

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

David M. Nangle

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to banks and banking.

PETITION OF:

NAME:

David M. Nangle

DISTRICT/ADDRESS:

17th Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO BANKS AND BANKING.

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

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

Section 34. Any two or more such corporations may merge or consolidate into a single corporation on such terms as shall have been approved in writing by the commissioner. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration. If the commissioner is satisfied that a merger or consolidation of a savings bank proposing liquidation, as provided in section thirty-three, can be effected, upon terms approved by him, with another savings bank and if he finds that such merger or consolidation is in the interests of the depositors of the savings banks concerned, such merger or consolidation may be effected on such terms and subject to the direction of the commissioner. In making a finding that such merger or consolidation is in the interests of the depositors, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. If the consolidating corporations have main offices in different counties, the main office of the continuing corporation shall be the main office of that consolidating corporation which has the greater total assets on the date on which the merger or consolidation is approved by the board of the last consolidating corporation so to approve; provided, however, that upon a determination by the commissioner that such consolidation is not for the purpose of circumventing any geographic restrictions on the

establishment of branch offices, he may allow the main office of the consolidating corporation which has the lesser total assets on such date to be the main office of the continuing corporation. Before becoming effective, any such merger or consolidation, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each of the consolidating corporations at special meetings called to consider the subject. Notice of each such meeting shall be given by the clerk in accordance with the provisions of section nine A. A certificate under the hands of the presidents and clerks or other duly authorized officers of the consolidating corporation, respectively, stating that all requirements of this section have been complied with shall be submitted to the commissioner who, if he shall approve such consolidation, shall endorse his approval upon such certificate.

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

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

- (1) the post office address of the initial principal office of the resulting or surviving corporation in the commonwealth;
- (2) the name, residence and post office address of each of the initial trustees or directors and the president, treasurer and clerk of the resulting or surviving corporation;
- (3) the fiscal year of the resulting or surviving corporation initially adopted;
- (4) the date initially fixed in the by-laws for the annual meeting of the shareholders or members of the resulting or surviving corporation.

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

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

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

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

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

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

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

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

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

Section 34A. Any one or more such corporations and any one or more cooperative banks, as defined in section one of chapter one hundred and seventy, may merge or consolidate into a single savings bank or into a single cooperative bank, upon such terms as shall have been approved by a vote of at least two-thirds of the boards of trustees of each corporation and of the board of directors of each cooperative bank, and as shall have been approved in writing by the commissioner. The terms of any such merger or consolidation shall be approved by the corporators of each corporation and shareholders of each cooperative bank in the manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an investigation fee, the amount of which shall be determined annually by the commissioner of administration, a copy of the terms of any agreement reached by the respective boards of trustees and directors, and certified copies of the vote of such boards. If the commissioner, after such notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on terms approved by him and he finds that such a merger or consolidation is in the interests of the depositors and shareholders of the institutions concerned, such merger or consolidation may be approved by him subject to his direction. In making a finding that such merger or consolidation is in the interests of the depositors and shareholders, the commissioner shall also determine whether or not competition among banking institutions will be unreasonably affected and whether or not public convenience and advantage will be promoted. In making such determination, the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital investments, job creation plans, consumer and business services, commitments to maintain and open branch offices within a bank's delineated community, as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine. Before becoming effective, any merger or consolidation authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the corporators of each corporation at meetings specially called to consider the subject, and approved by a vote of at least two-thirds of the shareholders of each cooperative bank present, qualified to vote, and voting at meetings of each cooperative bank specially called for that purpose. Notice for such meetings shall be given in accordance with the provisions of

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

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

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

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

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

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

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

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

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

of whatever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest or asset of conceivable value or benefit then existing which would inure to it under an unconsolidated existence, shall be deemed fully and finally, and without any right of reversion, transferred to or vested in the continuing institution, without further act or deed, and such continuing institution shall have and hold the same in its own right as fully as if the same was possessed and held by the discontinuing institution from which it was, by operation of the provisions hereof, transferred, and other provisions of law relative to limitations on the number of directors, corporators or trustees and on the investment of funds of such institutions shall not apply. Notwithstanding the foregoing or any other provision of law, upon any such merger or consolidation pursuant to this section by any such corporation into a cooperative bank, such corporation, hereinafter referred to as a former member bank, shall cease to be a member bank of the Depositors Insurance Fund, and such cooperative bank shall not succeed to or acquire any rights, including but not limited to rights to dividends or to the proceeds of any distribution in complete or partial dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit Insurance Fund.

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

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

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

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

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

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

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

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

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6 Section 34B. Any one or more such corporations and any one or more thrift institutions may merge or
7 consolidate into a single savings bank or into a single thrift institution, upon such terms as shall have
8 been approved by a vote of at least two-thirds of the board of trustees of each corporation and by the
9 board of each thrift institution, and as shall have been approved in writing by the commissioner. The
10 terms of any such merger or consolidation shall be approved by the corporators of each corporation and
11 by each thrift institution in the manner prescribed herein. A request for such approval by the
12 commissioner shall be accompanied by an investigation fee the amount of which shall be determined
13 annually by the commissioner of administration under the provisions of section three B of chapter
14 seven, a copy of the terms of any agreement reached by the respective boards of trustees and directors,
15 and certified copies of the votes of such boards. If the commissioner, after such notice and hearings as
16 he may require, is satisfied that a merger or consolidation can be effected on terms approved by him
17 and he finds that such a merger or consolidation is in the interests of the depositors and shareholders of
18 the institutions concerned, such merger or consolidation may be approved by him subject to his
19 direction. Before becoming effective, any merger or consolidation authorized by this section, hereinafter
20 referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of the
21 corporators of each corporation at meetings specially called to consider the subject, and approved by a
22 vote of each such thrift institution as required by any applicable law or regulation governing such
23 institution.

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

32 Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due
33 adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations
34 and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or
35 merger determined pursuant to the agreement of consolidation or merger; and, (iii) any amendment to
36 the articles of organization of the surviving corporation to be effected pursuant to the agreement of

37 merger. Such articles of consolidation or merger shall be signed by the president or a vice president and
38 the clerk or an assistant clerk of each corporation, who shall state under the penalties of perjury that the
39 agreement of consolidation or merger has been duly executed on behalf of such corporation and has
40 been approved as required.

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

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

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

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

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

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

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

67 2. A discontinuing institution's rights, obligations and relations to any shareholder, or depositor,
68 creditor, trustee or beneficiary of any trust, or other person, as of the effective date of the
69 consolidation, shall remain unimpaired, and the continuing institution shall, by the consolidation,
70 succeed to all such relations, obligations and liabilities, as though it had itself assumed the relation or

71 incurred the obligation or liability; and its liabilities and obligations to creditors existing for any cause
72 whatsoever shall not be impaired by the consolidation; nor shall any obligation or liability of any
73 shareholder or depositor in any such institution, continuing or discontinuing, which is party to the
74 consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully
75 and to the same extent as the same existed before the consolidation, and the provisions relative to the
76 limitations on shares and deposits, shall not apply.

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

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

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

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

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

104 If the consolidating corporations have main offices in different states or counties, the main office of the
105 continuing corporation shall be the main office of that consolidating corporation which has the greater
106 total assets on the date on which the merger or consolidation is approved by the board of the last

107 consolidating corporation so to approve; provided, however, that upon a determination by the
108 commissioner that such consolidation is not for the purpose of circumventing any geographic
109 restrictions on the establishment of branch offices, he may allow the main office of the consolidating
110 corporation which has the lesser total assets on such date to be the main office of the continuing
111 corporation.

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

118 In making a finding that such merger or consolidation is in the interests of depositors and shareholders,
119 the commissioner shall also determine whether or not competition among banking institutions will be
120 unreasonably affected and whether or not public convenience and advantage will be promoted. In
121 making such determination, the commissioner shall consider, but not be limited to, a showing of net
122 new benefits. For the purpose of this section, the term "net new benefits" shall mean initial capital
123 investments, job creation plans, consumer and business services, commitments to maintain and open
124 branch offices within a bank's delineated local community, as such term is used within section fourteen
125 of chapter one hundred and sixty-seven, and such other matters as the commissioner may determine.

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

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

135 Upon a merger or consolidation pursuant to this section by any such corporation into a single thrift
136 institution, such corporation, hereinafter referred to as a former member bank, shall cease to be a
137 member of the Depositors Insurance Fund. Notwithstanding the foregoing or any other provision of law,
138 upon any such merger or consolidation, such thrift institution shall not succeed to or acquire any rights,
139 including but not limited to rights to dividends or to the proceeds of any distribution in complete or
140 partial dissolution or liquidation, in the Depositors Insurance Fund, or in its Liquidity Fund or Deposit
141 Insurance Fund.

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

145

146 Section 34D. Any one or more such stock corporations may, upon compliance with the provisions of part
147 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and
148 subject as to any such corporation to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of
149 chapter one hundred and fifty-six D as modified for the purposes of this section by the provisions
150 hereof, consolidate or merge into any single state or federally-chartered stock corporation. A request for
151 approval by the commissioner of such a consolidation or merger shall be accompanied by an
152 investigation fee, the amount of which shall be determined annually by the commissioner of
153 administration under the provision of section three B of chapter seven. A certificate under the hands of
154 the presidents and clerks or other duly authorized officers of all merging or consolidating corporations
155 setting forth that each corporation, respectively, has complied with the requirements of this section
156 shall be submitted to the commissioner. No such transaction under this section shall be consummated
157 until arrangements satisfactory to any excess deposit insurer of each bank have been made and notice
158 thereof has been received by the commissioner. The offices and depots of any such corporation merged
159 or consolidated under this section may be maintained as branch offices or depots, respectively, of the
160 continuing institution with the written permission of and under such conditions, if any, as may be
161 approved by the commissioner.

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

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

176 For the purposes of this section, the value of the stock of stockholders of a state-chartered stock
177 corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-
178 six D, objected to any action authorized herein shall be ascertained in the manner provided in sections
179 13.01 and 13.03 to 13.31, inclusive, of chapter one hundred and fifty-six D.

180 The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and
181 mergers of state-chartered stock corporations authorized under this section provided that, for this
182 purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to
183 be the chapter of the General Laws governing such stock corporation, and references in said section
184 11.07 to articles of organization shall be deemed to be to the articles of organization, including any
185 special act of incorporation, as from time to time amended.

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

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

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

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

212

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

216 Section 34F. Any one or more of such corporations and any one or more credit unions, as defined in
217 section one of chapter one hundred and seventy-one, may merge or consolidate into a single savings
218 bank upon such terms as shall have been approved by a vote of at least two-thirds of the board of
219 trustees of each corporation and the board of directors of each credit union, and shall have been
220 approved in writing by the commissioner. The terms of any such merger or consolidation shall be
221 approved by the corporators of each corporation and the shareholders of each credit union in the
222 manner prescribed herein. A request for such approval by the commissioner shall be accompanied by an
223 investigation fee, the amount of which shall be determined annually by the commissioner of
224 administration under the provisions of section three B of chapter seven, a copy of the terms of any
225 agreement reached by the respective boards of trustees or directors, and certified copies of the votes of
226 such boards. If the commissioner, after such notice and hearing as he may require, is satisfied that a
227 merger or consolidation can be effected on terms approved by him and he finds that such merger or
228 consolidation is in the interests of the depositors and shareholders of the institutions concerned, such
229 merger or consolidation may be approved by him subject to his direction. In making a finding that any
230 such merger or consolidation is in the interests of depositors and shareholders, the commissioner shall
231 also determine whether or not competition among banking institutions will be unreasonably affected
232 and whether or not public convenience and advantage will be promoted. In making such determination,
233 the commissioner shall consider, but not be limited to, a showing of net new benefits. For the purposes
234 of this section, the term "net new benefits" shall mean initial capital investments, job creation plans,
235 consumer and business services, commitments to maintain and open branch offices within the bank's
236 delineated community, as such term is used within section fourteen of chapter one hundred and sixty-
237 seven, and such other matters as the commissioner may determine.

238 Before becoming effective, any merger or consolidation authorized by this section, hereinafter
239 sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of
240 the corporators of each corporation present, qualified to vote and voting at a meeting specially called to
241 consider the subject and approved by a vote of at least two-thirds of the shareholders of each credit
242 union present, qualified to vote, and voting at a meeting specially called for that purpose. Notice for
243 such meetings shall be given in accordance with the relevant provisions of section nine A of this chapter
244 and section eleven of chapter one hundred and seventy-one. A certificate under the hands of the
245 presidents and clerks or other duly authorized officers of all merging or consolidating corporations and
246 credit unions setting forth that each institution, respectively, has complied with the requirements of this
247 section shall be submitted to the commissioner who, if he shall approve such consolidation, shall
248 endorse his approval upon such certificate. No such transaction under this section shall be
249 consummated until arrangements satisfactory to any excess deposit insurer of each such bank have
250 been made and notice thereof has been received by the commissioner.

251 Articles of consolidation or merger shall be filed with the state secretary which shall set forth the due
252 adoption of an agreement of consolidation or merger and shall state: (i) the names of the corporations
253 and the name of the resulting or surviving corporation; (ii) the effective date of the consolidation or

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

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

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

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

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

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

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

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

279

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

282

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

286 two-thirds of the board of directors of each corporation and of the board of trustees of each savings
287 bank, and as shall have been approved in writing by the commissioner. The terms of any such merger or
288 consolidation shall be approved by the shareholders of each corporation and corporators of each
289 savings bank in the manner prescribed herein. A request for such approval by the commissioner shall be
290 accompanied by an investigation fee the amount of which shall be determined annually by the
291 commissioner of administration, a copy of the terms of any agreement reached by the respective boards
292 of directors and trustees, and certified copies of the votes of such boards. If the commissioner, after
293 such notice and hearing as he may require, is satisfied that a merger or consolidation can be effected on
294 terms approved by him and he finds that such merger or consolidation is in the interests of the
295 shareholders and depositors of the institutions concerned, such merger or consolidation may be
296 approved by him subject to his direction. In making a finding that any such merger or consolidation is in
297 the interests of depositors and shareholders, the commissioner shall also determine whether or not
298 competition among banking institutions will be unreasonably affected and whether or not public
299 convenience and advantage will be promoted. In making such determination, the commissioner shall
300 consider, but not be limited to, a showing of net new benefits. For the purpose of this section, the term
301 "net new benefits" shall mean initial capital investments, job creation plans, consumer and business
302 services, commitments to maintain and open branch offices within a bank's delineated local community,
303 as such term is used within section fourteen of chapter one hundred and sixty-seven, and such other
304 matters as the commissioner may determine. Before becoming effective, any merger or consolidation
305 authorized by this section, hereinafter sometimes referred to as a "consolidation", shall have been
306 approved by a vote of at least two-thirds of the shareholders of each corporation present, qualified to
307 vote and voting at meetings specially called to consider the subject, and approved by a vote of at least
308 two-thirds of the corporators of each savings bank voting at meetings of each savings bank specially
309 called for that purpose. Notice for such meetings shall be given in accordance with the relevant
310 provisions of section twenty-four of this chapter and section nine A of chapter one hundred and sixty-
311 eight.

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

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

325 agreement of consolidation or merger has been duly executed on behalf of such corporation and has
326 been approved as required.

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

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

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

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

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

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

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

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

359 shareholder or depositor in any such institution, continuing or discontinuing, which is party to the
360 consolidation, be affected by any consolidation, but such obligations and liabilities shall continue as fully
361 and to the same extent as the same existed before the consolidation and the provisions relative to the
362 limitations on shares and deposits, shall not apply.

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

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

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

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

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

391 If the consolidating corporations have main offices in different counties, the main office of the
392 continuing corporation shall be the main office of that consolidating corporation which has the greater
393 total assets on the date on which the merger or consolidation is approved by the board of the last
394 consolidating corporation so to approve; provided, however, that upon a determination by the

395 commissioner that such consolidation is not for the purpose of circumventing any geographic
396 restrictions on the establishment of branch offices, he may allow the main office of the consolidating
397 corporation which has the lesser total assets on such date to be the main office of the continuing
398 corporation.

399

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

402

403 Section 26B. Any one or more such corporations and any one or more thrift institutions may merge or
404 consolidate into a single co-operative bank or into a single thrift institution, upon such terms as shall
405 have been approved by a vote of at least two-thirds of the board of directors of each corporation and of
406 the board of directors of each thrift institution, and as shall have been approved in writing by the
407 commissioner. The terms of any such merger or consolidation shall be approved by the shareholders of
408 each corporation and by each thrift institution in the manner prescribed herein. A request for such
409 approval by the commissioner shall be accompanied by an investigation fee the amount of which shall
410 be determined annually by the commissioner of administration under the provision of section three B of
411 chapter seven, a copy of the terms of any agreement reached by the respective boards of directors, and
412 certified copies of the votes of such boards. If the commissioner, after such notice and hearings as he
413 may require, is satisfied that a merger or consolidation can be effected on terms approved by him and
414 he finds that such a merger or consolidation is in the interests of the shareholders and depositors of the
415 institutions concerned, such merger or consolidation may be approved by him subject to his direction.
416 Before becoming effective, any merger or consolidation authorized by this section, hereinafter
417 sometimes referred to as a "consolidation", shall have been approved by a vote of at least two-thirds of
418 the shareholders of each corporation present, qualified to vote and voting at meetings specially called to
419 consider the subject, and approved by a vote of each thrift institution as required by any applicable law
420 or organization governing such institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

498 The offices and depots of any co-operative bank and the offices of any thrift institution merged or
499 consolidated under this section, may be maintained as branch offices or depots, respectively, of the

500 continuing institution with the written permission of, and under such conditions, if any, as may be
501 approved by the commissioner.

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

510 In making a finding that any such merger or consolidation is in the interests of depositors and
511 shareholders, the commissioner shall also determine whether or not competition among banking
512 institutions will be unreasonably affected and whether or not public convenience and advantage will be
513 promoted. In making such determination, the commissioner shall consider, but not be limited to, a
514 showing of net new benefits. For the purpose of this section, the term "net new benefits" shall mean
515 initial capital investments, job creation plans, consumer and business services, commitments to
516 maintain and open branch offices within a bank's delineated local community, as such term is used
517 within section fourteen of chapter one hundred and sixty-seven, and such other matters as the
518 commissioner may determine.

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

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

528

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

531

532 Section 26D. Any one or more such stock corporations may, upon compliance with the provisions of part
533 11 of chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and

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

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

556 For the purposes of this section, the value of the stock of stockholders of a state-chartered stock
557 corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-
558 six D, objected to any action authorized herein shall be ascertained in the manner provided in sections
559 13.01 and 13.03 to 13.31, inclusive, of said chapter one hundred and fifty-six D.

560 The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and
561 mergers of state-chartered stock corporations authorized under this section provided that, for this
562 purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to
563 be to the chapter of the General Laws governing such stock corporation, and references in said section
564 11.07 to articles of organization shall be deemed to be to the articles of organization, including any
565 special act of incorporation, as from time to time amended.

566 In deciding whether or not to approve any such consolidation or merger, the commissioner shall
567 determine whether or not competition among banking institutions will be unreasonably affected and
568 whether or not public convenience and advantage will be promoted. In making such determination, the
569 commissioner shall consider, but not be limited to, a showing of net new benefits. For the purpose of
570 this section, the term "net new benefits" shall mean initial capital investments, job creation plans,
571 consumer and business services, commitments to maintain and open branch offices within a bank's

572 delineated local community, as such term is used within section fourteen of chapter one hundred and
573 sixty-seven, and such other matters as the commissioner may determine.

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

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

585

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

588

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

598

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

601

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

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

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

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

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

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

638 F. *Rights and Options.* — The terms and conditions of any rights or options issued by any such
639 corporation, including those outstanding on the effective date of this section, may include, without

640 limitation, restrictions or conditions that preclude or limit the exercise, transfer, receipt or holding of
641 such rights or options by any person or persons owning or offering to acquire a specified number or
642 percentage of the outstanding stock or other securities of the corporation, or any transferees of any
643 such persons, or that preclude or limit such actions based on such other factors, including the nature or
644 identity of such persons, as the directors determine to be reasonable and in the best interests of the
645 corporation. Nothing contained in this section shall affect the duties or standard of care of a director.
646 The issuance of any shares of the capital stock of the corporation upon the exercise of any such options
647 or rights shall require the prior approval of the commissioner and shall be subject to such conditions as
648 the commissioner may impose.

649

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

652

653 Section 26B. A company having capital stock divided into shares which desires to acquire all the capital
654 stock of any such corporation shall, together with such corporation, submit, in duplicate, to the
655 commissioner a written plan of acquisition of such stock. Such plan shall be in form satisfactory to the
656 commissioner, shall specify the corporation the stock of which is to be acquired by the company shall
657 prescribe the terms and conditions of the acquisition and the mode of carrying it into effect, including
658 the manner of exchanging the shares of the corporation for shares or other securities of the company.
659 Any such plan may provide for the payment of cash in lieu of the issuance of fractional shares of the
660 company. At the time of submitting said written plan of acquisition, an investigation fee, the amount of
661 which shall be determined annually by the commissioner of administration under the provisions of
662 section three B of chapter seven, shall be paid to the commissioner of banks by the company.

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

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

680 If the commissioner finds that competition among banking institutions will not be unreasonably affected
681 and that public convenience and advantage will be promoted he shall approve such plan of acquisition,
682 and shall endorse his approval thereon and a copy of the plan bearing such endorsement shall be filed
683 within thirty days thereafter in the office of the commissioner. Upon such filing, the plan, and the
684 acquisition provided for therein, shall become effective, unless a later date is specified in the plan, in
685 which event the plan and such acquisition shall become effective upon such later date.

686 A stockholder of any such corporation which shall have approved such plan of acquisition, who objects
687 to such action, in the manner provided in sections 13.21 and 13.23 of chapter one hundred and fifty-six
688 D, shall be entitled, if such plan shall have become effective, to demand payment for his stock from such
689 corporation and an appraisal thereof in accordance with the provisions of sections 13.01 and 13.03 to
690 13.31, inclusive, of chapter one hundred and fifty-six D, which provisions, as modified for the purposes
691 of this paragraph by the provisions hereof, are hereby made applicable in all such cases, and such
692 stockholder and such corporation shall have the rights and duties and follow the procedure set forth in
693 said sections.

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

700 Any such company shall engage directly or indirectly only in such activities as are now or may hereafter
701 be proper activities for bank holding companies registered under the Federal Bank Holding Company Act
702 of 1956, including, without limiting the generality of the foregoing, the issuance and sale of commercial
703 paper and acquiring, managing or controlling corporations organized under or subject to the provisions
704 of chapter one hundred and sixty-eight, one hundred and seventy or one hundred and seventy-two.

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

710

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

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

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

723 (2) any trust company or banking company may, subject to the provisions of sections 12.02 and
724 13.02(a)(3) of chapter one hundred and fifty-six D as modified for the purpose of this section by the
725 provisions hereof, or any such national banking association may sell or exchange all or substantially all of
726 its property and assets to or with any trust company, and any trust company may purchase all or
727 substantially all of the assets of any trust company or any banking company of any such national banking
728 association. A request for approval by the commissioner pursuant to this clause shall be accompanied by
729 an investigation fee, the amount of which shall be determined annually by the commissioner of
730 administration under the provision of section three B of chapter seven.

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

740 (4) any one or more such trust companies may, upon compliance with the provisions of part 11 of
741 chapter one hundred and fifty-six D, which are hereby made applicable in all such cases and subject as
742 to any such trust company to the provisions of sections 13.01 and 13.03 to 13.31, inclusive, of chapter
743 one hundred and fifty-six D as modified for the purposes of this section by the provisions hereof,
744 consolidate or merge into any single state or federally-chartered stock corporation. A request for
745 approval by the commissioner of such a consolidation or merger shall be accompanied by an
746 investigation fee, the amount of which shall be determined annually by the commissioner of
747 administration under the provision of section three B of chapter seven. A certificate under the hands of

748 the presidents and clerks or other duly authorized officers of all merging or consolidating corporations
749 setting forth that each corporation, respectively, has complied with the requirements of this section
750 shall be submitted to the commissioner. No such transaction under this section shall be consummated
751 until arrangements satisfactory to any excess deposit insurer of each such bank have been made and
752 notice thereof has been received by the commissioner. The offices and depots of any such corporation
753 merged or consolidated under this section may be maintained as branch offices or depots, respectively,
754 of the continuing institution with the written permission of and under such conditions, if any, as may be
755 approved by the commissioner.

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

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

769 For the purposes of this section, the value of the stock of stockholders of a state-chartered stock
770 corporation who have, as provided in section 13.21 and section 13.23 of chapter one hundred and fifty-
771 six D, objected to any action authorized herein shall be ascertained in the manner provided in sections
772 13.01 and 13.03 to 13.31, inclusive, of said chapter one hundred and fifty-six D.

773 The provisions of section 11.07 of chapter one hundred and fifty-six D shall apply to consolidations and
774 mergers of state-chartered stock corporations authorized under this section provided that, for this
775 purpose, references in said section 11.07 to said chapter one hundred and fifty-six D shall be deemed to
776 be to the chapter of the General Laws governing such stock corporation, and references in said section
777 11.07 to articles of organization shall be deemed to be to the articles of organization, including any
778 special act of incorporation, as from time to time amended.

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

781 In deciding whether or not to approve any such consolidation or merger under this subsection, the
782 commissioner shall determine whether or not competition among banking institutions will be
783 unreasonably affected and whether or not public convenience and advantage will be promoted. In

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

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

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

799 C. For the purposes of either clause (1) or clause (2) of subsection A hereof, the value of the stock of
800 stockholders of a trust company or banking company who have, as provided in section 13.21 and section
801 13.23 of chapter one hundred and fifty-six D, objected to any action authorized by either of such clauses
802 shall be ascertained in the manner provided in sections 13.01 and 13.03 to 13.31, inclusive, of said
803 chapter one hundred and fifty-six D.

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

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

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