HOUSE DOCKET, NO. 3422 FILED ON: 1/14/2009

HOUSE . . . . . No. 1000

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to banks and banking..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 168 of the General Laws is hereby amended by striking out section 34, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 34. Any two or more such corporations may merge or consolidate into a single corporation on such terms as shall have been approved in writing by the commissioner. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration. If the commissioner is satisfied that a merger or consolidation of a savings bank proposing liquidation, as provided in section thirty-three, can be effected, upon terms approved by him, with another savings bank and if he finds that such merger or consolidation is in the interests of the depositors of the savings banks concerned, such merger or consolidation may be effected on such terms and subject to the direction of the commissioner. In making a finding that such merger or consolidation is in the interests of the depositors, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not

public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term “net new benefits” shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation. Before becoming effective, any such merger or consolidation, hereinafter sometimes referred to as a “consolidation”, shall have been approved by a vote of at least two-thirds of the corporators of each of the consolidating corporations at special meetings called to consider the subject. Notice of each such meeting shall be given by the clerk in accordance with the provisions of section nine A. A certificate under the hands of the presidents and clerks or other duly authorized officers of the consolidating corporation, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless

said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporations, as herein provided:

1. The corporate existence of all but one of the consolidating corporations shall be discontinued and consolidated into that of the remaining corporation, which shall continue. All and singular the rights, privileges and franchises of each discontinuing corporation and its right, title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing corporation, without further act or deed, and such continuing corporation shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing corporation from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of corporators or trustees and on the investment of funds of such corporations, and shall not apply.

2. A discontinuing corporation's rights, obligations and relations to any depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the consolidation, shall remain unimpaired, and the continuing corporation shall, by the consolidation, succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any depositor in any such corporation, continuing of discontinuing,

which is party to the consolidation, be affected by any such consolidation, but such obligations and liabilities shall continue as fully and to the same extent as the same existed before the consolidation, and the provisions relative to the limitations on deposits shall not apply.

3. A pending action or other judicial proceeding to which any of the consolidating corporations is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if the consolidation had not been made; or the continuing corporation may be substituted as a party to any such action or proceeding to which the discontinuing corporation was a party, and any judgment, order or decree may be rendered for or against the continuing corporation that might have been rendered for or against such discontinuing corporation if consolidation had not occurred.

4. After such consolidation, a foreclosure, of a mortgage begun by any of the discontinuing corporations may be completed by the continuing corporation, and publication begun by the discontinuing corporation may be continued in the name of the discontinuing corporation. Any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be executed by the proper officers in behalf of whichever of such corporation actually took possession or made the sale, but any such instrument executed in behalf of the continuing corporation shall recite that it is the successor of the discontinuing corporation which commenced the foreclosure.

A new name, or the name of any of the consolidating corporations may be adopted as the name of the continuing corporation at the special meetings called as herein provided, and it shall become the name of the continuing corporation upon the approval of the consolidation, without

further action under the laws of the commonwealth as to change or adoption of a new name on the part of the continuing corporation.

Any merger or consolidation may be approved and effected pursuant to this section, notwithstanding that the percentage which the aggregate value of the surplus accounts as defined in section twenty-seven, and other surplus accounts, of any of the consolidating corporations, bears to its liabilities, exceeds such percentage of any of the other consolidating corporations, and any consolidating corporation having such an excess of percentage shall not be required to make any distribution to its depositors.

SECTION 2. Chapter 168 of the General Laws is hereby amended by striking out section 34A, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 34A. Any one or more such corporations and any one or more cooperative banks, as defined in section one of chapter one hundred and seventy, may merge or consolidate into a single savings bank or into a single cooperative bank, upon such terms as shall have been approved by a vote of at least two-thirds of the boards of trustees of each corporation and of the board of directors of each cooperative bank, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the corporators of each corporation and shareholders of each cooperative bank in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration, a copy of the terms of any agreement reached by the respective boards of trustees and directors, and certified copies of the vote of such boards. If the commissioner, after such

notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such a merger or consolidation is in the interests of the depositors and shareholders of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. In making a finding that such merger or consolidation is in the interests of the depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each corporation at meetings specially called to consider the subject, and approved by a vote of at least two-thirds of the shareholders of each cooperative bank present, qualified to vote, and voting at meetings of each cooperative bank specially called for that purpose. Notice for such meetings shall be given in accordance with the provisions of section nine A and section twenty-four of chapter one hundred and seventy. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and cooperative banks setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such

certificate. No such transaction shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such institutions, as herein provided:

1. The corporate existence of all but one of the consolidating institutions shall be discontinued and consolidated into that of the remaining institution, which shall continue. All and singular the rights, privileges and franchises of each discontinuing institution and its right, title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing institution, without further act or deed, and such continuing institution shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing institution from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of directors, corporators or trustees and on the investment of funds of such institutions shall not apply. Notwithstanding the foregoing or any other provision of law, upon any such merger or consolidation pursuant to this section by any such corporation into a cooperative bank, such corporation, hereinafter referred to as a former member bank, shall cease to be a member bank of the Depositors Insurance Fund, and such cooperative bank shall not

succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit Insurance Fund.

2. A discontinuing institution's rights, obligations and relations to any shareholder, or depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the consolidation, shall remain unimpaired, and the continuing institution shall, by the consolidation, succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any shareholder or depositor in any such institution, continuing or discontinuing, which is party to the consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully and to the same extent as the same existed before the consolidation, and the provisions relative to the limitations on shares and deposits, shall not apply.

3. A pending action or other judicial proceeding to which any of the consolidating institutions is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if the consolidation has not been made; or the continuing institution may be substituted as a party to any such action or proceeding to which the discontinuing institution was a party, and any judgment, order or decree may be rendered for or against the continuing institution that might have been rendered for or against such discontinuing institution if such consolidation had not occurred.

4. After such consolidation, a foreclosure of a mortgage begun by any discontinuing institution may be completed by the continuing institution, and publication begun by the discontinuing institution may be continued in the name of the discontinuing institution. Any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be executed by the proper officers in behalf of whichever of such institutions actually took possession or made the sale, but any such instrument executed in behalf of the continuing institution shall recite that it is the successor of the discontinuing institution which commenced the foreclosure.

5. A new name may be adopted as the name of the continuing institution at the special meetings called as herein provided, and it shall become the name of the continuing institution upon the approval of the consolidation, without further action under the laws of the commonwealth as to change or adoption of a new name on the part of the continuing institution.

6. Any consolidation may be approved and effected pursuant to this section, notwithstanding that the percentage which the aggregate value of the surplus and other reserves, of any of the consolidating institutions, bears to its liabilities including share liabilities, exceeding such percentage of any other consolidating institution, and any consolidating institution having such an excess of percentage shall not be required to make any distribution to its shareholders or depositors.

The offices and depots of any savings bank and the offices of any co-operative bank merged or consolidated under this section, may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of, and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

SECTION 3. Chapter 168 of the General Laws is hereby amended by striking out section 34B, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 34B. Any one or more such corporations and any one or more thrift institutions may merge or consolidate into a single savings bank or into a single thrift institution, upon such terms as shall have been approved by a vote of at least two-thirds of the board of trustees of each corporation and by the board of each thrift institution, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the corporators of each corporation and by each thrift institution in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee the amount of which shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven, a copy of the terms of any agreement reached by the respective boards of trustees and directors, and certified copies of the votes of such boards. If the commissioner, after such notice and hearings as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such a merger or

consolidation is in the interests of the depositors and shareholders of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. Before becoming effective, any merger or consolidation authorized by this section, hereinafter referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each corporation at meetings specially called to consider the subject, and approved by a vote of each such thrift institution as required by any applicable law or regulation governing such institution.

Notice for such meetings shall be given in accordance with the relevant provisions of section nine A and any applicable provision governing a thrift institution. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and thrift institutions setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation,

who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such institutions, as herein provided:

1. The corporate existence of all but one of the consolidating institutions shall be discontinued and consolidated into that of the remaining institution, which shall continue. All and singular the rights, privileges and franchises of each discontinuing institution and its right,

title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing institution, without further act or deed, and such continuing institution shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing institution from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of directors, corporators or trustees and on the investment of funds of such institutions shall not apply.

2. A discontinuing institution's rights, obligations and relations to any shareholder, or depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the consolidation, shall remain unimpaired, and the continuing institution shall, by the consolidation, succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any shareholder or depositor in any such institution, continuing or discontinuing, which is party to the consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully and to the same extent as the same existed before the consolidation, and the provisions relative to the limitations on shares and deposits, shall not apply.

3. A pending action or other judicial proceeding to which any of the consolidating institutions is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if

the consolidation has not been made; or the continuing institution may be substituted as a party to any such action or proceeding to which the discontinuing institution was a party, and any judgment, order or decree may be rendered for or against the continuing institution that might have been rendered for or against such discontinuing institution if such consolidation had not occurred.

4. After such consolidation, a foreclosure of a mortgage begun by any discontinuing institution may be completed by the continuing institution, and publication begun by the discontinuing institution may be continued in the name of the discontinuing institution. Any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be executed by the proper officers in behalf of whichever of such institution actually took possession or made the sale, but any such instrument executed in behalf of the continuing institution shall recite that it is the successor of the discontinuing institution which commenced the foreclosure.

5. A new name may be adopted as the name of the continuing institution at the special meetings called as herein provided, and it shall become the name of the continuing institution upon the approval of the consolidation, without further action under the laws of the commonwealth as to change or adoption of a new name on the part of the continuing institution.

6. Any consolidation may be approved and effected pursuant to this section, notwithstanding that the percentage which the aggregate value of the guaranty fund, surplus and other reserves, of any of the consolidating institutions, bears to its liabilities including share liabilities, exceeds such percentage of any of the other consolidating institutions, and any

consolidating institution having such an excess of percentage shall not be required to make any distribution to its shareholders or depositors.

The offices and depots of any savings bank and the offices of any thrift institution merged or consolidated under the provisions of this section, may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of, and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different states or counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

If the merging or consolidating corporations or thrift institutions are chartered by or, in the case of federal savings and loan associations or federal mutual savings banks, have their main offices located in and are authorized to do business in different states, then from and after the effective date of the merger or consolidation, the citizenship and residency requirements for corporators and trustees set forth in sections nine and ten shall no longer apply, and any citizen of the United States may serve as corporator or trustee of the continuing corporation.

In making a finding that such merger or consolidation is in the interests of depositors and shareholders, the commissioner shall also determine whether or not competition among banking

institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

For the purposes of this section, a thrift institution shall mean a mutual bank chartered by a country other than the United States or a federal mutual savings and loan association, or a federal mutual savings bank which has its main office located in the commonwealth.

Notwithstanding the provisions of this section any such savings bank, by vote of at least two-thirds of its corporators at a meeting duly called for that purpose preceded by notice in writing sent to each corporator, to the commissioner and the Depositors Insurance Fund by registered mail at least sixty days before said meeting, may consolidate or merge into such a federal savings and loan association or federal mutual savings bank in accordance with the laws of the United States and without the approval of any authority of the commonwealth.

Upon a merger or consolidation pursuant to this section by any such corporation into a single thrift institution, such corporation, hereinafter referred to as a former member bank, shall cease to be a member of the Depositors Insurance Fund. Notwithstanding the foregoing or any other provision of law, upon any such merger or consolidation, such thrift institution shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the

proceeds of any distribution in complete or partial dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit Insurance Fund.

SECTION 4. Chapter 168 of the General Laws is hereby amended by striking out section 34D, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 34D. Any one or more such stock corporations may, upon compliance with the provisions of part 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and subject as to any such corporation to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D as modified for the purposes of this section by the provisions hereof, consolidate or merge into any single state or federally-chartered stock corporation. A request for approval by the commissioner of such a consolidation or merger shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations setting forth that each corporation, respectively, has complied with the requirements of this section shall be submitted to the commissioner. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each bank have been made and notice thereof has been received by the commissioner. The offices and depots of any such corporation merged or consolidated under this section may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different states or counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

If the merging or consolidating stock corporations are chartered by or, in the case of federally chartered stock corporations, have their main offices located in and are authorized to do business in different states, then from and after the effective date of the merger or consolidation, the citizenship and residency requirements for directors set forth in section thirteen of chapter one hundred and seventy-two shall no longer apply, and any citizen of the United States may serve as a director of the continuing corporation.

For the purposes of this section, the value of the stock of stockholders of a state-chartered stock corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-six D, objected to any action authorized herein shall be ascertained in the manner provided in sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D.

The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and mergers of state-chartered stock corporations authorized under this section provided that, for this purpose, references in said section 11.07 to said chapter one hundred and

fifty-six D shall be deemed to be the chapter of the General Laws governing such stock corporation, and references in said section 11.07 to articles of organization shall be deemed to be to the articles of organization, including any special act of incorporation, as from time to time amended.

For the purposes of this section, a state-chartered stock corporation shall mean a trust company, savings bank, or cooperative bank in stock form chartered by the commonwealth. A stock corporation shall include a stock bank chartered by a country other than the United States. A federally chartered stock corporation shall mean a national banking association, federal savings and loan association or federal savings bank in stock form which has its main office located in the commonwealth.

In deciding whether or not to approve such consolidation or merger the commissioner shall determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term “net new benefits” shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

Notwithstanding the provisions of this section, any such savings bank by vote of the holders of at least two-thirds of each class of its capital stock at a meeting duly called for that purpose, preceded by a notice in writing sent to each stockholder of record, the commissioner

and the Depositors Insurance Fund, by registered mail at least sixty days before said meeting, may consolidate or merge into a federally-chartered stock corporation in accordance with the laws of the United States and without the approval of any authority of the commonwealth.

Upon a merger or consolidation pursuant to this section by any such stock corporation into a state chartered trust company or federally chartered stock corporation, such stock corporation, hereinafter referred to as a former member bank, shall cease to be a member bank in the Depositors Insurance Fund. Notwithstanding any other provision of law, upon any such merger or consolidation, such stock corporation shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit Insurance Fund.

SECTION 5. Chapter 168 of the General Laws is hereby amended by striking out section 34F, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 34F. Any one or more of such corporations and any one or more credit unions, as defined in section one of chapter one hundred and seventy-one, may merge or consolidate into a single savings bank upon such terms as shall have been approved by a vote of at least two-thirds of the board of trustees of each corporation and the board of directors of each credit union, and shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the corporators of each corporation and the shareholders of each credit union in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be

determined annually by the commissioner of administration under the provisions of section three B of chapter seven, a copy of the terms of any agreement reached by the respective boards of trustees or directors, and certified copies of the votes of such boards. If the commissioner, after such notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such merger or consolidation is in the interests of the depositors and shareholders of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. In making a finding that any such merger or consolidation is in the interests of depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purposes of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within the bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each corporation present, qualified to vote and voting at a meeting specially called to consider the subject and approved by a vote of at least two-thirds of the shareholders of each credit union present, qualified to vote, and voting at a meeting specially called for that purpose. Notice for such meetings shall be given in accordance with the relevant provisions of section nine A of this chapter and section eleven of chapter one hundred and

seventy-one. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and credit unions setting forth that each institution, respectively, has complied with the requirements of this section shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the consolidation or merger shall become effective on such later date. Upon the merger or consolidation of any such institutions, the provisions of subparagraphs 1 to 6, inclusive, of section thirty-four A shall apply.

The offices and depots of any credit union merged or consolidated under this section may be maintained as branch offices or depots of the corporation with the written permission of, and under such conditions, if any, as approved by the commissioner.

SECTION 6. Chapter 170 of the General Laws is hereby amended by striking out section 26A, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 26A. Any one or more such corporations and any one or more savings banks, as defined in section one of chapter one hundred and sixty-eight may merge or consolidate into a single co-operative bank or into a single savings bank upon such terms as shall have been

approved by a vote of at least two-thirds of the board of directors of each corporation and of the board of trustees of each savings bank, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the shareholders of each corporation and corporators of each savings bank in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee the amount of which shall be determined annually by the commissioner of administration, a copy of the terms of any agreement reached by the respective boards of directors and trustees, and certified copies of the votes of such boards. If the commissioner, after such notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such merger or consolidation is in the interests of the shareholders and depositors of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. In making a finding that any such merger or consolidation is in the interests of depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term “net new benefits” shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a “consolidation”, shall have been approved by a vote of at least two-thirds of the shareholders of each corporation present,

qualified to vote and voting at meetings specially called to consider the subject, and approved by a vote of at least two-thirds of the corporators of each savings bank voting at meetings of each savings bank specially called for that purpose. Notice for such meetings shall be given in accordance with the relevant provisions of section twenty-four of this chapter and section nine A of chapter one hundred and sixty-eight.

A certificate under the hands of the presidents and clerks or other duly authorized officers of the consolidating corporation, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the consolidation or merger shall become effective on such later date. Upon consolidation of any such corporation with another, as herein provided:

1. The corporate existence of all but one of the consolidating institutions shall be discontinued and consolidated into that of the remaining institution, which shall continue. All and singular the rights, privileges and franchises of each discontinuing institution and its right, title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing

which would inure to it under the unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing institution, without further act or deed, and such continuing institution shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing institution from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of directors, corporators or trustees and on the investment of funds of such institutions shall not apply.

2. A discontinuing institution's rights, obligations and relations to any shareholder, or depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the consolidation, shall remain unimpaired, and the continuing institution shall, by the consolidation, succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any shareholder or depositor in any such institution, continuing or discontinuing, which is party to the consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully and to the same extent as the same existed before the consolidation and the provisions relative to the limitations on shares and deposits, shall not apply.

3. A pending action or other judicial proceeding to which any of the consolidating institutions is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if the consolidation has not been made; or the continuing institution may be substituted as a party to any such action or proceeding to which the discontinuing institution was a party, and any

judgment, order or decree may be rendered for or against the continuing institution that might have been rendered for or against such discontinuing institution if such consolidation had not occurred.

4. After such consolidation, a foreclosure of a mortgage begun by any discontinuing institution may be completed by the continuing institution, and publication begun by the discontinuing institution may be continued in the name of the discontinuing institution. Any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be executed by the proper officers in behalf of whichever of such institutions actually took possession or made the sale, but any such instrument executed in behalf of the continuing institution shall recite that it is the successor of the discontinuing institution which commenced the foreclosure.

5. A new name may be adopted as the name of the continuing institution at the special meetings called as herein provided, and it shall become the name of the continuing institution upon the approval of the consolidation, without further action under the laws of the commonwealth as to change or adoption of a new name on the part of the continuing institution.

6. Any consolidation may be approved and effected pursuant to this section, notwithstanding that the percentage which the aggregate value of the surplus and other reserves, of any of the consolidating institutions, bears to its liabilities including share liabilities, exceeds such percentage of any of the other consolidating institutions, and any consolidating institution having such an excess of percentage shall not be required to pay an extra dividend or make any other distribution to its shareholders or depositors.

The offices and depots of any co-operative bank and the offices of any savings bank merged or consolidated under this section, may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of, and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

SECTION 7. Chapter 170 of the General Laws is hereby amended by striking out section 26B, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 26B. Any one or more such corporations and any one or more thrift institutions may merge or consolidate into a single co-operative bank or into a single thrift institution, upon such terms as shall have been approved by a vote of at least two-thirds of the board of directors of each corporation and of the board of directors of each thrift institution, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the shareholders of each corporation and by each thrift institution in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an

investigation fee the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven, a copy of the terms of any agreement reached by the respective boards of directors, and certified copies of the votes of such boards. If the commissioner, after such notice and hearings as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such a merger or consolidation is in the interests of the shareholders and depositors of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the shareholders of each corporation present, qualified to vote and voting at meetings specially called to consider the subject, and approved by a vote of each thrift institution as required by any applicable law or organization governing such institution.

Notice for such meetings shall be given in accordance with the relevant provisions of section twenty-four and any applicable provision governing a thrift institution. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations and thrift institutions, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner.

Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due adoption of an agreement of consolidation or merger and shall state: (i) the names

of the corporations and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to the articles of organization of the surviving corporation to be effected pursuant to the agreement of merger. Such articles of consolidation or merger shall be signed by the president or a vice president and the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the agreement of consolidation or merger has been duly executed on behalf of such corporation and has been approved as required.

The form on which articles of consolidation or merger are filed shall also contain the following information which shall not for any purpose be treated as a permanent part of the articles of organization of the resulting or surviving corporation:

(1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;

(2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;

(3) the fiscal year of the resulting or surviving corporation initially adopted;

(4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

The consolidation or merger shall become effective when the articles of consolidation or merger are filed in accordance with section 1.25 of chapter one hundred and fifty-six D, unless said articles specify a later effective date not more than ninety days after such filing in accordance with section 1.23 of chapter one hundred and fifty-six D, in which event the

consolidation or merger shall become effective on such later date. Upon consolidation of any such corporation with another, as herein provided:

1. The corporate existence of all but one of the consolidating institutions shall be discontinued and consolidated into that of the remaining institution, which shall continue. All and singular the rights, privileges and franchises of each discontinuing institution and its right, title and interest to all property of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing institution, without further act or deed, and such continuing institution shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing institution from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of directors, corporators or trustees and on the investment of funds of such institutions shall not apply.

2. A discontinuing institution's rights, obligations and relations to any shareholder, depositor, creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the consolidation, shall remain unimpaired, and the continuing institution shall, by the consolidation, succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any shareholder or depositor in any such institution, continuing or discontinuing, which is party to the consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully and to the same extent as the same existed

before the consolidation, and the provisions relative to the limitations on shares and deposits, shall not apply.

3. A pending action or other judicial proceeding to which any of the consolidating institutions is a party shall not be deemed to have abated or to have discontinued by reason of the consolidation, but may be prosecuted to final judgment, order or decree in the same manner as if the consolidation has not been made; or the continuing institution may be substituted as a party to any such action or proceeding to which the discontinuing institution was a party, and any judgment, order or decree may be rendered for or against the continuing institution that might have been rendered for or against such discontinuing institution if such consolidation had not occurred.

4. After such consolidation, a foreclosure of a mortgage begun by any discontinuing institution may be completed by the continuing institution, and publication begun by the discontinuing institution may be continued in the name of the discontinuing institution. Any certificate of possession, affidavit of sale or foreclosure deed relative to such foreclosure shall be executed by the proper officers in behalf of whichever of such institutions actually took possession or made the sale, but any such instrument executed in behalf of the continuing institution shall recite that it is successor of the discontinuing institution which commenced the foreclosure.

5. A new name may be adopted as the name of the continuing institution at the special meetings as herein provided, and it shall become the name of the continuing institution upon the approval of the consolidation, without further action under the laws of the commonwealth as to change or adoption of a new name on the part of the continuing institution.

6. Any consolidation may be approved and effected pursuant to this section, notwithstanding that the percentage which the aggregate value of the guaranty fund, surplus and other reserves, of any of the consolidating institutions, bears to its liabilities including share liabilities, exceeds such percentage of any of the other consolidating institutions, and any consolidating institution having such an excess of percentage shall not be required to pay an extra dividend or make any other distribution to its shareholders or depositors.

The offices and depots of any co-operative bank and the offices of any thrift institution merged or consolidated under this section, may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of, and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different states or counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

In making a finding that any such merger or consolidation is in the interests of depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but

not be limited to, a showing of net new benefits. For the purpose of this section, the term “net new benefits” shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

For the purposes of this section, a thrift institution shall mean a mutual bank chartered by a country other than the United States or a federal mutual savings and loan association or a federal mutual savings bank which has its main office located in the commonwealth.

Notwithstanding the provisions of this section any such co-operative bank by vote of at least two-thirds of its directors at a meeting duly called for that purpose, preceded by notice in writing sent to each director, to the commissioner, and the Co-operative Central Bank by registered mail at least sixty days before said meeting, may consolidate or merge into such a federal savings and loan association or federal mutual savings bank in accordance with the laws of the United States and without the approval of any authority of the commonwealth.

SECTION 8. Chapter 170 of the General Laws is hereby amended by striking out section 26D, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 26D. Any one or more such stock corporations may, upon compliance with the provisions of part 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and subject as to any such corporation to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D as modified for the purposes of this section by the provisions hereof, consolidate or merge into any single state or federally-

chartered stock corporation. A request for approval by the commissioner of such a consolidation or merger shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations setting forth that each corporation, respectively, has complied with the requirements of this section shall be submitted to the commissioner. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner. The offices and depots of any such corporation merged or consolidated under this section may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different states or counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

For the purposes of this section, the value of the stock of stockholders of a state-chartered stock corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-six D, objected to any action authorized herein shall be ascertained in the

manner provided in sections 13.01 and 13.03 to 13.31, inclusive, of said chapter one hundred and fifty-six D.

The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and mergers of state-chartered stock corporations authorized under this section provided that, for this purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to be to the chapter of the General Laws governing such stock corporation, and references in said section 11.07 to articles of organization shall be deemed to be to the articles of organization, including any special act of incorporation, as from time to time amended.

In deciding whether or not to approve any such consolidation or merger, the commissioner shall determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term “net new benefits” shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

For the purposes of this section, a state-chartered stock corporation shall mean a trust company, savings bank, or cooperative bank in stock form chartered by the commonwealth. A federally chartered stock corporation shall mean a national banking association, federal savings and loan association or federal savings bank in stock form which has its main office located in

the commonwealth. A stock corporation shall include a stock bank chartered by a country other than the United States.

Notwithstanding the provisions of this section, any such co-operative bank by vote of the holders of at least two-thirds of each class of its capital stock, at a meeting duly called for that purpose, preceded by a notice in writing sent to each stockholder of record, the commissioner, and the Co-operative Central Bank by registered mail at least sixty days before said meeting, may consolidate or merge into a federally-chartered stock corporation in accordance with the laws of the United States and without the approval of any authority of the commonwealth.

SECTION 9. Chapter 172 of the General Laws is hereby amended by striking out section 12, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 12. Stockholders entitled to vote may vote in person or by proxy. No proxy dated more than six months before the date of the meeting named therein shall be valid, and no proxy shall be valid after the final adjournment of such meeting. A proxy with respect to stock held in the name of two or more persons shall be valid if executed by any one of them unless at or prior to the exercise of the proxy such corporation receives a specific written notice to the contrary from any one of them. A proxy purporting to be executed by or on behalf of a stockholder shall be deemed valid unless challenged at or prior to its exercise, and the burden of proving invalidity shall rest on the challenger. Except as otherwise provided in the articles of organization or by-laws of the corporation, special meetings of the stockholders may be called pursuant to the provisions of section 7.02 of chapter one hundred and fifty-six D.

SECTION 10. Chapter 172 of the General Laws is hereby amended by striking out section 24, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 24. The capital stock of a trust company shall be subject to the following provisions:

A. Classes. — The capital stock of such corporation may consist of common stock and one or more classes of preferred stock. The issuance of any such capital stock shall require the prior approval of the commissioner, and shall be subject to such conditions as the commissioner may impose.

B. Preferred Stock. — The preferred stock may contain such provisions relative to preferences, voting powers, retirement, dividend and conversion rights and participation in control and management as the by-laws and articles of organization may, with the approval of the commissioner, provide; but the holders thereof shall not be held individually responsible as such holders for any debts, contracts or engagements of such corporation and shall not be liable for assessments to restore impairments in its capital. In case dividends on the preferred stock are to be cumulative, no dividends shall be declared or paid on common stock until all such cumulative dividends shall have been paid in full and all requirements of any retirement fund shall have been met; and if such corporation is placed in voluntary liquidation, or a conservator is appointed therefor, or possession of its property and business has been taken by the commissioner, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full such amounts as may, with the approval of the commissioner, be provided in the articles of organization or amendments thereof, not in excess

of the purchase price or other consideration received by the corporation for such preferred stock, plus all accumulated unpaid dividends.

C. Issue. — No stock specified in the agreement of association shall be issued until the par value and pro rata portion of surplus account and undivided profits account shall be paid in full in cash. No additional stock shall be issued until the par value thereof is paid in full in cash or such other consideration as shall be approved by the commissioner or is in its possession as surplus account; provided, that no stock shall be issued against the surplus account unless, after such issue, the surplus account shall amount to at least fifty per cent of the total capital stock.

D. Increase or Reduction. — Any such corporation may, subject to the approval of the commissioner, increase or reduce its capital stock in the manner provided by section 10.03 of chapter one hundred and fifty-six D; provided, however, that the capital stock shall not be reduced to less than the minimum amounts set forth in section four; and provided, further, that, in the case of reorganization of any such corporation in possession of the commissioner under section twenty-two of chapter one hundred and sixty-seven or in possession of a conservator under section forty of this chapter, the capital stock outstanding at the time of possession taken by the commissioner or conservator may be cancelled in whole or in part or other disposition thereof made in accordance with any plan of reorganization approved by the commissioner and the supreme judicial court.

E. Change of Par Value. — Any such corporation may change the par value of its shares in the same manner and by the same vote provided by section 10.03 of chapter one hundred and fifty-six D for an increase or reduction in the corporation’s capital stock.

F. Rights and Options. — The terms and conditions of any rights or options issued by any such corporation, including those outstanding on the effective date of this section, may include, without limitation, restrictions or conditions that preclude or limit the exercise, transfer, receipt or holding of such rights or options by any person or persons owning or offering to acquire a specified number or percentage of the outstanding stock or other securities of the corporation, or any transferees of any such persons, or that preclude or limit such actions based on such other factors, including the nature or identity of such persons, as the directors determine to be reasonable and in the best interests of the corporation. Nothing contained in this section shall affect the duties or standard of care of a director. The issuance of any shares of the capital stock of the corporation upon the exercise of any such options or rights shall require the prior approval of the commissioner and shall be subject to such conditions as the commissioner may impose.

SECTION 11. Chapter 172 of the General Laws is hereby amended by striking out section 26B, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 26B. A company having capital stock divided into shares which desires to acquire all the capital stock of any such corporation shall, together with such corporation, submit, in duplicate, to the commissioner a written plan of acquisition of such stock. Such plan shall be in form satisfactory to the commissioner, shall specify the corporation the stock of which is to be acquired by the company shall prescribe the terms and conditions of the acquisition and the mode of carrying it into effect, including the manner of exchanging the shares of the corporation for shares or other securities of the company. Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of the company. At the time of submitting said written plan of acquisition, an investigation fee, the amount of which shall be

determined annually by the commissioner of administration under the provisions of section three B of chapter seven, shall be paid to the commissioner of banks by the company.

There shall also be submitted, in duplicate, with said plan of acquisition of stock, a certificate of the president or clerk or secretary of the company, certifying that such plan has been approved by the board of directors or other governing body of his company by a majority vote of all the members thereof, and a certificate of the president, secretary or treasurer of each corporation, the acquisition of all the capital stock of which is provided for, certifying that such plan has been approved by the board of directors of his corporation by a majority vote of all the members thereof, and that such plan was thereafter submitted to the stockholders of such corporation at a meeting thereof held upon notice of at least fifteen days, specifying the time, place and object of such meeting and addressed to each stockholder at the address appearing upon the books of the corporation and published at least once a week for two successive weeks in one newspaper in the county in which such corporation has its principal place of business and that such plan has been approved at such meeting by the vote of stockholders owning at least two-thirds in amount of the stock of such corporation.

The commissioner shall examine the plan of acquisition of stock so submitted, and after making such investigation thereof as he deems appropriate he shall, within sixty days after receipt thereof approve or disapprove such plan of acquisition in case such company is not, and would not upon the effectiveness of such plan become, a bank holding company. In approving any such plan, the commissioner may attach such conditions thereto as he deems advisable.

If the commissioner finds that competition among banking institutions will not be unreasonably affected and that public convenience and advantage will be promoted he shall

approve such plan of acquisition, and shall endorse his approval thereon and a copy of the plan bearing such endorsement shall be filed within thirty days thereafter in the office of the commissioner. Upon such filing, the plan, and the acquisition provided for therein, shall become effective, unless a later date is specified in the plan, in which event the plan and such acquisition shall become effective upon such later date.

A stockholder of any such corporation which shall have approved such plan of acquisition, who objects to such action, in the manner provided in sections 13.21 and 13.23 of chapter one hundred and fifty-six D, shall be entitled, if such plan shall have become effective, to demand payment for his stock from such corporation and an appraisal thereof in accordance with the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D, which provisions, as modified for the purposes of this paragraph by the provisions hereof, are hereby made applicable in all such cases, and such stockholder and such corporation shall have the rights and duties and follow the procedure set forth in said sections.

Any corporation organized under or subject to the provisions of chapter one hundred and sixty-eight, one hundred and seventy or one hundred and seventy-two shall have the power to organize a company for the purposes contemplated by this section; and in connection with such organization and the development of a plan of acquisition, any such corporation may incur organization and other expenses in such amounts, in the aggregate, not exceeding two percent of its capital stock, surplus account and undivided profits as the commissioner may approve.

Any such company shall engage directly or indirectly only in such activities as are now or may hereafter be proper activities for bank holding companies registered under the Federal Bank Holding Company Act of 1956, including, without limiting the generality of the foregoing,

the issuance and sale of commercial paper and acquiring, managing or controlling corporations organized under or subject to the provisions of chapter one hundred and sixty-eight, one hundred and seventy or one hundred and seventy-two.

The provisions of section twenty-six A shall not apply to an acquisition under this section. A company which acquires any such corporation under this section shall be deemed a bank holding company subject to the provisions of section five of chapter one hundred and sixty-seven A. For the purposes of this section, the word “company” shall have the same meaning as defined in subparagraph (c) of section one of chapter one hundred and sixty-seven A.

SECTION 12. Chapter 172 of the General Laws is hereby amended by striking out section 36, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:-

Section 36. A. With the written approval of the commissioner:

(1) any trust company, any banking company, or any national banking association engaged in the business of banking in the commonwealth may, upon compliance with the provisions of part 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases, and subject, as to any such trust company or banking company, to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D as modified for the purposes of this section by the provisions hereof, consolidate or merge into any trust company. A request for approval by the commissioner of such a consolidation or merger shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

(2) any trust company or banking company may, subject to the provisions of sections 12.02 and 13.02(a)(3) of chapter one hundred and fifty-six D as modified for the purpose of this section by the provisions hereof, or any such national banking association may sell or exchange all or substantially all of its property and assets to or with any trust company, and any trust company may purchase all or substantially all of the assets of any trust company or any banking company of any such national banking association. A request for approval by the commissioner pursuant to this clause shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

(3) by vote, at a meeting duly called for the purpose, of two-thirds of each class of its stock outstanding and entitled to vote and upon execution by a majority of its directors in form satisfactory to the commissioner of an agreement of association, an organization certificate and such other instruments as the commissioner shall prescribe, any such national banking association having an unimpaired capital stock sufficient in value or amount to satisfy the provisions of section five may, upon approval by the board of bank incorporation, be converted into a trust company and shall not, in connection with or upon such conversion, be subject to the requirements of this chapter with respect to the organization and commencement of business of trust companies; provided, however, that such conversion shall not be in contravention of the laws of the United States.

(4) any one or more such trust companies may, upon compliance with the provisions of part 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and subject as to any such trust company to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D as modified for the purposes of this

section by the provisions hereof, consolidate or merge into any single state or federally-chartered stock corporation. A request for approval by the commissioner of such a consolidation or merger shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. A certificate under the hands of the presidents and clerks or other duly authorized officers of all merging or consolidating corporations setting forth that each corporation, respectively, has complied with the requirements of this section shall be submitted to the commissioner. No such transaction under this section shall be consummated until arrangements satisfactory to any excess deposit insurer of each such bank have been made and notice thereof has been received by the commissioner. The offices and depots of any such corporation merged or consolidated under this section may be maintained as branch offices or depots, respectively, of the continuing institution with the written permission of and under such conditions, if any, as may be approved by the commissioner.

If the consolidating corporations have main offices in different states or counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

If the merging or consolidating corporations are chartered by or, in the case of federally chartered stock corporations, have their main offices located in and are authorized to do business

in different states, then from and after the effective date of the merger or consolidation, the citizenship and residency requirements for directors set forth in section thirteen shall no longer apply, and any citizen of the United States may serve as director of the continuing corporation.

For the purposes of this section, the value of the stock of stockholders of a state-chartered stock corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-six D, objected to any action authorized herein shall be ascertained in the manner provided in sections 13.01 and 13.03 to 13.31, inclusive, of said chapter one hundred and fifty-six D.

The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and mergers of state-chartered stock corporations authorized under this section provided that, for this purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to be to the chapter of the General Laws governing such stock corporation, and references in said section 11.07 to articles of organization shall be deemed to be to the articles of organization, including any special act of incorporation, as from time to time amended.

The provisions of this clause shall not apply to a consolidation or merger authorized by clause (1) or to a consolidation or merger under subsection B.

In deciding whether or not to approve any such consolidation or merger under this subsection, the commissioner shall determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term ‘net new

benefits‘ shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank’s delineated local community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

For the purposes of this section, a state-chartered stock corporation shall mean a trust company, savings bank, or a cooperative bank in stock form chartered by the commonwealth, or a bank chartered by a country other than the United States. A federally chartered stock corporation shall mean a national banking association, federal savings and loan association or federal savings bank in stock form which has its main office located in the commonwealth.

B. A trust company or banking company by vote of the holders of at least two- thirds of each class of capital stock at a meeting duly called for the purpose, preceded by a notice in writing sent to each stockholder of record and to the commissioner by registered mail at least sixty days before said meeting, may consolidate or merge into or convert into a national banking association in accordance with the laws of the United States and without the approval of any authority of the commonwealth.

C. For the purposes of either clause (1) or clause (2) of subsection A hereof, the value of the stock of stockholders of a trust company or banking company who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-six D, objected to any action authorized by either of such clauses shall be ascertained in the manner provided in sections 13.01 and 13.03 to 13.31, inclusive, of said chapter one hundred and fifty-six D.

D. The continuing trust company into which a trust company, banking company or a national banking association shall have been consolidated or merged or into which a national

banking association shall have been converted under this section shall be considered the same business and corporate entity as that of the consolidating or merging or converting institution and the rights, powers and duties of the continuing trust company shall be those established by its charter; provided that if the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of directors of the last consolidating corporation so to approve; provided, further, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation.

E. The charter of any trust company or banking company which shall have been converted into a national banking association, or consolidated or merged into, or the business and substantially all of the property and assets of which shall have been purchased or absorbed by a trust company or national banking association, or the affairs of which shall have been liquidated, shall be void except for the purpose of discharging existing obligations and liabilities.

F. The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and mergers of trust companies authorized under this section provided that, for this purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to be to this chapter, and references in said section 11.07 to articles of organization shall be deemed to be to the articles of organization, including any special act of incorporation, as from time to time amended.