a bank holding company having subsidiary banks lo-
 24 cated in more than 1 State may combine 2 or more
 25 of such banks into a single bank by means of merg-

1 er, consolidation, or other transaction. Notwith-
2 standing any other provision of Federal law or any
3 provision of State law, any consolidation effected in
4 accordance with this subsection shall be permissible
5 within a State, unless such State has enacted a law
6 in accordance with section 5155(d)(2)(A) of the Re-
7 vised Statutes or section 18(d)(5)(A) of the Federal
8 Deposit Insurance Act that applies equally to na-
9 tional and State banks and that expressly prohibits
10 all out-of-State banks from establishing or acquiring
11 branches located in that State.

12 “(2) ADDITIONAL BRANCHES.—The consoli-
13 dated bank may, subject to compliance with all ap-
14 plicable Federal or State laws relating to the estab-
15 lishment, acquisition or operation of a branch, estab-
16 lish, acquire, and operate additional branches at any
17 location where the consolidated bank or a preexisting
18 bank could, if the consolidated or preexisting bank
19 had not been a party to such consolidation, have es-
20 tablished or acquired and operated a branch, unless
21 precluded by any provision of State law in existence
22 on the date of the enactment of the Interstate Bank-
23 ing Efficiency Act of 1993.

24 “(3) EFFECT OF STATE PROHIBITION OF
25 BRANCHING.—If, during the period beginning on the

1 date of the enactment of the Interstate Banking Ef-
2 ficiency Act of 1993 and ending on the expiration of
3 3 years from such date of enactment, a consolidation
4 authorized by paragraph (1) is effected resulting in
5 the conversion of a bank into a branch located in a
6 State which, after such consolidation, has enacted a
7 law that applies equally to national and State banks
8 and that expressly prohibits all out-of-State banks
9 from establishing or acquiring branches located in
10 that State, then such branch shall, under regulations
11 of the Federal or State banking authority having ju-
12 risdiction of the bank prior to its conversion into a
13 branch, be promptly converted back into the bank as
14 it existed prior to such consolidation.

15 “(4) APPLICABLE LAW.—Any branch of a na-
16 tional bank established or acquired in connection
17 with a consolidation or other transaction under
18 paragraph (1) shall be subject to the laws of the
19 host State with respect to intrastate branching,
20 consumer protection, fair lending, and community
21 reinvestment as if it were a branch of a bank char-
22 tered by that State, unless such State law, is pre-
23 empted by Federal law regarding the same subject.
24 There shall be no discriminatory effect in the appli-
25 cation of such laws between a branch of a bank

1 chartered by the host State and in-State branches of
2 out-of-State national banks. Such State laws shall be
3 enforced, with respect to branches of national banks
4 by the Comptroller of the Currency. All other laws
5 of the host State shall apply as if the branch was
6 a national bank situated in that State.

7 “(5) PLAN ON MEETING LOCAL CREDIT
8 NEEDS.—The Board may not approve any applica-
9 tion for any consolidation or other transaction under
10 this subsection unless the Board has considered a
11 plan submitted by the applicant bank holding com-
12 pany for meeting local credit needs in the commu-
13 nities served by any bank or savings association sub-
14 sidiary of the company which is involved in the pro-
15 posed consolidation or transaction, including the ex-
16 tent to which the amount of the anticipated savings
17 attributable to the proposed consolidation or other
18 transaction will be available to meet such local credit
19 needs.”.

20 **SEC. 106. MINIMUM CAPITAL REQUIREMENT FOR NEW**
21 **INTERSTATE BANKING AND BRANCHING**
22 **POWERS.**

23 (a) IN GENERAL.—Except as provided in subsection
24 (b), the amendments made by sections 101, 102, 103, 104,
25 and 105 shall not apply with respect to any insured depos-

1 itory institution (as defined in section 3(c) of the Federal
2 Deposit Insurance Act) which is not an adequately capital-
3 ized institution (as defined under section 38 of the Federal
4 Deposit Insurance Act).

5 (b) REGULATOR DISCRETION.—

6 (1) IN GENERAL.—Subject to paragraph (2)
7 and with the approval of the Federal Deposit Insur-
8 ance Corporation and the appropriate Federal bank-
9 ing agency, any financial services holding company
10 which controlled any full-service bank subsidiary on
11 May 15, 1992, may convert such bank into a branch
12 of any out-of-State bank pursuant to the amend-
13 ments made by this title without regard to the mini-
14 mum capital requirements of this section.

15 (2) RESTRICTIONS.—No branch of a bank
16 which results from a conversion described in para-
17 graph (1) may have total assets in excess of the av-
18 erage amount held by such branch during May
19 1992, so long as such bank fails to meet the mini-
20 mum capital requirement established by this section.

21 **SEC. 107. PROHIBITION AGAINST DEPOSIT PRODUCTION**
22 **OFFICES.**

23 (a) REGULATIONS.—Before the end of the 120-day
24 period beginning on the date of the enactment of the
25 Interstate Banking Efficiency Act of 1993, the appro-

1 piate Federal banking agency shall prescribe regulations
2 which prohibit any person from using any authority to en-
3 gage in interstate branching pursuant to this title or any
4 amendment made by this title to any other provision of
5 law primarily for the purpose of deposit production.

6 (b) GUIDELINES FOR MEETING CREDIT NEEDS.—
7 Regulations issued under subsection (a) shall include
8 guidelines to ensure that each interstate branch meets the
9 credit needs of the community and market area in which
10 the branch operates.

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

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

21 (A) the appropriate Federal banking agen-
22 cy for the branch shall review the loan portfolio
23 of the branch and determine whether the
24 branch is reasonably meeting the credit needs

1 of the community and market area in which the
2 branch operates; and

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

5 (i) the branch shall be closed, and

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

14 (2) CONSIDERATIONS.—In making a determina-
15 tion under paragraph (1)(A) regarding an interstate
16 branch, the appropriate Federal banking agency
17 shall consider—

18 (A) whether the branch was acquired as
19 part of the purchase of a failed or failing depos-
20 itory institution;

21 (B) whether the branch has a higher con-
22 centration of commercial and credit card lend-
23 ing; and

1 (C) the ratings received by the branch in
2 evaluations under the Community Reinvestment
3 Act of 1977.

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

8 (e) DEFINITIONS.—For the purposes of this sec-
9 tion—

10 (1) APPROPRIATE FEDERAL BANKING AGEN-
11 CY.—The term “appropriate Federal banking agen-
12 cy” has the meaning that term has in section 3 of
13 the Federal Deposit Insurance Act.

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

18 (3) FEDERAL DEPOSITORY INSTITUTIONS AND
19 STATE DEPOSITORY INSTITUTION.—Each of the
20 terms “Federal depository institution” and “State
21 depository institution” has the meaning given that
22 term in section 3 of the Federal Deposit Insurance
23 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) the State in which the bank is char-
5 tered and engaging in banking business, or

6 (B) in the case of—

7 (i) a national bank, the State in which
8 the principal place of business of such as-
9 sociation is located, and

10 (ii) a bank holding company, the
11 State in which the total deposits of all
12 bank subsidiaries of such company is the
13 largest,

14 as applicable under the amendments made by this
15 title.

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

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

23 (7) STATE DEFINED.—The term “State” has
24 the meaning given to such term in section 3 of the
25 Federal Deposit Insurance Act.

1 **SEC. 108. RESTATEMENT OF EXISTING LAW.**

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

9 **SEC. 109. VISITORIAL POWERS.**

10 Section 5240 of the Revised Statutes (12 U.S.C. 481
11 et seq.) is amended—

12 (1) by inserting before the 6th undesignated
13 paragraph (12 U.S.C. 484) the following new para-
14 graph heading:

15 “(6) VISITORIAL POWERS.—”;

16 (2) by moving the left margins of subpara-
17 graphs (A) and (B) of paragraph (6) (as so des-
18 igned by the amendment made by paragraph (1)
19 of this section) 4 ems to the right; and

20 (3) by inserting after subparagraph (B) of such
21 paragraph the following new subparagraph:

22 “(C) STATE VISITATIONS AUTHOR-
23 IZED FOR TAX COMPLIANCE PURPOSES.—

24 Notwithstanding subparagraph (A), any
25 lawfully authorized auditor, examiner, or
26 other representative acting on behalf of

1 any State agency charged with the admin-
 2 istration and collection of taxes imposed by
 3 a State or any political subdivision of a
 4 State may review at reasonable times those
 5 books and records of any Federal deposi-
 6 tory institution (as defined in section
 7 3(c)(4) of the Federal Deposit Insurance
 8 Act) or any Federal credit union (as de-
 9 fined in section 101(1) of the Federal
 10 Credit Union Act) located in that State
 11 which are reasonably necessary to ensure
 12 compliance with the tax laws of the State
 13 or political subdivision.”.

14 **TITLE II—CRA EVALUATIONS**

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

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

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

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

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

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

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

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

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

○

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