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SENATE BILL 13-154

BY SENATOR(S) Jahn;
also REPRESENTATIVE(S) Williams, Hulinghorst, Rosenthal, Ryden,
Schafer.

CONCERNING CONTINUATION OF THE DIVISION OF BANKING, AND, IN
CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS
OF THE 2012 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY
AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 11-102-101, **amend** (3)
(b) as follows:

**11-102-101. Division of banking - creation - subject to
termination - repeal of article.** (3) (b) This article is repealed, effective
~~July 1, 2013~~ SEPTEMBER 1, 2024.

SECTION 2. In Colorado Revised Statutes, 11-102-103, **amend**
(13) as follows:

11-102-103. Banking board - repeal. (13) This section is repealed,
effective ~~July 1, 2013~~ SEPTEMBER 1, 2024.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 3. In Colorado Revised Statutes, 24-34-104, **amend** (44) introductory portion; **repeal** (44) (i); and **add** (55) as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (44) The following agencies, functions, or both, ~~shall~~ terminate on July 1, 2013:

(i) ~~The division of banking, created by article 102 of title 11, C.R.S.;~~

(55) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, TERMINATE ON SEPTEMBER 1, 2024:

(c) THE DIVISION OF BANKING AND THE BANKING BOARD CREATED BY ARTICLE 102 OF TITLE 11, C.R.S.

SECTION 4. In Colorado Revised Statutes, **repeal** article 108 of title 11.

SECTION 5. In Colorado Revised Statutes, **repeal** part 10 of article 109 of title 11.

SECTION 6. In Colorado Revised Statutes, **amend** 11-101-201 as follows:

11-101-201. Effect on existing banks. The charters of the state banks organized and existing prior to July 1, ~~2003~~ 2013, under the laws of this state ~~shall~~ continue in full force and effect. All such state banks, and, to the extent applicable, all BANKS CHARTERED UNDER THE LAWS OF ANOTHER STATE AND ALL national banks doing business in this state on or after July 1, ~~2003~~, ~~shall~~ 2013, ARE, from that date, ~~be~~ subject to ~~the provisions of~~ this article. Any such state bank, by filing an application under this code for an amendment of its charter or for a merger, consolidation, PURCHASE AND ASSUMPTION, or sale of all, or substantially all, of its assets, or the assets of any department of such bank, shall be deemed to have expressly recognized that it is so subject.

SECTION 7. In Colorado Revised Statutes, **amend** 11-103-701 as follows:

11-103-701. Merger or conversion. (1) Upon approval of the banking board, banks may be merged with, or converted into, a resulting state bank as prescribed in this article; except that the action by a constituent national bank shall be taken in the manner prescribed by, and ~~shall be~~ IS subject to, any limitation or requirements imposed by any law of the United States, which law ~~shall~~ also ~~govern~~ GOVERNS the rights of its dissenting shareholders. FURTHER, THE ACTION BY A CONSTITUENT BANK CHARTERED IN ANOTHER STATE SHALL BE TAKEN IN THE MANNER PRESCRIBED BY, AND IS SUBJECT TO, ANY LIMITATION OR REQUIREMENTS IMPOSED BY ANY LAW OF THE CHARTERING STATE, WHICH LAW ALSO GOVERNS THE RIGHTS OF ITS DISSENTING SHAREHOLDERS.

(2) Nothing in the law of this state ~~shall restrict~~ RESTRICTS the right of a state bank to merge with, or convert into, a resulting national bank OR BANK CHARTERED BY ANOTHER STATE. The action to be taken by a constituent state bank and its rights and liabilities and those of its shareholders ~~shall be~~ ARE the same as those prescribed for national banks at the time of the action by the applicable laws of the United States OR THE OTHER CHARTERING STATE and not by the law of this state.

SECTION 8. In Colorado Revised Statutes, 11-103-703, **amend** (1) and (3) (a) as follows:

11-103-703. Approval by banking board. (1) After approval by the board of directors of each constituent bank, the merger agreement shall be submitted to the banking board for approval, together with certified copies of the authorizing resolutions of the several boards of directors showing approval by a majority of the entire board and evidence of proper action by the board of directors of any constituent national bank OR BANK CHARTERED BY ANOTHER STATE.

(3) Within thirty days after receipt by the banking board of the papers specified in subsection (1) of this section, the banking board shall approve or disapprove the merger agreement. The banking board shall approve the agreement if it appears that:

(a) The resulting state bank meets all the requirements of state law as to the formation of a new state bank OR CONVERSION OF AN EXISTING BANK;

SECTION 9. In Colorado Revised Statutes, 11-103-709, **amend** (1) and (2) as follows:

11-103-709. Sale of all assets of bank, branch, or department.

(1) Any state bank may sell to any other bank all, or substantially all, of the selling bank assets and business, or all, or substantially all, of the assets and business of any department OR BRANCH of the selling bank.

(2) Any state bank may, upon assuming the liabilities relating thereto, purchase all, or substantially all, of the assets and business of another bank, or all, or substantially all, of the assets and business of any department OR BRANCH of another bank.

SECTION 10. In Colorado Revised Statutes, 11-104-201, **amend** (2) as follows:

11-104-201. Legislative declaration. (2) In order to comply with the considerations set forth in subsection (1) of this section with respect to interstate branch banking, the general assembly finds ~~that it is in the best interests of the citizens of this state to declare that interstate branching in Colorado is prohibited prior to June 1997. The general assembly further finds and declares that de novo interstate branching in~~ INTO OR OUT OF this state is expressly ~~prohibited~~ AUTHORIZED ON OR AFTER JULY 1, 2013, and that interstate branching through the acquisition of ~~a branch~~ ONE OR MORE BRANCHES of an insured financial institution ~~without the acquisition of such financial institution that has been in operation for at least five years at the time of acquisition~~ IN THIS STATE OR ANOTHER STATE is expressly ~~prohibited~~ AUTHORIZED ON OR AFTER JULY 1, 2013.

SECTION 11. In Colorado Revised Statutes, 11-104-202, **amend** (2), (3), (6), (9), and (10) as follows:

11-104-202. Acquisition of control of bank holding companies and banks by bank holding companies in different states - interstate banking and branching - rules. (2) An out-of-state bank holding company may, ~~not~~ AFTER JULY 1, 2013, acquire control of, MERGE WITH, or acquire all or substantially all of the assets of, a Colorado depository institution having its principal place of business in Colorado. ~~unless such depository institution has been in operation for at least five years at the time of the acquisition of control.~~ An out-of-state bank holding company acquiring

control of a Colorado bank holding company ~~industrial bank holding company~~, or thrift holding company may, AFTER JULY 1, 2013, acquire control of OR MERGE WITH any Colorado depository institution ~~having its principal place of business in Colorado~~ controlled by the Colorado bank holding company ~~industrial bank holding company~~, or thrift holding company. ~~even though such depository institution has been in operation for less than five years.~~

(3) A ~~Colorado~~ bank holding company may acquire control of any Colorado bank by organizing or seeking to charter A de novo a Colorado bank.

(6) Interstate branching through the acquisition of a branch of an insured financial institution without the acquisition of such financial institution is expressly ~~prohibited~~ AUTHORIZED. De novo interstate branching is expressly ~~prohibited~~ AUTHORIZED. Deposit production offices are expressly prohibited.

(9) Concurrently with the filing of its application or notice with the appropriate federal OR STATE regulatory agency concerning the acquisition, MERGER, or control of a Colorado financial institution, or concerning an interstate branch, a bank or bank holding company shall file a copy of ~~said~~ THE application or notice with the banking board, which may submit advisory comments to the APPROPRIATE federal OR STATE regulatory agency.

(10) ~~No~~ A bank or bank holding company ~~may~~ SHALL NOT conduct interstate branching in Colorado, ~~or MERGE WITH, OR~~ acquire control, directly or indirectly, of any Colorado financial institution without first obtaining a certificate from the banking board certifying that such branch, MERGER, or acquisition complies with the provisions of this article ~~Such certificate shall accompany any advisory comments submitted by the banking board to the appropriate federal regulatory agency pursuant to subsection (9) of this section. If the banking board refuses to issue a certificate pursuant to this subsection (10), such refusal and the reasons therefor shall be submitted pursuant to subsection (9) of this section to the appropriate federal regulatory agency with advisory comments. The banking board shall act on any application or notice filed pursuant to subsection (9) of this section and shall issue or refuse to issue the certificate required by this subsection (10) within ninety days after the filing of any such application~~ AND THE "PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 10.5 OF

THIS TITLE.

SECTION 12. In Colorado Revised Statutes, 11-105-101, **amend** (1) as follows:

11-105-101. Branch banks and practices prohibited. (1) Any STATE bank OR STATE BANK CHARTERED IN ANOTHER JURISDICTION, upon application to and approval by the banking board, may operate one or more loan production offices as defined by the banking board.

SECTION 13. In Colorado Revised Statutes, **amend** 11-105-403 as follows:

11-105-403. Sale of assets. A ~~state~~ bank CHARTERED IN THIS OR ANOTHER STATE may sell any asset in the ordinary course of business or, with the approval of the banking board, in any other circumstance. The sale of all, or substantially all, of the assets of a bank or of a department thereof ~~shall be~~ IS governed by section 11-103-709.

SECTION 14. In Colorado Revised Statutes, 11-103-809, **amend** (2) (a) as follows:

11-103-809. Emergency grant of branch facility - legislative declaration. (2) (a) In addition to powers regarding liquidation or reorganization, the banking board, in the interest of protecting the public and the depositors of a closed bank or national banking association with its principal place of business in this state, may issue an emergency grant of authority to another financial institution, ~~which financial institution has its principal place of business in this state and~~ which financial institution has acquired assets and liabilities of the closed bank, to operate a branch facility at the same location as the closed bank, or within a one-half mile radius of the location of the nearest point on the boundary of the premises of the closed bank's place of business, contingent upon the bank assuming full liability for ~~such~~ THE deposits of the closed bank as may be transferred to it. Such branch facility shall not be located at any other location if ~~such~~ THE other location is within three hundred feet of the boundary of the premises of another bank unless the other bank consents to a closer location.

SECTION 15. In Colorado Revised Statutes, 11-105-602, **amend** (2) and (3) (a) as follows:

11-105-602. Financial branches allowed - conversion of financial institutions to branches - acquisitions. (2) Any financial institution, ~~that has NO MATTER THE LOCATION OF its principal place of business, in Colorado~~ may acquire any other financial institution for conversion to a branch or branches IN THIS OR ANOTHER STATE.

(3) (a) Any bank, ~~that has NO MATTER THE LOCATION OF its principal place of business, in this state or any industrial bank that has its principal place of business in this state, upon thirty days' prior written notice to the banking board or any savings and loan association that has its principal place of business in this state, upon thirty days' prior written notice to the state commissioner, of financial services,~~ may establish one or more de novo branches anywhere in this OR ANOTHER state.

SECTION 16. In Colorado Revised Statutes, 11-105-603, **amend** (1) and (3) as follows:

11-105-603. Financial institutions - common powers and limitations. (1) Any acquisition of a branch from another financial institution ~~shall be~~ IS subject to the percentage limitation set forth in subsection (5) of this section. Such an acquisition by a financial institution ~~that has its principal place of business in Colorado~~ is expressly authorized, and the location of such branch may be changed pursuant to law.

(3) Nothing in this part 6 or part 2 of article 104 of this title ~~shall be construed to prevent~~ PREVENTS the acquisition of any financial institution in this state by any other financial institution; ~~the principal operations of which are located in this state;~~ however, any conversion of all or any part thereof to a branch ~~shall~~ MUST be in accordance with ~~the provisions of this~~ part 6.

SECTION 17. In Colorado Revised Statutes, **add** 11-106-107 as follows:

11-106-107. Funds awaiting investment or distribution. A BANK'S DUTIES REGARDING THE HOLDING OF UNINVESTED OR UNDISTRIBUTED FUNDS THAT ARE AWAITING INVESTMENT OR DISTRIBUTION ARE GOVERNED BY THE "COLORADO UNIFORM PRUDENT INVESTOR ACT", ARTICLE 1.1 OF TITLE 15, C.R.S., THE "UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT", PART 11 OF ARTICLE 1 OF TITLE 15, C.R.S., AND APPLICABLE

STANDARDS AND REQUIREMENTS IMPOSED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION.

SECTION 18. In Colorado Revised Statutes, 4-4.5-105, **amend** (a) (2) as follows:

4-4.5-105. Other definitions. (a) In this article:

(2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, ~~industrial bank~~, and trust company. A branch or separate office of a bank is a separate bank for purposes of this article.

SECTION 19. In Colorado Revised Statutes, 5-1-107, **amend** (2) as follows:

5-1-107. Effect of code on powers of organizations. (2) With respect to sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, ~~industrial banks~~ and loan companies, and commercial banks and trust companies, this code displaces existing limitations on their powers based solely on amount or duration of credit.

SECTION 20. In Colorado Revised Statutes, 5-2-213, **amend** (1) as follows:

5-2-213. Lender and seller credit cards. (1) For purposes of this section, "credit card bank or financial institution" means a commercial bank, ~~industrial bank~~, credit union, thrift, savings and loan association, savings bank, or other state or federally supervised institution in this state that issues credit cards and may export rates and fees pursuant to the "National Bank Act", 12 U.S.C. sec. 85, "Depository Institutions Deregulation and Monetary Control Act of 1980", 12 U.S.C. secs. 1463, 1785, and 1831d, "Federal Credit Union Act", 12 U.S.C. sec. 1757, or "Alternative Mortgage Transaction Parity Act of 1982", 12 U.S.C. secs. 3801 to 3805, and any regulations ~~thereunder~~ UNDER THOSE ACTS.

SECTION 21. In Colorado Revised Statutes, 5-12-107, **amend** (8) (e) as follows:

5-12-107. Commercial credit plans - definitions. (8) As used in this section:

(e) "Creditor" means any seller or any lender located or maintaining a place of business in this state that enters into a commercial credit plan agreement with a debtor wherever located, including, without limitation, sellers of goods or services, small loan companies, licensed lenders, ~~industrial banks~~, commercial banks and trust companies, savings and loan associations, and savings banks. The term "creditor" includes any transferee, whether such transferee acquires its interest by assignment or otherwise.

SECTION 22. In Colorado Revised Statutes, 6-1-1001, **amend** (7) as follows:

6-1-1001. Restrictions on use of loan information for solicitations. (7) For the purposes of this section, "lender" means a bank, ~~industrial bank~~, savings and loan association, savings bank, credit union, finance company, mortgage bank, mortgage broker, loan originator or holder of the loan, or other person who makes loans in this state, and any affiliate thereof, or any third party operating with the consent of the lender. For the purposes of this section, a person ~~shall~~ IS NOT ~~be considered~~ a lender based on the person's former employment with a lender.

SECTION 23. In Colorado Revised Statutes, 7-48-102, **amend** (3) as follows:

7-48-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Financial institution" means any bank, trust company, savings and loan association, ~~industrial bank~~, public or private pension or retirement fund, insurance company or related corporation, partnership, foundation, or other institution engaged in lending or investing funds.

SECTION 24. In Colorado Revised Statutes, 7-48-108, **amend** (2) introductory portion and (2) (d) as follows:

7-48-108. Membership - loans from members. (2) Every member shall make loans to the corporation as and when called upon by it to do so,

upon such terms and conditions as ~~shall be~~ approved from time to time by the board of directors, subject to the following conditions:

(d) (I) The total amount outstanding at any one time on loans to a development corporation made by any member ~~shall~~ MUST not exceed the lesser of twenty percent of the total amount then outstanding on loans to such development corporation by all members thereof, two hundred fifty thousand dollars, or the following limit to be determined as of the time a member becomes a member on the basis of figures contained in the most recent year-end statement prior to its application for membership:

(A) Three percent of the capital and permanent surplus of banks AND trust companies; ~~and industrial banks;~~

(B) Three percent of the total reserve and surplus accounts of a savings and loan association;

(C) One percent of the capital and unassigned surplus of stock insurance companies, except fire insurance companies;

(D) One percent of the unassigned surplus of mutual insurance companies, except fire insurance companies;

(E) One-tenth of one percent of the assets of fire insurance companies; AND

(F) Comparable limits for other financial institutions as established by the board of directors of the development corporation.

(II) All loan limits shall be recomputed as of the first day of January of each even-numbered year, but no member's loan limit shall be increased as the result of such recomputation without the consent of the member.

SECTION 25. In Colorado Revised Statutes, 7-49-102, **amend** (3) as follows:

7-49-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Financial institution", "member institution", or "institution"

means any bank, trust company, savings and loan association, ~~industrial bank~~; credit union, public or private pension or retirement fund, insurance company or corporation related thereto, partnership, foundation, or any other financial institution authorized to invest in or make mortgage loans or to provide insurance ~~therefor~~ FOR MORTGAGE LOANS.

SECTION 26. In Colorado Revised Statutes, 8-2-111.5, **amend** (2), (3), and (5) as follows:

8-2-111.5. Certain employment references - exception to blacklisting prohibition. (2) In response to a request by another bank, savings and loan association, credit card or travel and entertainment card company, ~~industrial bank~~, trust company, credit union, or other state or federally chartered lending institution operating in Colorado, it ~~shall~~ IS not ~~be~~ unlawful ~~nor~~ OR a violation of the prohibitions against blacklisting specified in sections 8-2-110 and 8-2-111 for a bank, savings and loan association, credit card or travel and entertainment card company, ~~industrial bank~~, trust company, credit union, or other state or federally chartered lending institution operating in Colorado, when acting in good faith, to disclose any information about any involvement in a theft, embezzlement, misappropriation, or other defalcation by an employee or former employee.

(3) No bank, savings and loan association, credit card or travel and entertainment card company, ~~industrial bank~~, trust company, credit union, or other state or federally chartered lending institution operating in Colorado or any officer, director, or employee thereof ~~shall be~~ IS civilly liable for providing ~~such~~ an employment reference DESCRIBED IN SUBSECTION (2) OF THIS SECTION upon request if the information is provided in good faith.

(5) A bank, savings and loan association, credit card or travel and entertainment card company, ~~industrial bank~~, trust company, credit union, or other state or federally chartered lending institution operating in Colorado or any officer, director, or employee thereof who discloses information under this section ~~shall be~~ IS presumed to be acting in good faith unless it is shown by a preponderance of the evidence that the institution, officer, director, or employee intentionally or recklessly disclosed false information about the employee or former employee.

SECTION 27. In Colorado Revised Statutes, 10-2-601, **amend** (1)

(e) as follows:

10-2-601. Financial institutions may sell insurance - where - regulation. (1) For the purposes of this part 6:

(e) "Financial institution" means a state bank, including ~~an industrial bank~~, or a bank and trust company chartered by a state, a trust company, a savings and loan association, a credit union, or a national bank and the financial institution is located in this state. "Financial institution" includes federally chartered savings and loan associations and credit unions located in this state.

SECTION 28. In Colorado Revised Statutes, 11-30-101.7, **amend** (3) as follows:

11-30-101.7. Hearing procedures for community field of membership credit unions. (3) (a) The board shall give notice of a hearing on a community field of membership application at least thirty days before the hearing date, by registered or certified mail, to the principal office of each credit union, savings and loan association, ~~OR bank or industrial bank~~ within the neighborhood, community, or rural district sought to be served by the proposed community credit union, and to such other persons or credit unions, savings and loan associations, ~~OR banks or industrial banks~~ as the board may designate.

(b) Such notice ~~shall~~ MUST be in the form prescribed by the board and ~~shall~~ MUST include the names of the incorporators, the name and location of the proposed community credit union, the date, time, and place of the hearing, and a statement that the application and proposed or amended articles of incorporation and proposed bylaws are available for inspection in the office of the board. The board shall also cause such notice to be published at least once, not less than twenty days prior to the hearing date, in a newspaper of general circulation within the neighborhood, community, or rural district in which the proposed credit union is to be located.

(c) Notwithstanding any other provisions in this section to the contrary, if the board has given the required notice of a hearing and as of the tenth day prior to the hearing has received no written protest against such application, the board may grant such community field of membership

without a hearing if the applicants are known to the board.

SECTION 29. In Colorado Revised Statutes, 11-42-125, **amend** (10) as follows:

11-42-125. Associations authorized to accept deposit accounts.

(10) Any provision to the contrary notwithstanding, all shares or accounts in a federal or state chartered savings and loan association having substantially the same relative rights and characteristics as either shares or savings deposits provided for by this section, whether described or referred to as shares, savings shares, investment shares, share accounts, certificates, certificate accounts, savings accounts, savings deposits, or any other similar name, ~~shall be deemed~~ ARE the equivalent of each other for all purposes involving the right or authority to invest or deposit public or private funds, including funds held in trust or any other fiduciary capacity, in any such association; and, if, by any law, statute, ordinance, resolution, rule, regulation, order, decision, agreement, declaration, trust agreement, last will and testament, or other similar enactment or instrument, the state of Colorado or any of its counties, municipalities, districts, or other political subdivisions, including special districts authorized by law, ~~or~~ any institution, agency, official, instrumentality, or department of any of the ~~foregoing, or~~ POLITICAL ENTITIES DESCRIBED IN THIS SUBSECTION (10), any bank, savings bank, ~~industrial bank,~~ credit union, fraternal benefit society, trust deposit and security company, trust company, or other financial institution, ~~or~~ any insurance company, or any agent, executor, administrator, trustee, custodian, or other fiduciary or agent, including trustees or custodians of public or private pension or retirement funds, is authorized or required to invest or deposit such public or private funds in the shares of a federal or state chartered savings and loan association or in any one or more of the other types of savings and loan accounts named in this subsection (10), such funds may also be invested or deposited in any one or more of the other types of accounts specified in this subsection (10) in such an association, whether the earnings to be paid on such accounts are in the form of dividends or of interest.

SECTION 30. In Colorado Revised Statutes, **amend** 11-48-101 as follows:

11-48-101. Applicability - definition. This article ~~shall be applicable~~ APPLIES to any savings and loan association organized under ~~the~~

~~provisions of article 41 of this title or under federal law and having its principal office in this state AND any credit union organized under the provisions of article 30 of this title or federal law and having its principal office in this state. and any industrial bank incorporated under the provisions of article 108 of this title and having its principal office in this state.~~ As used in this article, "financial institution" means any such savings and loan association OR credit union. ~~or industrial bank.~~

SECTION 31. In Colorado Revised Statutes, 11-48-105, **amend** (1) as follows:

11-48-105. Sharing. (1) A financial institution shall make any communications facility available to any similar financial institution for the use of its account holders on the basis of fair, equitable, and nondiscriminatory standards and charges. For purposes of this section, a savings and loan association is similar to any other savings and loan association AND a credit union is similar to any other credit union. ~~and an industrial bank is similar to any other industrial bank.~~ A communications facility on the premises of a financial institution is not subject to the mandatory access provisions of this subsection (1). Such a facility may but is not required to be made available for use by the account holders of any similar financial institution.

SECTION 32. In Colorado Revised Statutes, 11-101-301, **amend** (1) as follows:

11-101-301. Application of code. (1) ~~The provisions of This code shall govern~~ GOVERNS the incorporation, organization, corporate functions, merger, consolidation, PURCHASE AND ASSUMPTION, sale of assets, liquidation, dissolution, and reorganization procedures of corporations operating as banks (whether or not, as a part of and in conjunction with such operations, they engage in the trust or safe deposit business) in the state of Colorado; but ~~the provisions of articles 10.5 and 101 to 107 of this title only apply to industrial banks and trust companies organized and operating under the provisions of articles 108 and~~ ARTICLE 109 of this title when specifically provided in articles 10.5 and 101 to 109 of this title, and ~~articles 108 and~~ ARTICLE 109 of this title shall otherwise ~~govern~~ GOVERNS exclusively ~~industrial banks and trust companies.~~

SECTION 33. In Colorado Revised Statutes, 11-101-401, **amend**

(4), (5), (10), (30), (36), (43), and (58); **repeal** (8); and **add** (27.5) and (40.5) as follows:

11-101-401. Definitions. As used in this code, unless the context otherwise requires:

(4) "Affiliate financial institution" means any bank ~~industrial bank~~, or savings and loan association that has its principal place of business in Colorado and that is controlled by a financial institution.

(5) "Bank" OR "BANKING INSTITUTION" means a state bank (~~other than an industrial bank~~) or bank ~~and trust company~~, WITH TRUST POWERS chartered by this state or ANOTHER STATE, a national bank, OR A NATIONAL BANK WITH TRUST POWERS, BUT DOES NOT INCLUDE A CREDIT CARD NATIONAL BANK; except that, for the purpose of part 2 of article 104 of this title, "bank" means any bank organized or chartered under articles ~~10.5 and 101 to 109~~ 101 to 107 of this title, any bank organized or chartered as a bank under the laws of any other jurisdiction, or any bank organized or chartered under chapter 2 of title 12 of the United States Code. ~~The singular "bank" includes the plural "banks".~~

(8) ~~"Banking institution" means any institution organized or chartered under this code or under chapter 2 of title 12 of the United States Code, but does not include a credit card national bank.~~

(10) "Branch" means any branch bank, branch office, branch agency, additional office, or branch place of business SITUATED IN COLORADO OR ANOTHER STATE of a financial institution located in this OR ANOTHER state at which deposits are received, checks are paid, ~~or~~ AND money is lent AND TRUST POWERS MAY BE EXERCISED, IF APPROVED BY ITS CHARTERING AUTHORITY.

(27.5) "DE NOVO BANK" MEANS A NEWLY INCORPORATED AND CHARTERED FEDERALLY INSURED BANK.

(30) "Depositor" means:

(a) A PERSON OR COMPANY THAT PLACES MONEY IN A BANK ACCOUNT; AND

(b) A person delivering property or documents to a lessor for safekeeping.

(36) "Financial institution" means any bank, bank holding company, ~~industrial bank, industrial bank holding company,~~ savings and loan association, federal savings bank, or thrift holding company.

(40.5) "INVESTMENT DISCRETIONARY AUTHORITY" MEANS, WITH RESPECT TO AN ACCOUNT, THE SOLE OR SHARED AUTHORITY, WHETHER OR NOT THAT AUTHORITY IS EXERCISED, TO DETERMINE WHICH SECURITIES OR OTHER ASSETS TO PURCHASE OR SELL ON BEHALF OF THE ACCOUNT. AN INSTITUTION THAT DELEGATES ITS AUTHORITY OVER INVESTMENTS AND AN INSTITUTION THAT RECEIVES DELEGATED AUTHORITY OVER INVESTMENTS BOTH HAVE INVESTMENT DISCRETION.

(43) "Lessor" means a bank ~~as defined in subsection (5) of this section,~~ or subsidiary thereof that rents or maintains safe deposit facilities. "Lessor" does not include a financial institution regulated by article 30, 46, ~~108,~~ or 109 of this title or a credit union chartered under the laws of the United States.

(58) "State bank" means a bank ~~(other than an industrial bank),~~ or bank ~~and trust company~~ WITH TRUST POWERS chartered by this state.

SECTION 34. In Colorado Revised Statutes, 11-102-104, **amend** (1) (b) and (5.5) (c); and **repeal** (5.5) (b) and (18) as follows:

11-102-104. Powers and duties of banking board. (1) The banking board is the policy-making and rule-making authority for the division of banking and has the power to:

(b) Make, promulgate, alter, amend, or revise reasonable rules as may be necessary for the enforcement and execution of ~~the provisions of the~~ "Money ~~Order~~ TRANSMITTERS Act", article 52 of title 12, C.R.S.; and

~~(5.5) (b) The banking board has the power to issue an industrial bank charter to a limited liability company, as that term is defined in section 7-80-102, C.R.S., so long as the limited liability company meets the requirements of article 108 of this title. In the event of a conflict between the requirements of the provisions of article 108 of this title and the~~

~~"Colorado Limited Liability Company Act", article 80 of title 7, C.R.S., an industrial bank organized as a limited liability company shall be subject to the requirements of article 108 of this title.~~

(c) The banking board has the power to issue a trust company charter to a limited liability company, as that term is defined in section 7-80-102, C.R.S., so long as the limited liability company meets the requirements of article 109 of this title. In the event of a conflict between the requirements of ~~the provisions of~~ article 109 of this title and the "Colorado Limited Liability Company Act", article 80 of title 7, C.R.S., ~~an industrial bank~~ A TRUST COMPANY organized as a limited liability company ~~shall be~~ IS subject to the requirements of article 109 of this title.

~~(18) (a) As described in section 11-109-1001 (5) (b), the banking board may define circumstances that do not constitute transacting business with the public for the purposes of part 10 of article 109 of this title.~~

~~(b) As described in section 11-109-1003, the banking board may grant a whole or partial exemption to a private family trust company or proposed private family trust company from compliance with one or more provisions of article 109 of this title only if the banking board determines that the private family trust company or proposed private family trust company does not and will not transact business with the general public.~~

~~(c) For the purposes of section 11-109-1003, the banking board shall promulgate rules specifying the provisions of article 109 of this title from which a private family trust company or proposed private family trust company may or may not request an exemption from compliance.~~

~~(d) The banking board shall promulgate rules to establish:~~

~~(i) Procedures by which a private family trust company or proposed private family trust company may request an exemption from compliance with one or more provisions of article 109 of this title pursuant to section 11-109-1003. The procedures shall include:~~

~~(A) The creation of a standard application form to be used by a private family trust company or proposed private family trust company in requesting an exemption; and~~

~~(B) The designation of an application fee to be submitted by a private family trust company with each application;~~

~~(H) Conditions under which the banking board may revoke an exemption granted to a private family trust company or proposed private family trust company pursuant to section 11-109-1003. The conditions, at a minimum, shall include the following acts or failures to act by the private family trust company:~~

~~(A) Making a false statement on any document required to be filed pursuant to article 109 of this title or by any rule promulgated by the banking board;~~

~~(B) Failing to submit to or cooperate with an investigation initiated by the banking board pursuant to section 11-109-1003 (3) (b);~~

~~(C) Withholding any information from the banking board or the commissioner; or~~

~~(D) Violating any provision of article 109 of this title for which the private family trust company does not possess an exemption granted by the banking board pursuant to section 11-109-1003;~~

~~(H) Procedures by which a private family trust company, pursuant to section 11-109-1002 (2), is to certify that it is complying with the provisions of article 109 of this title, except for those provisions for which the private family trust company has received an exemption from the banking board pursuant to section 11-109-1003;~~

~~(IV) Procedures by which a person who wants to transfer control of a private family trust company pursuant to section 11-109-1005 is to provide to the banking board written notice of his or her intent to transfer control of the company. The procedures shall include minimum requirements for the form of the notice of intent.~~

~~(V) Procedures by which a private family trust company that intends to terminate its status as a private family trust company, convert itself to a public trust company, and start transacting business with the general public pursuant to section 11-109-1007 is to submit notice of its intent in writing to the banking board. The procedures shall include:~~

~~(A) The creation of a form to be used by a private family trust company for this purpose that requires the inclusion of the name of the private family trust company; an acknowledgment that any exemption granted by the banking board pursuant to section 11-109-1003 or otherwise applicable to the private family trust company will become inapplicable upon the termination of the company's status as a private family trust company; and the name under which the company will transact business with the general public;~~

~~(B) The designation of a fee that the private family trust company shall be required to submit to the banking board upon submission of the form.~~

SECTION 35. In Colorado Revised Statutes, **amend** 11-102-106 as follows:

11-102-106. Nontraditional mortgages - consumer protections - rules - incorporation of federal interagency guidance. The banking board shall adopt rules governing the marketing of nontraditional mortgages by banking institutions. In adopting such rules, the board shall incorporate appropriate provisions of ~~the final "Interagency Guidance on Nontraditional Mortgage Product Risks" released on September 29, 2006, by the office of the comptroller of the currency and the office of thrift supervision in the federal department of the treasury, the board of governors of the federal reserve system, the federal deposit insurance corporation, and the national credit union administration, as such publication may be amended~~ SECTION 1098 OF THE FEDERAL "DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT", AMENDING 12 U.S.C. SEC. 2601 ET SEQ., AND APPLICABLE REGULATIONS.

SECTION 36. In Colorado Revised Statutes, 11-102-305, **amend** (1) (a) (III) and (1) (b) as follows:

11-102-305. Records. (1) (a) Information from the records of the division shall be revealed only to members of the banking board, except as follows:

(III) The commissioner may exchange information as to the condition of banks with the United States comptroller of the currency, banking departments of other states, the federal reserve system and its

examiners, ~~and~~ the federal deposit insurance corporation and its examiners, AND THE CONSUMER FINANCIAL PROTECTION BUREAU AND ITS EXAMINERS.

(b) Notwithstanding any other provision of articles 101 to 109 of this title to the contrary, the commissioner, the commissioner's deputies, and the members of the banking board may disclose any information in the records of the division or acquired by them in the discharge of their duties that is publicly available from the federal deposit insurance corporation, the United States comptroller of the currency, ~~or~~ the federal reserve system, OR THE CONSUMER FINANCIAL PROTECTION BUREAU or the disclosure of which has been specifically authorized by the board of directors of the financial institution to which such information relates.

SECTION 37. In Colorado Revised Statutes, 11-102-306, **amend** (2) introductory portion, (2) (c), and (4) as follows:

11-102-306. Information confidential. (2) The banking board, the commissioner, and their designees may exchange information with the United States comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, THE CONSUMER FINANCIAL PROTECTION BUREAU, the federal home loan bank in which an institution is a member or is making an application to become a member, the executive director of the department of regulatory agencies, the division of financial services, and banking regulatory agencies of other states, subject to any confidentiality agreement entered into between the banking board or the commissioner and the United States comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, THE CONSUMER FINANCIAL PROTECTION BUREAU, or the federal home loan bank in which an institution is a member or is making an application to become a member. In addition, the banking board, the commissioner, and their designees may exchange information obtained by the banking board relating to:

(c) The activities of money transmitters ~~and foreign capital depositories~~ pertaining to compliance with federal money laundering and other financial crimes laws, including ~~but not limited to~~, the "Bank Secrecy Act", the "Right to Financial Privacy Act of 1978", the "Money Laundering Control Act of 1986", and the "Annunzio-Wylie Anti-Money Laundering Act", with the United States secretary of the treasury or the secretary's designees.

(4) Notwithstanding any other provision of this article to the contrary, the commissioner, the deputies, and the members of the banking board may disclose any information in the records of the division of banking or acquired by them within the discharge of their duties that is publicly available from the federal deposit insurance corporation, the United States comptroller of the currency, ~~or the federal reserve system, OR THE CONSUMER FINANCIAL PROTECTION BUREAU~~ and disclose information that has been specifically authorized by the board of directors of the bank to which such information relates. Nothing in this section ~~shall be construed to authorize~~ AUTHORIZES the board of directors of a bank to waive any privileges that belong solely to the banking board, the division, or its employees.

SECTION 38. In Colorado Revised Statutes, **repeal** 11-102-402 as follows:

11-102-402. Administrative fees. ~~(1) The banking board shall assess filing fees to banks and bank holding companies outside of Colorado that are seeking to acquire a bank or bank holding company in Colorado in such amount as determined to be sufficient to reimburse the state for the cost of administration of sections 11-104-202 (8) and (9) and 11-104-203 and the requirements thereof.~~

~~(2) No moneys collected pursuant to this section shall be expended except upon appropriation by the general assembly.~~

SECTION 39. In Colorado Revised Statutes, 11-102-505, **amend** (2) as follows:

11-102-505. Removal of director, officer, or other person.
(2) Whenever the banking board determines that an executive officer, director, employee, agent, or other person participating in the conduct of the affairs of a state bank, by conduct or practice with respect to another bank or business institution that results in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for such state bank's safety and soundness, and, in addition, has evidenced unfitness to continue such person's relationship with the state bank, the banking board may serve upon such person a written notice of its intention to remove him or her from office or to prohibit the person's further participation in any manner in the conduct of the affairs of ~~the state~~ ANY

COLORADO STATE-CHARTERED bank OR TRUST COMPANY.

SECTION 40. In Colorado Revised Statutes, **amend** 11-103-301 as follows:

11-103-301. Incorporators. Five or more individual incorporators OF A DE NOVO BANK OR ORGANIZERS OF A CONVERTING BANK desiring to organize OR CONVERT TO a state bank ~~shall~~ MUST file with the banking board, in triplicate, an application for charter on the form prescribed therefor and together with all other documents required by section 11-103-303, all of which instruments shall be duly signed by each of the incorporators OR ORGANIZERS and sworn to before an officer authorized by the laws of this state to administer oaths. A majority of the incorporators ~~shall~~ MUST be residents of the state and citizens of the United States. Each incorporator OF A DE NOVO BANK shall, prior to the filing of said application, subscribe and pay in full in cash for stock having a par value of not less than one percent of the minimum capital and paid-in surplus requirements.

SECTION 41. In Colorado Revised Statutes, **amend** 11-103-303 as follows:

11-103-303. Application for de novo charter or charter conversion. (1) After the capital stock has been fully subscribed, the incorporators ~~shall make application~~ MAY APPLY to the banking board for a DE NOVO BANK charter. The incorporators ~~shall~~ OR ORGANIZERS OF THE CONVERTING BANK MUST submit to the banking board the following:

(a) Its proposed articles of incorporation in duplicate, in such form as the banking board ~~shall prescribe~~ PRESCRIBES and as ~~shall be~~ acceptable to the secretary of state for purposes of filing, containing the following information: The name of the state bank; whether the state bank is to exercise trust powers; the community in which it is to be located; the amount of capital, the number of shares of each class, the relative preferences, powers, and the rights of each class, the par value of the shares of each class, and the amount of the paid-in surplus; a statement whether voting for directors ~~shall or shall not be~~ IS OR IS NOT cumulative, and the extent of the preemptive rights of stockholders; and such other proper provisions to govern the business and affairs of the state bank as may be desired by the incorporators OR ORGANIZERS.

(b) An application for a charter in such form and containing such information as the banking board requires, including but not limited to the following: The name, business and residence address, and business and professional affiliations of each director and executive officer; the name, residence, citizenship, and occupation of each subscriber OR SHAREHOLDER and the number of shares for which he or she has subscribed OR OWNS DIRECTLY OR INDIRECTLY; the past and present connection with any bank, other than as a customer, on terms generally available to the public of each director and each subscriber OR SHAREHOLDER to more than five percent of the capital stock, INCLUDING BENEFICIAL INTERESTS; the amount to be borrowed and from whom borrowed on any stock issued to a subscriber to OR SHAREHOLDER OF more than five percent of the capital stock; the address at which ~~it is proposed that~~ THE CONVERTING BANK'S MAIN OFFICE AND EXISTING BRANCHES ARE LOCATED OR THE ADDRESS AT WHICH the DE NOVO state bank PROPOSES TO do business or, if such address is not known, the area within a radius of one-half mile in which the proposed bank is to be located and the community that it proposes to serve; a statement that all the proposed bylaws have been attached as an exhibit to the application; and such other information as the banking board may reasonably require to enable it to determine whether a charter should be issued. The proposed bylaws ~~shall~~ MUST be attached to the application as an exhibit.

(2) If the proposed articles of incorporation or application do not comply with the requirements of this code, and with the requirements of the banking board issued pursuant thereto, the banking board shall, within thirty days after the receipt thereof, return both of the ~~said~~ documents to the incorporators OR ORGANIZERS, calling attention to the defects therein. If such articles of incorporation and application are not so returned by the banking board within thirty days after the receipt thereof, they shall be deemed to have been filed with the banking board as of the date received in its office; otherwise they shall be deemed filed as of the date the amended documents, with all defects corrected, are received in the commissioner's office.

(3) Not more than forty days after the date upon which the completed application FOR A DE NOVO STATE BANK CHARTER and all required documents are properly filed with the banking board, the banking board shall mail notice of such filing by registered or certified mail to each bank within a three-mile radius of the location of the proposed bank and to such other persons or banks as the banking board may designate. ~~Such~~ THE

notice ~~shall~~ MUST be in the form prescribed therefor by the banking board and ~~shall~~ MUST include a statement that an application for a state banking charter has been filed, the date of ~~such~~ THE filing, the names and addresses of the incorporators, ~~thereof~~, and the location of the proposed bank. The banking board shall also cause such notice to be published, at least one time, not more than forty days after the date of filing ~~such~~ THE completed application, in a newspaper of general circulation within the community in which ~~such~~ THE proposed bank is to be located.

SECTION 42. In Colorado Revised Statutes, 11-103-304, **amend** (1) introductory portion, (3) (a) introductory portion, (5), (6), (7), (8), and (9) introductory portion as follows:

11-103-304. Procedure for granting or denying charter.

(1) Within sixty days following the filing of the completed application for A DE NOVO charter OR CONVERSION OF AN ESTABLISHED BANK, the commissioner shall make or cause to be made a careful investigation to determine that the following requirements have been met:

(3) (a) The banking board, within six months after the filing of an application for charter, and subject to subsection (7) of this section, shall hold a public hearing to consider the application; except that the banking board, for valid reasons and good cause, may postpone such hearing. At such hearing, the applicant ~~shall have~~ FOR A DE NOVO BANK CHARTER HAS the burden of proving:

(5) The banking board shall give notice of the hearing on application for A DE NOVO BANK charter provided in subsection (3) of this section at least thirty days in advance of the hearing date fixed by the banking board, by registered or certified mail, to the applicant, to each bank within a three-mile radius of the location of the proposed bank, and to such other persons or banks as the banking board may designate. ~~Such~~ THE notice ~~shall~~ MUST be in the form prescribed by the banking board and ~~shall~~ MUST include the names of the incorporators, the name of each stockholder subscribing to ten percent or more of the stock of the bank, the name and location of the proposed bank, the date, time, and place of the hearing, and a statement declaring that the application and proposed articles of incorporation or amended articles of incorporation are available for inspection in the office of the banking board. The banking board shall also cause such notice to be published at least one time not less than twenty days

prior to the date fixed for such hearing in a newspaper of general circulation within the community in which the proposed bank is to be located.

(6) Within one hundred twenty days following the date of conclusion of the hearing, the banking board shall issue a written order requiring the commissioner to grant a charter if a majority of the banking board finds that the requirements of subsection (1) of this section have been met and that the applicant FOR A DE NOVO BANK CHARTER has met the burden of proof prescribed in subsection (3) of this section. The banking board shall make execution of its order to grant a DE NOVO BANK charter contingent upon the proposed bank making a bona fide application for membership in the federal deposit insurance corporation or the federal reserve system. In applications where THE DIRECTORS OR management has not been fully disclosed at the time of the hearing, the banking board may make execution of its order to grant a charter contingent upon its subsequent approval of THE DIRECTORS AND management. If a majority of the banking board finds that the requirements of subsection (1) of this section or the burden of proof of subsection (3) of this section have not been met, the BANKING BOARD SHALL DENY THE application for A DE NOVO charter. ~~shall be denied.~~ The banking board may revoke a charter ~~that may have been granted~~ in any case where the proposed bank has not exercised its charter and opened for business within six months after the date of the order to grant the charter.

(7) If, within a ninety-day period, there have been filed with the banking board two or more applications for A DE NOVO BANK charter for state banks to serve the same community, the banking board may hold a single hearing to consider ~~such~~ THE applications. The banking board may grant or deny a DE NOVO BANK charter to one or more of the applicants without regard to the priority in time of filing applications. The determination of the banking board to deny a charter to an applicant who might otherwise qualify for a charter under subsections (1) and (3) of this section ~~shall~~ MUST be based upon a finding that the public need or advantage of the community or area of the community in which the proposed bank will be located will best be served by such denial and by the granting of a DE NOVO BANK charter on another application or other applications heard at such single hearing.

(8) It ~~shall be~~ IS a criminal offense ~~against~~ UNDER this code for a proposed DE NOVO state bank to perform any act as a state bank other than

to perfect its organization, obtain and equip a place of business, or otherwise prepare to do business as a state bank prior to receiving a charter.

(9) Unless otherwise provided by law to the contrary, THE BANKING BOARD MUST FIRST APPROVE THE articles of incorporation, amended articles of incorporation, or amendments to articles of incorporation, WHICH THE APPLICANT shall ~~be delivered and filed~~ THEN DELIVER AND FILE as follows:

SECTION 43. In Colorado Revised Statutes, **amend** 11-103-401 as follows:

11-103-401. Subscription calls. After a DE NOVO charter has been granted, the directors may call for the payment of the subscriptions in full within thirty days after the date of the notice that the charter has been granted. ~~No share shall be issued~~ THE BANK SHALL NOT ISSUE ANY SHARES until the BANK HAS PAID IN FULL, IN CASH, THE par value and the pro rata portion of the paid-in surplus specified in the DE NOVO charter. ~~have been paid in full in cash.~~

SECTION 44. In Colorado Revised Statutes, 11-103-502, **amend** (4) as follows:

11-103-502. Directors' meetings - duties. (4) A state bank authorized to exercise trust powers shall not accept, or voluntarily relinquish, a fiduciary account without the approval or ratification of the board of directors, or of a committee of officers or directors designated by the board to perform this function, but the board of directors or the committee may prescribe general rules governing acceptances or relinquishment of fiduciary accounts, and action taken by an officer in accordance with these rules is sufficient approval. Any committee so designated shall keep minutes of its meetings and report at each monthly meeting of the board of directors all action taken since the previous meeting of the board. The board of directors shall designate one or more committees of not less than three qualified officers or directors to supervise the investment of fiduciary funds. No such investment OF ANY ACCOUNT FOR WHICH THE BANK HAS INVESTMENT DISCRETIONARY AUTHORITY shall be made, retained, or disposed of without the approval of a BOARD-APPROVED committee as to which the bank has investment or review responsibility. At least once in every calendar year, the committee shall review the records of each fiduciary account as to which the bank has investment or review

responsibility and shall determine the current value, safety, and suitability of the investments and whether the investments should be modified or retained. The committee shall keep minutes of its meetings and shall report at each monthly meeting of the board of directors its conclusions on all questions considered and all action taken since the previous meeting of the board. THE BOARD OF DIRECTORS SHALL ESTABLISH THE POLICIES AND PROCEDURES NECESSARY FOR THE PROPER EXERCISE OF FIDUCIARY POWERS BY THE STATE BANK AND IN ACCORDANCE WITH ANY RULE ESTABLISHED BY THE BANKING BOARD.

SECTION 45. In Colorado Revised Statutes, **amend** 11-103-705 as follows:

11-103-705. Effective date of merger - certificate. (1) ~~A merger shall;~~ Unless a later date is specified in the agreement, ~~become~~ A MERGER BECOMES effective upon the ~~filing with~~ APPROVAL BY the banking board of the executed agreement, together with copies of the resolutions of the stockholders of each constituent bank approving it, certified by ~~such~~ THE bank's president or a vice-president and a secretary. The charters of the constituent banks, other than the resulting bank, shall thereupon be deemed surrendered.

(2) AFTER APPROVAL OF THE AGREEMENT, the banking board shall ~~thereupon~~ issue to the resulting bank a certificate of merger, setting forth the name of each constituent bank and the name of the resulting state bank. ~~Such~~ THE certificate ~~shall be~~ IS conclusive evidence of the merger and of the correctness of all proceedings ~~therefor~~ FOR THE MERGER in all courts and places and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the constituent banks is held.

SECTION 46. In Colorado Revised Statutes, 11-103-707, **amend** (2) as follows:

11-103-707. Conversion from state bank to national and vice versa. (2) THE BOARD SHALL GRANT A STATE CHARTER TO a national bank located in this state that follows the procedure prescribed by federal law to convert into a state bank ~~shall be granted a state charter~~ if it meets the requirements ~~for the incorporation of a state bank~~ ESTABLISHED BY THE BANKING BOARD IN ITS RULES. Any requirement that shares must be paid in

cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, which may be valued at no more than their fair cash market value. The procedure for incorporation of a state bank may be modified to the extent made necessary by the difference between an ordinary incorporation and a conversion AS ESTABLISHED BY THE BANKING BOARD IN ITS RULES. THE CONVERTING BANK SHALL CAUSE TO BE PUBLISHED A NOTICE OF THE CONVERSION ONCE A WEEK FOR THREE SUCCESSIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE CONVERTING BANK HAS ITS PRINCIPAL OFFICE. THE CONVERTING BANK SHALL FILE PROOF OF THE PUBLICATION WITH THE DIVISION.

SECTION 47. In Colorado Revised Statutes, 11-104-203, **amend** (1) as follows:

11-104-203. Authority of banking board to enforce provisions of article. (1) Any bank holding company controlling any other bank holding company or bank pursuant to ~~the provisions of this code in this state shall~~ IS, for purposes of enforcing ~~the provisions of this article, be~~ subject to the jurisdiction of the banking board with respect to its operations and affairs in the state of Colorado. The banking board may utilize the applicable powers conferred by this code AND THE "PUBLIC DEPOSIT PROTECTION ACT", ARTICLE 10.5 OF THIS TITLE, to carry out the duties imposed by this section.

SECTION 48. In Colorado Revised Statutes, 11-109-101, **amend** (6) and (12) as follows:

11-109-101. Definitions. As used in this article, unless the context otherwise requires:

(6) "Representative trust office" means an office at which a trust company has been authorized by the ~~commissioner~~ BANKING BOARD to engage in a trust business other than acting as a fiduciary.

(12) "Trust institution" means a trust company, a federal or state chartered bank with trust powers, A STATE BANK WITH TRUST POWERS CHARTERED UNDER THE LAWS OF ANOTHER STATE, or a trust company chartered under the laws of another state.

SECTION 49. In Colorado Revised Statutes, **amend** 11-109-102 as follows:

11-109-102. Use of words "trust" or "trust company". (1) It is unlawful for any person, firm, association, or corporation to use or advertise the words "trust" or "trust company" in the conduct of its business in such a manner as is likely to cause the public to be confused, deceived, or mistaken that ~~such~~ THE person, firm, association, or corporation has been authorized to transact business as a regulated financial institution unless ~~such~~ THE person, firm, association, or corporation is organized under the "Colorado Banking Code", articles 101 to 109 ~~and article 10.5~~ of this title, article 70 of this title, THE BANKING LAWS OF ANOTHER STATE, or the national banking laws and is authorized to use the words "trust" or "trust company" as part of its name.

(2) ~~The provisions of Subsection (1) of this section shall~~ DOES not apply to ~~state banks with trust powers, national banking associations located in Colorado that have trust powers, and trust companies incorporated in Colorado~~ TRUST INSTITUTIONS.

SECTION 50. In Colorado Revised Statutes, 11-109-202, **amend** (5) as follows:

11-109-202. Offices of trust companies. (5) A trust company chartered by a state other than Colorado may establish and maintain a trust office or representative trust office anywhere in this state if the establishment and operation of such office is authorized expressly by rules promulgated by the banking board for that purpose. The out-of-state trust company must provide to the ~~commissioner~~ BANKING BOARD notice of its intent to open an office at least sixty days before opening such office for business.

SECTION 51. In Colorado Revised Statutes, 11-109-502, **add** (3) as follows:

11-109-502. Director and officer insurance and fidelity bonds - legislative declaration. (3) THE DIRECTORS OF A TRUST COMPANY SHALL:

(a) REQUIRE GOOD AND SUFFICIENT FIDELITY BONDS ON ALL ACTIVE OFFICERS AND EMPLOYEES, WHETHER OR NOT THEY DRAW SALARY OR

COMPENSATION, WHICH BONDS MUST PROVIDE FOR INDEMNITY TO THE TRUST COMPANY ON ACCOUNT OF ANY LOSSES SUSTAINED BY IT AS THE RESULT OF ANY DISHONEST, FRAUDULENT, OR CRIMINAL CONDUCT BY THEM ACTING INDEPENDENTLY OR IN COLLUSION OR COMBINATION WITH ANY PERSON. THE BONDS MAY BE IN INDIVIDUAL, SCHEDULE, OR BLANKET FORM, AND THE TRUST COMPANY SHALL PAY THE PREMIUMS FOR THE BONDS.

(b) REQUIRE SUITABLE INSURANCE PROTECTION TO THE TRUST COMPANY AGAINST BURGLARY, ROBBERY, THEFT, AND OTHER INSURABLE HAZARDS TO WHICH THE TRUST COMPANY MAY BE EXPOSED IN THE OPERATIONS OF ITS BUSINESS ON THE PREMISES OR ELSEWHERE; AND

(c) PRESCRIBE, AT LEAST ONCE IN EACH CALENDAR YEAR, THE AMOUNT OR PENAL SUM OF THE BONDS AND POLICIES SPECIFIED IN THIS SECTION AND THE SURETIES OR UNDERWRITERS THEREON AFTER GIVING DUE AND CAREFUL CONSIDERATION TO ALL KNOWN ELEMENTS AND FACTORS CONSTITUTING SUCH RISK OR HAZARD. THE DIRECTORS SHALL RECORD THE ACTION IN THE BOARD'S MINUTES.

SECTION 52. In Colorado Revised Statutes, 11-109-604, **amend** (2) as follows:

11-109-604. Removal of director, officer, or other person.

(2) Whenever the banking board determines that an executive officer, director, employee, agent, or other person participating in the conduct of the affairs of a trust company, by conduct or practice with respect to another trust company or business institution that results in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for the trust company's safety and soundness, and, in addition, has evidenced unfitness to continue his or her relationship with the trust company, the banking board may serve upon ~~such~~ THE person a written notice of its intention to remove him or her from office or to prohibit such person's further participation in any manner in the conduct of the affairs of ~~the~~ ANY COLORADO STATE-CHARTERED trust company OR BANK.

SECTION 53. In Colorado Revised Statutes, 11-104-202, **amend** (2) as follows:

11-104-202. Acquisition of control of bank holding companies and banks by bank holding companies in different states - interstate

banking and branching. (2) An out-of-state bank holding company may ~~not~~ acquire control of, or acquire all or substantially all of the assets of, a Colorado depository institution having its principal place of business in Colorado. ~~unless such depository institution has been in operation for at least five years at the time of the acquisition of control.~~ An out-of-state bank holding company acquiring control of a Colorado bank holding company ~~industrial bank holding company~~, or thrift holding company may acquire control of any Colorado depository institution having its principal place of business in Colorado controlled by the Colorado bank holding company ~~industrial bank holding company~~, or thrift holding company. ~~even though such depository institution has been in operation for less than five years.~~

SECTION 54. In Colorado Revised Statutes, **amend** 11-105-110 as follows:

11-105-110. Disclosure of information pursuant to legal process. Any bank, savings and loan association, ~~industrial bank~~, credit union, or any agent or employee of such financial institutions that makes a disclosure of records or information on the direction contained in a lawful notice, subpoena, written request, search warrant, grand jury subpoena, or other process issued by any governmental authority or by a court ~~shall~~ **IS not be held** civilly or criminally liable for such disclosure, nor ~~shall~~ **IS** the financial institution ~~be held~~ liable to the customer or any other person for such disclosure.

SECTION 55. In Colorado Revised Statutes, 11-105-112, **amend** (4) (b) as follows:

11-105-112. Entity account - certificate of existence and authority - definitions. (4) As used in this section, unless the context otherwise requires:

(b) "Financial institution" means any federal or state chartered commercial bank, savings and loan association, ~~industrial bank~~, savings bank, or credit union.

SECTION 56. In Colorado Revised Statutes, 11-105-602, **amend** (3) (b); and **repeal** (3) (b.5) (II) as follows:

11-105-602. Financial branches allowed - conversion of financial institutions to branches - acquisitions. (3) (b) Any bank industrial bank, or savings and loan association may, upon thirty days' written notice to the banking board or commissioner, be converted to a branch of any bank industrial bank, or savings and loan association.

(b.5) (II) ~~This paragraph (b.5) shall not apply with respect to any industrial bank that:~~

~~(A) Became an insured depository institution before October 1, 2003, or pursuant to an application for deposit insurance that was approved by the federal deposit insurance corporation before such date; and~~

~~(B) Is a subsidiary of a parent entity, at least eighty-five percent of whose gross revenues on a consolidated basis, including affiliates, were derived from engaging in, on an ongoing basis, activities that are financial in nature or incidental to a financial activity, as defined by the federal "Gramm-Leach-Bliley Act", as amended, Pub.L. 106-102, 113 Stat. 1388, during at least three of the prior four calendar quarters:~~

SECTION 57. In Colorado Revised Statutes, 11-105-603, **amend** (2) as follows:

11-105-603. Financial institutions - common powers and limitations. (2) Nothing in this part 6 shall be construed to apply APPLIES to a branch facility operating under an emergency grant pursuant to section 11-103-809; ~~or 11-108-611;~~ however, such a branch facility may continue to operate in perpetuity as a branch without being subject to any percentage limitation on branches set forth in this part 6.

SECTION 58. In Colorado Revised Statutes, 11-109-907, **amend** (1) and (2) introductory portion as follows:

11-109-907. Extensions of credit. (1) A trust company including a private family trust company as defined in section 11-109-1001, shall not make any loans or extensions of credit except as provided in subsection (2) of this section.

(2) A trust company including a private family trust company as defined in section 11-109-1001, may:

SECTION 59. In Colorado Revised Statutes, 12-6-108, **amend** (3) as follows:

12-6-108. Classes of licenses. (3) The licensing requirements of this part 1 ~~shall~~ DO not apply to banks, savings banks, savings and loan associations, building and loan associations, ~~industrial banks~~, or credit unions or an affiliate or subsidiary of such entities in offering to sell, or in the sale of, a motor vehicle that was subject to a lease or that has been repossessed or foreclosed upon if the repossession or foreclosure is in connection with a loan made or originated in Colorado.

SECTION 60. In Colorado Revised Statutes, 12-14-123, **amend** (1) (c) as follows:

12-14-123. Duties of collection agencies. (1) A licensee shall:

(c) Maintain, at all times, a trust account for the benefit of its clients ~~which shall contain~~ THAT CONTAINS, at all times, sufficient funds to pay all sums due or owing to all of its clients. The LICENSEE SHALL MAINTAIN THE trust account ~~shall be maintained~~ in a commercial bank ~~industrial bank~~, or savings and loan association account in this state or accessible in a branch in this state until disbursed to the creditor. ~~Such~~ THE account ~~shall~~ MUST be clearly designated as a trust account and shall be used only for such purposes and not as an operating account. A deposit of all funds received to a trust account followed by a transfer of the agency share of the collection to an operating account is not a violation of this section.

SECTION 61. In Colorado Revised Statutes, 12-43.3-313, **amend** (2) as follows:

12-43.3-313. Unlawful financial assistance. (2) A person shall not have an unreported financial interest in a license pursuant to this article unless that person has undergone a fingerprint-based criminal history record check as provided for by the state licensing authority in its rules; except that this subsection (2) ~~shall~~ DOES not apply to banks OR savings and loan associations ~~or industrial banks~~ supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof.

SECTION 62. In Colorado Revised Statutes, 12-47-308, **amend** (4)

(a) as follows:

12-47-308. Unlawful financial assistance. (4) (a) Except as otherwise authorized, it is unlawful for any person or corporation holding any license pursuant to this article or article 46 of this title or any person who is a stockholder, director, or officer of any corporation holding a license pursuant to this article or article 46 of this title to be a stockholder, director, or officer or to be interested, directly or indirectly, in any person or corporation that lends money to any person or corporation licensed pursuant to this article or article 46 of this title, but this subsection (4) ~~shall~~ DOES not apply to banks OR savings and loan associations ~~or industrial banks~~ supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof; and it is unlawful for any person or corporation licensed pursuant to this article or article 46 of this title, or any stockholder, director, or officer of such corporation, to make any loan or be interested, directly or indirectly, in any loan to any other person licensed pursuant to ~~the provisions of~~ this article or article 46 of this title; except that this paragraph (a) ~~shall~~ DOES not apply to any financial institution that comes into possession of a licensed premises by virtue of a foreclosure or deed in lieu of foreclosure if such financial institution does not retain such premises for longer than one year or for such time exceeding one year as provided in paragraph (b) of this subsection (4).

SECTION 63. In Colorado Revised Statutes, 12-61-702, **amend** (4.3) as follows:

12-61-702. Definitions. As used in this part 7, unless the context otherwise requires:

(4.3) "Financial institution" means any "bank" or "savings association" as such terms are defined in 12 U.S.C. sec. 1813, any state ~~or industrial~~ bank incorporated under title 11, C.R.S., any state or federally chartered credit union, or any company ~~which~~ THAT has direct or indirect control over any of such entities.

SECTION 64. In Colorado Revised Statutes, 16-5-401, **amend** (4.5) introductory portion and (4.5) (t); and **repeal** (4.5) (u) as follows:

16-5-401. Limitation for commencing criminal proceedings and

juvenile delinquency proceedings. (4.5) The period within which a prosecution must be commenced ~~shall begin~~ BEGINS to run upon discovery of the criminal act or the delinquent act for:

(t) Unlawful acts or omissions relating to financial institutions, pursuant to section 11-107-108, C.R.S.; AND

(u) ~~Criminal offenses relating to industrial banks, pursuant to section 11-108-801(3), C.R.S.; and~~

SECTION 65. In Colorado Revised Statutes, 18-5-205, **amend** (1) (b), (1) (g), and (7) as follows:

18-5-205. Fraud by check - definitions - penalties. (1) As used in this section, unless the context otherwise requires:

(b) "Drawee" means the bank upon which a check is drawn or a bank, savings and loan association, ~~industrial bank~~, or credit union on which a negotiable order of withdrawal or a share draft is drawn.

(g) "Negotiable order of withdrawal account" means an account in a bank OR savings and loan association ~~or industrial bank~~, and "share draft account" means an account in a credit union, on which payment of interest or dividends may be made on a deposit with respect to which the bank OR savings and loan association ~~or industrial bank~~ or the credit union, as the case may be, may require the depositor to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the depositor is allowed to make withdrawal by negotiable order of withdrawal or share draft.

(7) A bank, a savings and loan association, ~~an industrial bank~~, or a credit union ~~shall~~ IS not ~~be~~ civilly or criminally liable for releasing information relating to the drawer's account to a sheriff, deputy sheriff, undersheriff, police officer, agent of the Colorado bureau of investigation, division of gaming investigator, division of lottery investigator, parks and outdoor recreation officer, Colorado wildlife officer, district attorney, assistant district attorney, deputy district attorney, or authorized investigator for a district attorney or the attorney general investigating or prosecuting a charge under this section.

SECTION 66. In Colorado Revised Statutes, 23-3.1-302, **amend** (6) as follows:

23-3.1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(6) "Financial institution" means any state bank, state trust company, ~~industrial bank~~, savings and loan association, credit union chartered by the state of Colorado, national bank, broker-dealer, mutual fund, insurance company, or other similar financial entity qualified to do business in the state of Colorado.

SECTION 67. In Colorado Revised Statutes, 24-72-204, **amend** (3.5) (c) introductory portion and (3.5) (c) (VII) as follows:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions. (3.5) (c) The custodian of any records described in paragraph (a) of this subsection (3.5) ~~which~~ THAT concern an individual who has made a request of confidentiality pursuant to this subsection (3.5) and paid any required processing fee shall deny the right of inspection of the individual's address contained in such records on the ground that disclosure would be contrary to the public interest; except that such custodian shall allow the inspection of such records by such individual, by any person authorized in writing by such individual, and by any individual employed by one of the following entities who makes a request to the custodian to inspect such records and who provides evidence satisfactory to the custodian that the inspection is reasonably related to the authorized purpose of the employing entity:

(VII) A bank as defined in section 11-101-401 (5), C.R.S., ~~an industrial bank as defined in section 11-108-101 (1), C.R.S.~~, a trust company as defined in section 11-109-101 (11), C.R.S., a credit union as defined in section 11-30-101 (1), C.R.S., a domestic savings and loan association as defined in section 11-40-102 (5), C.R.S., a foreign savings and loan association as defined in section 11-40-102 (8), C.R.S., or a broker-dealer as defined in section 11-51-201 (2), C.R.S.;

SECTION 68. In Colorado Revised Statutes, 24-75-603, **amend** (1) as follows:

24-75-603. Depositories. (1) It is lawful for the state of Colorado and any of its institutions and agencies, counties, municipalities, and districts; ~~and~~ any other political subdivision of the state; ~~and~~ any department, agency, or instrumentality thereof; or ~~any~~ political or public corporation of the state; ~~whenever any of the foregoing have funds~~; and for any bank, savings and loan association, ~~industrial bank~~, credit union, fraternal benefit society, trust deposit and security company, trust company, or ~~any~~ other financial institution operating under the laws of this state having funds in their possession or custody, respectively, to deposit, or cause to be deposited either by or through the treasurer or such other custodian of funds as may be appointed, such funds so eligible for investment in any state bank, national bank, or state or federal savings and loan association in Colorado that is, at the time the deposit is made, a member of the federal deposit insurance corporation or its successor to the extent that the deposit is insured by the federal deposit insurance corporation or its successor or is secured by pledge of eligible collateral as required by statute.

SECTION 69. In Colorado Revised Statutes, 24-75-701, **amend** (4) as follows:

24-75-701. Definitions. As used in this part 7, unless the context otherwise requires:

(4) "Financial institution" means an institution, with its primary place of business in this state and authorized by its charter to exercise fiduciary powers, that is a state bank, ~~an industrial bank~~, a savings and loan association, or a trust company chartered by this state, a national bank organized or chartered under chapter 2 of title 12 of the United States Code, or a federal savings and loan association organized or chartered under chapter 12 of title 12 of the United States Code.

SECTION 70. In Colorado Revised Statutes, 26-13-128, **amend** (7) (b) (I) as follows:

26-13-128. Agreements with financial institutions - data match system - limited liability - definitions. (7) For purposes of this section:

(b) "Financial institution" includes:

(I) A state or nationally chartered bank, ~~an industrial bank~~, a bank and trust company, a trust company, a savings and loan association, a savings bank, a OR credit union;

SECTION 71. In Colorado Revised Statutes, 38-10-124, **amend** (1) (d) as follows:

38-10-124. Credit agreements - required to be in writing. (1) As used in this section, unless the context otherwise requires:

(d) "Financial institution" means a bank, savings and loan association, savings bank, ~~industrial bank~~, credit union, or mortgage or finance company.

SECTION 72. In Colorado Revised Statutes, 38-13-102, **amend** (3) as follows:

38-13-102. Definitions and use of terms. As used in this article, unless the context otherwise requires:

(3) "Banking organization" means a bank, trust company, savings bank, ~~industrial bank~~, safe deposit company, or private banker or any organization defined by other law as a bank or banking organization.

SECTION 73. In Colorado Revised Statutes, 38-38-100.3, **repeal** (20) (b) as follows:

38-38-100.3. Definitions. As used in articles 37 to 39 of this title, unless the context otherwise requires:

(20) "Qualified holder" means a holder of an evidence of debt, certificate of purchase, certificate of redemption, or confirmation deed that is also one of the following:

(b) ~~An industrial bank as defined in section 11-108-101 (1), C.R.S.;~~

SECTION 74. Effective date. This act takes effect July 1, 2013.

SECTION 75. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

John P. Morse
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO