

HOUSE No. 4074

By Mr. Quinn of Dartmouth, petition of John F. Quinn establishing a mutual bank charter in the Commonwealth. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Six.

AN ACT RELATIVE TO ESTABLISHING A MUTUAL BANK CHARTER IN THE COMMONWEALTH.

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

1 SECTION 1. Section 34A of chapter 29 of the General Laws,
2 as so appearing in the 1998 Official Edition, is hereby amended
3 by inserting after the word “seventy,” in line 5, the following
4 words:— or in mutual banks as defined in chapter one hundred
5 seventy A.

1 SECTION 2. Section 54 of chapter 44 of the General Laws, as
2 so appearing, is hereby amended by striking out the words “co-
3 operative bank” in lines 8 and 9, and inserting in place thereof the
4 following words:— co-operative banks or mutual banks.

1 SECTION 3. Section 55 of said chapter 44, as so appearing, is
2 hereby amended by striking out, in line 25, the words “co-opera-
3 tive banks” and inserting in place thereof the following words:—
4 co-operative banks or mutual banks.

1 SECTION 4. Section 1 of Chapter 167 of the General Laws, as
2 so appearing, is hereby amended by striking out the definition of
3 “Bank” and inserting in place thereof the following definition:—
4 “Bank”, any association or corporation chartered by the com-
5 monwealth under the provisions of chapter one hundred and sixty-
6 eight, one hundred and seventy, one hundred and seventy A, one
7 hundred and seventy-one, or one hundred and seventy-two or any
8 individuals, association, partnership or corporation incorporated

9 or doing a banking business in the commonwealth, subject to the
10 supervision of the commissioner.

1 SECTION 5. Paragraph (a) of section 1 of chapter 167A of the
2 General Laws, as so appearing, is hereby amended by striking out
3 the words, “association or cooperative bank”, in line 4, and
4 inserting in place thereof the words:— association, co-operative
5 bank or mutual bank.

1 SECTION 6. Section 1 of chapter 167B of the General Laws, as
2 so appearing, is hereby amended by striking out the definition of
3 “Bank” and inserting in place thereof the following definition:—
4 “Bank”, any association or corporation chartered by the com-
5 monwealth under the provisions of chapter one hundred and sixty-
6 eight, one hundred and seventy, one hundred and seventy A, one
7 hundred and seventy-one, or one hundred and seventy-two or any
8 individuals, association, partnership or corporation incorporated
9 or doing a banking business in the commonwealth, subject to the
10 supervision of the commissioner.

1 SECTION 7. Section 1 of chapter 167C of the General Laws, as
2 so appearing, is hereby amended by striking out the definition of
3 “Bank” and inserting in place thereof the following definition:—
4 “Bank”, any association or corporation chartered by the com-
5 monwealth under the provisions of chapter one hundred and sixty-
6 eight, one hundred and seventy, one hundred and seventy A, one
7 hundred and seventy-two.

1 SECTION 8. Section 7 of chapter 167C of the General Laws, as
2 so appearing, is hereby further amended by striking out the first
3 sentence and inserting in place thereof the following sentence:—
4 7. A bank, upon approval by the commissioner of an applica-
5 tion thereof in prescribed manner and form and in accordance
6 with applicable provisions of chapter one hundred and sixty-eight,
7 one hundred and seventy, one hundred and seventy A, one hun-
8 dred and seventy-two, may establish and maintain branches
9 through a merger or consolidation with or by the purchase of the
10 whole or any part of the assets or stock of any foreign bank, out-
11 of-state bank or out-of-state federal bank.

1 SECTION 9. Section 1 of chapter 167D of the General Laws,
2 as so appearing, is hereby amended by striking out in line 3 the
3 words, “co-operative bank”, and inserting in place thereof the
4 words:— co-operative bank, mutual bank.

1 SECTION 10. Section 1 of chapter 167D of the General Laws,
2 as so appearing, is hereby amended by inserting after the words,
3 “co-operative bank”, in line 6, the words:— or mutual bank.

1 SECTION 11. Section 1 of chapter 167E of the General Laws,
2 as so appearing, is hereby amended by striking out in line 3 the
3 words, “co-operative bank”, and inserting in place thereof the
4 words:— co-operative bank, mutual bank.

1 SECTION 12. Section 1 of Chapter 167F of the General Laws,
2 as so appearing, is hereby amended by striking out in line 3 the
3 words, “co-operative bank”, and inserting in place thereof, the
4 words:— co-operative or mutual bank.

1 SECTION 13. Section 1 of Chapter 167F of the General Laws,
2 as so appearing, is hereby further amended by inserting after the
3 words, “co-operative bank”, in line 6, the words:— or mutual
4 bank.

1 SECTION 14. Section 1 of chapter 167G of the General Laws,
2 as so appearing, is hereby amended by inserting after the words,
3 “co-operative”, in line 3, the words:— bank or mutual bank.

1 SECTION 15. Section 1 of chapter 167H of the General Laws,
2 as so appearing, is hereby amended by striking out in lines 4 and 5
3 the words, “savings or co-operative bank”, and inserting in place
4 thereof the following words:— savings bank, co-operative bank or
5 mutual bank.

1 SECTION 16. Section 34B of chapter 168 of the General Laws,
2 as so appearing, is hereby amended by striking out in line 166 the
3 word “mean” and inserting in place thereof the words:— mean a
4 mutual bank governed by chapter one hundred and seventy-A,.

1 SECTION 17. Section 34D of said chapter 168, as so
2 appearing, is hereby amended by striking out in line 56 the words
3 “or co-operative bank” and inserting in place thereof the words:—
4 co-operative bank or a mutual bank.

1 SECTION 18. Section 35 of said chapter 168, as so appearing,
2 is hereby amended by striking out in line 50 the words “or co-
3 operative bank” and inserting in place thereof the words:— co-oper-
4 ative bank or mutual bank.

1 SECTION 19. Chapter 168 of the General Laws, as appearing
2 in the 1994 Official Edition, is hereby amended by inserting after
3 section 38 the following section:—

4 Section 38A. Any federal savings and loan association or fed-
5 eral savings bank in stock form having an unimpaired capital
6 stock sufficient in value or amount to satisfy the commissioner
7 may, upon approval by the commissioner, be converted into a
8 state-chartered savings bank in stock form, and shall not, in con-
9 nection with or upon such conversion, be subject to the require-
10 ments of this chapter with respect to the organization and
11 commencement of business of savings banks, provided, however,
12 that such conversion shall not be in contravention of the laws of
13 the United States.

1 SECTION 20. Section 26B of chapter 170 of the General Laws,
2 as so appearing, is hereby amended by striking out in line 156 the
3 word “mean” and inserting in place thereof the words:— mean a
4 mutual bank governed by chapter one hundred and seventy A,.

1 SECTION 21. Section 26D of said chapter 170, as so
2 appearing, is hereby amended by striking out in line 59 the words
3 “or co-operative bank” and inserting in place thereof the words:—
4 co-operative bank or mutual bank.

1 SECTION 22. The General Laws are hereby amended by
2 inserting after chapter 170 the following chapter:—

3 **CHAPTER 170A.**
4 **MUTUAL BANKS.**

5 Section 1. The following words as used in this chapter, unless
6 the context otherwise requires, shall have the following mean-
7 ings:—

8 “Commissioner”, the commissioner of banks.

9 “Corporation” or “bank”, a mutual bank governed by the provi-
10 sions of this statute.

11 “Mutual Bank”, a federally-chartered savings bank or savings
12 association which has converted to a mutual bank under the provi-
13 sions of this chapter, or a mutual bank organized under the provi-
14 sions of this chapter.

15 “Member”, any person who holds a share or deposit account in
16 a mutual bank.

17 “Federal savings association”, a Federal savings and loan asso-
18 ciation or Federal savings bank chartered under section 1464 of
19 this title.

20 Section 2. A mutual bank shall have all the powers expressly
21 granted by law and whatever further incidental powers may fairly
22 be implied from those expressly conferred and such as are reason-
23 ably necessary to enable it to exercise fully those powers
24 according to common or accepted banking customs and usages.
25 Notwithstanding any general law or special act to the contrary, a
26 mutual bank organized under the provisions of this chapter, or
27 which has converted from a federal savings association to a
28 mutual bank, shall be subject to chapters 167 to 167H, inclusive,
29 of the General Laws, and such other General Laws as determined
30 by the Commissioner.

31 Section 3. Twenty or more persons who associate themselves
32 by a written agreement, signed by each of them, to form a mutual
33 bank for the purpose of accumulating, loaning and investing the
34 savings of its members may, upon compliance with this section
35 and the other applicable sections of this chapter become a corpo-
36 ration with all the powers and privileges and subject to all the
37 duties, restrictions and liabilities set forth in all general laws
38 relating to such corporation. Said agreement shall set forth that the
39 subscribers thereto associate themselves with the intention of
40 forming a corporation to transact business within the common-
41 wealth, and shall specify:

42 First. — The name by which the corporation shall be known.

43 Second. — The purpose for which it is to be formed.

44 Third. — The town where its main office is to be located.

45 Fourth. — The residence and post office address of each asso-
46 ciate.

47 Fifth. — The number of shares of each class subscribed for by
48 each associate.

49 Notwithstanding any general or special law to the contrary,
50 twenty or more individuals, who associate themselves by a written
51 agreement for the purpose of forming a stockholder owned mutual
52 bank, may upon compliance with this section and all other applic-
53 able sections of this chapter, become a corporation with all the
54 powers and privileges of a mutual bank under section two of this
55 chapter. Such corporation in its agreement of association shall
56 comply with the requirements of subsections (a), (e), (f), and (g)
57 of section five of chapter one hundred and seventy-two and
58 section eight of said chapter one hundred and seventy-two. Upon
59 formation, said corporation shall be subject to the provisions of
60 sections eight to fifteen, inclusive, sections nineteen, twenty,
61 twenty-two, twenty-four, twenty-five, twenty-six A, twenty-seven,
62 twenty-eight, thirty, thirty-one and other applicable sections of
63 said chapter one hundred and seventy-two, except that any refer-
64 ence in any of said sections to trust company shall be deemed also
65 to be a reference to mutual bank.

66 Section 4. A corporation formed pursuant to section three may
67 authorize, at a meeting duly called for the purpose, by vote of
68 two-thirds of the members present and voting a change of its cor-
69 porate name. Within sixty days after any meeting at which such
70 change has been authorized, articles of amendment, signed under
71 the penalties of perjury by the executive officer and by the clerk,
72 setting forth such change and the due adoption thereof, shall be
73 submitted to the state secretary and the commissioner. If such
74 amendment is approved by the commissioner, it shall take effect
75 upon the filing of such approval with the state secretary.

76 Section 5. The subscribers to said agreement shall give notice
77 to the board of bank incorporation of their intention to form a
78 mutual bank, and shall apply to said board for a certificate that
79 public convenience and advantage will be promoted by the estab-

80 lishment thereof. Said application shall be accompanied by an
81 investigation fee, the amount of which shall be determined annu-
82 ally by the commissioner of administration under the provision of
83 section three B of chapter seven.

84 Upon receipt of such application, said board shall furnish the
85 subscribers a form of notice, specifying the names of the proposed
86 incorporators and the name and location of the proposed mutual
87 bank and assigning a date and place for a public hearing on the
88 application. The subscribers shall publish the notice at least once a
89 week for three successive weeks, in one or more newspapers des-
90 igned by said board and published in the town wherein it is
91 desired to establish the bank or, if there is no newspaper in such
92 town, in the town wherein a newspaper is published which is
93 nearest to the proposed location of the bank. Upon notice from the
94 subscribers that the proposed mutual bank is ready to commence
95 business, the board shall determine that all requirements of law
96 have been complied with, and that the bank is a member of the
97 Federal Deposit Insurance Corporation or any successor of the
98 corporation, and the qualifications of personnel are satisfactory
99 and upon making such determination, the board shall, if satisfied
100 that public convenience and advantage will be promoted hereby,
101 issue a certificate authorizing such bank to begin the transaction
102 of business.

103 If the board of bank incorporation refuses to issue such certifi-
104 cate, no further proceedings shall be had, but the application may
105 be renewed after one year from the date of the refusal, in which
106 case notice of a public hearing thereon shall be published and
107 mailed as hereinbefore provided. Said board may require the sub-
108 scribers to establish or provide for the establishment of a special
109 surplus fund in an amount determined by the board, which shall
110 be represented by cash, deposits which shall be paid in, in full, to
111 the corporation before it commences business. Said board shall
112 issue regulations governing the maintenance of and withdrawals
113 from any such fund.

114 Section 6. The first meeting of the subscribers to the agreement
115 of association shall be called by a notice signed either by that sub-
116 scriber to the agreement who is designated therein for the purpose,
117 or by a majority of the subscribers. Such notice shall state the

118 time, place and purpose of the meeting. At least seven days before
119 the day appointed for the meeting, a copy of the notice shall be
120 given to each subscriber, or left at his residence or usual place of
121 business, or deposited in the post office, postage prepaid, and
122 addressed to him at his residence or usual place of business.
123 Another copy of said notice and an affidavit by one of the signers
124 that the notice has been duly served shall be recorded with the
125 records of the proposed corporation. If, however, all the incorpo-
126 rators shall, in writing, endorsed upon the agreement of associa-
127 tion waive such notice and fix the time and place of the meeting,
128 no notice shall be required. The subscribers to the agreement of
129 association shall hold the franchise until the organization has been
130 completed. At the first meeting, or at any adjournment thereof, the
131 incorporators shall organize by the election by ballot of a tempo-
132 rary clerk, by the adoption of by-laws and by the election, in such
133 manner as the by-laws may determine of a president, a clerk of the
134 corporation, a treasurer, a board of not less than five nor more
135 than fifteen directors, and such other officers as the by-laws may
136 prescribe. All the officers so elected shall be sworn to the faithful
137 performance of their duties. The temporary clerk shall make and
138 attest a record of the proceedings until the clerk has been elected
139 and sworn, including a record of the election and qualification of
140 the clerk.

141 Section 7. The president and a majority of the directors who are
142 elected at the first meeting shall make, sign and make oath to arti-
143 cles in duplicate setting forth:

144 (a) A true copy of the agreement of association, the names of
145 the subscribers thereto, and the name, residence, and post office
146 address of each of the officers of the corporation, and

147 (b) The date of the first meeting and the successive adjourn-
148 ments thereof, if any.

149 One duplicate original of the articles so signed and sworn to
150 shall be submitted to the board of bank incorporation and the
151 other, together with the records of the proposed corporation, to the
152 state secretary, who shall examine the same and may require such
153 amendment thereof or such additional information as he considers
154 necessary. If he finds that the articles conform to section three of
155 this chapter, and that sections five and six of this chapter have

156 been complied with, he shall so certify and endorse his approval
157 thereof. Thereupon the articles shall be filed in the office of the
158 state secretary, who upon receipt of a fee, the amount of which
159 shall be determined annually by the commissioner of administra-
160 tion under the provision of section three B of chapter seven, the
161 state secretary shall issue a certificate of incorporation in the
162 following form:

163 **COMMONWEALTH OF MASSACHUSETTS**

164 Be it known that whereas (the names of the subscribers to the
165 agreement of association) have associated themselves with the
166 intention of forming a corporation under the name of (the name of
167 the corporation), for the purpose (the purpose declared in the
168 agreement of association), and have complied with the provisions
169 of the statutes of this commonwealth in such case made and pro-
170 vided, as appears from the articles of organization of said corpora-
171 tion, duly approved by the commissioner of revenue and recorded
172 in this office: Now therefore, I (name of the state secretary) secre-
173 tary of the commonwealth of Massachusetts, do hereby certify
174 that said (the names of the subscribers to the agreement of associ-
175 ation), their associates and successors, are legally organized and
176 established as, and are hereby made, an existing corporation under
177 the name of (name of the corporation), with the powers, rights and
178 privileges, and subject to the limitations, duties and restrictions,
179 which by law appertain thereto.

180 Witness my official signature hereunto subscribed, and the
181 great seal of the commonwealth of Massachusetts hereunto
182 affixed, this day of in the year (the
183 date of the filing of the articles of organization).

184 The state secretary shall sign the certificate of incorporation
185 and cause the great seal of the commonwealth to be affixed
186 thereto, and such certificate shall have the force and effect of a
187 special charter. The existence of every such corporation which is
188 not created by special law shall begin upon the filing of the arti-
189 cles of organization in the office of the state secretary, who shall
190 also cause a record of the certificate of incorporation to be made,
191 and such certificate or such record or a certified copy thereof,
192 shall be conclusive evidence of the existence of the corporation.

193 Section 8. When the commissioner approves an application for
194 permission to organize a mutual bank under the provisions of this
195 chapter, or approves an application for permission to convert to a
196 mutual bank charter pursuant to the provisions of this chapter, the
197 bank shall have a charter in the following form, or a form which
198 includes any of the additional provisions specifically requested:

199 **Mutual Charter**

200 Section 1. Corporate title. The full corporate title of the mutual
201 bank hereby chartered is _____.

202 Section 2. Office. The home office shall be located at
203 _____.

204 Section 3. Duration. The duration of the bank is perpetual.

205 Section 4. Purpose and powers. The purpose of the bank is to
206 pursue any or all of the lawful objectives of a mutual bank char-
207 tered under chapter 170A and to exercise all the express, implied,
208 and incidental powers conferred thereby and by all acts amenda-
209 tory thereof and supplemental thereto subject to the Constitution
210 and laws of the commonwealth as they are now in effect, or as
211 they may hereafter be amended and subject to all lawful and
212 applicable rules, regulations, and orders of the commissioner.

213 Section 9. A mutual bank shall operate under by-laws that con-
214 tain provisions that comply with the requirements specified in this
215 section, and that are not otherwise inconsistent with the provisions
216 of this chapter, the bank's charter, and all other applicable laws,
217 rules and regulations. By-laws may be adopted, amended or
218 repealed by a majority of the bank's board of directors. Provided
219 that, a by-law provision inconsistent with the provisions of this
220 section may be adopted with the approval of the commissioner.
221 Copies of all by-laws and changes therein or additions thereto, or
222 other amendments thereof, shall be filed with the commissioner
223 immediately upon their adoption. All such by-laws, changes, addi-
224 tions and other amendments shall be effective on the date they are
225 filed with the commissioner.

226 The by-laws shall provide for and determine as follows:

227 (a) The time and place for holding the annual meeting of the
228 members and the monthly meeting of the board of directors. Such

229 meeting shall be held, as designated by the board of directors, at a
230 date and time within 120 days after the end of the bank's fiscal
231 year. At each annual meeting, the officers shall make a full report
232 of the financial condition of the bank and of its progress for the
233 preceding year and shall outline a program for the succeeding
234 year. Regular meetings of the board of directors shall be under the
235 direction of the chairman, appointed annually by the board, or in
236 the absence of a chairman, the meetings shall be under the direc-
237 tion of the president. The board may also permit telephone partici-
238 pation at meetings;

239 (b) The manner of calling meetings of the members and of the
240 board of directors, including special meetings. Notice specifying
241 the date, time, and place of the annual or any special meeting,
242 adequately describing any business to be conducted, shall be pub-
243 lished for two successive weeks immediately prior to the week in
244 which such meeting shall convene in a newspaper of general cir-
245 culation in the city or county in which the principal place of busi-
246 ness of the bank is located, or mailed postage prepaid at least
247 fifteen days and not more than forty-five days prior to the date on
248 which such meeting shall convene to each of its members of
249 record at the last address appearing on the books of the bank. A
250 similar notice shall be posted in a conspicuous place in each of the
251 offices of the bank during the fourteen days immediately pre-
252 ceding the date on which such meeting shall convene. The by-
253 laws may permit a member to waive in writing any right to
254 receive personal delivery of the notice. The subject matter of such
255 special meetings must be established in the notice for such
256 meeting. The board of directors or the holders of ten percent of
257 more of the voting capital shall be entitled to call a special
258 meeting. For the purpose of determining members entitled to
259 notice of or to vote at any meeting of members or any adjourn-
260 ment thereof, or in order to make a determination of members for
261 any other purpose, the by-laws shall provide for the fixing of a
262 record date and a method for determining from the books of the
263 bank the members entitled to vote. Such date shall not be more
264 than sixty days nor fewer than ten days prior to the date on which
265 the action requiring such determination of members is to be taken:

266 (c) The number necessary to constitute a quorum at meetings of
267 the members and of the board of directors, respectively. A
268 majority of the authorized directors shall constitute a quorum for
269 the transaction of business. The act of a majority of the directors
270 present at any meeting at which there is a quorum shall be the act
271 of the board. The by-laws may provide for action to be taken
272 without a meeting if unanimous written consent is obtained for
273 such action;

274 (d) The voting qualifications of members at members' meet-
275 ings. No person shall vote by proxy except as otherwise may be
276 expressly authorized by law.

277 (e) The monthly bank day.

278 (f) The number, title, eligibility, powers and duties of directors,
279 other officers and committees, their terms of office, and the
280 manner of their election or appointment and of their removal. The
281 by-laws shall set out the procedure for the resignation of a
282 director, which shall be by written notice or by any other proce-
283 dure established in the by-laws.

284 (g) The manner in which the by-laws may be amended; and

285 (h) That the clerk or other officer shall give notice of all meet-
286 ings of the members by publishing notice thereof, at least seven
287 days before such meetings, in one or more newspapers published
288 in the city or town wherein the main office of the bank is situated
289 or, if no newspaper is published therein, then in a newspaper pub-
290 lished in a nearby city or town in the same county; and for this
291 purpose a newspaper which by its title page purports to be printed
292 or published in a city, town or county and has a circulation therein
293 shall be deemed to have been published therein. Such notice shall
294 state the day, hour and place of the meeting and shall contain a
295 brief statement of the nature of the business to be acted upon,
296 except as may be provided in the by-laws with respect to the
297 removal of officers and directors.

298 The by-laws also may provide for such other matters relative to
299 the business and affairs of the bank as may be deemed necessary
300 or desirable.

301 Section 10. All holders of the bank's savings, demand, or other
302 authorized accounts are members of the bank. In consideration of
303 all questions requiring action by the members of the bank, each

304 holder of an account shall be permitted to cast one vote for each
305 \$100.00, or fraction thereof, of the withdrawal value of the mem-
306 ber's account. No member, however, shall cast more than 1,000
307 votes. Any number of members present and voting at a regular or
308 special meeting of the members shall constitute a quorum. A
309 majority of all votes cast at any meeting of the members shall
310 determine any question. All accounts shall be nonassessable.

311 Section 11. The bank shall be under the direction of a board of
312 directors. The authorized number of directors shall not be fewer
313 than five nor more than fifteen persons, as fixed in the bank's
314 bylaws, except that the number of directors may be increased to a
315 number greater than fifteen with the prior approval of the commis-
316 sioner. Each director shall be a member of the bank. Members of
317 the bank shall elect directors by ballot, provided that in the event
318 of a vacancy on the board, the board of directors may fill such a
319 vacancy if the members fail to do so, by electing a director to
320 serve until the next annual meeting. Directors shall be elected for
321 a period of three years and until their successors are elected and
322 qualified, but provision shall be made for the election of approxi-
323 mately one-third of the board each year. Directors may only be
324 removed for cause by a vote of the holders of a majority of the
325 shares then entitled to vote at an election of the directors.

326 Section 12. The board of directors shall have the power: (i) by
327 resolution, to appoint from among its members and remove an
328 executive committee and one or more other committees, which
329 shall have and may exercise all the powers of the board between
330 the meetings of the board; but no such committee shall have the
331 authority of the board to amend the charter or by-laws, adopt a
332 plan of merger or consolidation, dissolution, or provide for the
333 disposition of all or substantially all the property and assets of the
334 bank. Such committee(s) shall not operate to relieve the board, or
335 any member thereof, of any responsibility imposed by law; (ii) to
336 fix the compensation of directors, officers and employees, and to
337 remove any officer or employee at any time with or without cause;
338 (iii) to exercise any and all of the powers of the bank not
339 expressly reserved by the charter to the members.

340 Section 13. The officers of the bank shall consist of a president,
341 one or more vice-president(s), a secretary and a treasurer, each of

342 whom shall be elected annually by the board of directors. Such
343 other officer and assistant officers and agents as may be deemed
344 necessary may be elected or appointed by the board of directors or
345 chosen in such other manner as may be prescribed in the by-laws.
346 Any two or more offices may be held by the same person, except
347 the offices of president and secretary. All officers and agents of
348 the bank, as between themselves and the bank, shall have such
349 authority and perform such duties in the management of the bank
350 as may be provided in the by-laws, or as may be determined by
351 resolution of the board of directors not inconsistent with the by-
352 laws. In the absence of any such provision, officers shall have
353 such powers and duties as generally pertain to their respective
354 offices.

355 Section 14. The bank shall maintain for the purpose of meeting
356 losses the amount of capital required by the commissioner. The
357 bank shall distribute net earnings on its accounts on such basis
358 and in accordance with such terms and conditions as may from
359 time to time be authorized by the commissioner, provided that the
360 bank may establish minimum-balance requirements for accounts
361 to be eligible for distribution of earnings.

362 Section 15. Any articles of amendment shall be submitted to
363 and approved by the members of the bank at a legal meeting.
364 After such articles of amendment have been submitted to and
365 approved by the members at a legal meeting, such articles shall be
366 submitted to the commissioner for approval. Any amendment,
367 addition, or repeal so acted upon and approved shall be effective
368 upon filing with the state secretary.

369 Section 16. No person shall be a director or other officer of two
370 mutual banks at the same time, except in the case of the purchase
371 of assets and the assumption of liabilities pursuant to the provi-
372 sions of section twenty-two of this chapter. A director or other
373 officer of a mutual bank may, at the same time, serve as a trustee,
374 director or other officer of a savings bank, co-operative bank,
375 credit union, state or federally chartered savings and loan associa-
376 tion, trust company, a bank holding company or any affiliate, or
377 national banking association if, in such case, there is in force a
378 permit therefor issued by the commissioner, in writing, with the
379 reasons thereon stating why the public interest warrants its

380 issuance, after reasonable notice and an opportunity to be heard,
381 who is hereby authorized to issue such permit if, in his judgment,
382 it is not incompatible with the public interest, and to revoke any
383 such permit whenever he finds, after reasonable notice and oppor-
384 tunity to be heard, that the public interest warrants its revocation
385 except that the provisions of this section shall not apply to any
386 director or officer who held such position at the time of incorpora-
387 tion of said mutual bank. Any person serving as a director or other
388 officer of a mutual bank may at the same time serve as a director
389 or other officer of a trust company that does not make real estate
390 mortgage loans and does not accept savings deposits from natural
391 persons.

392 Section 17. Officers and employees of such bank shall be
393 bonded to the extent and in the form determined by the board of
394 directors.

395 Section 18. Any officer, director, agent, or employee of any
396 bank, who knowingly and wilfully does any act forbidden to him
397 or to such bank by any provision of chapters one hundred and
398 sixty-seven, one hundred and sixty-seven A to one hundred and
399 sixty-seven G, inclusive, one hundred and seventy and one hun-
400 dred and eighty-three as such provisions are applicable to such
401 officer or to such bank, or who knowingly and wilfully aids or
402 abets the doing of any act so forbidden to such bank or to any
403 other officer, director, agent or employee thereof, or who know-
404 ingly and wilfully fails to do any act required of him by any such
405 provision, or who knowingly and wilfully fails to do any act
406 which is required of such bank by any such provision the perfor-
407 mance of which is imposed on him by the by-laws or regulations
408 of the bank or by law or the responsibility for the non-perfor-
409 mance of which is placed upon him by section thirteen shall if no
410 other penalty against him in his aforesaid capacity is specifically
411 provided, be punished by a fine of not more than one thousand
412 dollars or by imprisonment for up to one year, or both.

413 Section 19. No officer, director, employee or attorney of such
414 corporation shall be a beneficiary of or receive, directly or indi-
415 rectly, any fee, commission, gift or other consideration for or in
416 connection with any business of such corporation. This section
417 shall not prohibit any such officer, director, employee or attorney

418 from receiving interest on a deposit made by him or his usual
419 salary or director's fee or a reasonable fee for services rendered to
420 such corporation or from borrowing from such corporation in
421 accordance with law, or from sharing in commissions, profits or
422 other benefits derived by any firm, association or corporation, in
423 which he is interested, arising out of any transaction with said cor-
424 poration if such transaction is made in the regular course of busi-
425 ness upon terms as favorable to the corporation as those offered to
426 other persons. The commissioner may require a full disclosure to
427 be made on such forms as he may prescribe by regulations or oth-
428 erwise, of all commissions, profits and other benefits realized in
429 any such transaction.

430 Section 20. Every mutual bank shall prepare a balance sheet in
431 accordance with generally accepted accounting principles, which
432 presents fairly its condition as of the last business day of its fiscal
433 year. A copy of said balance sheet shall be made available to a
434 depositor upon request.

435 Section 21. No officer or director of a bank shall, except as
436 hereinafter provided, borrow from or otherwise become indebted
437 to the bank of which he is an officer or director, and no bank shall,
438 except as hereinafter provided, make any loan or extend credit in
439 any other manner to any of its officers or directors; provided,
440 however, that with the prior approval of a majority of the entire
441 board of directors, excluding any member thereof involved in the
442 loan or extension of credit, a bank may make a loan or extend
443 credit to any such officer and such officer may become indebted
444 to such bank in an amount not exceeding twenty thousand dollars
445 on a loan or extension of credit, secured or unsecured, and in an
446 amount not exceeding seventy-five thousand dollars on a loan or
447 extension of credit untended or secured for educational purposes,
448 and in an amount not exceeding two hundred and seventy-five
449 thousand dollars on a loan secured by a mortgage on real estate
450 improved with a one to four family dwelling or a condominium
451 established in accordance with chapter one hundred and eighty-
452 three A which is to be occupied, in whole or in part, by such
453 officer, and in an amount secured by a deposit account of such
454 officer in said bank; and provided, further, that a bank may a make
455 a loan or extension of credit to such director, who is not an officer

456 of such bank, subject to the limitations contained in chapter one
457 hundred and sixty-seven E. Such bank shall not give a preferential
458 rate of interest or other preferential terms on any such loan or
459 extension of credit to any such officer or director. For the pur-
460 poses of this section, the term “officer” shall mean a president, a
461 vice-president, a treasurer and a clerk, and any other officer who
462 participates in major policy functions of the bank whether or not
463 (1) such other officer has an official title; provided, however, that
464 the term does not include a person who may have an official title
465 and may exercise a certain measure of discretion in the perfor-
466 mance of his duties, including discretion in the making of loans,
467 but who does not participate in the determination of major policies
468 of the bank and whose decisions are limited by policy standards
469 fixed by the senior management of the bank; (2) the title desig-
470 nates the officer an assistant; or (3) the officer is serving without
471 salary or compensation.

472 No officer, whether acting individually or as trustee holding
473 property in trust for another person, shall become the owner of
474 real estate upon which a mortgage is held by the corporation; pro-
475 vided, however, that this prohibition shall not apply to any officer
476 who becomes the owner of real estate upon which a mortgage is
477 held by the corporation securing a loan in an amount not
478 exceeding two hundred and seventy-five thousand dollars on real
479 estate improved with a one to four family dwelling or a condo-
480 minium established in accordance with chapter one hundred and
481 eighty-three A which is to be occupied, in whole or in part, by
482 such officer.

483 Every such corporation shall be required to make an annual
484 report to the commissioner of any loan or extension of credit in
485 any manner (i) to any officer, director or principal shareholder
486 thereof, (ii) to any officer, director or principal shareholder of a
487 bank holding company, as defined in chapter one hundred and
488 sixty-seven A, of which said corporation is a subsidiary, and
489 (iii) to any officer, director, trustee or principal shareholder of any
490 other subsidiary of said bank holding company. Said corporation
491 shall also be required to make an annual report to the commis-
492 sioner of any loan or extension of credit in any manner to a com-
493 pany which is controlled by any such officer, director, trustee or

494 principal shareholder of said corporation, bank holding company
495 or other subsidiary or in which any such person is a principal
496 shareholder. For the purposes of this section, the terms “com-
497 pany”, “control of a company” and “principal shareholder” shall
498 have the same meanings given in Regulation O of the Board of
499 Governors of the Federal Reserve System, 12 C.F.R. Part 215.2.

500 Said report to the commissioner shall consist of, but not be lim-
501 ited to, (a) the name of the officer, director, trustee or principal
502 shareholder of said corporation, bank holding company or other
503 subsidiary to whom any such loan or extension of credit has been
504 made or the name of such company to which any such loan or
505 extension of credit has been made, (b) the original amount of the
506 loan and the interest rate thereon, (c) the date of the loan, (d) the
507 type of loan, (e) if the loan is secured in any manner, the type of
508 secured asset and its valuation, (f) the terms of the payment,
509 (g) the current balance, and (h) the amount of principal or interest
510 payments in default, if any, and the length of any such default.
511 Such report shall be deemed to be a public record in accordance
512 with the provisions of section ten of chapter sixty-six.

513 Section 22. With the approval of the commissioner, any such
514 corporation may advance or loan upon, or purchase, the whole or
515 any part of the assets or stock of any state-chartered bank or any
516 federally-chartered bank, including any state-chartered bank in
517 possession of the commissioner under sections twenty-two to
518 thirty-six, inclusive, of chapter one hundred and sixty-seven and
519 any state-chartered bank assisted by or in possession of its insurer
520 and may participate in such an advance, loan or purchase with one
521 or more banks at such valuations and upon such terms and condi-
522 tions as shall have been agreed upon by vote of two-thirds of the
523 directors and by a two-thirds vote of the applicable board of a
524 state-chartered bank or by a vote of a federally-chartered bank as
525 required by any applicable law or regulation governing such bank;
526 and the corporation or corporations making or participating in
527 such an advance, loan or purchase, for the purposes of effecting
528 the same, may assume and agree to pay the whole or any part of
529 the share liabilities or deposits, and other liabilities of any other
530 state-chartered bank or federally-chartered bank upon such terms
531 and conditions and subject to such adjustments as may be
532 approved by the commissioner. The request for such approval

533 shall be accompanied by an investigation fee the amount of which
534 shall be determined by the commissioner of administration under
535 the provision of section three B of chapter seven. In the event of
536 approval by the commissioner, other provisions of law applicable
537 to the number of directors, and to the limitation upon share and
538 accounts referred to in section eleven of this chapter, shall not
539 apply. The commissioner may impose such conditions and restric-
540 tions as he may deem necessary or advisable in respect to the
541 share liabilities or deposits, and other liabilities assumed as here-
542 inbefore provided. The commissioner shall not endorse his
543 approval thereupon until he has received notice that arrangements
544 satisfactory to any excess deposit insurer of any such bank have
545 been made.

546 Before all or substantially all of the assets of any such corpora-
547 tion shall be sold, such action shall be approved by a vote of at
548 least two-thirds of those members present, qualified to vote and
549 voting, at a special meeting called for the purpose, of the members
550 of the corporation proposing so to sell its assets. Notice of such
551 special meeting, containing a statement of the time, place and pur-
552 pose of the meeting, and setting forth the terms of sale tentatively
553 agreed upon, shall be advertised three times in one or more news-
554 papers published in the town in which the main office and any
555 branch office of said corporation is situated or if there be no such
556 newspaper, then in one or more newspapers published in the
557 county where said town is situated, the last publication to be at
558 least one day before the meeting. In addition, such notice shall be
559 conspicuously posted in the main office and branch offices for a
560 period of no less than thirty days immediately before said meeting
561 unless this requirement of posting such notice is waived in writing
562 by the commissioner.

563 For the purposes of this section, a state-chartered bank shall
564 mean a trust company, savings bank, co-operative bank or mutual
565 bank chartered by the commonwealth or by a country other than
566 the United States. A federally chartered bank shall mean a
567 national banking association, federal savings and loan association
568 or federal savings bank which has its main office located in the
569 commonwealth.

570 In deciding whether or not to approve any such advance, loan
571 or purchase, the commissioner shall determine whether or not

572 competition among banking institutions will be unreasonably
573 affected and whether or not public convenience and advantage
574 will be promoted. In making such determination, the commis-
575 sioner shall consider, but not be limited to, a showing of net new
576 benefits. For the purpose of this section, the term “net new bene-
577 fits” shall mean initial capital investments, job creation plans,
578 consumer and business services, commitments to maintain and
579 open branch offices within a bank’s delineated local community,
580 as such term is used within section fourteen of chapter one hun-
581 dred and sixty-seven, and such other matters as the commissioner
582 may determine.

583 Section 23. Any one or more such corporations and any one or
584 more mutual banks, as defined in this chapter may merge or con-
585 solidate into a single mutual bank upon such terms as shall have
586 been approved by a vote of at least two-thirds of the board of
587 directors of each corporation and of the board of directors of each
588 mutual bank, and as shall have been approved in writing by the
589 commissioner. The terms of any such merger or consolidation
590 shall be approved by the members of each corporation and corpo-
591 rators of each mutual bank in the manner prescribed herein.

592 A request for such approval by the commissioner shall be
593 accompanied by an investigation fee the amount of which shall be
594 determined annually by the commissioner of administration, a
595 copy of the terms of any agreement reached by the respective
596 boards of directors, and certified copies of the votes of such
597 boards. If the commissioner, after such notice and hearing as he
598 may require, is satisfied that a merger or consolidation can be
599 effected on terms approved by him and he finds that such merger
600 or consolidation is in the interests of the members and depositors
601 of the institutions concerned, such merger or consolidation may be
602 approved by him subject to his direction. In making a finding that
603 any such merger or consolidation is in the interests of members,
604 the commissioner shall also determine whether or not competition
605 among banking institutions will be unreasonably affected and
606 whether or not public convenience and advantage will be pro-
607 moted. In making such determination, the commissioner shall
608 consider, but not be limited to, a showing of net new benefits. For
609 the purpose of this section, the term “net new benefits” shall mean
610 initial capital investments, job creation plans, consumer and busi-

611 ness services, commitments to maintain and open branch offices
612 within a bank's delineated local community, as such term is used
613 within section fourteen of chapter on hundred and sixty-seven,
614 and such other matters as the commissioner may determine.
615 Before becoming effective, any merger or consolidation autho-
616 rized by this section, hereinafter sometimes referred to as a "con-
617 solidation", shall have been approved by a vote of at least
618 two-thirds of the members of each corporation present, qualified
619 to vote and voting at meetings specially called to consider the sub-
620 ject. Notice for such meetings shall be given in accordance with
621 the relevant provisions of this chapter.

622 A certificate under the hands of the presidents and clerks, or
623 other duly authorized officers of all merging or consolidating cor-
624 porations and mutual banks setting forth that each institution,
625 respectively, has complied with the requirements of this section,
626 shall be submitted to the commissioner, who, if he shall approve
627 such consolidation, shall endorse his approval upon such certifi-
628 cate, and thereupon such consolidation shall become effective.
629 The commissioner shall not endorse his approval thereupon until
630 he has received notice from the excess deposit insurer for any
631 such other bank that arrangements satisfactory to each insurer
632 have been made for such consolidation. Upon consolidation of
633 any such institutions, as herein provided:

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

651 2. A discontinuing institution's rights, obligations and relations
652 to any shareholder, or depositor, creditor, trustee or beneficiary of
653 any trust, or other person, as of the effective date of the consolida-
654 tion shall remain unimpaired and the continuing institution shall
655 by the consolidation, succeed to all such relations, obligations and
656 liabilities, as though it had itself assumed the relation or incurred
657 the obligation or liability; and its liabilities and obligations to
658 creditors existing for any cause whatsoever shall not be impaired
659 by the consolidation; nor shall any obligation or liability or any
660 shareholder or depositor in any such institution, continuing or dis-
661 continuing, which is party to the consolidation, be affected by any
662 consolidation, but such obligations and liabilities shall continue as
663 fully and to the same extent as the same existed before the consol-
664 idation and the provisions relative to the limitations on shares and
665 deposits, shall not apply.

666 3. A pending action or other judicial proceeding to which any
667 of the consolidating institutions is a party shall not be deemed to
668 have abated or to have discontinued by reason of the consolida-
669 tion, but may be prosecuted to final judgment, order or decree in
670 the same manner as if the consolidation has not been made; or the
671 continuing institution may be substituted as a party to any such
672 action or proceeding to which the discontinuing institution was a
673 party, and any judgment, order or decree may be rendered for or
674 against the continuing institution that might have been rendered
675 for or against such discontinuing institution if such consolidation
676 has not occurred.

677 4. After such consolidation, a foreclosure of a mortgage begun
678 by any discontinuing institution may be completed by the contin-
679 uing institution, and publication begun by the discontinuing insti-
680 tution may be continued in the name of the discontinuing
681 institution. Any certificate of possession, affidavit of sale or fore-
682 closure deed relative to such foreclosure shall be executed by the
683 proper officers on behalf of whichever of such institutions actu-
684 ally took possession or made the sale, but any such instrument
685 executed on behalf of the continuing institution shall recite that it
686 is the successor of the discontinuing institution which commenced
687 the foreclosure.

688 5. A new name may be adopted as the name of the continuing
689 institution at the special meetings called as herein provided, and it

690 shall become the name of the continuing institution upon the
691 approval of the consolidation, without further action under the
692 laws of the commonwealth as to change or adoption of a new
693 name on the part of the continuing institution.

694 6. Any consolidation may be approved and effected pursuant to
695 this section, notwithstanding that the percentage which the aggre-
696 gate value of the surplus and other reserves, of any of the consoli-
697 dating institutions, bears to its liabilities including share
698 liabilities, exceeds such percentage of any of the other consoli-
699 dating institutions, and any consolidating institution having such
700 an excess of percentage shall not be required to pay an extra divi-
701 dend or make any other distribution to its shareholders or deposi-
702 tors.

703 The offices and depots of any mutual bank merged or consoli-
704 dated under this section, may be maintained as branch offices or
705 depots, respectively, of the continuing institution with the written
706 permission of, and under any conditions, as may be approved by
707 the commissioner.

708 If the consolidating corporations have main offices in different
709 counties, the main office of the continuing corporation shall be the
710 main office of that consolidating corporation which has the greater
711 total assets on the date on which the merger or consolidation is
712 approved by the board of the last consolidating corporation so to
713 approve; provided, however, that upon a determination by the
714 commissioner that such consolidation is not for the purpose of cir-
715 cumventing any geographic restrictions on the establishment of
716 branch offices, he may allow the main office of the consolidating
717 corporation which has the lesser total assets on such date to be the
718 main office of the continuing corporation.

719 Section 24. Any one or more such corporations and any one or
720 more thrift institutions may merge or consolidate into a single
721 mutual bank or into a single thrift institution, upon such terms as
722 shall have been approved by a vote of at least two-thirds of the
723 board of directors of each corporation and of the board of direc-
724 tors of each thrift institution, and as shall have been approved in
725 writing by the commissioner. The terms of any such merger or
726 consolidation shall be approved by the shareholders of each cor-
727 poration and by each thrift institution in the manner prescribed
728 herein. A request for such approval by the commissioner shall be

729 accompanied by an investigation fee the amount of which shall be
730 determined annually by the commissioner of administration under
731 the provision of section three B of chapter seven, a copy of the
732 terms of any agreement reached by the respective boards of direc-
733 tors, and certified copies of the votes of such boards. If the com-
734 missioner, after such notice and hearings as he may require, is
735 satisfied that a merger or consolidation can be effected on terms
736 approved by him and he finds that such a merger or consolidation
737 is in the interests of the shareholders and depositors of the institu-
738 tions concerned, such merger or consolidation may be approved
739 by him subject to his direction. Before becoming effective, any
740 merger or consolidation authorized by this section, hereinafter
741 sometimes referred to as a “consolidation”, shall have been
742 approved by a vote of at least two-thirds of the shareholders of
743 each corporation present, qualified to vote and voting at meetings
744 specially called to consider the subject, and approved by a vote of
745 each thrift institution as required by any applicable law or organi-
746 zation governing such institution.

747 Notice for such meetings shall be given in accordance with the
748 relevant provisions of section twenty-two of this chapter and any
749 applicable provision governing a thrift institution. A certificate
750 under the hands of the presidents and clerks, or other duly autho-
751 rized officers of all merging or consolidating corporations and
752 thrift institutions setting forth that each institution, respectively,
753 has complied with the requirements of this section, shall be sub-
754 mitted to the commissioner, who, if he shall approve such consoli-
755 dation, shall endorse his approval upon such certificate, and
756 thereupon such consolidation shall become effective. No such
757 transaction under this section shall be consummated until arrange-
758 ments satisfactory to any excess deposit insurer of each such bank
759 have been made and notice thereof has been received by the com-
760 missioner. Upon consolidation of any such institutions, as herein
761 provided:

762 1. The corporate existence of all but one of the consolidating
763 institutions shall be discontinued and consolidated into that of the
764 remaining institution, which shall continue. All and singular the
765 rights, privileges and franchises of each discontinuing institution
766 and its right, title and interest to all property of whatever kind,
767 whether real, personal or mixed, and things in action, and every

768 right, privilege, interest or asset of conceivable value or benefit
769 then existing which would inure to it under an unconsolidated
770 existence, shall be deemed fully and finally, and without any right
771 of reversion, transferred to or vested in the continuing institution,
772 without further act or deed, and such continuing institution shall
773 have and hold the same in its own right as fully as if the same was
774 possessed and held by the discontinuing institution from which it
775 was, by operation of the provisions hereof, transferred, and other
776 provisions of law relative to limitations on the number of direc-
777 tors, incorporators, or trustees and on the investment of funds of
778 such institutions shall not apply.

779 2. A discontinuing institution's rights, obligations and relations
780 to any shareholder, depositor, creditor, trustee or beneficiary of
781 any trust, or other person, as of the effective date of the consolida-
782 tion, shall remain unimpaired, and the continuing institution shall,
783 by the consolidation, succeed to all such relations, obligations and
784 liabilities, as though it had itself assumed the relation or incurred
785 the obligation or liability, and its liabilities and obligations to
786 creditors existing for any cause whatsoever shall not be impaired
787 by the consolidation; nor shall any obligation or liability of any
788 shareholder or depositor in any such institution, continuing or dis-
789 continuing, which is party to the consolidation, be affected by any
790 consolidation, but such obligations and liabilities shall continue as
791 fully and to the same extent as the same existed before the consol-
792 idation, and the provisions relative to the limitations on shares and
793 deposits, shall not apply.

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

805 4. After such consolidation, a foreclosure of a mortgage begun
806 by any discontinuing institution may be completed by the contin-

807 uing institution, and publication begun by the discontinuing insti-
808 tution may be continued in the name of the discontinuing institu-
809 tion. Any certificate of possession, affidavit of sale or foreclosure
810 deed relative to such foreclosure shall be executed by the proper
811 officers on behalf of whichever of such institutions actually took
812 possession or made the sale, but any such instrument executed on
813 behalf of the continuing institution shall recite that it is successor
814 of the discontinuing institution which commenced the foreclosure.

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

821 6. Any consolidation may be approved and effected pursuant to
822 this section, notwithstanding that the percentage which the aggre-
823 gate value of the guaranty fund, surplus and other reserves, of any
824 of the consolidating institutions, bears to its liabilities including
825 share liabilities, exceeds such percentage of any of the other con-
826 solidating institutions, and any consolidating institution having
827 such an excess of percentage shall not be required to pay an extra
828 dividend or make any other distribution to its shareholders or
829 depositors.

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

835 If the consolidating corporations have main offices in different
836 states or counties, the main office of the continuing corporation
837 shall be the main office of that consolidating corporation which
838 has the greater total assets on the date on which the merger or
839 consolidation is approved by the board of the last consolidating
840 corporation so to approve; provided, however, that upon a deter-
841 mination by the commissioner that such consolidation is not for
842 the purpose of circumventing any geographic restrictions on the
843 establishment of branch offices, he may allow the main office of
844 the consolidating corporation which has the lesser total assets on
845 such date to be the main office of the continuing corporation.

846 In making a finding that any such merger or consolidation is in
847 the interests of depositors and shareholders, the commissioner
848 shall also determine whether or not competition among banking
849 institutions will be unreasonably affected and whether or not
850 public convenience and advantage will be promoted. In making
851 such determination, the commissioner shall consider, but not be
852 limited to, a showing of net new benefits. For the purpose of this
853 section, the term “net new benefits” shall mean initial capital
854 investments, job creation plans, consumer and business services,
855 commitments to maintain and open branch offices within a bank’s
856 delineated local community, as such term is used within section
857 fourteen of chapter one hundred and sixty-seven, and such other
858 matters as the commissioner may determine.

859 For the purposes of this section, a thrift institution shall mean a
860 mutual bank chartered by a country other than the United States or
861 a federal mutual savings and loan association or a federal mutual
862 savings bank which has its main office located in the common-
863 wealth.

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

872 Section 25. Notwithstanding any general or special law to the
873 contrary, a mutual bank subject to approval of the commissioner,
874 may convert to a stockholder owned form of corporation. Any
875 mutual bank which converts to a stockholder owned form of cor-
876 poration shall have all the powers and privileges of a mutual bank.
877 Any such mutual bank shall be subject to the provisions set forth
878 under section twenty-six C of the General Laws chapter one hun-
879 dred and seventy, and the regulations promulgated thereunder at
880 209 CMR 33.00 et seq., applicable to state-chartered thrift institu-
881 tions which have converted to stock form. The following terms,
882 and such others as the commissioner shall deem applicable, found
883 at 209 CMR 33.00 et seq., shall include within their definition a
884 mutual bank: “Applicant”, “Converted Bank”, “Converting Bank”,
885 and “Co-operative Bank”.

886 The commissioner shall prescribe from time to time such rules
887 and regulations as may be necessary or proper in carrying out the
888 provisions of this section. Such regulations shall be similar to reg-
889 ulations promulgated under Title 12 USC 1725 or Title 12 USC
890 1464; provided, that the commissioner may make such adjust-
891 ments and exceptions as in his judgment are necessary to carry out
892 the purposes of this section or to facilitate compliance therewith.

893 After conversion to a stockholder form of corporation pursuant
894 to this section, sections nine to eleven, inclusive, shall not apply
895 to a converted bank, and such bank shall be subject to the provi-
896 sions of sections eleven to fifteen, inclusive, sections nineteen,
897 twenty, twenty-two, twenty-four, twenty-six A, twenty-eight,
898 thirty-one and other applicable sections of chapter one hundred
899 and seventy-two.

900 Any regulation, or any amendment or repeal of any such regu-
901 lation issued under the provisions of this section after compliance
902 with all applicable provisions of chapter thirty A shall be sub-
903 mitted to the general court for approval. The commissioner shall
904 file the proposed regulation, amendment or repeal with the clerk
905 of the house of representatives, together with a statement that the
906 pertinent provisions of said chapter thirty A have been complied
907 with. Any regulations filed with the general court under the provi-
908 sions of this section shall be accompanied by a summary of the
909 regulations in layman's terms. The clerk shall refer such regula-
910 tions to the joint committee on banks and banking within five
911 days of the filing thereof. The committee shall consider the pro-
912 posed regulation, amendment or repeal and shall report to the
913 general court within forty-five days whether the same should be
914 adopted in the manner submitted. The clerk of the senate and the
915 clerk of the house of representatives shall recommend to the
916 general court the form and procedure which shall be followed in
917 considering the approval of a proposed regulation, amendment or
918 repeal, provided that approval or disapproval shall be by joint res-
919 olution.

920 The clerk of the senate shall cause any regulation, amendment
921 or repeal, approved by both branches of the general court within
922 seventy-five days from the time of filing of the same with the
923 clerk of the house of representatives, to be forwarded to the gov-
924 ernor for his approval; provided, however, that any such regula-

925 tion, amendment or repeal which is not approved by the general
926 court and the governor within ninety days of such filing shall be
927 deemed to have been disapproved.

928 If the governor approves any regulation, amendment or repeal
929 submitted to him, as hereinbefore provided, he shall forward the
930 same to the state secretary who shall publish the same in accor-
931 dance with section five of said chapter thirty A.

932 Emergency regulations may be adopted during the prorogation
933 of the general court in the manner provided by section five of
934 chapter thirty A; provided, that such regulation shall be filed with
935 the clerk of the house of representatives for submission to the next
936 session of the general court for approval as hereinbefore provided;
937 and provided, further that such regulation shall not remain in force
938 for more than ninety days after the general court has convened for
939 such session.

940 Section 26. Any one or more such stock corporations may, upon
941 compliance with the provisions of section seventy-eight of chapter
942 one hundred and fifty-six B, which are hereby made applicable in
943 all such cases and subject as to any such corporation to the provi-
944 sions of section eighty-five of chapter one hundred and fifty-six B
945 as modified for the purposes of this section by the provisions
946 hereof, consolidate or merge into any single state or federally-
947 chartered stock corporation. A request for approval by the com-
948 missioner of such a consolidation or merger shall be accompanied
949 by an investigation fee, the amount of which shall be determined
950 annually by the commissioner of administration under the provi-
951 sion of section three B of chapter seven. A certificate under the
952 hands of the presidents and clerks or other duly authorized offi-
953 cers of all merging or consolidating corporations setting forth that
954 each corporation, respectively, has complied with the require-
955 ments of this section shall be submitted to the commissioner. No
956 such transaction under this section shall be consummated until
957 arrangements satisfactory to any excess deposit insurer of each
958 such bank have been made and notice thereof has been received
959 by the commissioner. The offices and depots of any such corpora-
960 tion merged or consolidated under this section may be maintained
961 as branch offices or depots, respectively, of the continuing institu-
962 tions with the written permission of and under any conditions, as
963 may be approved by the commissioner.

964 If the consolidating corporations have main offices in different
965 states or counties, the main office of the continuing corporation
966 shall be the main office of that consolidating corporation which
967 has the greater total assets on the date on which the merger or
968 consolidation is approved by the board of the last consolidating
969 corporation so to approve; provided, however, that upon a deter-
970 mination by the commissioner that such consolidation is not for
971 the purpose of circumventing any geographic restrictions on the
972 establishment of branch offices, he may allow the main office of
973 the consolidating corporation which has the lesser total assets on
974 such date to be the main office of the continuing corporation.

975 For purposes of this section, the value of the stock of stock-
976 holders of a state-chartered stock corporation who have, as pro-
977 vided in section seventy-six or section eighty-five of chapter one
978 hundred and fifty-six B, voted against any action authorized
979 herein shall be ascertained in the manner provided in sections
980 eighty-six to ninety-eight, inclusive, of said chapter one hundred
981 and fifty-six B.

982 The provisions of section eighty of chapter one hundred and
983 fifty-six B shall apply to consolidations and mergers of state-char-
984 tered stock corporations authorized under this section provided
985 that, for this purpose, references in said section eighty to said
986 chapter one hundred and fifty-six B shall be deemed to be to the
987 chapter of the General Laws governing such stock corporation,
988 and references in said section eighty to articles of organization
989 shall be deemed to be to the articles of organization, including any
990 special act of incorporation, as from time to time amended.

991 In deciding whether or not to approve any such consolidation or
992 merger, the commissioner shall determine whether or not competi-
993 tion among banking institutions will be unreasonably affected and
994 whether or not public convenience and advantage will be pro-
995 moted. In making such determination, the commissioner shall
996 consider, but not be limited to, a showing of net new benefits. For
997 the purpose of this section, the term “net new benefits” shall mean
998 initial capital investments, job creation plans, consumer and busi-
999 ness services, commitments to maintain and open branch offices
1000 within a bank’s delineated local community, as such term is used
1001 within section fourteen of chapter one hundred and sixty-seven,
1002 and such other matters as the commissioner may determine.

1003 For the purposes of this section, a state-chartered stock corpo-
1004 ration shall mean a trust company, savings bank, or cooperative
1005 bank in stock form chartered by the commonwealth. A federally-
1006 chartered stock corporation shall mean a national banking associa-
1007 tion, federal savings and loan association or federal savings bank
1008 in stock form which has its main office located in the common-
1009 wealth. A stock corporation shall include a stock bank chartered
1010 by a country other than the United States.

1011 Notwithstanding the provisions of this section, any such mutual
1012 bank by vote of the holders of at least two-thirds of each class of
1013 its capital stock, at a meeting duly called for that purpose, pre-
1014 ceded by a notice in writing sent to each stockholder of record and
1015 the commissioner, by registered mail at least sixty days before
1016 said meeting, may consolidate or merge into a federally-chartered
1017 stock corporation in accordance with the laws of the United States
1018 and without the approval of any authority of the commonwealth.

1019 Section 27. (a)(1) Notwithstanding any general or special law
1020 to the contrary, a mutual bank may convert to a stockholder
1021 owned form of corporation pursuant to this section either, as part
1022 of a transaction in which an existing holding company acquires
1023 upon issuance all of the capital stock of the converting mutual
1024 bank; or by merging into an existing stock form bank which is a
1025 wholly-owned subsidiary of an existing holding company.

1026 (2) In both of such transactions, eligible account holders, and
1027 supplemental eligible account holders if applicable, of the con-
1028 verting mutual bank shall receive, without payment, non-transfer-
1029 able rights to purchase the capital stock of the holding company,
1030 in accordance with this section and such regulations as the com-
1031 missioner may prescribe, in lieu of all the capital stock of the con-
1032 verting mutual bank. All the shares of capital stock of the holding
1033 company not purchased in the subscription offering shall be sold
1034 in a public offering through an underwriter or directly by the
1035 holding company in a direct community offering, subject to the
1036 converting mutual bank demonstrating to the commissioner the
1037 feasibility of the method of sale and to such conditions as are pro-
1038 vided in the plan of conversion. Such conditions shall include, but
1039 not be limited to, such conditions as are applicable, under regula-
1040 tions applicable to a mutual bank converting to stock form under
1041 section twenty-six C of the General Laws chapter one hundred and

1042 seventy, to a similar sale in a public offering or direct community
1043 offering of the shares of capital stock of such converting mutual
1044 bank not sold in the subscription offering.

1045 In connection with a conversion under this subsection, no con-
1046 sideration or benefit of any kind whatsoever shall accrue or be
1047 transferred or paid to any eligible account holder or supplemen-
1048 tary eligible account holder by or on behalf of any other party to
1049 the conversion transaction or by or on behalf of any other entity,
1050 except for the subscription rights provided for in this subsection
1051 and such rights with respect to liquidation accounts as may be
1052 provided in regulations applicable to a mutual bank converting to
1053 stock form under said section twenty-six C of the General Laws
1054 chapter one hundred and seventy.

1055 (b)(1) Notwithstanding any general or special law to the con-
1056 trary, a mutual bank may convert to a stockholder owned form of
1057 corporation pursuant to this section by merging with an existing
1058 stock bank, either, as part of the transaction in which the capital
1059 stock of the converting mutual bank is issued, or as part of the
1060 transaction in which the capital stock of an existing stock form
1061 bank is issued.

1062 (2) In both of such transactions, eligible account holders, and
1063 supplemental account holders, if applicable, shall receive, without
1064 payment, non-transferable rights to purchase the capital stock of
1065 the converting mutual bank or the capital stock of the existing
1066 stock form bank, as the case may be, in accordance with this
1067 section and such regulations as the commissioner may prescribe.
1068 All the shares of capital stock of the issuing bank not purchased in
1069 the subscriptions offering shall be sold in a public offering
1070 through an underwriter or directly by the issuing bank in a direct
1071 community offering, subject to the converting mutual bank
1072 demonstrating to the commissioner the feasibility of the method
1073 of sale and to such conditions as are provided in the plan of con-
1074 version. Such conditions shall include, but not be limited to, such
1075 conditions as are applicable, under regulations applicable to a
1076 mutual bank converting to stock form under said section twenty-
1077 six C of the General Laws chapter one hundred and seventy, to a
1078 similar sale in a public offering or direct community offering of
1079 the shares of capital stock of such converting mutual bank not
1080 sold in the subscription offering.

1081 In connection with a conversion under this subsection, no con-
1082 sideration or benefit of any kind whatsoever shall accrue or be
1083 transferred or paid to any eligible account holder or supplemen-
1084 tary eligible account holder by or on behalf of any other party to
1085 the conversion transaction or by or on behalf of any other entity,
1086 except for the subscription rights provided for in this subsection
1087 and such rights with respect to liquidation accounts as may be
1088 provided in regulations applicable to a mutual bank converting to
1089 stock form under said section twenty-six C of the General Laws
1090 chapter one hundred and seventy.

1091 (c) No conversion shall be permitted under this section unless
1092 the following requirements have been fulfilled:

1093 (1) The board of directors of the converting mutual bank has
1094 authorized the conversion and approved the plan of conversion by
1095 an affirmative vote of at least two-thirds of all directors of the
1096 converting mutual bank,

1097 (2) The commissioner has made such findings as are required
1098 for his approval of a plan of conversion in regulations applicable
1099 to a mutual bank converting to stock form under said section
1100 twenty-six C of the General Laws chapter one hundred and
1101 seventy or in regulations issued pursuant to this section,.

1102 (3) The shareholders of the converting mutual bank have
1103 approved the plan of conversion and proposed amendments to the
1104 agreement of association and articles of organization by a vote of
1105 at least two-thirds of all shareholders present and voting at a
1106 special meeting called for the purpose of such vote or at the
1107 annual meeting; and

1108 (4) The total price at which the capital stock shall be sold shall
1109 be based upon an appraisal in accordance with the requirements
1110 applicable to price and sale of securities contained in regulations
1111 applicable to a mutual bank converting to stock form under said
1112 section twenty-six C of the General Laws chapter one hundred and
1113 seventy. In addition to meeting the requirements contained in such
1114 regulations, the appraisal report shall include a conclusion that the
1115 capital proposed to be raised is at least equal to the amount which
1116 could be raised by the converting mutual bank if it sold its own
1117 capital stock independently in a subscription and a direct commu-
1118 nity and underwritten public offering. Such appraisal report shall
1119 further contain data that are sufficient to support such conclusion.

1120 (d) In any conversion pursuant to this section, the stockholders
1121 of the existing stock bank or holding company thereof which is
1122 issuing capital stock as part of such conversion may receive,
1123 without payment, non-transferable rights from such stock bank or
1124 holding company thereof, as applicable, to purchase shares of its
1125 capital stock, to the extent such shares are not purchased by the
1126 eligible account holders and supplemental eligible account holders
1127 of the converting mutual bank in their capacities as such; pro-
1128 vided, however, that no stockholder of the existing stock bank or
1129 holding company thereof which is issuing capital stock as part of
1130 the conversion may purchase any amount of such capital stock
1131 which, when added to the amount of the issuing institution's stock
1132 of the same class previously owned by such stockholder, will
1133 exceed five percent of the total number of shares of such capital
1134 stock which will be outstanding after completion of such conver-
1135 sion.

1136 (e) The terms used herein shall have the same meaning as those
1137 applicable to a mutual bank converting to stock form under said
1138 section twenty-six C of the General Laws chapter one hundred and
1139 seventy and a stock bank shall mean a trust company, savings
1140 bank, cooperative bank, or mutual bank in stock form chartered by
1141 the commonwealth or a national banking association, federal sav-
1142 ings and loan association or federal savings bank in stock form
1143 which has its main office located in the commonwealth, or a bank
1144 chartered by a country other than the United States. Unless clearly
1145 inapplicable or waived by the commissioner, all of the regulations
1146 applicable to a mutual bank converting to stock form under said
1147 section twenty-six C of the General Laws chapter one hundred and
1148 seventy shall apply to a mutual bank converting under this section
1149 and the commissioner shall prescribe from time to time such other
1150 regulations as he deems appropriate. Any regulation, or any
1151 amendment or repeal of such regulations issued under this section
1152 shall be subject to the applicable provisions of section twenty-six
1153 C of the General Laws chapter one hundred and seventy.

1154 Section 28. Any one or more of such corporations and any one
1155 or more credit unions, as defined in section one of chapter one
1156 hundred and seventy-one, may merge or consolidate into a single
1157 mutual bank upon such terms as shall have been approved by a
1158 vote of at least two-thirds of the board of directors of each corpo-

1159 ration and the board of directors of each credit union, and shall
1160 have been approved in writing by the commissioner. The terms of
1161 any such merger or consolidation shall be approved by the share-
1162 holders of each corporation and the shareholders of each credit
1163 union in the manner prescribed herein. A request for such
1164 approval by the commissioner shall be accompanied by an investi-
1165 gation fee, the amount of which shall be determined annually by
1166 the commissioner of administration under the provisions of
1167 section three B of chapter seven, a copy of the terms of any agree-
1168 ment reached by the respective boards of directors, and certified
1169 copies of the votes of such boards. If the commissioner, after such
1170 notice and hearing as he may require, is satisfied that a merger or
1171 consolidation can be effected on terms approved by him and he
1172 finds that such merger or consolidation is in the interests of the
1173 depositors and shareholders of the institutions concerned, such
1174 merger or consolidation may be approved by him subject to his
1175 direction. In making such determinations, the commissioner shall
1176 also determine whether or not competition among banking institu-
1177 tions will be unreasonably affected and whether or not public con-
1178 venience and advantage will be promoted. In making such
1179 determination, the commissioner shall consider, but not be limited
1180 to, a showing of net new benefits. For the purposes of this section,
1181 the term “net new benefits” shall mean initial capital investments,
1182 job creation plans, consumer and business services, commitments
1183 to maintain and open branch offices within the bank’s delineated
1184 community, as such term is used within section fourteen of
1185 chapter one hundred and sixty-seven, and such other matters as
1186 the commissioner may determine.

1187 Before becoming effective, any merger or consolidation autho-
1188 rized by this section, hereinafter sometimes referred to as a “con-
1189 solidation”, shall have been approved by a vote of at least
1190 two-thirds of the shareholders of each corporation, present, quali-
1191 fied to vote, and voting at a meeting specially called to consider
1192 the subject and by a vote of at least two-thirds of the shareholders
1193 of each credit union, present, qualified to vote, and voting at a
1194 meeting specially called for that purpose. Notice for such meet-
1195 ings shall be given in accordance with the relevant provisions of
1196 section nine of this chapter and section eleven of chapter one hun-
1197 dred and seventy-one. A certificate under the hands of the presi-

1198 dents and clerks, or other duly authorized officers of all merging
1199 or consolidating corporations and credit unions setting forth that
1200 each institution, respectively, has complied with the requirements
1201 of this section, shall be submitted to the commissioner who, if he
1202 shall approve such merger or consolidation, shall endorse his
1203 approval upon such certificate and thereupon, such merger or con-
1204 solidation shall become effective. The commissioner shall not
1205 endorse his approval thereon until he has received notice the
1206 insurer and excess deposit insurer for each such credit union that
1207 arrangements satisfactory to each insurer have been made for such
1208 merger or consolidation. Upon the merger or consolidation of any
1209 such institutions, the provisions of subparagraphs 1 to 6, inclu-
1210 sive, of section twenty-four of this chapter shall apply.

1211 The offices and depots of any credit union merged or consoli-
1212 dated under this section may be maintained as branch offices or
1213 depots of the corporation with the written permission of, and
1214 under such conditions, if any, as approved by the commissioner.

1215 Section 29. Any federal savings and loan association or federal
1216 savings bank, or such successor institution chartered under federal
1217 law, may convert to a mutual bank under the provisions of this
1218 chapter, subject to the approval of the commissioner under such
1219 terms and conditions as the commissioner may impose, upon a
1220 vote of fifty-one percent or more votes of members of such federal
1221 savings and loan association or two-thirds of the board of trustees
1222 of such federal savings bank present and voting at an annual
1223 meeting or at any special meeting called to consider such action.
1224 Notice of such meeting to vote on such conversion shall be mailed
1225 at least twenty, and not more than thirty days prior to the date of
1226 such meeting to each member or trustee of record at his last
1227 known address shown on the books of the association or bank.

1228 Section 30. A mutual bank formerly chartered or designated as
1229 a federal savings bank or savings association under federal law
1230 may exercise any authority it was authorized to exercise as a fed-
1231 eral savings bank or savings association under federal law at the
1232 time of its conversion from a federal savings bank or savings
1233 association to a State charter. Except to the extent that such
1234 authority may be exercised by mutual banks not enjoying the
1235 grandfathered rights hereunder, such authority may be exercised
1236 only to the degree authorized under federal law at the time of such

1237 conversion. Unless otherwise determined by the commissioner, a
1238 bank, in the exercise of grandfathered authority, may continue to
1239 follow applicable federal laws and regulations in effect at the time
1240 of such conversion.

1241 A mutual bank, savings bank or co-operative bank that
1242 acquires, or has acquired, a federal savings bank or savings asso-
1243 ciation by merger or consolidation may itself exercise any grand-
1244 fathered rights enjoyed by the disappearing institution, whether
1245 such rights were obtained directly through conversion or through
1246 merger or consolidation. The extent of the grandfathered rights of
1247 a federal savings association that disappeared prior to the effective
1248 date of this section shall be determined exclusively pursuant to
1249 this section.

1250 This section shall not be construed to prevent the exercise by a
1251 mutual bank enjoying grandfathered rights hereunder of authority
1252 that is available under the applicable federal law only upon the
1253 occurrence of specific preconditions, such as the attainment of a
1254 particular future date or specified level of regulatory capital,
1255 which have not occurred at the time of conversion from a federal
1256 savings bank or federal savings association, provided they occur
1257 thereafter.

1258 This section shall not be construed to permit the exercise of any
1259 particular authority on a more liberal basis than is allowable under
1260 the most liberal construction of either state or federal law or regu-
1261 lation.

1262 Section 31. Subject to the written approval of the commis-
1263 sioner, any mutual bank may be dissolved and liquidate its affairs
1264 if authorized by a vote passed, at a meeting specially called to
1265 consider the subject, by at least two-thirds of the shareholders in a
1266 mutual bank. A committee of three shareholders shall thereupon
1267 be elected and, under such regulations as may be prescribed by the
1268 commissioner, shall liquidate the assets, and after satisfying all
1269 debts of the corporation shall distribute the remaining proceeds
1270 among those entitled thereto in proportion to their respective
1271 interests therein.

1272 Section 32. No savings bank or co-operative bank chartered in
1273 the commonwealth may convert to a mutual bank charter under
1274 the provisions of this chapter, except in supervisory circumstances
1275 at the discretion of the commissioner.

1 SECTION 23. Subsection A of section 36 of chapter 172 of the
2 General Laws, as so appearing, is hereby amended by adding the
3 following clause:—

4 (5) Any federal savings and loan association or federal savings
5 bank in stock form having an unimpaired capital stock sufficient
6 in value or amount to satisfy the provisions of section four may,
7 upon approval by the commissioner, be converted into a trust
8 company and shall not, in connection with or upon such conver-
9 sion, be subject to the requirements of this chapter with respect to
10 the organization and commencement of business of trust compa-
11 nies; provided, however, that such conversion shall not be in con-
12 travention of the laws of the United States.