

Legislative History for Connecticut Act

HB 5367	PA 122	1994
Senate 2244-2251		(8)
House 2803-2808		(6)
Banks 12-17, 26-46, 57-58, 76, 92-127		(66)

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1994

VOL. 37
PART 7
2174-2564

MONDAY
May 2, 1994

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SENATOR KISSEL:

Madam President, may that amendment please be withdrawn?

THE CLERK:

I don't have an amendment.

THE CHAIR:

Didn't have it. So now do you want to put this back on Consent?

SENATOR JEPSEN:

I would move this to Consent, if there's no objection.

THE CHAIR:

Is there any objection to placing this item on the Consent Calendar? Is there any objection to placing Senate Calendar No. 368 on the Consent Calendar? Any objection? Hearing none, so ordered. HB5792

THE CLERK:

Calendar No. 370, File No. 455, Substitute for House Bill 5367, AN ACT CONCERNING THE REORGANIZATION OF THE BANKING LAWS OF CONNECTICUT.

Favorable Report of the Committee on Finance, Revenue and Bonding.

THE CHAIR:

Thank you very much. The Chair would recognize Senator Looney.

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SENATOR LOONEY:

Yes, thank you, Madam President. I would move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

Thank you very much, Senator. Do you wish to remark further?

SENATOR LOONEY:

Yes, Madam President, thank you. Madam President, this bill is about 415 pages long, 340 sections and nearly 20,000 lines. If the Chamber was of a mind to, I would be happy to go through the bill in great detail, section by section, but not sensing a strong sentiment on the members to do that, I will provide a briefer summary.

What the bill will do, Madam President, is to reorganize and consolidate and streamline the banking statutes which have not been systematically reorganized since 1947. Since that time, a number of internal inconsistencies have developed in the statutes as we have gone along and building up additions and internal inconsistencies that have caused problems of interpretation.

The bill will create the new general term "Connecticut banks" and applies it to state bank and

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trust companies, savings banks and savings and loan associations. We have seen over the years a kind of merging together of different banking, kinds of banking institutions and banking powers and this bill will regularize those descriptions and categories and do away with the internal inconsistencies which had caused problems.

It will combine and make uniform provisions concerning their organization, administration, mergers and conversions, general powers, loans and investments. Where there were minor substantive differences between the powers of the different kinds of banks, the bill generally makes them uniform by choosing the least restrictive of the three existing laws consistent with the principle of parity.

The bill also consolidates and clarifies and strengthens the Banking Commissioner's regulatory and enforcement powers and consolidates the various community reinvestment provisions that had applied to different kinds of banks.

It also will expand banks' authority to open limited branches, requires prior notice for the closing of branches and streamlines and simplifies procedures for interim banks. It also changes several minor penalties and will allow appointment of conservators

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for failing banks. It clarifies the application of the general corporation law to banks and incorporates federal insider loan rules.

It consolidates and streamlines the interstate banking law and removes other out dated restrictions on out-of-state banking corporations, nonbank offices, lending activities and clarifies several aspects of the law concerning fiduciary activities and also makes a minor -- numerous minor and substantive technical changes and tries to clarify what had been, as I said earlier, a number of inconsistencies that had built up over the statutes over the years.

It will allow the Banking Commissioner to approve the establishment of new mutual savings banks which currently are the only banks that have to be established by a special act of the legislature because mutual capital stock savings and loans can already be approved by the commissioner alone and the state bank and trust companies and capital stock savings banks are approved by the commissioner, the state comptroller and the treasurer.

The bill would also reduce the number of people needed to start a savings and loan from nine down to one, and will further address and streamline some of these needed to start a savings and loan bank and

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consistent with state bank and trust companies and savings banks. So there is an effort to provide parity and balance on the different kind of lending institutions that have been at different times regulated in different ways so that over the last 45 years or so institutions and kinds of institutions that had previously been very distinct, have had a merging of their powers, but at the same time, the statutes continue to be anachronistic and did not keep up with the changes in the banking world and so this effort, which was the result of a study initiated by the Banking Commissioner and participated in by representatives under the age is of the Law Revision Commission and representatives of the Connecticut Bar Association, other practitioners and other experts in the field of banking worked on this from the end of the last session until the beginning of this one to come up with what is a consensus proposal. Thank you, Madam President.

THE CHAIR:

Thank you very much. The Chair would recognize Senator Crisco.

SENATOR CRISCO:

Thank you, Madam President. Under Rule 15, I request that the records indicate that I will not be

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voting on this and that I'll excuse myself from the Chamber since I did not vote on this in the Finance Committee.

THE CHAIR:

Thank you very much. The Journal will so note. Thank you. Senator Upson.

SENATOR UPSON:

Yes, if I just may as a few questions. I believe you said, Senator Looney, that now if someone wants to start a savings and loan bank, I think it was savings and loan, you can have one person that starts it, instead of nine, if you could explain the reason for that?

THE CHAIR:

Thank you very, Senator Looney.

SENATOR LOONEY:

Yes, through you, Madam President. That is correct because it would be consistent with state bank and trust companies and savings banks. So again, as I said earlier, the principal that had been established here was parity in the least restrictive alternative among regulatory options applying to the three different kinds of banks was generally adopted.

SENATOR UPSON:

So that that's also true for the other banks you

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just described.

SENATOR LOONEY:

That's correct, through you, Madam President.

SENATOR UPSON:

And also usury you talked about?

SENATOR LOONEY:

I don't believe I mentioned usury.

SENATOR UPSON:

Well, I was awakened by this rapid fire explanation. I thought the word "usury" --.

LAUGHTER

THE CHAIR:

That's a compliment at this hour, Senator.

SENATOR UPSON:

There was nothing to do with usury? Is that right?

SENATOR LOONEY:

Yes, through you, Madam President.

SENATOR UPSON:

Well, you did a very good job. Thank you.

THE CHAIR:

The Chair would recognize Senator Fleming.

SENATOR FLEMING:

Yes, thank you, Madam President. I would like to absent myself under Senate Rule 15.

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Thank you very much. The Journal will so note.
Thank you. Would anybody else wish to remark on Senate
Calendar 370? Are there any further remarks on Senate
Calendar 370? If not, Mr. Clerk, would you make the
necessary announcement for a roll call vote please.

THE CLERK:

An immediate roll call has been ordered in the
Senate. Will all Senators please return to the
Chamber. An immediate roll call has been ordered in
the Senate. Will all Senators please return to the
Chamber.

THE CHAIR:

Thank you very much, Mr. Clerk. The issue before
the Chamber is Calendar 370, Substitute for House Bill
5367. The machine is on. You may record your vote.

Have all Senators voted and are your votes
properly recorded? Have all Senators voted and are
your votes properly recorded? The machine is closed.

The result of the vote:

33 Yea
0 Nay
3 Absent

The bill passes.

THE CLERK:

Calendar No. 375, File No. 323 and 576, Substitute

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GEN. ASSEMBLY
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PART 8
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House of Representatives Wednesday, April 20, 1994

Calendar 405.

CLERK:

Kindly turn to Page 11, Calendar 405. Substitute
for House Bill 5367, AN ACT CONCERNING THE
REORGANIZATION OF THE BANKING LAWS OF CONNECTICUT.

Favorable Report of the Committee on Finance.

REP. MCCA VANAGH: (12th)

Mr. Speaker.

DEPUTY SPEAKER PUDLIN:

Representative McCavanagh.

REP. MCCA VANAGH: (12th)

Good morning, Mr. Speaker. Mr. Speaker, I move the
Joint Committee's Favorable Report and passage of the
bill.

DEPUTY SPEAKER PUDLIN:

The question is on passage. Will you remark?

REP. MCCA VANAGH: (12th)

Yes, Mr. Speaker. This bill reorganizes,
consolidates, streamlines and modernizes the banking
statutes. It creates the new general term, Connecticut
banks and applies it to state banks and trust
companies, savings banks and savings and loan
associations. It combines and makes uniform provisions
concerning their organization, administration, mergers
and conversions, general powers, loans and investments,

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Where there are minor substantive differences between the powers of the different types of banks, the bill generally makes them uniform by choosing the least restrictive of three existing laws consistent with the principal of parity.

Mr. Speaker, this has been a year-long effort originally spearheaded and created by our commissioner, Ralph Shulanski, the Commissioner of Banking. The Department of Banking has been involved, Law Revision Commission, the Bankers Associations have been involved, several legal attorneys, trust lawyers and it goes on and on. The people have made a tremendous effort of 60 meetings in the last year, even the consumer has been represented and the Connecticut Legal Services, Raphael Podolsky, has also looked at it and approved these changes.

Again, Mr. Speaker, this has been a tremendous effort by everybody. It is something that's been long overdue. I certainly commend our commissioner for taking on this challenge and bringing our banking statute up to the 20th Century.

With that, Mr. Speaker, I move for adoption.

DEPUTY SPEAKER PUDLIN:

Question is on adoption. Question is on adoption.
Will you remark? Representative Metsopoulos.

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REP. METSOPOULOS: (132nd)

A question, through you, to the proponent of the bill.

DEPUTY SPEAKER PUDLIN:

Frame your question, Sir.

REP. METSOPOULOS: (132nd)

Through you, Mr. Speaker, this is a big reorganization bill. In it, it talks about savings banks and the establishment of offices and life insurance and who regulates it. Through you, Mr. Speaker, is this current law, or is this changing current law and in essence expanding in any way the provisions of savings banks and the insurance industry?

DEPUTY SPEAKER PUDLIN:

Representative McCavanagh.

REP. MCCAVANAGH: (12th)

Through you, Mr. Speaker. There are no changes. Through you, Mr. Speaker.

REP. METSOPOULOS: (132nd)

So this is all current practice, just being recodified, through you, Mr. Speaker.

REP. MCCAVANAGH: (12th)

Through you, Mr. Speaker, that is correct.

REP. METSOPOULOS: (132nd)

Thank you, Mr. Speaker.

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DEPUTY SPEAKER PUDLIN:

You're welcome. Will you remark further? Will you remark further on the bill? Representative Rennie.

REP. RENNIE: (14th)

Thank you, Mr. Speaker. Mr. Speaker, a bill with 15,000 lines is certainly a daunting thing and I'm sure that we could stand here until the end of the session and ask Representative McCavanagh questions and he would be, I guess what Mike Myers calls faklemp.

And you'll simply have to take our words for it, that we have talked to the commissioner at length about this bill and certainly in his four years he has discharged his duty in an honorable manner and he has made significant improvements in Connecticut's banking industry at a time when it was certainly at the edge, if not in the state of collapse and we have come to rely in large measure on his judgment and I think this bill represents a lifetime of experience in the banking industry and it does for Connecticut what ought to be done right now and it is really in line with some of the other steps we've been trying to take in the last two years to make Connecticut an attractive place for financial services to locate and do business.

DEPUTY SPEAKER PUDLIN:

Thank you, Sir. Will you remark? If not, staff.

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and guests to the well of the House. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll.

Members to the Chamber please. The House is voting by roll. Members to the Chamber, please.

DEPUTY SPEAKER PUDLIN:

If all the members have voted and your vote is properly cast, please check the board to make sure your votes are properly cast. If so, the machine will be locked. Representative Hartley.

REP. HARTLEY: (73rd)

Thank you, Mr. Speaker. In the affirmative.

DEPUTY SPEAKER PUDLIN:

Representative Hartley in the affirmative.

Representative Sellers.

REP. SELLERS: (140th)

In the affirmative.

DEPUTY SPEAKER PUDLIN:

Representative Sellers in the affirmative. The Clerk will please take the tally.

Representative Dillon.

REP. DILLON: (92nd)

Thank you, Mr. Speaker. I vote in the affirmative.

DEPUTY SPEAKER PUDLIN:

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Representative Dillon in the affirmative.

Representative Hess.

REP. HESS: (150th)

In the affirmative.

DEPUTY SPEAKER PUDLIN:

Representative Hess in the affirmative. In the future, let's try to move along a little more quickly. The Clerk will please announce the tally.

CLERK:

House Bill 5367.

Total number voting 146

Necessary for passage 74

Those voting yea 146

Those voting nay 0

Those absent and not voting 5

DEPUTY SPEAKER PUDLIN:

The bill passes.

Any other announcements or points of personal privilege? Representative Jarjura.

REP. JARJURA: (74th)

Thank you, Mr. Speaker. For purposes of an introduction.

DEPUTY SPEAKER PUDLIN:

Your introduction, Sir.

REP. JARJURA: (74th)

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REP. CONCANNON: I would suggest that everybody go to see In the Name of the Father. That's a movie that brings it fairly to home.

SEN. LOONEY: Thank you very much. I find what you said entirely persuasive. Next we have -- there our four representatives of the Department of Banking signed up. I don't know whether you had all intended to come up separately or in a group. We have Commissioner Ralph Shulansky and Robert Titus, Robert Rocht and Gayle Fierer, so whichever way you would like to arrange your testimony, we will accommodate you. Good afternoon, Commissioner.

COMMISSIONER RALPH SHULANSKY: Thank you. Senator Looney, Representative McCavanagh, ladies and gentlemen of the Banks Committee, I was going to address the issue of procedure, if I may. As you are aware, three of the bills before you today are sponsored by the Department of Banking. One of them is both literally and figurable the weightiest bill I think before you today. It's 400 and 40 some odd pages and that is HB5367, AN ACT CONCERNING THE REORGANIZATION OF BANKING LAWS OF THE STATE OF CONNECTICUT, and our presentation today will focus on that bill for obvious reasons, but if we may, with your consent, we would like to state, both I and Deputy Commissioner Titus and Bob Focht, who heads our Consumer Credit Division, would like to state the position of the department on those bills on which we are going to take a position and I would like to proceed in that fashion and then go on to our presentation on the reorganization of the banking law bill. If that's acceptable, then I will go ahead.

I'm going to talk to one bill which is the bill concerning limited check cashing stations and that is HB5256. This bill would add a new dimension or aspect to the business of check cashing which our state has regulated since 1988. To date, with the exception of the circumstances which I will describe in a little bit, the check cashing business has been carried on in fixed locations, presumably situated so as to be convenient to the members of the general public seeking to use their

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services and I would, for my convenience, if you will, and for what I have to say, talk about these as retail check cashing locations.

The bill before you would legitimate what might be termed a wholesale check cashing operation in which the operator of a large business arranges for a check casher to come to its premises not more than twice a week to cash checks only for employees of that business.

The bill contemplates that the service can be provided from a facility on the business premises which facility can be an armored vehicle, that is to say, a mobile facility. I oppose the bill and I will shortly and briefly detail the bases for my opposition, but first, I think it is important for you to know the background of this bill.

In the Fall of 1992, a check casher, having several check cashing locations licensed by our department, and a principal place of business in Bridgeport, began to cash checks, payroll checks for employees at two business locations. One was a factory or a business location in Maryland and the other was the Foxwoods Casino, which was located within the Town of Ledyard. No license application had been filed with us and we had no notification that this activity was taking place.

When we learned of the activity, we issued a cease and desist order. Subsequently, the check casher applied for licenses for the two locations and we denied those applications on the ground that in our view the statute did not empower us to license mobile facilities of that sort.

We came to that conclusion first by looking at the legislative history of check cashing in Connecticut, going back to 1988 and the then chairman of the Banks Committee, when reporting the bill favorably into the House, talked about stores being the location of these check cashing operations.

We also saw this mobile check cashing operation as a significant departure which did not serve the

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general public in the same way that so-called retail operations did was conduct it on private property for a limited group of employees.

I would add that although we denied the applications, there has been -- an issued a cease and desist order, there has been a protracted administrative proceeding which has not yet concluded and it turned out that the cease and desist power which we thought we had under the statute was not in fact a cease and desist power and the check casher had continued to conduct that activity at both locations and that activity has continued to date.

My specific objections to this bill are, (1) it's poorly drafted. For example, if you look at line 20, the prepositional clause, "with the occupant's consent," appears to be misplaced and should probably be placed after the word "licensees."

Secondly, I feel strongly that an arrangement between a business operator and a check casher should be subject to review and approval by the Banking Department. If the business pays the check casher, you have a question of whether the check casher is in fact exceeding the maximum payment which it could be entitled to under our law and if the check casher pays the business, I think that you can see that there are a host of possible undesirable practices which become possibilities.

Thirdly, there is -- the changes in the aspects of the license, according to this bill, would require only prior written notice to the Commissioner and not written approval by the Commissioner and we think that's a danger.

Another objection of mine is that the bill would permit a check casher to obtain one general license and operate an unlimited number of the so-called limited stations without satisfying the statutory requirements of liquidity, liquid assets which pertain to fixed locations. Those are my specific objections to this bill.

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Some general comments, which I think you have heard from me before, since 1988 when this check cashing law was first adopted, there have been a number of amendments. The original law, I think, did what needed to be done to regulate check cashing operations. It assured the good character and financial responsibility of check cashers. It controlled fees, particularly those fees which could be charged those cashing public assistance checks, and to the extent possible, it assured that check cashers were not involved in money laundering. In my judgment, those are the only three aspects of check cashing that are important, but since then there has been legislation offered and some adopted by this General Assembly and I think check cashing has taken on an aggrandizement that it does not necessarily deserve. I would remind you that at one time, check cashing, when first adopted, was regulated and overseen by the Department of Consumer Protection.

Since it's been transferred to the Department of Banks, it has taken on an aura, which as I said, is not necessarily deserved. This is not a bank. This is simply a fee for service business, no deposits and I see it as not much different from any other small business and yet the check cashers would have you believe that they are entitled to some kind of protection because they're involved in a business where the transaction involves cash as against a product and legislation has been discussed with me and proposed which would purportedly limit check cashing outlets in the same way that limit liquor outlets in terms of proximity.

The point I'm making is that in 1988 this General Assembly adopted legislation which I think adequately protected the public from the possible abuses in the check cashing business. Almost everything that has been offered here and adopted here doesn't protect the public at all, but is designed to protect those in the check cashing business from competition and to enhance and increase the earnings of check cashers and I think this wholesale check cashing proposition is a public policy issue I do not favor. The bill is flawed and I believe it's an unnecessary stretching

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of the concept of the check cashing service. I would be glad to answer any questions that anyone has with respect to my view on this bill.

SEN. LOONEY: Thank you. Members of the committee, any specific questions on the bill at hand, HB5256? Thank you, Commissioner. There is a question. Representative Thorp.

REP. THORP: Don't you think in the long run, this will, as we move more and more to a plastic society, be relatively academic?

COMMISSIONER RALPH SHULANSKY: Well, it may be a plastic society and we also have extensive direct deposit capacity for paychecks. Now some employers prefer to be paid in cash and some employees prefer to receive cash and this may be a convenience to business and to a group of employees, but it is a public policy issue and I think goes far beyond what check cashing was intended to be, and it's for that reason I oppose it.

REP. THORP: I was just thinking more and more people are not really having these as viable choices, that the money is deposited, the Social Security, for example, welfare payments I believe are --.

COMMISSIONER RALPH SHULANSKY: By direct deposit.

REP. THORP: Yes, and whether the people want to have bank accounts or not, it doesn't make any difference. They're going to have their money plunked in and that's that. Don't you think in the long run this is sort of academic --?

COMMISSIONER RALPH SHULANSKY: Well, I think we're going more and more that way, but I think clearly some employers do prefer to pay their employees and cash and some employees continue to prefer to receive cash at the end of the work week.

REP. THORP: Any other questions, members of the committee? Yes, Representative Kirkley-Bey.

REP. KIRKLEY-BEY: Thank you, Senator Looney. I guess I'm missing something here. I don't see what the terrible problem is if you allow check cashing companies to come into a corporation company and do

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check cashing. I mean when I started working at the Aetna a long time ago, Dunbar used to come in and we used to do cashing our checks right there. Then they went to automatic deposit and you could receive your check or whatever. So mean I'm trying to understand the rationale behind your objection. For some reason, it's just not ringing here.

COMMISSIONER RALPH SHULANSKY: Well, it is a public policy issue and you may very well feel that it is an appropriate activity for check cashers. One of the differences, I believe, that you didn't pay anybody to get your check cashed at the Aetna.

REP. KIRKLEY-BEY: True.

COMMISSIONER RALPH SHULANSKY: Okay, the employer provided that service. I worry about an activity where either a business is paying a check casher to come in or more likely a check casher is paying a business for a franchise. I can think of a number of kinds of business which have presented difficulties, vending machine operators, for example. Price wars over occupancy over locations I think would not be unlikely if we look at it that way.

Where a business is paying a check casher, then I have a problem because the check casher should only receive the statute maximum for a service and this in effect would, in my view, exceed the statutory maximum.

I can understand why this committee may see it different, but if you do see it differently, then I want want to offer our department services to redraft this bill so that it made more sense than it does not from a regulatory standpoint.

REP. KIRKLEY-BEY: I'll give you a call on --.

SEN. LOONEY: Thank you. any other questions on this particular bill?

COMMISSIONER RALPH SHULANSKY: If not, I would ask Deputy Commissioner Titus to give you the department's position on some of the other matters before you today. You can see me later in connection with the reorganization bill.

What they have said, apparently the bank that's adopted this policy is that they're reading either of the statute we passed regarding lead paint last year or the Department of Environmental Regulation adopted pursuant to that has led their counsel to suggest to them that in prudence they need to make that requirement. I wonder if you might comment.

ROBERT FOCHT: Well, the day after you and I spoke about that last, I asked the bank in question to provide us with their position concerning those issues and to date, they have not done so, but I am also aware that banks have received advice through the Mortgage Bankers Association, I believe, which would indicate that it would be prudent to ask for lead paint inspection and to require abatement if lead paint problems exist prior to accepting that particular property as security on the assumption that if they end up taking it back and title to it in foreclosure action, that they will then become responsible.

SEN. LOONEY: Do you know whether they base that on the statute or on a departmental regulation?

ROBERT FOCHT: I guess indirectly it would have to be on the statute because the regulations are an extension of the statute, but I'm not sure precisely which language --.

SEN. LOONEY: Which they rely on? I see. Thank you. I'd appreciate your keeping us posted on any additional information you receive on that. Thanks very much. Commissioner.

COMMISSIONER RALPH SHULANSKY: Senator Looney, Representative McCavanagh, and members of the committee, I'm back again. This is Ralph Shulansky, the Banking Commissioner, to talk about a more congenial topic, at least to me, which is HB5367, AN ACT CONCERNING THE REORGANIZATION OF THE BANKING LAWS OF CONNECTICUT, which I heartily support and which is a department bill.

Most of you are already aware that this is a lengthy and somewhat complex piece of legislation, and so with your consent, I want to divide our agency's presentation of the three parts. My presentation will relate in a very general way to

the reason for this recodification of Connecticut's banking laws. Then our Deputy Commissioner, Professor Bob Titus, will review some of the substantive changes which are part of the recodification and he will be followed by Gayle Fierer, Chief Administrative Attorney for the department, and Mrs. Fierer will review the process and several additional areas of law address in this bill.

No one, I think, would question the need to recodify our banking laws. For more than 150 years Connecticut banking laws have been written and organized to reflect a structure encompassing several different classes and type of banks. State bank and trust companies, capital stock banks, savings banks, savings and loan associations, mutual savings banks, capital stock savings and loan associations. Along the way, relatively recently in fact, a few other types and classes of banks disappeared, private banks, industrial banks, Morris Plan banks, for example.

The distinctions between and among these various kinds of banks have almost entirely disappeared. As competing segments of the banking industry persuaded this legislature that all banks should exercise substantially equivalent powers and privileges. Although the differences have disappeared, the statutory structure remains as an acronym.

In metaphoric terms, we are trying to operate and maintain a modern banking vehicle by referring to an owner's manual to a Model A Ford, the margins of which have been filled with 50 years of ad hoc legislative modifications. Our banking laws are replete with archaic, irrelevant, confusing and unworkable provisions.

More than two years ago our department did some preliminary work to explore with the Law Revision Commission the possibility and feasibility of a project to recodify and modernize our banking laws. That preliminary work culminated in a joint venture between the Department of Banking and the Law Revision Commission which brought about the

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formation a year ago of the advisory committee which has carried the main load of the drafting of the revision.

The advisory committee was carefully selected to include lawyers and law teachers, whose practice or teaching specialties identified them as men and women with a special knowledge and experience to make a meaningful contribution to the recodification project.

Bob Titus, who later became our Deputy Commissioner, was a member of our advisory committee from the beginning. We also invited the participation of representatives of the Banking Trade Associations, designees of the leadership of this General Assembly, staff members of your committee and any and all whose input and participation would ensure not only the best possible statutory revision, but also optimize the likelihood of approval of the recodification by your comment and by the General Assembly.

The advisory committee includes lawyers in private practice as well as house counsel for repository institutions. The composition of the advisory committee assured that the respective views of all of the industry's special interests would be represented, small banks and large banks, state chartered and federally chartered entities, out-of-state banks operating in Connecticut, thrift institutions, savings banks and savings and loans, commercial banks and credit unions, holding companies, stock banks and mutual banks.

The plenary sessions of the advisory committee to review drafts of the legislation were open to the public and were attended by many, who, though not directly involved in the process, had an interest in the end result.

Former Deputy Commissioner Barbara McGrath chaired the advisory committee when it was organized. Since Mrs. McGrath's resignation as Deputy Commissioner, Gail Fierer has been the advisory committee chairperson.

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The time constraints imposed by the need to complete the work in bill form for this session of the legislature added to the difficulty of the task. Mrs. Fierer, together with David Hemond, Chief Attorney of the Law Revision Commission, has done a truly extraordinary job in getting this bill drafted for your consideration and I would also like to commend the excellent work of Nirgis Seville, a senior member of our department's legal staff who has made a significant contribution to this recodification bill.

As you might expect, Bob Titus' role in the recodification project has been greatly expanded since he joined our agency as Deputy Commissioner. The importance which the advisory committee has strived for the recodification project was evidenced by the dedication and energy which they brought to the task. The committee and its subcommittees met frequently. Literally thousands of person hours were contributed to the careful construction of the lengthy piece of proposed legislation which your committee is considering this afternoon. We have provided you with a list of those who participated in the drafting process. They have earned the gratitude of all who will read and work with our banking laws in the future.

Early on it became evident that mere recodification would not suffice and that some substantive change would be necessary to modernize Connecticut's banking laws. The broad and diverse membership of the advisory committee, representing as it did all of the special interests involved in the industry, afforded an exceptional screening mechanism and assured that substantive changes would not be competitively advantageous to any special interest group, institution or type of institution.

Substantive issues which could not be resolved by consensus of the advisory committee and issues which had the potential to fracture the drafting group and threaten the effort to recodify the banking laws were left to be dealt with separately at yet another time by the General Assembly and I would add to my prepared remarks which you have that I have heard that various people having special interests would propose to come to this committee or may come to this committee and say

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let's add our proposal to the recodification proposal and I urge you to avoid that. I think the piece of work which has been done is so important that it ought not to be jeopardized by that kind of activity. The proposals which people may have may be very justified, but they should stand on their own and be presented separately, in my opinion, rather than jeopardize this outstanding piece of work.

This bill before you is, I can assure you, an honest effort by any eminently qualified group to recodify, improve and modernize the banking laws of our state. There are still many significant substantive issues, as I've just said, policy issues which must ultimately be decided by this legislature.

It is also to be expected that a statutory drafting effort of this magnitude may contain minor errors and inconsistencies which will need legislative repair as they become evident over time. I urge your prompt favorable consideration of this important bill. In doing so, I would make it clear that my role in this important project was merely that of instigator. The work, complicated, technical, arduous and painstaking work, was done by Gayle Fierer and Bob Titus, Dave Hemond, Barbara McGrath and the exceptionally talented group of men and women who served on the advisory committee.

And now I would like to call on Deputy Commissioner Titus, who will review with greater particularity the scope of the banking law recodification.

DEP. COMM. ROBERT TITUS: Senator Looney and other members of the committee, simply for the record again, I'm Robert Titus, the Deputy Commissioner of Banking. Gayle Fierer, the department senior attorney and I want to offer testimony in support of HB5367, a recodification bill.

SEN. LOONEY: We're going to count on you to take us through it this afternoon, line by line, so that we may finish by our J-F deadline if we don't take a break between now and then I think.

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DEP. COMM. ROBERT TITUS: This bill is -- I'll try to be brief. This bill is meant to reorganize and modernize all of our existing statutes relating to banking institutions, credit unions, all of the other entities which engage in credit and related activities, as well as our various consumer credit laws.

Given both the length and the technical nature of it, we're not going to go through it on a section by section basis. We have prepared a six-page summary which was distributed to every member of the committee. What Gayle and I want to do is give you some background on the objectives and scope in the process by which the department, the industry, the Law Revision Commission and various lawyers and experts have participated. We'll highlight the more significant changes that might be said to be substantive in nature.

I will present at the end of my comments one further clarifying amendment which we believe is desirable, and then after both Gayle and I are through, we'll be glad to try to answer questions that any of you may have.

An awful lot of changes, as the Commissioner has indicated, have taken place in the past two decades in the structure of the industry, the number of federal and state laws applicable to banking institutions and credit unions and industry practices and procedures. The present banking statutes alone have more than 350 separate statutes.

This recodification effort has involved the participation and review by large numbers of individuals, including many of course, the department staff, representatives of the industry, lawyers and other experts participating through the advisory committee, representatives of the Law Revision Commission, the Legislative Commissioner's Office, the Office of Legislative Research and numerous other groups.

Attached to that summary was a list of participants who have been active in that process. It's been an incredibly labor-intensive process. The hundreds of person hours dedicated to this bill is a tribute

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both to the dedication of those individuals, but also the importance and the desirability of that effort to them.

I'd like to identify four principle objects that have guided our effort. First, as the Commissioner indicated, we're completing a process initially begun by this legislature a decade ago, promoting and achieving the parity among the three forms of bank institutions; state bank and trust companies, savings banks and savings and loan associations. Now while those separate identities continue to have some level still with respect to initial chartering and their internal organization and governments, any remaining distinctions and powers and procedures have been eliminated.

The consolidated treatment of those entities alone is going to allow us to reduce the number of statutory provisions relating just to banking institutions by about a third, from over 350 down to 205.

Secondly, as a result of that consolidation, the inclusion of a general definition section and some other structural changes, the statutes generally should now be much more readable and accessible, whether they be by bankers, by consumers, by legislators or anyone else having a need to resort to them.

Thirdly, we codified various longstanding Banking Department policies and interpretations that have been issued to clarify ambiguities or questions concerning the present statutes. Finally, there are a number of areas where all the participants thought it was important and helpful to modernize the statutes, to reflect current industry practices and procedures or to harmonize them with existing federal law requirements. Several of those effectively are substantive changes, but as to all of those, there has been a broad consensus that the changes are appropriate.

And I want to comment briefly now on what we believe to be the most significant of those. The first area I would note is that relating to loans. You will find those in Sections 117 to 119 in the bill. We had a mixture of some general provisions

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before, some very general ones, some other very specific ones and yet even other institutions operating under some claim of implied powers.

We now have a single general loan authorization section, which is basically limited only by updated sections relating to loans to one obligor to by the detailed requirements applicable to mortgage loans.

With respect to that latter section, Section 118, the key elements of the existing statute, loan to value ratio, appraisal requirements, requirements for title insurance have been retained, but the statutes otherwise have been overhauled significantly, both to clarify how it's intended to operate as well as to bring it up to date with modern lending practices and procedures.

We are requesting an amendment to Section 118, which I'll explain further to confirm that commercial and industrial loans, which happened to be secured by mortgage and real estate are not meant to be mortgage loans.

The investment statutes are another area where the prior statutes were numerous, overlapping and often archaic. In the recodification, we've consolidated all the numerous subsections relating to investments to the five sections, meant to apply uniformly to each formal banking institution and dealing respectively with investments and debt securities, investment and equity securities, commercial paper, social purpose investments and limited unrestricted investments. Those sections appear in Section 124 to 128 through the bill.

The basic approach, similar to the existing provisions relating to savings banks is to authorize in the first instance unlimited investment and certain high grade debt obligations, that is, those within the top three categories. Otherwise any investment generally must be made pursuant to a previously adopted investment policy. It must be a prudent investment and the amounts which can be invested either in a single institution or in the aggregate are limited as a percentage of equity capital or assets respectively.

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We also have made it clear that there's only a single leeway provision that allows banking institutions to invest limited amounts in investments not otherwise expressly authorized.

One area where the recodification draft stiffens the requirements of prior law concern so-called insider loans. Our Connecticut statutes presently only address loans to executive officers. Section 120 of the bill proposes to broaden the provisions of the insider loan provisions to include loans for directors, principal shareholders and related parties.

At the same time, we are conforming these expanded obligations to those in effect under federal regulatory agency requirements. Those include restrictions on how much can be lent to officers, directors, and principal shareholders, the procedure for reviewing and approving such extensions of credit as well as various reporting requirements.

The section retains authority for the Commissioner to promulgate additional requirements beyond those required under federal law if it Commissioner determines it to be necessary for reasons of safety and soundness.

The recodification effort has also reviewed and attempted to update the branching law, to give our Connecticut banks the maximum flexibility (inaudible). The branching section, the one section applicable to all three types of institutions, Section 67, now will, one, define what we mean by a full service bank branch. Two, expand the authority of banks to apply for limited branches, that is, to engage in either limited hours or specialized services, but imposing clear public convenience and necessity standards which the Commissioner must consider before approving such a limited service grant.

And three, add a requirement that any bank proposing to close a branch must give prior notice (inaudible) in a manner which is consistent with existing federal law.

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We also strengthen the Commissioner's authority in a couple of (inaudible), bring it into conformity with both what federal banking regulators may do and what the Commissioner already has power to do in the securities area.

Section 4 of the bill gives the Commissioner general regulation making authority with respect to all of the areas under his jurisdiction. In Section 28 we've added authority to issue cease and desist orders if the Commissioner determines a bank was deficient or engaged in unsafe and unsound practices.

Well, those may be the most notable modernizing changes which are included in the recodification bill. We want to emphasize to you that all the changes have been discussed and included with broad support and consensus of the various parties involved. This indeed has been a public interest effort. There are not any hidden agendas. There are no hidden goodies for any particular special interests. I think you will hear later from representatives of the Law Revision Commissioner, the Connecticut Bar Association, the Connecticut Bankers' Association, among others, confirming their belief that this is a project worthy of enacting.

As I mentioned earlier, we had one clarifying amendment which we included with a summary and the other materials submitted. For the record, I'd like to propose it at this point. It is an additional Subsection 3 to Section 1-18(a), the section defining mortgage loans, to be inserted after line 62-24 to read as follows.

"Three, loans made to manufacturing, industrial, or commercial borrows with a lien or interest in real estate taken as all or a portion of the collateral to directly or indirectly secure said loans when the bank looks for repayment out of the operation of the borrower's business, relying on the borrower's general credit standing and the borrower's forecast of operations." End of insert.

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This particular amendment confirms the understanding of the department and the industry that those business loans, which a bank -- where a bank is really looking for the borrower's operations for repayment, but where they take a real estate mortgage and security that's all or part should not be a mortgage loan subject to all of the requirements of Section 118.

I'd now like to turn to Gayle to share with the committee information regarding the process followed in generating this bill as well as commenting further on the structure and some other changes. We will both then be available for any questions that any of you or your staff may have and I thank you for your indulgence.

SEN. LOONEY: Thank you, Deputy Commissioner Titus. Any questions at this point? If not, we will have the Banking Department's continuation of the presentation and then we will need to move to the public portion because we've already run into our second hour.

ATTY. GAYLE FIERER: Senator Maloney, Representative HB 5367 McCavanagh, members of the Banks Committee. Good afternoon. My name is Gayle Fierer and I hold the position of Chief Administrative Attorney at the Department of Banking. I'm often criticized for speaking quickly, so you can rest assured that my testimony will be brief.

I understand that you have copies of all of our testimony and I believe the Commissioner and Deputy Commissioner have touched upon the process of some of the areas of law and I thought today that I would just give you an overview of some of the others of law that were addressed in the proposal and rely on our testimony to provide you with the rest of my formal comments.

The four working groups of the advisory committee really attempted three things, to reorganize, to consolidate and to modernize Connecticut's banking law, and as I summarize some of the proposed changes, you will notice over and over again each of the three. For example, with respect to the organization of a Connecticut bank, under current law there are five separate chapters governing the

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organization of state bank and trust companies, savings banks, savings and loan associations, capital stock savings banks and capital stock savings and loan associations.

In HB5367, you will note that these five chapters have been consolidated into a single provision governing the organization of a Connecticut bank. In addition, specific authority and simplified procedures have been provided for the organization of a phantom bank which is used to facilitate certain corporate transactions.

Similarly, the numerous statutes governing mergers of the various types of banks in Connecticut have been combined into a single provision. The current laws governing conversions for each type of institution have been extensively redrafted and reorganized into separate sections dealing instead with conversions from mutual banks to mutual banks, from mutual to capital stock banks, capital stock to capital stock banks and capital stock to mutual banks with uniform approval standards and procedures.

Let me just give you a few examples as to how the current statutes have been modernized in the process. In the satellite device chapter, the term "automated teller machine" has been incorporated into the provisions to reflect common usage of the term. In addition, the statutes have been revised to permit out-of-state affiliates of Connecticut banks to accept deposits through ATMS. In the area of bank failures, the statutes have been updated where appropriate and revised to give the Commissioner the authority to appoint conservators in addition to receivers.

In the area of deposits, the statutes dealing with joint accounts, pledge of time and savings accounts, adverse claims to deposit accounts, replacement of lost or stolen passbooks, establishments of deposits in trust and so forth, which are scattered throughout Title 36 have been modernized and technically revised in order to update terminology and remove internal inconsistencies.

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The laws governing trust powers have been reorganized into separate sections to improve accessibility and have been revised to require that all funds held in a fiduciary capacity be subject to the same provisions relating to segregation, nominees and registration as are trust funds.

In the area of corporate administration, the provisions dealing with the authorization and issuance of shares of stock, preemptive rights and stock options have been modernized and where appropriate conform to Title 33.

Finally, in the area of interstate banking, since we're beginning to see acquisitions by foreign country banks, it was determined that the appropriate reciprocal state for foreign country banks should be their home state under the International Banking Act.

The proposal has, in addition, combined the separate provisions dealing with interstate acquisitions by bank holding companies and savings and loan holding companies and has also consolidated into a single provision made applicable to all banks, the two separate provisions dealing with interstate mergers, consolidation and acquisition of assets.

It goes without saying that a project of this magnitude will include literally hundreds of technical changes too numerous to mention in a brief overview. If you have questions or concerns this afternoon, we'll be pleased to respond to them or let me encourage you to call upon us with any subsequent comments. Thank you again for this opportunity to testify this afternoon.

SEN. LOONEY: Thank you. Questions from any members of the committee at this point? Yes, Representative Rennie.

REP. RENNIE: This is a big bill, as you well know, so just, if you would, since you're very familiar with it, can you just characterize the three most significant changes?

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ATTY. GAYLE FIERER: I think I would say the most significant change is a parity change. In every single chapter where we had different provisions for state bank and trust companies, savings banks and S & Ls, they were combined, be it deposit taking, interstate banking, loans, investments, that was really the majority of the changes.

The second most I think important thing is to update archaic -- actually delete archaic language and update where necessary. And I don't know, the third -- I'm just trying to thing, I thought your question was going to be what's the most controversial and I was trying actually I was sitting there to think about it.

REP. RENNIE: Don't tell me that.

ATTY. GAYLE FIERER: I'm not even sure. I think the most controversial --.

: We're trying to keep that a secret.

ATTY. GAYLE FIERER: In the parity process, where you ended up -- we had several objectives, one of which was parity on the least restrictive basis, which meant that if savings banks had the least restrictive provision in any area, we took the savings bank provision which allowed maybe savings and loans more powers than they would have or state bank and trust companies to get more powers than they would have had.

I think that's where the areas of concern were rather than anything terribly substantive. We did try to modernize and in the modernization process, you know, there were areas that were raised that were raised that we weren't aware of. In interstate banking, for example, you know, do we still need to separate reciprocity standards for acquisitions, interstate acquisitions and for de novo establishments and we decided no, you know, modern -- for modern purposes we really didn't need to have that kind of distinction, but those were the kinds of things that the different working groups wrestled with and I consistently asked for the advice of both the Banking Commissioner and the steering committee that was set up in the beginning. I hope that answers your question.

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REP. RENNIE: Okay, thank you.

SEN. LOONEY: Thank you, Representative Rennie. Any other questions from members of the committee? If not, thank you very much. We have -- yes, one more question. Representative Hess.

REP. HESS: I just wanted a copy of that language that's going to be inserted after line 6224 and I've got a lot of papers here, but I can't seem to find that. Mr. Titus had mentioned that.

ATTY. GAYLE FIERER: We'll provide you with a copy of it.

REP. HESS: Thanks.

SEN. LOONEY: I believe it's in the packets or at least in most of the packets that were distributed.

REP. HESS: Thank you.

SEN. LOONEY: Thank you. There's one other person on the public list and that is David Hemond of the Law Revision Commission. Mr. Hemond, given the time, we've run into the second hour, we'll give you an option. If you can summarize your years' worth of work in five minutes, we'll hear you now. Otherwise if you want to speak more expansively, we will hear you at the end of the public portion. There's a certain incentive in that.

DAVID HEMOND: Thank you. Quite honestly, I think that what needs to be said and was said by Bob Titus and the Commissioner and Gayle, the Law Revision Commission has been involved in this project from its beginning. I think it's clear. It's an important project. I would be happy to answer questions, but I really have nothing further than to hope that you'll give me your full support.

SEN. LOONEY: Thank you. You have the committee's deep and undying gratitude and we realize that you've done an extraordinary amount of work on this over the time of the study, as have other members of the commission.

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REP. MCCA VANAGH: Thank you very much. We will now end that section, that portion of our public hearing and going on to the public section. I'd just like to thank you, Commissioner, for all your hard work and everybody who worked so hard over the year to put this together and have given us a brief overview of such a very large bill. I think we're going to have the largest bill of the year to go through the legislature and I'm sure everybody will understand it when I get it to the floor, so again, thank you very much, Commissioner and all your staff.

I'd like to start the public section and first up will be John Bailey and Robert Taylor from the Connecticut Bar Association. Is John around?

ATTY. ROBERT TAYLOR: I think he may just be outside in the hall.

REP. MCCA VANAGH: Why don't you hold on a second.

REP. RENNIE: You can do it on your own.

REP. MCCA VANAGH: Will you see if John Baily is out there please? Hi, John. Okay, gentlemen, if you would.

ATTY. JOHN BAILEY: Thank you. I'm John Bailey. I'm representing the Connecticut Bar Association in my capacity as President of the Connecticut Bar Association.

The association fully supports HB5367, AN ACT CONCERNING REORGANIZATION OF BANKING LAWS. Our members have spent a good deal of time on this bill and I think they've done an excellent job. They brought it before the Board of Governors, the House of Delegates and we have taken a position from the Connecticut Bar Association and Mr. Taylor, who took part in this process, I would ask you to listen to him briefly to share his ideas on why this should be passed and supported by the Connecticut Bar.

ATTY. ROBERT TAYLOR: Good afternoon. My name is Rob Taylor. I'm a partner with Dayberry & Howard here in Hartford and Vice Chairman of the Banking Law Section of the Connecticut Bar Association. I'm

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also a member of the advisory committee to the Law Revision Commission and the Department of Banking in their efforts to recodify the state banking law.

As a banking practitioner, I can attest to the need to revamp Connecticut's banking laws. Many of our banking laws have become overly cumbersome and in some instances outdated. Frequently these laws are ambiguous in their application and unadaptable to present day practices. These problems have unnecessarily added to the cost of legal compliance at a time when banks are under increased economic strain and are facing competition from non-bank financial institutions.

Briefly, some of the problems with the banking statutes that have been discussed already this afternoon, the historical roots of our banking statutes, as you've heard, have created a structure that is no longer reasonable to face the modern banking environment. In the first place, the present statutes are structured by type of institution, commercial banks, savings banks, savings and loan institutions, distinctions among these types of institutions were at one time valid, but those distinctions are no longer serving any useful purpose.

The legislature itself over the years eroded these distinctions, most significantly 1985 when the so-called parity legislation was passed. In an attempt to create full parity wherever possible, the recodification bill has consolidated the various provisions dealing with the separate type of institutions, thereby streamlining the statutes in the process.

Secondly, the present statutes in many instances fail to recognize modern technologies and practices in the banking industry today. For example, the term "automated teller machine," which I'm sure you're all familiar with, is just now being added to the statutes to reflect common usage.

Thirdly, the recodification bill attempts to harmonize the various amendments that have been made to the banking laws over the years. Because of the rapid changes in banking over recent years, legislative changes on both the federal and state

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levels have led to piecemeal legislation and the statutes have not kept pace. Many of our statutes are not readily adaptable to these types of changes.

Fourthly, because of the significant emergency in recent years of federal banking laws and their applicability to banking institutions in Connecticut, an effort has been made to ensure that the state statutes, where appropriate, are consistent with these federal laws. For example, in the area of loans to officers and directors, the recodification bill revises the Connecticut statutes to incorporate the federal restrictions that are currently applicable to Connecticut banks.

And finally, the bill streamlines and reorganizes the banking statutes to approve their accessible to bankers, legal practitioners and the public at-large.

The Connecticut Bar Association, both from the perspective of representing the interest of its members and from the perspective of seeking the improvement of the administration of our legal system has an overwhelming interest in seeking the passage of this recodification. Under the existing statutory scheme, it has become increasingly difficult for banking practitioners to advise bank clients. The ambiguities, inconsistencies and uncertainties in the laws have made it problematic to advice clients on the requirements of the laws and have created a high degree of risk for bank counsel.

That is why our members were willing to volunteer their time to serve on the advisory committee. In addition to the tremendous efforts of the Banking Department and the Law Revision Commission, many banking lawyers, bank representatives and members of the Connecticut Banker's Association volunteered a substantial amount of their time over the past year to assist in this project.

It should be noted that most of the members of the advisory committee are members of the Connecticut Bar Association. And a present collection of legal and banking talent has come together for this effort and has created a cohesive, well-thought out

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product. It is difficult to imagine that this kind of effort could be coordinated again over the next several years if this bill were not to pass.

You have been given a summary of the bill by the Banking Department. You've heard their testimony today, and we will now attempt to address the substantive provisions of the bill. I would like to confirm, however, that our attempt was to recodify the law, not to make substantive changes. Any substantive changes that the advisory committee or the Banking Department felt compelled to recommend have been pointed out to you in the summary.

In many instances where the advisory committee saw a need for substantive changes, we nevertheless elected not to recommend them so as not to polarize support for the bill. It was decided that these proposed changes should be presented separately to the legislature to be considered on their own merits rather than jeopardizing this much recodification.

Because of the need for the recodification bill and the extensive work that went into creating the final product, we would hope that any further revisions would be kept to a minimum, if made at all. Our concern is that any additional amendments could accept the cohesiveness and balance that now exists in the bill and perhaps upset its passage.

While not everyone on the advisory committee necessarily agreed with every provision of the bill, the bill does present a consensus position. The advisory committee and the Connecticut Bar Association believe that it's a vast improvement over the existing laws.

And finally, I'd like to conclude on a personal note, it has been most gratifying for me to work on this project and to see the most talented legal experts in the state come together in a collegial and educational forum. These individuals have, in drafting this bill, put aside their parochial interests for the common good of the banking community in the state. We appeal to you, the legislature, to take advantage of this phenomenal effort.

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- REP. MCCA VANAGH: Thank you very much. Anybody have any questions to either Robert Taylor or John Bailey on their testimony? I'm sorry, Kevin Rennie, Representative Rennie.
- REP. RENNIE: You mentioned the economic advantage of passing this bill. Does anyone have an estimate as to how much the banking industry will be able to save by this --?
- ATTY. ROBERT TAYLOR: I don't believe that any analysis has been done of what the impact would be. If you have other people testifying from the private sector or talked to them in your conversations, I know that bankers will uniformly tell you that costs of regulation and so forth is a significant cost and by cleaning up the banking statutes, it will certainly reduce some of their compliance costs, some of their legal costs, but I don't know an effort that's been made to quantify that.
- REP. MCCA VANAGH: Bob, I would just like to thank you for all your efforts that you have put in and all your colleagues, a tremendous effort to put such a bill together and it's going to be great for certainly the banking industry in the future and I thank you, John.
- ATTY. JOHN BAILEY: Thank you very much.
- REP. MCCA VANAGH: Next is David Weise from the Connecticut Bankers Association.
- ATTY. DAVID WEISE: Representative McCavanagh, Senator Looney, thank you for having us here today. My name is David Weise. I'm a partner with Tyler, Cooper & Alcorn in Hartford, Connecticut and I'm here on behalf of the Connecticut Bankers Association. I was also a member of the Law Revision Commission Task Force to draft the recodification bill, which is the first bill that I'd like to talk about today.
- Jerry Noonan of the Connecticut Bankers Association wanted to be here himself to voice his support for this legislation. Because of some scheduling conflict was unable to make it, so I'm here instead.

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SB 157
SB 209
HB 5257

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Rather than going into an elaborate detail, I think ^{HB 5367} that the officials from the Department of Banking as well as from the Connecticut Bar Association have stated what needs to be said about the bill. It really does clarify and reorganize and consolidate the existing statutes without significant substantive change and those substantive changes that did need to be made were talked through carefully with the guidance and direction of Commissioner Shulansky, Deputy Commissioner Titus, Gayle Fierer and others and also with the dedicated assistance of the Law Revision Commission.

The say in on hundreds of meetings and were very giving of their time, very encouraging and I think what you have before you is an improvement to our banking scheme and I urge you to support it on behalf of the Connecticut Bankers Association.

The second bill I'd like to address today is Raised SB157, AN ACT CONCERNING LIMITING -- AN ACT LIMITING SECONDARY LIABILITY FOR LINES OF CREDIT. This bill would seek to limit the liability of persons who are secondary liable for lines of credit. If the person who is primarily liable on the line of credit, that is the borrower, defaults, the bill would limit the liability of a guarantor or an endorser to no more than \$10,000.

The association respectfully asserts that this bill is somewhat of a dangerous and probably improved and we urge you to vote against it.

The bill would have a significant adverse impact on credit availability here in Connecticut. Both commercial and consumer borrowers here in Connecticut use lines of credit for a variety of legitimate and important personal and financial objectives.

Oftentimes, the income of the borrower or the collateral that's capable of being provided by the borrower is not sufficient by itself to support the credit, and hence, a guarantee or an endorser is oftentimes required. This is especially common in small business financing, where, for example, when you have a bank or another type of lender, has a fledgling startup business operations that is owned

into that act. There have been none for the last 14 years, 13 years, and so while I don't claim to have any knowledge of the boat financing market or exactly how it compares with cars versus snowmobiles versus anything else, I hate to see this process start which industry by industry, you start saying, well, you can get a deficiency on this and a deficiency on this and a deficiency on that and eventually we're back where we started before 1976.

So for that reason, I would encourage you to hold firm on the narrow exemption. If anything, the argument would be that the exemption for motor vehicles ought to be increased so that the car, instead of being over \$2,000, it should be over \$2,500 or \$3,000. There has been no inflation adjustment for that amount since 1977. So that in fact unintentionally that the size of that exemption has expanded over the years by lack of making an inflation adjustment. Thank you. If there are any questions on any of this, I'd be happy and try to answer them.

REP. MCCA VANAGH: Are there any questions for Raphie?
Thank you.

ATTY. RAPHAEL PODOLSKY: Thank you.

REP. MCCA VANAGH: Charlie Duffy.

CHARLES DUFFY: Mr. Chairman, members of the committee, my name is Charles Duffy. I'm the Lobbyist for the Connecticut Credit Union League and I want to speak briefly on HB5367. The Credit Union League and their attorneys have examined I think probably the most recent draft and we have previously during the process expressed some concerns to the Banks Commissioner on a number of what I would call technical issues. And as far as I can determine I think most of those concerns have been taken into account in the latest draft that's before you.

However, I want to submit for the record that original letter to Deputy Commissioner Titus or at least the points that we raised in it because I want to just go through the bill once more. I understand you're going to J-F the bill today and I don't want to impede that process at all, but would

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respectfully request that to the extent that we find a technical problem with the bill, we'd be able to come to you and request at least that you consider possibly an amendment on the floor.

I raise this issue particularly because credit unions are unique institutions, and as I said, in general the concerns that we have be taken into account, but there may be one or two matters that really haven't been adequately addressed from their perspective and I'd like to just simply reserve the right to come back to you, subsequent to action by the committee on the bill, to request changes should they be needed. That concludes my testimony.

REP. MCCAVANAGH: Representative Rennie.

REP. RENNIE: The credit unions have a representative on the --?

CHARLES DUFFY: Well, yes and no. There were a number of people from various law firms that have represented the Credit Union League or various members and so we were able to participate in the process and to the extent possible keep up with the drafting, reviewing the various drafts, but to be quite frank, we didn't have the capacity until towards the very end to retain somebody to be involved directly throughout the whole process, but we received drafts and had certainly all of the opportunity we could have expected to review each of them during the process, and as I say, I think the Commissioner and his staff have addressed most of the concerns that we had, but I just -- I can't quite be certain because, unlike all of you, I haven't quite finished reading LC059 yet and I just want to --.

REP. RENNIE: And you dare to come here to testify?

CHARLES DUFFY: Yes, I dare.

REP. MCCAVANAGH: Are there any other questions for --?
No. Thank you.

CHARLES DUFFY: Thank you.

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LISA MCGUIRE: Good afternoon. I'll be very brief. I'm Lisa McGuire with People's Bank and People's Bank just wanted to be on the record as supporting HB5367, which is commonly known as the recodification bill. We want to thank the entire task force and especially the Department of Banking for all the hard work that went into this huge project. As a matter of fact, (inaudible) our legal counsel, Bill Costerko did a lot of work on the project and I know that every member contributed a lot and I believe it further enhances and strengthens the dual banking system in the state, which is very important to people since it's one of the largest state chartered institutions in the state. That's it.

REP. MCCA VANAGH: Lisa, thank you very much. We appreciate it. To the people who have signed up, this concludes the people who will be speaking at this hearing. If there anyone who had some -- never mind. This will conclude our public hearing. We will recess. In ten minutes we will come back and we will J-F three of the Commissioner's bill and it won't take us that long, but we'll take a ten minute break. Okay? The hearing is concluded. Thank you.

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Banks Committee of the Connecticut General Assembly

Remarks of Ralph M. Shulansky, Commissioner of Banking, in support of House Bill 5367, "An Act Concerning the Reorganization of the Banking Laws of Connecticut".

Senator Looney, Representative McCavanagh and members of the Committee:

My name is Ralph M. Shulansky. I am the State's Commissioner of Banking and I appear here today in support of House Bill #5367, "An Act Concerning the Reorganization of the Banking Laws of Connecticut". Most of you are already aware that this is a lengthy and somewhat complex bill and so, with your consent, I would like to divide our agency's presentation into three parts. My presentation will relate, in very general terms, to the reason for this recodification of Connecticut's banking laws. Then our Deputy Commissioner, Professor Robert Titus, will review some of the substantive changes which are part of the recodification. He will be followed by Gayle Fierer, Chief Administrative Attorney for the Department of Banking. Mrs. Fierer will review the process and several additional areas of law addressed in this bill.

No one, I think, would question the need to recodify our banking laws. For more than 150 years, Connecticut banking laws have been written and organized to reflect a structure encompassing several different classes and types of banks -- "State Banks and Trust Companies", "Capital Stock Banks",

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"Savings Banks", "Savings and Loan Associations", "Capital Stock Savings and Loan Associations". Along the way (relatively recently, in fact), a few other types and classes of banks disappeared: Private Banks, Industrial Banks, Morris Plan banks, for example. The distinctions between and among these various kinds of banks have almost entirely disappeared as competing segments of the banking industry persuaded this legislative body that all banks should exercise substantially equivalent powers and privileges. Although the differences have disappeared, the statutory structure remains as an anachronism. In metaphoric terms, we are trying to operate and maintain a modern banking vehicle by referring to an owners' manual for a Model A Ford, the margins of which have been filled with fifty years of ad hoc legislative modifications. Our banking laws are replete with archaic, irrelevant, confusing and unworkable provisions.

More than two years ago, our department did some preliminary work to explore with the Law Revision Commission the possibility and feasibility of a project to recodify and modernize our banking laws. That preliminary work culminated in a joint venture between the Department of Banking and the Law Revision Commission which brought about the formation, a year ago, of the Advisory Committee which has carried the main load of the drafting of the revision. The Advisory Committee was carefully selected to include lawyers and law teachers whose practice or

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teaching specialties identified them as men and women with the special knowledge and experience to make a meaningful contribution to the recodification project. Bob Titus, who later became our Deputy Commissioner, was a member of the Advisory Committee from the beginning. We also invited the participation of representatives of the banking trade associations, designees of the leadership of this General Assembly, staff members of this Committee and any and all whose participation and input would insure not only the best possible statutory revision but also optimize the likelihood of approval of the recodification by your Committee and the General Assembly.

The Advisory Committee includes lawyers in private practice and well as "house counsel" for depository institutions; the composition of the Advisory Committee assured that the respective views of all of the industry's special interests would be represented: small banks and large banks, state-chartered and federally-chartered entities, out-of-state banks operating in Connecticut, thrift institutions - savings banks and savings and loans - commercial banks and credit unions, holding companies, stock banks, and mutual banks. The plenary sessions of the Advisory Committee to review drafts of the legislation were open to the public and were attended by many who, though not directly involved in the process, had an interest in the end result.

Former Deputy Commissioner Barbara McGrath chaired the

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Advisory Committee when it was organized. Since Mrs. McGrath's resignation as Deputy Commissioner, Gayle Fierer has been the Advisory Committee chairperson. The time constraints imposed by the need to complete the work in bill form for this session of the legislature added to the difficulty of the task. Mrs. Fierer, together with David Hemond, Chief Attorney of the Law Revision Commission, has done a truly extraordinary job in getting this bill drafted for your consideration. I would also like to commend the excellent work of Nirja Savill, a senior member of our Department's legal staff, who has made a significant contribution to this recodification bill. As you might expect, Bob Titus' role in the recodification project has been greatly expanded since he joined our agency as Deputy Commissioner.

The importance which the Advisory Committee ascribed to the recodification project was evidenced by the dedication and energy which they brought to the task. The Committee and its sub-committees met frequently; literally thousands of person-hours were contributed to the careful construction of the lengthy piece of proposed legislation which your committee is considering this afternoon. We have provided you with a list of those who participated in the drafting process; they have earned the gratitude of all who will read and work with our banking laws in the future.

Early on it became evident that mere recodification would

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not suffice and that some substantive changes would be necessary to modernize Connecticut's banking laws. The broad and diverse membership of the Advisory Committee representing, as it did, all of the "special interests" involved in the industry, afforded an exceptional screening mechanism and assured that substantive changes would not be competitively advantageous to any special interest group, institution or type of institution. Substantive issues which could not be resolved by consensus of the Advisory Committee and issues which had the potential to fracture the drafting group and threaten the effort to recodify the banking laws were left to be dealt with separately at another time by this General Assembly.

The bill before you is, I can assure you, an honest effort by an eminently qualified group to recodify, improve and modernize the banking laws of our state. There are still many significant substantive issues, policy issues which must ultimately be decided by this legislature. It is also to be expected that a statutory drafting effort of this magnitude may contain minor errors and inconsistencies which will need legislative repair as they become evident over time.

I urge your prompt favorable consideration of this important bill. In doing so, I should make it clear that my role in this important project was merely that of instigator; the work - complicated, technical, arduous and painstaking work - was done

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by Gayle Fierer, Bob Titus, David Hemond, Barbara McGrath and the
exceptionally talented group of men and women who served on the
Advisory Committee.

Now I would like to call on Deputy Commissioner Titus who
will review with greater particularity the scope of the banking
law recodification.

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BANKS COMMITTEE OF THE CONNECTICUT GENERAL ASSEMBLY

Remarks of Robert B. Titus, Deputy Commissioner of Banking, in support of House Bill 5367,
"An Act Concerning the Reorganization of the Banking Laws of Connecticut."

Senator Looney, Representative McCavanagh and members of the Committee:

Good afternoon. I am Robert Titus, the Deputy Commissioner of Banking. Gayle Fierer, the Department's senior attorney, and I want to offer testimony in support of House Bill number 5367, the Department's recodification bill. As you can see, this is a very lengthy bill. It is meant to reorganize and modernize all of our existing statutes relating to banking institutions, credit unions, all of the other entities which engage in credit and related activities, as well as our various consumer credit laws. Given both the length and the largely technical nature of the bill, we will not proceed through the bill on a section-by-section basis. We have prepared a six page summary of the bill which has been distributed to every member of the Committee.

Gayle and I want to give you some background as to the objectives and scope of this effort and the process by which the Department, the industry, the Law Revision Commission, and various lawyers and experts have participated. We'll highlight the more significant changes that might be said to be "substantive" in nature. I also will present, at the end of prepared comments, one further clarifying amendment we believe is desirable. We then will be glad to try to answer any specific questions any of you may have.

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Many changes have taken place, particularly in the past two decades, in the structure of the industry, the number of federal and state laws applicable to banking institutions and credit unions, and in industry practices and procedures. The present banking statutes are a fragmented and patchwork quilt of over 350 separate statutes.

This recodification effort has involved the participation of and review by a large number of individuals--including many of the Department's staff, representatives of the industry, lawyers and other experts participating through an Advisory Committee, representatives of the Law Revision Commissioner, the Legislative Commissioner's office, the Office of Legislative Research, and numerous others. A list of participants is attached to the summary being distributed to the Committee. It has been a very labor-intensive process; the hundreds of person-hours dedicated to this bill is a tribute both to the dedication of, and the desirability of this effort to, all the participants.

I would like to identify the four principal objectives that have guided the effort. First, we are completing a process initially begun by this legislature a decade ago of promoting and achieving parity among the three historically different forms of banking institutions: commercial banks, savings banks, and savings and loan associations. While those separate identities continue to have some relevance with respect to initial chartering and their internal organization and governance, any remaining distinctions as to powers and procedures are eliminated. The consolidated treatment of these entities will enable us to reduce the number of statutory provisions relating just to banking institutions by about one-third, from approximately 325 sections to 205 sections.

Second, as a result of such consolidation, the inclusion of a general definition section and other structural changes, we will make the statutes generally more readable and accessible by bankers, consumers, legislators and anyone else having occasion to use them.

Third, we have codified various long-standing Banking Department policies or interpretations that have been issued to clarify ambiguities or questions concerning the present statutes.

Finally, there are a number of areas where all participants felt it important and helpful to modernize the statutes to reflect current industry practices and procedures or to harmonize with existing federal law requirements. Several of these effectively are "substantive" changes, but as to all there has been a broad consensus that the changes are appropriate. I want to comment briefly on what we believe to be the most significant of those.

The first area which I would note are the provisions relating to loans. You will find those in sections 117 to 119 of the draft bill. We previously had a patchwork quilt of some general provisions, other very specific statutes, and even still other institutions operating under various claims of implied powers. We now have a general loan authorization section, which basically is limited only by updated sections relating to loans to a single borrower and the detailed requirements applicable to mortgage loans. With respect to the latter section, the key elements of the existing statute--the requirements regarding loan to value ratios, appraisals, and title insurance--are retained, but the statute otherwise has been overhauled significantly, both to clarify how it is intended to operate as well as to bring it up to date with modern lending practices and current federal guidelines. We are requesting one amendment which I'll explain further to confirm that commercial and industrial loans which happen to be secured by a mortgage on real estate are not meant to be treated as "mortgage loans" for purposes of section 118.

The investment statutes are another area where the prior statutes were numerous, overlapping, and often archaic. In the recodification, we have consolidated all the numerous subsections relating to investments into five separate sections, meant to apply uniformly to each form of banking institution and dealing, respectively, with investments in debt securities, equity securities, commercial paper, social purpose investments and limited unrestricted investments. Those sections appear at sections 124 through 128 of the bill. The basic approach, similar to existing provisions applicable to savings banks, is to authorize, in the first instance, unlimited investment in certain "high grade" (i.e., those within the top 3 rating categories) debt obligations. Otherwise, any investment generally must be pursuant to previously adopted investment policies, must be a prudent investment and the amounts which can be invested either in a single type of investment or in the aggregate are limited as a percentage of the institution's equity capital or assets, respectively. We have made it clear that there is to be only a single "leeway" provision that allows banking institutions to invest limited amounts in investments not otherwise expressly authorized.

An area where the recodification draft stiffens the requirements of prior law concerns so-called insider loans. The existing Connecticut statutes only address loans to executive officers. Section 120 of the bill proposes to broaden the coverage of the insider loans provisions also to include loans to directors, principal shareholders and certain related persons. At the same time, we are conforming these expanded obligations to those in effect under federal regulatory agency requirements. Those include: (1) restrictions on how much can be lent to officers, directors and principal shareholders, (2) procedures for reviewing and approving such extensions of credit, as well as (3) various reporting requirements. That section retains authority for the Commissioner to promulgate additional requirements beyond those required under federal law if the Commissioner determines it to be necessary to do so for safety and soundness reasons.

The recodification effort also has reviewed and attempted to update the branching area to give our Connecticut banks the maximum flexibility to compete. The basic branching section applicable to all three types of institutions--section 67 of the bill--now will (1) define what we mean by a full service branch; (2) expand the authority of banks to apply for limited branches, e.g., limited hours or specialized services, but imposing clear public convenience and necessity standards which the Commissioner must consider prior to approving such a branch; and (3) add a requirement that banks proposing to close a branch must give prior notice (in a manner which is consistent with existing federal requirements).

We also have strengthened the Commissioner's authority in a couple areas, to bring it into conformity with both what federal banking regulators possess and what the Commissioner already has power to do in the securities area. Section 4 of the bill gives the Commissioner general regulation-making authority with respect to all areas of the banking law which he or she is charged with administering. In section 28, we added the authority to issue cease and desist orders if the Commissioner determines that a bank or officials are engaged in unsafe and unsound practices.

Those are the most notable modernizing changes which are included in the recodification bill. We want to emphasize to you that all changes have been discussed and included with broad support and consensus of the various parties involved. This indeed has been a public interest effort; there are not any hidden agendas or goodies included to benefit particular special interests. I think you will hear later from representatives of the Law Revision Commission, the Connecticut Bar Association, and the Connecticut Bankers Association, confirming their belief that this is a project worthy of enactment.

As I mentioned earlier, we have one clarifying amendment which we included with the summary and the other materials submitted. We propose an additional subsection (3) to section 118(a)--to be inserted after line 6224 to read as follows:

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"(3) Loans made to manufacturing, industrial or commercial borrowers with a lien or interest in real estate taken as all or a portion of the collateral to directly or indirectly secure said loans, when the bank looks for repayment out of the operations of the borrower's business, relying on the borrower's general credit standing and the borrower's forecast of operations."

This amendment confirms the understanding of the Department and the industry that those business loans where a bank really is looking to the borrower's operations for repayment, but where a real estate mortgage may be taken as security in whole or part for the loan, are not "mortgage loans subject to all the requirements of section 118.

I now want to turn to Gayle to share with the Committee information regarding the process followed in generating this bill, as well as commenting further on both the structure and certain other changes. We both will be available to respond to any questions which any of you or your staff may have on the bill. I thank you for your indulgence.

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Proposed substitute language to House Bill No. 5367, LCO 59

Entitled "AN ACT CONCERNING THE REORGANIZATION OF THE BANKING LAWS OF CONNECTICUT."

After line 6224, insert the following:

(3) LOANS MADE TO MANUFACTURING, INDUSTRIAL OR COMMERCIAL BORROWERS WITH A LIEN OR INTEREST IN REAL ESTATE TAKEN AS ALL OR A PORTION OF THE COLLATERAL TO DIRECTLY OR INDIRECTLY SECURE SUCH LOANS, WHEN THE BANK LOOKS FOR REPAYMENT OUT OF THE OPERATIONS OF THE BORROWER'S BUSINESS, RELYING ON THE BORROWER'S GENERAL CREDIT STANDING AND THE BORROWER'S FORECAST OF OPERATIONS.

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BANKS COMMITTEE OF THE CONNECTICUT GENERAL ASSEMBLY

Remarks of Gayle S. Fierer, Chief Administrative Attorney, Department of Banking, in support of House Bill 5367, "An Act Concerning the Reorganization of the Banking Laws of Connecticut."

Senator Looney, Representative McCavanagh, members of the Committee:

Good afternoon. My name is Gayle Fierer and I hold the position of Chief Administrative Attorney at the Department of Banking. I have been fortunate to be a member of the recodification project since its inception over a year ago. This afternoon, I would like to give you an overview of the project itself and touch upon some of the areas of law that were addressed in the process.

Back in April of last year, Commissioner Shulansky and our former Deputy Commissioner appointed a Steering Committee for the recodification effort. The first responsibility of the Steering Committee was to review and determine the best process to follow in approaching and accomplishing a recodification of the banking laws. It was determined at that time to divide the advisory committee into four working groups, each with its own assigned subject matter area. One group, for example, dealt with the laws governing the Banking Commissioner and the Department of Banking, including those concerning the administration and enforcement of the banking statutes; the second group dealt with corporate governance issues and geographic limitations; the third group dealt with loans and investments; and the fourth group dealt with deposits and trust powers. The Steering Committee suggested that the working groups follow four overall guidelines; first, the groups should seek to avoid the type of controversy that

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would reduce the likelihood of the project being successful; second, where a substantive change is recommended, parity among the three types of state-chartered banks should be a primary motivation; third, each substantive change should be documented in the commentary to the proposal; and fourth, wherever possible, a state statutory response to an issue, rather than stated federal preemption is preferable. The four working groups then proceeded to meet, for by line, discussing substantive issues, and requesting the advice of the Steering Committee and of the Commissioner. House Bill 5367 represents these efforts.

The four working groups really attempted three things, to reorganize, to consolidate and to modernize Connecticut banking law. As I summarize some of the proposed changes, you will notice over and over again each of the three. For example, with respect to the organization of a Connecticut bank, under current law, there are five separate chapters governing the organization of state bank and trust companies, savings banks, savings and loan associations, capital stock savings banks and capital stock savings and loan associations. In House Bill 5367, you will note that these five chapters have been consolidated into a single provision governing the organization of a Connecticut bank. In addition, specific authority and simplified procedures have been provided for the organization of a phantom bank, which is used to facilitate certain corporate transactions.

Similarly, the numerous statutes governing mergers of the various types of banks in Connecticut have been combined into a single provision. The current laws governing conversions for each type of institution have been extensively redrafted and reorganized into separate sections dealing with conversions from

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mutual banks to mutual banks, from mutual to capital stock banks, capital stock to capital stock banks and capital stock to mutual banks, with uniform approval standards and procedures.

Let me give you a few examples as to how the current statutes have been modernized. In the satellite device chapter, the term "automated teller machine" has been incorporated into the provisions to reflect common usage of the term. In addition, the statutes have been revised to permit out-of-state affiliates of Connecticut banks to accept deposits through ATMs. In the area of bank failures, the statutes have been updated where appropriate and revised to give the Commissioner the authority to appoint conservators in addition to receivers. In the area of deposits, the statutes dealing with joint accounts, pledge of time and savings accounts, adverse claims to deposit accounts, replacement of lost or stolen passbooks, establishment of deposits in trust, etc., which are scattered throughout Title 36 have been modernized and technically revised in order to update terminology and remove internal inconsistencies. The laws governing trust powers have been reorganized into separate sections to improve accessibility, and have been revised to require that all funds held in a fiduciary capacity be subject to the same provisions relating to segregation, nominees and registration as are trust funds. In the area of corporate administration, the provisions dealing with the authorization and issuance of shares of stock, preemptive rights and stock options have been modernized, and, where appropriate, conformed to Title 33. Finally, in the area of interstate banking, since we are beginning to see acquisitions by foreign country banks, it was determined that the appropriate reciprocal state

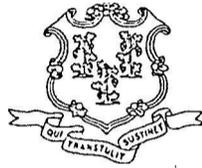
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for foreign country banks should be their home state under the International Banking Act. The proposal has, in addition, combined the separate provisions dealing with interstate acquisitions by bank holding companies and savings and loan holding companies, and has also consolidated into a single provision made applicable to all banks the two separate provisions dealing with interstate mergers, consolidations and acquisitions of assets.

It goes without saying that a project of this magnitude will include literally hundreds of technical changes too numerous to mention in a brief overview. If you have questions or concerns this afternoon, we'll be pleased to respond to them, or let me encourage you to call upon us with any subsequent comments. Thank you again for this opportunity to testify this afternoon.

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State of Connecticut
DEPARTMENT OF BANKING
44 CAPITOL AVENUE
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Ralph M. Shulansky
COMMISSIONER

Robert B. Titus
DEPUTY COMMISSIONER

H.B. 5367, "An Act Concerning the Reorganization
of the Banking Laws of Connecticut"
Summary

A joint committee consisting of the Department of Banking, the Law Revision Commission, and a group of approximately forty advisors expert in Connecticut banking law has studied Connecticut banking law during the last year for the purpose of implementing a recodification of Title 36. This project was driven by a variety of concerns. Although the banking laws have been amended from time to time to reflect changing economic realities, these changes have been enacted piecemeal. One consequence has been that the title has no logical organization, and the statutory scheme has become disorganized and cumbersome. All of this has made it difficult for practitioners to locate and comprehend the various laws governing state chartered banks. The problem has been exacerbated by the expanding jurisdiction of the Banking Commissioner and the continual need to amend state laws to take into account the sweeping legislative changes on the federal level that affect state banks. Finally, there exists a real need to modernize the statutes and eliminate archaic provisions, some of which date back to the turn of the century, particularly in light of the technological changes affecting the financial services industry and the new products and services offered by the industry.

The joint committee sought to reorganize, consolidate and modernize Connecticut banking law, using as its guiding principle the parity among the three types of state-chartered banks that was created by the General Assembly during the 1985 legislative session. The proposal reflects, for the most part, the existing policy and customary practices of the Department of Banking and is not intended to substantially affect relationships between banks and their customers, shareholders, officers or directors, or among banks. However, addressing the above issues has required some substantive changes. The nature of those substantive changes have been noted in this summary and further described in the comments following each proposed statutory section.

Under the proposal, Title 36 is recodified into a newly reorganized Title 36A, to be entitled "The Banking Law of Connecticut", consisting of eleven chapters concerning banks, credit unions and consumer credit licensees and a new Title 36B, entitled "The Securities and Business Investments Laws of Connecticut", comprised of current chapters 661a, The Connecticut Tender Offer Act, 662, the Uniform Securities Act, and 662a, the Business Opportunity Investment Act.

In accordance with the legislative intent to create parity, most of Connecticut's banking laws will now apply equally to the three types of state chartered banks (state bank and trust companies, savings banks, and savings and loan associations). These banks have been defined in the proposal as "Connecticut banks" and the three similar sets of laws concerning them under the current statutes have been consolidated into one. This approach allows a

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major streamlining of the statutes and also avoids numerous opportunities for confusion and internal statutory inconsistencies. Moreover, the more detailed organization by chapters and parts should improve the accessibility of the provisions to practitioners and the public at large. Chapters 661a, 662 and 662a have been removed to a separate title because their provisions concern securities and investment laws, rather than laws governing Connecticut banks or banking-related matters.

The proposal contains a substantial number of revisions intended solely for clarification or to update the statutes in accordance with modern drafting. For example, provisions have been drafted to be gender neutral and outdated legalese has been eliminated.

The following is a brief summary of the changes proposed:

Chapter 1. General Statement and Definitions.

- **General Statement.** The general statement has been revised to reflect the individuals and entities regulated by proposed Title 36A. Proposed Title 36B has its own general statement.
- **Definitions.** The number of definitions contained in current section 36-2 has been expanded and existing definitions have been revised as appropriate. Terms that appear throughout the title and have the same meaning throughout have been defined in a single section. Definitions of terms that are specific to particular sections have been included in those sections but, for ease of reference, have been listed in a separate new section 36-3 with a cross-reference to the appropriate section. Appropriate conforming revisions have been made to other sections.

Chapter 2. Administration and Enforcement.

- **Banking Commissioner's powers and duties.** A new section clarifies that the Commissioner has general regulation-making authority over matters within his jurisdiction. The provisions concerning investigations and examinations by the Department of Banking, which are currently scattered throughout the statutes and have numerous inconsistencies, have been consolidated.
- **Community reinvestment.** Requirements for CRA review by the Commissioner which are currently provided in a number of sections such as those authorizing branches, mergers and acquisitions have been consolidated into a new section, with minor differences preserved.
- **Disclosure of financial records.** The proposal adds two exceptions to the current prohibition against a bank disclosing customer financial records, *viz.*, disclosures made by a bank in connection with a bank's attempts to preserve its rights or determine its liabilities with regard to any funds transfer or any item drawn by or upon it or handled by it; and any disclosures required under law or authorized by law to be made to any regulatory or law enforcement agency. These two additional exceptions codify what is believed to be implicit under existing case law.

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- **Violations of banking law.** The provisions concerning the Commissioner's enforcement powers, including the authority to impose civil penalties, suspend and revoke licenses, issue cease and desist orders, and seek injunction and restitution, which currently are contained in various licensing statutes throughout Title 36 and other titles, have been consolidated and uniformly applied to all entities subject to his jurisdiction.
- **Fees and charges.** New fees have been provided in connection with new statutory provisions concerning branch closings, limited branches and phantom bank organizations.

Chapter 3. Corporate organization and administration of Connecticut banks.

- **Organization.** The statutes governing the organization of the three types of state chartered banks have been consolidated into a single provision, with specific authority and simplified procedures provided for the organization of a phantom bank to facilitate certain corporate transactions. In light of parity, uniform procedures and approval standards have been adopted. The approving authority for bank organizations remains unchanged except that the authority to organize mutual savings banks will now be vested in the Commissioner. A section clarifies the interrelationship of Title 33, the general corporate law, and the corporate administration provisions of Title 36.
- **Corporate administration.** Provisions dealing with corporate administration, such as the authorization and issuance of shares of stock, increase in the authorized shares, preemptive rights and stock options, have been modernized, and where appropriate, conformed to Title 33. Other provisions, such as those concerning relocation of main offices and benefits and compensation for officers and employees have been updated and consolidated for the three types of banks. In addition, the current prohibition on voting trusts or agreements has been replaced with a provision validating such trusts and agreements on approval of the Commissioner.
- **Reserve requirements.** Provisions concerning reserve requirements, which in some instances set lower standards than mandated under federal law, have been consolidated and uniformly updated for banks and credit unions.

Chapter 4. Fundamental changes.

- **Mergers and consolidations.** The requirements for mergers and consolidations of Connecticut banks have been combined into a single provision, and those for mergers and consolidations with federally-chartered banks have been set forth in a new section.
- **Conversions.** Current provisions have been extensively redrafted, consolidated and reorganized into new sections concerning conversions of banks from mutual to mutual, mutual to capital stock, capital stock to capital stock and capital stock to mutual, with uniform and simplified standards and procedures.

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- **Branches.** Current statutes have been consolidated and amended to authorize limited service branches, require notice of branch closings, and specify the application procedure for relocation of branches.
- **ATMs and Satellite Devices.** The term "automated teller machine" has been incorporated into the satellite device statutes to reflect common usage of the term, to provide express authority for on-site ATMs, and to clarify other provisions with respect to both on-site and off-site ATMs. The statutes have been revised to permit out-of-state affiliates of banks that are authorized to accept deposits in Connecticut to accept deposits through ATMs.
- **Sale of Assets.** Application of these provisions to acquisitions of institutions in receivership has been clarified.
- **Failures, receiverships and conservatorships.** The provisions have been updated where appropriate and revised to give the Commissioner the authority to appoint conservators in addition to receivers. The marshalling of claims provisions for different types of banks in liquidation have been consolidated into one depositor-preference provision.

Chapter 5. Powers, Loans and Investments. 4

- **Powers.** The existing powers provisions for the three types of state chartered banks, which currently appear in over 30 separate sections, have been consolidated into a single provision, using the underlying principle of parity on the least restrictive basis.
- **Loans.** The proposal gives all three types of banks the current state bank and trust company express power to make secured and unsecured loans. As a result, many of the specific loan authorities for the other types of banks have been repealed as superfluous. These loans continue to be subject to certain limitations, such as those concerning loans to one obligor. The proposal extensively revises and consolidates the mortgage loan provisions into a single section, defines a mortgage loan and restates the restrictions, such as loan to value ratios, appraisals and title insurance that apply to such a loan. The provisions have been revised to take into account modern lending practices and products. In addition, the proposal incorporates federal regulatory agency restrictions on certain insider loans, with express authority given to the Commissioner to adopt more restrictive provisions by regulation.
- **Investments.** The proposal eliminates the current convoluted, overlapping and confusing investment provisions that are scattered throughout the title for the three types of banks, and which authorize banks to make specific types of investments as a percentage of their assets subject to certain restrictions. These provisions have been replaced by a scheme in which the investment authorities for the three types of banks are consolidated into separate sections dealing, respectively, with investments in debt securities, equity securities, social purpose investments, investments in commercial paper and unrestricted investments. The provisions for investment in debt securities are similar to those adopted in other states and

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include rating and prudent investment standards based on existing provisions as well as a requirement that banks adopt an acceptable investment policy. The proposal consolidates and simplifies, but essentially maintains the current authority to make equity investments and applies the current rating and prudent investment standards to such investments. The existing authority for social purpose investments has been consolidated into a simplified scheme, with an aggregate limitation which is a percentage of equity capital.

- Savings bank life insurance. The statutes have been updated and modernized; however, the current prohibition against banks other than savings banks selling such insurance has not been altered.

Chapter 6. Deposits and Checks.

- The various deposit-related provisions which are scattered throughout Title 36 have been consolidated, modernized and technically revised in order to update terminology and remove internal inconsistencies.

Chapter 7. Fiduciary powers.

- The provisions concerning fiduciary powers have been technically revised and the overly long core section on common trust funds has been divided into eight sections to improve its accessibility. The proposal is based on current law, clarifies permissible investments of funds held by Connecticut banks in a fiduciary capacity and clearly requires that all such funds be subject to the same provisions relating to segregation, nominees and registration as are trust funds. A new provision clarifies the inapplicability of Connecticut's "bucket shop" laws to fiduciary investments.

Chapter 8. Out-of-state banks.

- Interstate Banking. The interstate banking provisions have been amended to combine provisions concerning acquisitions by all out-of-state holding companies into a single section, limit their application to stock acquisitions of 10% or more, delete the separate reciprocity standard for de novo establishments and the requirement that the reciprocal law be express, and clarify that the reciprocal state for foreign country banks is the "home state" under the federal International Banking Act. Similarly, provisions dealing with interstate mergers, consolidations and acquisitions of assets have been combined into a single section, with out-of-state commercial banks being given the parallel authority they currently lack.
- Limitations on foreign banks. The proposal revises the prohibition on foreign banking corporations transacting business in Connecticut to permit such corporations to make loans, whether secured or unsecured, in this state. In addition, the proposal clarifies that foreign banking corporations that transact business in Connecticut must comply with the qualification requirements of Title 33 applicable to foreign corporations.

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The proposal deletes the requirement for approval of offices of a foreign banking corporation that engages in nonbanking business in Connecticut, as well as the two-office-per-year restriction on offices that engage in banking business in Connecticut.

Chapters 9 through 11. Credit Unions. Non-depository financial institutions. Regulated Activities.

- The only revisions to proposed chapters 9 through 11 are technical revisions to update language, conform to the new definitions, or conform to the new general enforcement provisions enacted. In addition, Title 42 provisions concerning Retail Instalment Sales Financing and Consumer Collection Agencies are being transferred into this new Title 36A since the Department already has principal administrative responsibility for those statutes are.

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people's bank

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Testimony before the Banks Committee
People's Bank
February 22, 1994

Good afternoon Senator Looney, Representative McCavanagh, members of the Banks Committee, my name is Lisa McGuire and I am here representing People's Bank, the largest state-chartered savings bank in Connecticut. We serve the state through a network of 74 branches, automated teller machines and People's Tele-Banking Services. We are the leading mortgage originator in the state and a major provider of consumer and commercial financial services.

I am here today to lend our support to House Bill 5367, An Act Concerning the Reorganization of the Banking Laws of Connecticut, with the changes recommended by the Department of Banking.

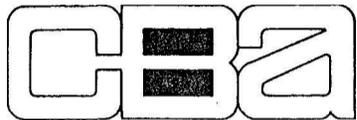
As you've heard from the department of banking, HB 5367 was a collaborative effort, by a wide variety of stakeholder groups - from consumers to attorneys to department officials and bankers. It represents a great deal of cooperation to reach consensus on frequently confusing, disjointed statutes.

HB 5367 seeks to simplify, with very few substantive changes, banking law in this state and to make it easier for consumers and bankers to understand and interpret. The few substantive changes, as reviewed by the banking department, were to modernize the industry and bring it in line with today's technology and practices throughout the world.

The bill creates parity by applying most of Connecticut's banking laws equally to the three types of state chartered banks, thereby streamlining statutes and avoiding opportunity for confusion.

People's Bank would like to thank the task force - and especially the department of banking - for all the hard work that went into this large project. We believe it further enhances and strengthens the dual banking system in this state.

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Connecticut Bar Association

TESTIMONY OF THE CONNECTICUT BAR ASSOCIATION
BEFORE THE
BANKS COMMITTEE OF THE GENERAL ASSEMBLY

FEBRUARY 22, 1994

HOUSE BILL NO. 5367 -- AN ACT CONCERNING
THE REORGANIZATION OF THE BANKING LAWS OF CONNECTICUT

Good afternoon ladies and gentlemen. My name is Rob Taylor. I am a partner with the law firm of Day, Berry & Howard in Hartford and Vice-Chairman of the Banking Law Section of the Connecticut Bar Association. I am also a member of the Advisory Committee to the Law Revision Commission and the Department of Banking in their efforts to recodify the state banking laws. I am here today on behalf of the Connecticut Bar Association, which is in full support of House Bill No. 5367, the recodification bill being considered by this committee. I appreciate the opportunity to share our views with you on this legislation.

As a banking practitioner, I can attest to the need to revamp Connecticut's banking laws. Many of our banking laws have become overly cumbersome and in some instances outdated. Frequently, these laws are ambiguous in their application and unadaptable to present day practices. These problems have unnecessarily added to the cost of legal compliance at a time when banks are under increased economic strain and are facing increased competition from non-bank financial institutions.

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The historical roots of our banking statutes have created a structure that no longer makes sense in today's modern banking age. In the first place, the present statutes are structured by type of institution -- commercial banks, savings banks, and savings and loan associations. Distinctions among these types of institutions were at one time warranted by the distinct and separate original purposes and powers of these institutions. These distinctions have dramatically blurred today, and in most cases the distinctions continue to serve no purpose. The Legislature itself has over the years eroded these distinctions, most significantly in 1985, when legislation was enacted to establish parity of powers among the various types of state banking institutions. Most of the remaining distinctions are technical in nature or are meaningless. In an attempt to create full parity wherever possible, the recodification bill has consolidated the provisions dealing with the separate types of institutions thereby streamlining these statutes in the process. The few significant substantive distinctions, such as savings bank life insurance, have been retained in the recodification bill.

Secondly, the present statutes, in many instances, fail to recognize modern technologies and practices in the banking industry today. For example, the term "automated teller machine" has been included to reflect common usage of the term and the implicit authority of a bank to establish an ATM at a branch location has been made explicit.

Thirdly, the recodification bill attempts to harmonize the various amendments made to the banking laws over the years. Because of the rapid changes in banking over the last two decades, legislative changes on both the federal and state levels have been enacted piecemeal in an effort to keep up with these developments. Many of our statutes were not and are not readily adaptable to these types of changes.

Fourthly, because of the significant emergence in recent years of federal banking laws and their applicability to banking institutions in Connecticut, an effort has been made to ensure that the state statutes, where appropriate, are consistent with federal law. For example, in the area of loans to officers and directors, the recodification bill revises the Connecticut statutes to incorporate the federal restrictions currently applicable to Connecticut banks.

Finally, the bill streamlines and reorganizes the banking statutes to improve their accessibility to bankers, legal practitioners, and the public at large. The more detailed organization of the banking statutes by chapters and subject matters should assist in this effort.

* * * * *

The Connecticut Bar Association, both from the perspective of representing the interests of its members and from the perspective of seeking the improvement of the administration of our legal system, has an overwhelming interest in seeing the passage of this recodification of the banking laws. Under the existing statutory scheme, it has become increasingly difficult for banking practitioners to advise bank clients. The ambiguities, inconsistencies, and uncertainties in the laws have made it problematic to advise clients on the requirements of the laws and have created a higher degree of risk for bank counsel.

That is why our members were willing to volunteer their time to serve on the Advisory Committee. In addition to the tremendous efforts of the Banking Department and the Law Revision Commission, many banking lawyers, bank representatives and members of the Connecticut Bankers Association volunteered a substantial amount of their time over the past year to assist in this project. It should be noted that most of the members of the Advisory Committee are members of the Connecticut Bar Association. An impressive collection of legal and banking talent has come together for this effort and has created a cohesive, well thought-out product. It is difficult to imagine that this kind of effort could be coordinated again over the next several years if this bill were not passed.

You have been give a summary of this bill by the Banking Department and heard their testimony today, so I will not attempt to address the substantive points of the bill. I would like to confirm, however, that our attempt was to recodify the laws, not to make substantive changes. Any substantive changes that the Advisory Committee or the Banking Department felt compelled to recommend have been pointed out to you in the summary. In many instances where the Advisory Committee saw a need for substantive changes, we nevertheless elected not to recommend them so as not to polarize support for the bill. It was decided that these proposed changes should be presented separately to the Legislature to be considered on their own merits, rather than jeopardizing this much needed recodification.

Because of the need for the recodification bill and the extensive work that went into creating the final product, we would hope that further revisions would be kept to a minimum, if made at all. Our concern is that any additional amendments could upset the cohesiveness and balance that now exists in the bill and, perhaps, its chance for passage. While not everyone on the Advisory Committee necessarily agreed with every provision of the bill, the bill represents a consensus position. The Advisory Committee and the Connecticut Bar Association believe that it is a vast improvement over the existing laws.

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I would like to conclude on a personal note. It has been most gratifying for me to work on this project and to see the most talented legal banking experts in the State come together in a collegial and educational forum. These individuals have, in drafting this bill, put their parochial interests aside for the common good of the banking community and the State. I appeal to you, the Legislature, to take advantage of this phenomenal effort.

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MEMORANDUM

TO: The Banks' Committee
FROM: David J. Wiese on Behalf of the Connecticut Bankers Association (the "Association")
RE: Raised Bill Nos.: 5367, 209, 157, & 5257
DATE: February 22, 1994

* * * * *

The first proposal the Association would like to address is Raised Bill No. 5367, "An Act Concerning the Reorganization of the Banking Laws of Connecticut" (or the so-called "Recodification Bill"). Gerry Noonan, the President of the Connecticut Bankers Association, wanted to be here today to testify in support of this proposal. Unfortunately, he had a conflict in his schedule and was unable to be here in person. In his absence, he has asked me to convey the Association's support for this bill.

This bill seeks to improve Connecticut banking law by clarifying, consolidating, and reorganizing the existing statutes. Over the years, numerous legislative amendments have been enacted in a "piecemeal" fashion to address the ever-changing condition of our economy and the banking industry. Unfortunately, the scattered, cumulative effect of the amendments has left us with a statutory scheme that is sometimes difficult to interpret and/or enforce. This legislation attempts to resolve some of that confusion without significantly changing the substantive intent of the law or the policy objectives of the Department of Banking.

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With the guidance of the Department, and the dedicated assistance of David Hemond of the Law Revision Commission, a large working group of lawyers from the public and private sector worked long and hard to assemble this recodification. Officials from the Department of Banking sat in on virtually every meeting and provided significant direction and encouragement throughout.

The Association applauds the hard work, guidance and vision provided by the Department. We believe that this Recodification Bill improves and modernizes our statutory scheme, and we, therefor, urge you to support the proposal.

The second bill I would like to address is Raised Bill No. 157, "An Act Limiting Secondary Liability for Lines of Credit".

This bill seeks to limit the liability of persons secondarily liable for lines of credit. If the person who is primarily liable defaults, then the co-signer's liability would be limited to no more than ten thousand dollars.

We respectfully assert that this bill is dangerous and imprudent, and the Association urges you to vote against the bill. The bill would have a significant adverse impact on credit availability. Commercial and consumer borrowers need lines of credit to accomplish many important financial objectives. In many cases, the borrowing cannot be supported by the income and