ENROLLED ORIGINAL

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To repeal section 2 of the Regional Interstate Banking Act of 1985, to abolish the position of the Superintendent of Banking and Financial Institutions and the Office of Banking and Financial Institutions and to establish the position of Commissioner of the Department of Banking and Financial Institutions and the Department of Banking and Financial Institutions, to clarify and expand the authority of the Commissioner of the Department of Banking and Financial Institutions and of the Department of Banking and Financial Institutions, and to facilitate financial services activities, both inside and outside the District of Columbia, by financial institutions organized and conducting business in the District of Columbia pursuant to the authority of the Commissioner of the Department of Banking and Financial Institutions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "21st Century Financial Modernization Act of 2000".

TITLE I. GENERAL PROVISIONS.

SUBTITLE A. GENERAL PROVISIONS.

Sec. 101. This title may be cited as the “General Provisions of the 21st Century Financial Modernization Act of 2000”.

Sec. 102. Definitions.

For the purposes of this title, the term:

(1) “Affiliate” means a financial institution holding company under federal law or a subsidiary or service corporation of a financial institution holding company.

(2) “Appropriate federal financial institutions agency” means the federal agency with statutory authority over the financial institution activities of a financial institution.

(3) “Bank” means an institution that engages in the business of banking, including a trust company, savings bank, savings and loan association, and credit union.

(4) “Bank holding company” shall have the same meaning as set forth in section 2(a) of the Bank Holding Company Act of 1956, approved May 9, 1956 (70 Stat. 133; 12 §

U.S.C. 1841(a)).

(5) "Business of banking" means activities and transactions involving banking, including: (A) receiving deposits, paying checks, and lending money; (B) activities of a bank which are supervised by the Commissioner; and (C) activities incidental, necessary, or convenient to banking.

(6) "Capital" means capital deposits, surplus, and undivided earnings.

(7) "Commissioner" means the Commissioner of the Department of Banking and Financial Institutions.

(8) "Credit union" means a financial institution organized as a cooperative association with a limited membership and operating with insurance provided by the National Credit Union Administration.

(9) "Department" means the Department of Banking and Financial Institutions.

(10) "Director" means a director or trustee of an organization or a person with functions similar to the functions of a director or trustee.

(11) "District" means the District of Columbia.

(12) "District bank" means a bank chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a bank authorized to do business under the laws of the District.

(13) "District credit union" means a credit union chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a credit union authorized to do business under the laws of the District.

(14) "District of Columbia Banking Code" means the statutory provisions concerning banking and financial institutions which are codified in Title 26 of the District of Columbia Code, laws administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(15) "District savings institution" means a savings institution chartered or organized under the District of Columbia Banking Code and under the authority and supervision of the Commissioner or a savings institution authorized to do business under the laws of the District.

(16) "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of a financial institution, whether or not the person has an official title or receives compensation from the financial institution. The term "executive officer" shall not include a person who may exercise discretion in the performance of duties and functions, including discretion in the making of loans, if the person's exercise of discretion is limited by policy standards adopted by the board of directors of the financial institution and the person does not participate in major policymaking functions of the financial institution. The chair of the board, the president, chief executive officer, chief operating officer, chief financial officer, every executive vice president of a financial institution, and the senior trust officer of a trust company shall be presumed to be executive

officers unless the person is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the person does not actually participate in major policymaking functions of the financial institution.

(17) "Federal agency" means an agency of the United States of America.

(18) "Financial institution" means a bank, savings institution, credit union, foreign bank, trust company, non-depository financial institution, or any other person which is regulated, supervised, examined, or licensed by the Department of Banking and Financial Institutions; which has applied to be regulated, supervised, examined, or licensed by the Department of Banking and Financial Institutions; which is subject to the regulation, supervision, examination, or licensure by the Department of Banking and Financial Institutions; or which is engaged in an activity covered by the District of Columbia Banking Code.

(19) "Non-depository financial institution" means a financial institution that is engaged in a regulated activity and that is not a bank or credit union.

(20) "Order" means an approval, consent, authorization, exemption, denial, prohibition, requirement, or other administrative action.

(21) "Person" means an individual, corporation, trust, joint venture, company, association, firm, partnership, society, joint stock company, pool syndicate, sole proprietorship, unincorporated organization, fiduciary business, or any other similar entity.

(22) "Regulated activity" means an activity authorized and regulated under the District of Columbia Banking Code and under the authority and supervision of the Commissioner.

(23) "Savings institution" means a savings and loan association or savings bank.

(24) "Subsidiary" means a company in which a person owns at least a majority of the shares or equity interest or which the person controls.

SUBTITLE B. DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS; COMMISSIONER OF THE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS.

Sec. 103. Creation of the Department of Banking and Financial Institutions and the Commissioner of the Department of Banking and Financial Institutions.

(a) The position of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions are abolished.

(b) The Department of Banking and Financial Institutions is established and shall administer the provisions of the District of Columbia Banking Code on behalf of the Mayor.

(c) The position of the Commissioner of the Department of Banking and Financial Institutions is established. The Commissioner is the head of the Department of Banking and Financial Institutions and shall administer the Department in accordance with this act.

(d) All powers, duties, responsibilities, and functions of the Superintendent of the Office

of Banking and Financial Institutions and of the Office of Banking and Financial Institutions shall be transferred upon the effective date of this act to the Commissioner and the Department, respectively.

(e) The Commissioner and the Department shall be the successors in interest to all the rights, obligations, and property of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions, respectively. The Commissioner and the Department shall assume all of the debts, liabilities, and assets of the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions, respectively.

(f) Any pending action or proceeding by or against the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions may be prosecuted to judgment, and the judgment shall bind the Commissioner and the Department. In any pending action or proceeding by or against the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions, the Commissioner and the Department may be substituted in place of the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions, respectively.

(g) References in any statute, regulation, or rule of the District to the Superintendent of the Office of Banking and Financial Institutions or the Office of Banking and Financial Institutions shall mean the Commissioner and the Department, respectively. All agreements entered into with, and correspondence, invoices, certificates of operation, licenses, orders, memoranda, and regulations issued by, the Superintendent of the Office of Banking and Financial Institutions and the Office of Banking and Financial Institutions shall continue in effect as if the agreements entered into with, and correspondence, invoices, certificates of operation, licenses, orders, memoranda, and regulations were issued by, the Commissioner or the Department, respectively.

(h) All employees of the Office of Banking and Financial Institutions shall, upon the effective date of this act, become employees of the Department and all rights, benefits, seniority, and compensation of any nature shall continue uninterrupted.

Sec. 104. Appointment of the Commissioner of the Department of Banking and Financial Institutions.

(a) The Mayor shall appoint the Commissioner, with the advice and consent of the Council, for a term of 4 years; provided, that the person serving as the Superintendent of the Office of Banking and Financial Institutions immediately prior to the effective date of this act shall become Commissioner upon the effective date of this act for a term to end 4 years from the date that the person was confirmed as Superintendent.

(b) The Commissioner shall be a resident of the District or shall agree in writing to become a resident of the District of Columbia within 6 months after his or her confirmation. The Commissioner shall remain a resident of the District during his or her term.

Sec. 105. General powers and responsibilities of the Commissioner.

(a) The Commissioner shall:

(1) Administer the District of Columbia Banking Code;

(2) Promote and maintain a climate and regulatory framework that will encourage financial institutions to organize to do business in the District and contribute to the economic development of the District through the increased availability of capital and credit;

(3) Expand advantageous financial services to the public in a nondiscriminatory manner;

(4) Charter, regulate, supervise, and examine banks, savings institutions, credit unions, trust companies, and other financial institutions engaged, or seeking to engage, in the business of banking in the District;

(5) License, regulate, supervise, and examine non-depository financial institutions engaged in regulated activity in the District;

(6) Regulate the opening or closing of branches, agencies, offices, or other facilities by financial institutions under the authority and supervision of the Commissioner;

(7) Approve or disapprove mergers or acquisitions involving District financial institutions or financial institution holding companies;

(8) Monitor community development commitments of financial institutions chartered, organized, or doing business in the District;

(9) Approve or disapprove changes in control of financial institutions chartered or organized in the District;

(10) Approve or disapprove conversions of federally-chartered institutions into District-chartered financial institutions;

(11) Promulgate regulations, rules, policy statements, interpretations, and opinions necessary or appropriate to carry out the purposes of the District of Columbia Banking Code;

(12) Assure that all financial institutions engaged in regulated activity in the District, under the supervision or control of the Department of Banking and Financial Institutions, or seeking to do business into the District of Columbia under the District of Columbia Banking Code provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in underserved neighborhoods in the District, help meet the credit and deposit service needs of lower income and minority residents of the District, and expand financial and technical support for small, minority, and women-owned businesses;

(13) Investigate possible violations of the District of Columbia Banking Code and take any authorized action upon finding a violation;

(14) Examine or audit a financial institution, bank holding company, affiliate, or subsidiary to assure that the financial institution bank holding company, affiliate, or subsidiary is operating in compliance with the law and in a manner that preserves safety and soundness;

(15) Request or pursue a restraining order, the appointment of a receiver or conservator, the involuntary dissolution of a corporation, or the freezing or seizure of assets of a person associated with a violation or possible violation of the District of Columbia Banking Code;

(16) In all respects permitted by law, act as the District government's regulatory authority for financial institutions operating in the District; and

(17) Recommend to the Mayor annually, or at any other time, any necessary changes to District laws dealing with banking or other areas within the jurisdiction of the Commissioner.

(b) The Commissioner shall be responsible for the performance of all duties, the exercise of all powers and jurisdiction, and the assumption and discharge of all responsibilities vested by law in the Department or the Commissioner. The Commissioner shall have all powers necessary or convenient for the administration and enforcement of the District of Columbia Banking Code.

(c) The Commissioner may promulgate rules and regulations necessary or appropriate to the execution of the Commissioner's powers, duties, and responsibilities.

(d) The Commissioner may enter into agreements that the Commissioner considers necessary or appropriate to the exercise of his or her powers, including agreements with agencies or instrumentalities of the District, states and territories of the United States of America, or the federal government, for the examination of banks, savings institutions, credit unions, trust companies, and other financial institutions.

(e) The Commissioner, in the performance of the duties and responsibilities of the Department, may enter into contracts with the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, District agencies, other state or federal banking agencies, or any other entity, for those services necessary to carry out the duties and responsibilities of the Commissioner and the Department.

(f) The Commission may establish and modify fees to implement the District of Columbia Banking Code.

SUBTITLE C. FINANCIAL INSTITUTIONS ADVISORY BOARD.

Sec. 106. Establishment of the Financial Institutions Advisory Board.

There is established a Financial Institutions Advisory Board ("Board"). The function of the Board is advisory. The Board shall give the Commissioner sound and impartial advice on the following matters:

(1) Applications by financial institutions, including international banking institutions, to become chartered or organized under the District of Columbia Banking Code;

(2) Protection of the interests of depositors and shareholders in financial institutions operating in the District;

(3) Protection of the interests of the general public related to the operation of

financial institutions in the District;

(4) Development and maintenance of a modern system of financial institutions in the District; and

(5) Any other financial matter or matter concerning financial institutions operating in, or affecting, the District.

Sec. 107. Members of the Financial Institutions Advisory Board; compensation.

(a) The Board shall be comprised of 15 members. The Mayor shall, with the advice and consent of the Council, appoint 13 members to the Board. The Mayor shall appoint to the Board a representative of a general banking industry association for the District; a representative of a general trade or commerce industry association; 2 certified public accountants; and 2 representatives of consumer interests. The Mayor shall appoint members who have a strong interest in the District's financial institutions industry.

(b) The Commissioner of the Department and the Commissioner of the Department of Insurance and Securities Regulation shall be ex officio members of the Board.

(c) The Commissioner shall be the Chair of the Board.

(d) The term of an appointed member of the Board shall be 3 years; provided, that of the first members appointed to the Board, 4 members shall be appointed to an initial term to end one year after the effective date of this act, 4 members shall be appointed to an initial term to end 2 years after the effective date of this act, and 5 members shall be appointed to an initial term to end 3 years after the effective date of this act.

(e) At the end of the term of an appointed member, the appointed member may continue to serve until a successor is confirmed.

(f) An appointed member of the Board shall be eligible for reappointment.

(g) A person appointed to complete the term of a departing member of the Board shall serve for the unexpired term of the original appointment and until a successor is confirmed. A person appointed to complete the term of a departing member of the Board may be reappointed to one or more additional terms.

(h) A member of the Board, before assuming the duties of Board membership, shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of the oath shall be filed in the office of the Special Assistant to the Mayor for Boards and Commissions.

(i) The Mayor may remove a member of the Board for failing to establish or maintain District residency or for misconduct, neglect of duty, or other cause. If a member of the Board is indicted for the commission of a felony, the member shall be automatically suspended from serving on the Board; provided, that upon (1) a final determination of guilt, or (2) a final determination of innocence or other termination of the proceeding without a determination of guilt, the term of the Board member shall be automatically terminated or reinstated, respectively.

(j) A member of the Board shall not receive compensation, but shall be entitled to

reimbursement for travel and incidental expenses.

Sec. 108. Organization and operation of the Board.

(a) The Board shall be organized, shall operate, and may establish committees under such rules and bylaws as the Board establishes.

(b) The Board shall meet at least twice a year and at the call of the Commissioner.

Sec. 109. Weight of advice of the Board

If the Commissioner does not follow advice of the Board which is part of an official action of the Board, the Commissioner shall send to the Board a written statement of the reason for his or her decision not to follow the advice.

SUBTITLE D. INVESTIGATION, EXAMINATION, AND ENFORCEMENT POWERS OF THE COMMISSIONER.

Sec. 110. Examinations of financial institutions.

(a) The Commissioner shall hire and commission examiners who shall have the authority to examine any financial institution doing business in the District.

(b) In cooperation with the appropriate federal financial institutions agency, if any, the Commissioner shall examine, or cause to be examined, each financial institution doing business in the District at least once every 18 months. The examination shall analyze and determine whether the financial institution is in a safe and sound condition and operating in a safe and sound manner and shall monitor and determine the financial institution's compliance with District and federal laws, regulations, and rules.

(c) The Commissioner may initiate a special examination of a financial institution whenever the Commissioner considers it necessary to ensure that the financial institution is being operated in a safe and sound manner and in compliance with District and federal laws, regulations, and rules.

(d) The Commissioner shall assess a fee, to be paid by the financial institution, for the expense of the examination under this section. The fee shall be determined as a percentage of the assets of the examined financial institution.

Sec. 111. Reports on financial institutions.

(a) Unless otherwise provided by the District of Columbia Banking Code, the Commissioner shall require each financial institution to submit a financial report on a quarterly basis ("quarterly financial report"). The quarterly financial report shall fully describe the financial condition of the reporting financial institution. The Commissioner may accept the most recent quarterly report filed by the financial institution with its appropriate federal financial institutions agency in the place of a quarterly financial report.

(b) A quarterly financial report shall be filed with the Commissioner within 30 days after

the end of each calendar quarter.

(c) The Commissioner may require a financial institution to submit a special financial report if the Commissioner determines that a special financial report will assist the Commissioner in ensuring the safe and sound condition and operation of the financial institution.

(d) A special financial report shall be filed with the Commissioner within 30 days of the receipt of a request for the special financial report from the Commissioner.

(e) A quarterly financial report or a special financial report required under this section shall be signed and certified as accurate by the president or chief executive officer of the reporting financial institution.

(f) The Commissioner may accept a report, examination, or other information from a state or federal agency or regulatory body concerning the activities of a financial institution or its affiliate or subsidiary.

(g) The Commissioner shall prescribe forms to be used to comply with this section.

Sec. 112. Initiation of formal investigation of a financial institution.

(a) If the Commissioner determines that a financial institution is engaging, has engaged, or may engage in an unsafe or unsound practice in the operation of the financial institution ("unsafe or unsound practice"), or that the financial institutions is engaging, has engaged, or may engage in a violation of a law, regulation, rule, condition, order, or request of the Commissioner, or any written agreement entered into with the Commissioner ("violation"), the Commissioner may conduct an investigation of the financial institution and issue and serve upon the institution a notice of charges.

(b) The Commissioner may request that an investigation, or portion of an investigation, be conducted by a District, state, or federal law enforcement agency.

Sec. 113. Notice of charges; hearing; final order.

(a) The Commissioner shall formally initiate an investigation of a violation or an unsafe or unsound practice by issuing a notice of charges. The notice of charges shall contain a statement of facts describing the alleged violation or unsafe or unsound practice that the financial institution or its subsidiary or affiliate has engaged, or may engage, in.

(b) The notice of charges shall set a date, time, and place at which a hearing shall be held to determine whether the alleged violation or unsafe or unsound practice has occurred, or may occur, and whether a cease and desist order should be issued against the financial institution, or its subsidiary or affiliate. The hearing date shall be no earlier than 30 days, and no later than 60 days, after the date of service of the notice of charges; provided, that the hearing date may be set earlier or later if it is determined under rules issued by the Commissioner that there are emergency circumstances or that it is impractical to hold the hearing during the prescribed period.

(c) A hearing under this section shall be held in the District, unless otherwise specified

by the Commissioner, and shall be held before the Commissioner or a person that the Commissioner appoints.

(d) The Commissioner may issue a subpoena to compel the attendance of a witness at a hearing or to compel the production of any document, paper, book, record, or other evidence for the investigation.

(e) The Commissioner or the Commissioner's appointee may administer an oath and take the testimony of any person under oath in the conduct of the investigation.

(f) A hearing under this section shall be conducted in accordance with the District of Columbia Administrative Procedure Act.

(g) A hearing conducted under this section shall be open to the public, unless the Commissioner determines that it is necessary or appropriate to hold a private hearing to protect the public interest.

(h) Within 90 days after the conclusion of a hearing under this section, the Commissioner shall issue a final decision and order, in writing, and shall serve the final decision and order on each party to the investigatory proceeding.

Sec. 114. Notification of other government agencies.

(a) If the Commissioner finds in the Commissioner's final order that a violation of the District of Columbia Banking Code has occurred or is occurring, the Commissioner shall refer the matter to the Corporation Counsel or to the United States Attorney for appropriate action.

(b) If the Commissioner determines that a national bank, federally chartered savings and loan, federally chartered savings bank, or federally chartered credit union has acted in violation of the laws of the District or has engaged in an unsafe or unsound conduct, the Commission shall notify the appropriate federal financial institutions agency and the United States Attorney General.

Sec. 115. Modification or rescission of orders.

The Commissioner may modify or rescind a final order issued under section 113 after receiving and considering a request from a financial institution, a financial institution's affiliate or subsidiary, or any other party to the investigatory proceeding, if the Commissioner determines that:

(1) It is in the public interest to modify or rescind the final order; and

(2) It is reasonable to believe that the financial institution, the financial institution's affiliate or subsidiary, or the other party to the investigatory proceeding will engage in safe and sound practices and will comply with the District of Columbia Banking Code.

Sec. 116. Cease and desist order.

(a) The Commissioner may issue and serve upon the financial institution or its affiliate or subsidiary a final cease and desist order if:

(1) The party served with the notice of charges fails to appear at the hearing called under section 113; or

(2) The record of the hearing held under section 113 supports a finding that the violation or unsafe and unsound practice specified in the notice of charges has occurred or reasonably likely to occur.

(b) A final cease and desist order may require that a financial institution or a director, officer, trustee, employee, agent, affiliate, or subsidiary of the financial institution:

(1) Cease and desist from the violation or unsafe or unsound practice or from any activity that will or may result in a violation or unsafe or unsound practice;

(2) Take affirmative action to correct the violation, unsafe or unsound practice, or condition resulting from the violation or unsafe or unsound practice or to avoid a violation or unsafe or unsound practice; or

(3) Provide indemnification, reimbursement, restitution, or any other relief that the Commissioner determines is appropriate.

(c) A final cease and desist order shall become effective 30 days after the service of the order upon the financial institution or its affiliate or subsidiary; provided, that a final cease and desist order which has been issued upon the consent of the Commissioner and a financial institution or other parties shall become effective upon the date specified in the consent order.

(d) A final cease and desist order shall remain in effect until it is stayed, modified, terminated, or set aside by the Commissioner or a court.

(e) In addition to, or instead of, issuing a final cease and desist order, the Commissioner may enter into an informal enforcement action, such as a supervisory agreement or memorandum of understanding, with the financial institution.

Sec. 117. Temporary cease and desist order.

(a) Along with a notice of charges, or after the issuance of a notice of charges, the Commissioner may issue a temporary cease and desist order.

(b) The Commissioner may issue a temporary cease and desist order if the Commissioner determines that a violation or unsafe or unsound practice is likely to cause:

(1) Insolvency of the financial institution;

(2) Substantial dissipation of assets or earnings of the financial institution;

(3) Serious weakening of the condition of the financial institution;

(4) Serious prejudice to the interests of the depositors or investors of the financial institution or to the general public; or

(5) The inability to determine, because of incomplete or inaccurate records, the financial condition of a financial institution or the inability to determine the details or purpose of a transaction that may have a material effect on the financial condition of a financial institution.

(c) The temporary cease and desist order may require a financial institution or its affiliate or subsidiary to immediately cease and desist from a violation or unsafe or unsound practice and to take affirmative action to prevent an occurrence set forth in paragraphs (1) through (5) of subsection (b) pending completion of investigatory proceedings under this title. If a notice of charges issued under section 113 states that the books and records of a financial institution are so incomplete or inaccurate that the Commissioner is unable to determine the financial condition of the institution or to ascertain the details or purpose of a transaction, the Commissioner may issue a temporary cease and desist order that requires the financial institution to cease an activity or practice which caused or contributed to the incomplete or inaccurate state of the books or records or take affirmative action to restore the books or records to a complete and accurate state.

(d) A temporary cease and desist order shall be effective upon service.

(e) A temporary cease and desist order shall remain in effect until:

(1) Set aside, limited, or suspended by a court;

(2) The completion of the investigatory proceeding initiated by the notice of charges, if the Commissioner dismisses the notice of charges;

(3) An order by the Commissioner revoking the temporary cease and desist order; or

(4) The issuance of a final cease and desist order.

Sec. 118. Confidentiality of information.

(a) Except as provided in subsection (b) of this section or as otherwise required by law, the Department and the employees, agents, and contractors of the Departments shall not disclose:

(1) The contents of a report or examination of a person by the Department, except as the Commissioner determines is appropriate to disclose in the final order issued under section 113;

(2) Information furnished to, or obtained by, the Department, the disclosure of which the Commissioner determines could endanger the safety and soundness of a financial institution;

(3) Personal financial information furnished to, or obtained by the Department, except as the Commissioner determines is appropriate to disclose in the final order issued under section 113.

(b) Notwithstanding subsection (a) of this section, the contents of a report or examination of a person or information, including personal information, furnished to or obtained by the Department may be disclosed:

(1) To employees, agents, and contractors of the Department in the performance of the duties of the employee, agent, or contractor;

(2) To the directors, officers, and other persons authorized by the board of

directors of a financial institution or other entity, if the financial institution or other entity furnished the information to the Department;

(3) To authorized and appropriate government agencies; or

(4) In accordance with a court order.

Sec. 119. Enforcement of Department order, subpoena, or notice of charges.

The Commissioner may, through the Corporation Counsel, apply to the Superior Court of the District of Columbia for the enforcement of an effective and outstanding notice of charges, subpoena, final cease and desist order, or temporary cease and desist order. The Superior Court of the District of Columbia may order compliance with the notice of charges, subpoena, final cease and desist order, or temporary cease and desist order.

Sec. 120. Judicial review.

(a) Within 10 days after service of a temporary cease and desist order, a financial institution or other party named in the temporary cease and desist order may apply to the Superior Court of the District of Columbia for an injunction to set aside, limit, or suspend the order.

(b) A final order or a final cease and desist order issued under this title shall be reviewable by the Superior Court of the District of Columbia. The review of the final order or the final cease and desist order shall be confined to the record of the hearing conducted under section 113 and to a determination of whether the Commissioner's order was arbitrary or capricious.

Sec. 121. Penalty for violation of final order.

A person who violates an outstanding and effective final order shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000, imprisoned not more than one year, or both.

SUBTITLE E. GENERALLY PROHIBITED ACTIVITIES.

Sec. 122. Prohibition of fraud.

A financial institution shall not engage in a fraudulent activity or an act against the public interest.

SUBTITLE F. MISCELLANEOUS PROVISIONS.

Sec. 123. Rulemaking.

The Commissioner may issue rules implementing this title, pursuant to Title 1 of the District of Columbia Administrative Procedure Act.

Sec. 124. Repealer.

Section 2 of the Regional Interstate Banking Act of 1985 is repealed.

Sec. 125. Validity of prior law.

A decision, order, interpretation, agreement, policy statement, opinion, regulation or rule ("decision") issued and in effect under a law repealed by this title shall continue to be valid until the Commissioner amends or withdraws the decision.

TITLE II. UNIVERSAL BANK CERTIFICATION ACT OF 2000.

SUBTITLE A. GENERAL PROVISIONS.

Sec. 201. Short title.

This title may be cited as the "Universal Bank Certification Act of 2000".

Sec. 202. Definitions.

For the purposes of this title, the term:

(1) "Affiliate" shall have the same meaning as set forth in section 102(1).

(2) "Appropriate federal financial institutions agency" shall have the same meaning as set forth in section 102(2).

(3) "Bank holding company" shall have the same meaning as set forth in section 2(a) of the Bank Holding Company Act of 1956, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. § 1841(a)).

(4) "Capital" shall have the same meaning as set forth in section 102(6).

(5) "Capital accounts" means unimpaired capital stock, unimpaired surplus, and undivided profits or retained earnings of a financial institution.

(6) "Capital stock" means the aggregate of shares of nonwithdrawable capital stock issued.

(7) "Commissioner" means the Commissioner of the Department of Banking and Financial Institutions.

(8) "Community Reinvestment Act" means the Community Reinvestment Act of 1977, approved October 12, 1977 (91 Stat. 1147; 12 U.S.C. § 2901 *et. seq.*).

(9) "Department" means the Department of Banking and Financial Institutions.

(10) "Director" shall have the same meaning as set forth in section 102(10).

(11) "District" means the District of Columbia.

(12) "District of Columbia Banking Code" shall have the same meaning as set forth in section 101(14).

(13) "District savings institution" shall have the same meaning as set forth in section 102(15).

(14) "Equity securities" means a security representing an ownership interest in a corporation.or independent agency head

(15) "Federal agency" shall have the same meaning as set forth in section 102(17).

(16) "Federal financial institutions agency" means a federal government agency with regulatory authority over a financial institution.

(17) "Federally chartered savings institutions" means a financial institution chartered by the Office of Thrift Supervision, or a successor agency to the Office of Thrift Supervision.

(18) "Financial institution" shall have the same meaning as set forth in section 102(18).

(19) "Investment securities" means commercial paper, banker's acceptances, marketable securities in the form of bonds, notes, and debentures, and similar instruments that are regarded as investment securities.

(20) "Loan" includes a line of credit or other extension of credit.

(21) "Low-income" means an individual income that is less than 60% of the median individual income for the Washington, D.C. metropolitan area according to the statistics of the United States Department of Housing and Urban Development or a median family income that is less than 60% of the median family income for the Washington, D.C. metropolitan area according to the statistics of the United States Department of Housing and Urban Development.

(22) "Moderate-income" means an individual income that is at least 60%, and less than 80%, of the median individual income for the Washington, D.C. metropolitan area according to the statistics of the United States Department of Housing and Urban Development, or a median family income that is at least 60%, and less than 80%, of the median family income for the Washington, D.C. metropolitan area according to the statistics of the United States Department of Housing and Urban Development.

(23) "National bank" means a financial institution chartered and supervised by the Office of the Comptroller of the Currency, or a successor agency to the Office of the Comptroller of the Currency.

(24) "Person" shall have the same meaning as set forth in section 102(21).

(25) "Savings institution" shall have the same meaning as set forth in section 102(23).

(26) "State bank" means a bank chartered and supervised by a financial institutions agency of a state of the United States.

(27) "State financial institutions agency" means a government agency of a state of the United States authorized to charter and supervise financial institutions.

(28) "Subsidiary" shall have the same meaning as set forth in section 102(24).

(29) "Superior Court" means the Superior Court of the District of Columbia.

(30) "Universal bank" means a financial institution which is authorized by its articles of incorporation or other organizational documents to act as a financial institution and is certified under this title as a universal bank.

SUBTITLE B. APPLICATION AND CERTIFICATION AS A UNIVERSAL BANK.

Sec. 203. Application to be certified as a universal bank; review and approval or disapproval of application.

(a) A financial institution may apply to be certified as a universal bank by filing a written application with the Commissioner. The application shall include such information as the Commissioner may require by regulation. The application shall be on such forms, and shall be prepared and filed in accordance with such procedures, as the Commissioner may prescribe by regulation.

(b) An application submitted by a financial institution under subsection (a) of this section shall be approved or disapproved in writing by the Commissioner within 90 days after its submission to the Commissioner. The Commissioner and the financial institution may agree to extend the application period for an additional 60 days.

(c) The Commissioner shall not certify a financial institution as a universal bank unless:

(1) The financial institution is authorized under its articles of incorporation or other organizational documents to act as financial institution;

(2) The financial institution is chartered or organized, regulated, supervised, and examined under the District of Columbia Banking Code and is under the authority and supervision of the Commissioner;

(3) The financial institution is in good standing with the Department and there is no investigatory or enforcement action pending against the financial institution by the Department;

(4) The financial institution is in good standing with appropriate federal and state financial institutions agencies and there is no investigatory or enforcement action pending against the financial institution by an appropriate federal or state financial institutions agency;

(5) The financial institution is well capitalized and has maintained a capital level prior to certification as a universal bank as the Commissioner may require based on safety and soundness consideration;

(6) The financial institution does not exhibit a combination of financial, managerial, operational, and compliance weaknesses that are moderately severe or unsatisfactory, as determined by the Commissioner, based upon the Commissioner's assessment of the financial institution's capital adequacy, adequacy of liquidity, and sensitivity to market risk;

(7) The most recent evaluation prepared under the Community Reinvestment Act, if any, demonstrates that the financial institution has received a rating of "outstanding" or "satisfactory" in meeting the credit needs of its entire community, including low-income and moderate-income neighborhoods, consistent with the safe and sound operation of the financial institution;

(8) The most recent examination which the financial institution has received from its appropriate federal financial institutions agency, if any, indicates that the financial institution is

in compliance with applicable federal law and regulations;

(9) The financial institution agrees to comply with applicable regulations and rules promulgated by the Commissioner and any lawful order of the Commissioner;

(10) The financial institution agrees to comply with any conditions imposed by the Commissioner in connection with the approval of an application, including additional requirements that the Commissioner determines are necessary for the protection of depositors or shareholders of the financial institution or of the general public.

(11) The financial institution agrees to comply with any written agreement entered into with the Commissioner in connection with the approval of an application;

(12) The Commissioner determines that it is reasonable to believe that the financial institution will act in a safe and sound manner and maintain a safe and sound condition; and

(13) The Commissioner determines that certification of the financial institution as a universal bank will serve the public interest.

Sec. 204. Issuance of certificate of authority.

If the Commissioner approves the application of a financial institution to become certified as a universal bank, the Commissioner shall issue to the financial institution a certificate of authority stating that the financial institution is certified as a universal bank under this title.

Sec. 205. Revocation or subsequent limitation of certificate of authority.

If a universal bank fails to maintain the standards and requirements of subsection (a) of this section, the Commissioner shall, by order, revoke or limit the exercise of the powers of the universal bank.

Sec. 206. Voluntary termination of certification.

A financial institution that is certified as a universal bank under this title may elect to terminate its certification by giving 60 days prior written notice of the termination to the Commissioner. A termination under this section shall be effective only with the written approval of the Commissioner. A financial institution shall, as a condition to a termination under this section, terminate its exercise of all powers granted under this title before the termination of the certification. The Commissioner's written approval of a financial institution's termination under this section shall be void if the financial institution fails to satisfy the condition to termination under this section.

SUBTITLE C. POWERS AND AUTHORITY OF UNIVERSAL BANKS.

Sec. 207. Preexisting powers of universal banks.

A universal bank may exercise any power that it was authorized to exercise under the District of Columbia Banking Code before its certification as a universal bank.

Sec. 208. Parity of powers of universal bank.

(a) The Commissioner may authorize a universal bank to exercise a power that may be exercised by any other state bank, state or federally chartered savings bank, state or federally chartered savings and loan association, or federally charted national bank.

(b)(1) A universal bank shall file with the Commissioner a written request to exercise a power under subsection (a) of this section. Within 60 days after receiving a request under this subsection, the Commissioner shall approve the request if the Commissioner determines that:

(A) The power requested by the universal bank may be exercised by a state bank, state or federally chartered savings bank, a state or federally chartered savings and loan association, or a federally charted national bank; and

(B) The universal bank will exercise the power requested in a safe and sound manner.

(2) The Department and the universal bank may agree to extend the 60-day period under paragraph (1) of this subsection for an additional 60 days.

(c) A universal bank shall exercise a power authorized under this section only through a subsidiary of the universal bank, with the appropriate safeguards to limit the risk exposure of the universal bank and to protect the banking customers of the universal bank.

Sec. 209. Specific powers of universal banks.

(a) Subject to applicable laws, regulations, and any required approval of the Commissioner of the Department of Insurance and Securities Regulation or other regulators, a universal bank may:

(1) Establish eligibility requirements and the types and terms of deposits that the universal bank may solicit and accept;

(2) Make, sell, purchase, arrange, participate in, invest in, or otherwise deal in a loan or extension of credit for any purpose and invest in debt instruments or debt securities (“make a loan”), subject to section 212;

(3) Acquire an equity interest or other form of interest as security in a project funded through a loan made under paragraph (2) of this section, subject to section 212;

(4) Acquire an equity interest in a profit-participation project, including a project funded through a loan from the universal bank, subject to section 213;

(5) Purchase, sell, underwrite, and hold investment securities, consistent with safe and sound banking practices, subject to section 213;

(6) Purchase, sell, underwrite, and hold equity securities, consistent with safe and sound banking practices, subject to section 213;

(7) Invest in housing projects, as defined in section 213, with the prior written approval of the Commissioner, subject to section 213;

(8) Purchase, sell, and invest in such other investments as the Commissioner, by regulation, may provide, consist with safe and sound practices, subject to section 213;

(9) Buy and sell securities as an agent or broker, subject to section 215;

(10) Buy and sell real estate and interests in real estate as an agent or broker;

(11) Manage real estate and other property;

(12) Sell annuities, subject to section 215;

(13) Sell life insurance, accident insurance, health insurance, property insurance, casualty insurance, and any other form of insurance, subject to section 215;

(14) Act as a broker-dealer, securities agent, investment adviser, investment adviser representative, insurance agent, or insurance broker, if otherwise qualified, upon obtaining a license from the Department of Insurance and Securities Regulation, subject to section 215;

(15) Buy and sell commodities as a principal, agent, or broker, with the prior written approval of the Commissioner, subject to section 215;

(16) Underwrite and distribute annuities, subject to section 215, with the prior written approval of the Commissioner and the appropriate federal financial institutions agency of the universal bank; provided, that the underwriting and distribution shall be conducted only through a non-depository financial institution affiliate of the universal bank unless federal law permits the underwriting and distribution to be conducted through a subsidiary of the financial institution;

(17) Underwrite and distribute life insurance, accident insurance, health insurance, property insurance, casualty insurance, and any other form of insurance, with the prior written approval of the Commissioner, subject to section 215; provided, that the underwriting and distribution shall be conducted only through a non-depository financial institution affiliate of the universal bank unless federal law permits the underwriting and distribution to be conducted through a subsidiary of the financial institution;

(18) Underwrite, deal in, or make a market in securities, with the prior written approval of the Commissioner, subject to section 215; provided, that the underwriting, dealing, market-making shall be conducted only through a subsidiary of the universal bank.

(19) Distribute shares in investment companies, with the prior written approval of the Commissioner, subject to section 215; provided, that the distribution shall only be conducted through a subsidiary of the universal bank.

(b) With the approval of the Commissioner, a universal bank may securitize its assets for sale to the public. The Commissioner may establish procedures governing the exercise of authority granted under this subsection.

Sec. 210. Necessary or convenient powers.

Unless otherwise prohibited by law or regulation, a universal bank may exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further a business, activity, or operation in which the universal bank is lawfully engaged. The Commissioner may, by rule or order, establish that certain powers shall not be considered necessary or convenient to effect the purposes for which a universal bank is organized or to further a business, activity, or operation in which a universal bank is lawfully engaged.

Sec. 211. Reasonably related and incidental activities.

(a) Subject to any applicable District or federal licensing or regulatory requirements, a universal bank may engage, directly or through a subsidiary, in activities that are reasonably related or incident to the lawful and authorized purposes, activities, operations, or business of the universal bank.

(b) The following activities shall be considered reasonably related or incident to the lawful and authorized purposes, activities, operations, or business of a universal bank:

(1) An activity that a statute or regulation authorizes a universal bank to engage in;

(2) An activity permitted under the Bank Holding Company Act;

(3) Business services;

(4) Data processing;

(5) E-commerce services, including web hosting, Internet service provider services, and e-commerce logistics and support;

(6) Courier and messenger services;

(7) Credit related activities;

(8) Consumer services;

(9) Real estate-related services, including real estate brokerage services;

(10) Insurance and related services (other than insurance underwriting);

(11) Securities brokerage;

(12) Investment advice;

(13) Securities and bond underwriting;

(14) Mutual fund activities;

(15) Management consulting;

(16) Tax planning and preparation;

(17) Community development and charitable activities; and

(18) Debt cancellation contracts.

(c) The Commissioner may, by rule, prescribe additional activities that shall be considered reasonably related or incident to the purposes, activities, operations, or business of a universal bank.

(d)(1) If the activity is not described in subsection (a) or (b) of this section, a universal bank shall provide written notice to the Commissioner of the universal bank's intent to engage in

an activity under this section at least 60 days before the universal bank intends to engage in the activity.

(2) The Commissioner may deny or revoke the authority of a universal bank to engage in an activity for which notice was provided under paragraph (1) of this subsection if the Commissioner determines that:

(A) The activity is not an activity reasonably related or incident to the purposes, activities, operations, or business of a universal bank;

(B) The universal bank is not well-capitalized;

(C) The universal bank is the subject of an enforcement action; or

(D) The universal bank does not have satisfactory management expertise to engage in the activity for which notice was provided.

(e) The Commissioner shall take the following factors into account when determining whether an activity is reasonably related or incidental to the purposes, activities, operations, or business of a universal bank:

(1) Domestic and international competition for banking and other financial services;

(2) The convergence of financial institutions and financial products;

(3) Changes, or reasonably expected changes, in the marketplace in which financial institutions compete;

(4) Changes, or reasonably expected changes, in the technology for delivering banking or related financial services;

(5) Whether such activity is necessary or appropriate to allow universal banks to:

(A) Compete effectively with a company seeking to provide banking or related financial services in the United States;

(B) Use an available or emerging technology in providing financial services, including an application necessary to protect the security or efficacy of systems for the transmission of data related to financial transactions; and

(C) Offer customers an available or emerging technology for using banking or related financial services; and

(6) Whether the activity may pose risks to the continued safety and soundness of a universal bank.

(f) The Commissioner may impose conditions upon a universal bank's engagement in an activity that is reasonably related or incidental to the purposes, activities, operations, or business of a universal bank.

SUBTITLE D. LIMITATIONS, AND EXCEPTIONS TO LIMITATIONS, ON POWERS OF UNIVERSAL BANKS.

Sec. 212. Limitations on loan power of universal banks.

(a) A universal bank shall not make loans under section 209(a)(2) through the universal bank, or a subsidiary of the universal bank, in an aggregate amount that exceeds 20% of the

universal bank's capital; provided, that:

(1) For the purposes of computing this limitation, loans made to a municipal corporation shall not be included; and

(2) A universal bank may make loans under section 209(a)(2) through the universal bank, or a subsidiary of the universal bank, in an aggregate amount not to exceed 50% of the universal bank's capital if the loans made under section 209(a)(2) are limited to a liability in the form of a note or bond that:

(A) Is secured by not less than an equal amount of bonds or notes of the United States issued since April 24, 1917 or in certificates of indebtedness of the United States;

(B) Is secured or covered by guarantees, commitments, or agreements to take over or purchase the note or bond, and the guarantee, commitment, or agreement is made by a Federal Reserve Bank, the Small Business Administration, the Department of Defense, or the Federal Maritime Commission; or

(C) Is secured by mortgages or deeds of trust insured by the Federal Housing Administration.

(b) A loan made under section 209(a)(2) shall require the prior approval of the board of directors or other governing board of the universal bank or its subsidiary.

(c) An equity interest or other form of interest taken as security in a project funded through a loan made under section 209(a)(3) shall require the prior approval of the board of directors or other governing board of the universal bank or its subsidiary.

(d) The Commissioner may suspend a universal bank's authority under section 209(a)(2) or (3) if the Commissioner determines that the universal bank is not exercising, or will not exercise, authority under section 209(a)(2) or (3) in a safe and sound manner or that the condition of the universal bank is not, or will not be, safe and sound. In making a determination to suspend a universal bank's authority under this subsection, the Commissioner shall consider the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity, and sensitivity to market risk; the ability of the management of the universal bank; and any other factor the Commissioner determines is appropriate. If the Commissioner suspends the authority of a universal bank under this subsection, the Commissioner may specify how the universal bank or its subsidiary shall treat an outstanding loan.

(e) A universal bank shall not purchase foreign bonds unless the Commissioner promulgates a rule authorizing the purchase of foreign bonds by universal banks; provided, that a universal bank may purchase a general obligation bond issued by a foreign national government if the bond is payable in United States funds. The Commissioner shall not promulgate a rule under this subsection authorizing a universal bank to invest in foreign bonds issued by a single issuer in an aggregate amount that exceeds 10% of the universal bank's capital.

(f) A universal bank shall not consider any health information obtained from the records of an affiliate of the universal bank that is engaged in the business of insurance in the universal bank's determination of whether to make a loan under section 209(a)(2) or in the determination

of whether to make any other loan, unless the person to whom the health information relates consents to the consideration of the health information in the universal bank's determination of whether to make the loan.

(g) A universal bank shall not loan any part of its capital, surplus, or deposits on its own capital stock, notes, or debentures as collateral security; provided, that a universal bank may make a loan secured by its own capital stock, notes, or debentures to the same extent that the universal bank may make a loan secured by the capital stock, notes, and debentures of a holding company for the universal bank.

(h) The restrictions and limits in subsections (a), (e), and (f) of this section shall not apply to a liability:

(1) That is secured by not less than an equal dollar amount of direct obligations of the United States which will mature not more than 18 months after the date on which the liability is incurred;

(2) That is a direct obligation of the United States, the District, or a federal or District agency and that is fully and unconditionally guaranteed by the United States or the District;

(3) In the form of a note, debenture, or certificate of interest of the Commodity Credit Corporation; or

(4) Created by the discounting of bills of exchange drawn in good faith against actually existing values or the discounting of commercial or business paper actually owned by the person negotiating the commercial or business paper.

Sec. 213. Limitations on investment powers of universal bank.

(a)(1) A universal bank shall not acquire an equity interest in a profit-participation project under section 209(a)(4) in an aggregate amount that exceeds 20% of the universal bank's capital; provided, that an investment described in section 214 shall not be included computation of this limitation. The Commissioner may suspend a universal bank's authority under section 209(a)(4) if the Commissioner determines that the universal bank is not exercising this authority under section 209(a)(4), will not exercise the authority in a safe and sound manner, or that the condition of the universal bank is not, or will not be, safe and sound. In making a determination to suspend a universal bank's authority under this subsection, the Commissioner shall consider the universal bank's capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity, and sensitivity to market risk; the ability of the universal bank's management; and any other factor the Commissioner determines is appropriate. If the Commissioner suspends the authority of a universal bank under this subsection, the Commissioner may specify how the universal bank or its subsidiary shall treat an outstanding investment.

(2) The authority granted to a universal bank under section 209(a)(4) shall not authorize a universal bank, or a subsidiary of the universal bank, to underwrite insurance.

(b) A universal bank may purchase, sell, underwrite, and hold investment securities,

consistent with safe and sound banking practices, under section 209(a)(5) in an amount not to exceed 100% of the universal bank's capital; provided, that:

(1) A universal bank shall not invest an aggregate amount that exceeds 20% of the universal bank's capital in the investment securities of any one obligor or issuer; provided further, that an investment described in section 214 shall not be included in the computation of this 20% limitation; and

(2) The underwriting activities of the universal bank shall be conducted through a subsidiary of the universal bank, with the appropriate safeguards to limit the risk exposure of the universal bank and to protect the banking customers of the universal bank;

(c)(1) A universal bank shall not purchase, sell, underwrite, or hold equity securities under section 209(a)(6) in an aggregate amount that exceeds 20% of the universal bank's capital; provided, that:

(A) The Commissioner may authorize a universal bank, by written order, to purchase, sell, underwrite, or hold equity securities under section 209(a)(6) in an aggregate amount that exceeds 20% of the universal bank's capital if such greater amount is consistent with safe and sound practices and the safe and sound operation and condition of the universal bank; and

(B) An investment described in section 214 shall not be included in the computation of the 20% limitation.

(2) The underwriting activities of universal bank under section 209(a)(6) shall be conducted through a subsidiary of the universal bank, with the appropriate safeguards to limit the risk exposure of the universal bank and to protect the banking customers of the universal bank.

(d) A universal bank may purchase, sell, underwrite, and hold investment securities or equity securities in other financial institutions under section 209(a)(5) or (6); provided, that a universal bank shall not purchase and hold stock in a bank chartered under the District of Columbia Banking Code, a national bank, or in a holding company wholly owning a District-chartered or national bank without the authorization of the Commissioner; provided further, that the Commissioner shall not authorize a universal bank to purchase and hold stock under this subsection in an amount that exceeds 10% of the universal bank's capital.

(e)(1) A universal bank may invest in housing projects under section 209(a)(7); provided, that: (1) the aggregate investment in any one housing project shall not exceed 15% of the universal bank's capital and the aggregate investment in all housing projects shall not exceed 50% of the universal bank's capital; and (2) a universal bank shall not invest in a housing project under section 209(a)(7) unless the universal bank is in compliance with the capital requirements established by the Commissioner and with the capital maintenance requirements of the universal bank's deposit insurance corporation. An investment described in section 214 shall not be included in the computation of the 15% and 50% limitations.

(2) For the purposes of this subsection and of section 209(a)(7), the term "housing project" shall mean the development or redevelopment of home sites or housing for

sale or rental, including projects for the reconstruction, rehabilitation, or rebuilding of residential properties to meet the minimum standards of health and occupancy, the provision of accommodations for retail stores and other community services that are reasonably related, or incident, to the housing project, and the stock of a corporation that owns a housing project and that is wholly owned by one or more financial institutions.

(f) Except as provided in subsections (b)(1) and (b)(2) of this section, a universal bank may make an investment under section 209(a)(3) through (8), directly or through a subsidiary, unless the Commissioner determines that such investment shall be made through a subsidiary or with appropriate safeguards to limit the risk exposure of the universal bank.

(g)(1) A universal bank shall not purchase or hold more than 10% of its own capital stock, notes, or debentures; provided that:

(A) A universal bank may purchase or hold more than 10% of its own capital stock, notes, or debentures, if approved by the Commissioner consistent with safe and sound practices; and

(B) A universal bank may purchase or hold more than 10% of its own capital stock, notes, or debentures if the purchase is necessary to prevent loss upon a debt previously contracted in good faith; provided further, that:

(i) The universal bank shall sell or cancel the stock, notes, or debentures held or purchased under this subparagraph within 12 months of acquisition; and

(ii) Stocks, notes, or debentures held or purchased under this subparagraph shall not be held by the universal bank for more than 6 months if the stock, notes, or debentures can be sold for the amount of the claim of the universal bank against the holder of the debt previously contracted.

(2) Cancellation of stock, notes, or debentures under paragraph (1)(B) of this subsection shall reduce the amount of the universal bank's capital stock, notes, or debentures. If the reduction reduces the universal bank's capital below the minimum level required by the Commissioner, the universal bank shall increase its capital to the amount required by the Commissioner.

Sec. 214. Exceptions to limitations on investment powers of universal banks.

The percentage limitations in sections 213 shall not apply to, and a universal bank may invest without limitation in, any of the following:

(1) Stocks or obligations of a corporation organized for business development by the District, the United States, or a District or federal agency;

(2) Obligations of an urban renewal investment corporation organized under the laws of the District or of the United States;

(3) An equity interest in an insurance company or an insurance holding company organized to provide insurance for universal banks and for persons affiliated with universal banks to the extent that ownership of the equity interest is a prerequisite to obtaining directors' and

officers' insurance or blanket bond insurance for the universal bank through the insurance company;

(4) Shares of stock, whether purchased or otherwise acquired, in a corporation acquiring, placing, and operating remote service units or bank communications terminals;

(5) Equity, debt securities, or debt instruments of a service corporation subsidiary of the universal bank;

(6) Advances of federal funds;

(7) Financial futures transactions, financial options transactions, forward commitments, or other financial products for the purpose of reducing, hedging, or otherwise managing the universal bank's interest rate risk exposure; provided, that the prior written approval of the Commissioner shall be required to make the investments described in this paragraph;

(8) A subsidiary of the universal bank organized to exercise corporate fiduciary powers under this title;

(9) An agricultural credit corporation; provided, that the universal bank shall not own more than 80% of the stock of an agricultural credit corporation and shall not invest more than 20% of the universal bank's capital in agricultural credit corporations;

(10) Deposit accounts or insured obligations of a financial institution, the accounts of which are insured by a deposit insurance corporation;

(11) Obligations of, or obligations that are fully guaranteed by, the United States;

(12) Stocks or obligations of any Federal Reserve Bank, Federal Home Loan Bank, the Student Loan Marketing Association, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Deposit Insurance Corporation; or

(13) Any other investment authorized by the Commissioner.

Sec. 215. Limits on insurance and securities powers of universal banks.

(a)(1) If a universal bank is permitted to engage in the business of insurance or securities under any authority granted by this title, the insurance and securities activities of the universal bank shall be subject to the regulation and supervision of the Department of Insurance and Securities Regulation and appropriate federal agencies and shall be carried out under all laws, rules, and regulations applicable to insurance and securities; provided, that the Commissioner, with the approval of the Commissioner of the Department of Insurance and Securities Regulation, may exempt a universal bank from a provision of this act, or any rule or regulation promulgated under this act, which has been preempted by federal law, rule, or regulation.

(2) The Department of Insurance and Securities Regulation shall maintain functional regulatory authority over the insurance and securities activities of the insurance or securities subsidiary or holding company affiliate of a universal bank. The regulatory authority of the Department of Insurance and Securities Regulation shall include reviewing and taking

necessary actions, including approval and disapproval, on applications and other documents or reports concerning a proposed acquisition of, or a change or continuation of control of, an insurer domiciled in the District of Columbia.

(b)(1) A universal bank shall disclose, or cause to be disclosed, to purchasers of, prospective purchasers of, and persons solicited to purchase, an insurance policy of the universal bank that the insurance offered or sold is not a deposit, is not insured by the federal deposit insurance corporation, and is not guaranteed by the universal bank; provided, that this disclosure requirement shall not apply to the solicitation or sale of a credit unemployment insurance policy, group credit life insurance policy, group credit health insurance policy, group credit accident insurance policy, or group credit health and accident insurance policy, or a similar group credit insurance policy covering the person of the insured.

(2) A person soliciting the purchase of, or selling, insurance on the premises of a universal bank shall disclose, or cause to be disclosed, to purchasers of, prospective purchasers of, and persons solicited to purchase, an insurance policy of the universal bank that the insurance offered or sold is not a deposit, is not insured by the federal deposit insurance corporation, and is not guaranteed by the universal bank; provided, that this disclosure requirement shall not apply to the solicitation or sale of a credit unemployment insurance policy, group credit life insurance policy, group credit health insurance policy, group credit accident insurance policy, or group credit health and accident insurance policy, or a similar group credit insurance policy covering the person of the insured.

(3) A disclosure required under paragraph (1) or (2) of this subsection shall be made in writing and in clear and concise language.

(c) If a person obtains insurance and credit from a universal bank, the expense of the credit and insurance transactions shall be disclosed in separate contractual provisions, and the expense of insurance premiums shall not be included in the primary credit transactions without the express written consent of the person; provided, that this subsection shall not apply if the insurance policy being obtained is a flood insurance policy, a credit unemployment insurance policy, a group credit life insurance policy, a group credit health insurance policy, group credit accident insurance policy, or a group credit health and accident insurance policy, or a similar group credit insurance policy covering the person of the insured.

(d)(1) A universal banks shall not condition the making of a loan, including a loan under section 209(a)(2), the lease or sale of property of any kind, or the furnishing of any services to a customer on the requirement that the customer obtain insurance from the universal bank, an affiliate or subsidiary of the universal bank, or a particular insurer, agent, or broker. A universal bank shall not fix or vary the consideration charged to a customer for the making of a loan, including a loan under section 209(a)(2), the lease or sale of property of any kind, or the furnishing of any services based on whether the customer obtains insurance from the universal bank, an affiliate or subsidiary of the universal bank, or a particular insurer, agent, or broker.

(2) The prohibitions under paragraph (1) of this subsection shall not prevent a

universal bank from informing a person that insurance is required to obtain a loan or credit, that loan or credit approval is contingent upon the person's procurement of acceptable insurance, or that insurance is available from the universal bank; provided, that the universal bank shall also inform the person in writing that his or her choice of insurance provider shall not affect the universal bank's credit decision or credit terms; provided further, that the disclosure shall be given again before or at the time that the universal bank, or the person selling or soliciting the purchase of insurance on the premises of the universal bank, solicits the purchase of insurance from a customer who has applied for a loan or extension of credit.

(e)(1) A universal bank may engage in an activity under section 209(a)(6) through (19) directly or indirectly through a subsidiary, unless the Commissioner determines that the activity shall be conducted through a subsidiary; provided that:

(A) An underwriting or distribution of annuities under section 209(a)(16) shall be conducted only through a non-depository financial institution affiliate of the universal bank unless federal law permits the underwriting and distribution to be conducted through a subsidiary of the financial institution;

(B) An underwriting or distribution of life insurance, accident insurance, health insurance, property insurance, casualty insurance, or any other form of insurance under section 209(a)(17) shall be conducted only through a non-depository financial institution affiliate of the universal bank unless federal law permits the underwriting and distribution to be conducted in a subsidiary of the financial institution;

(C) An underwriting, dealing, or market-making in securities under section 209(a)(18) shall be conducted only in a subsidiary of the universal bank; and

(D) A distribution of shares in investment companies under section 209(a)(19) shall only be conducted through a subsidiary of the universal bank.

(2) The Commissioner may require that a subsidiary or affiliate of a universal bank engaged in an activity under section 209(a)(6) through (19) implement and maintain appropriate safeguards to limit the risk exposure of the universal bank.

(f) The investment in a subsidiary that engages in an activity under section 209(a)(6) through (19) shall not exceed 20% of the universal bank's capital; provided, that the Commissioner may authorize a higher percentage, by written order, if the percentage is consistent with safe and sound practices and the safe and sound operation and condition of the universal bank.

(g) The aggregate investment in all subsidiaries that engage in an activity under section 209(a)(6) through (19) shall not exceed 50% of the universal bank's capital; provided, that the Commissioner may authorize a higher percentage, by written order, if the percentage is consistent with safe and sound practices and the safe and sound operation and condition of the universal bank.

(h) A subsidiary that engages in an activity under section 209(a)(6) through (19) may be owned jointly with one or more persons, including universal banks.

SUBTITLE E. COMMISSIONER POSSESSION, RECEIVERSHIP, CONSERVATORSHIP, AND LIQUIDATION OF UNIVERSAL BANKS.

Sec. 216. Liquidation of universal banks in general.

A universal bank shall not be liquidated except as provided by this title or in accordance with the order of a court of competent jurisdiction.

Sec. 217. Commissioner taking possession of universal banks.

(a) Subject to section 215 as it relates to the functional regulatory authority of the Commissioner of the Department of Insurance and Securities Regulation with respect to the liquidation or rehabilitation of an insurance subsidiary or holding company affiliate, the Commissioner may take possession of the business and property of a universal bank if the Commissioner has determined that one or more of the events described in subsection (b) of this section has occurred.

(b) The Commissioner may take possession of the properties or business of a universal bank under subsection (a) of this section if the universal bank:

(1) Has violated a law, rule, regulation, a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request by the Commissioner, or a term or condition of a written agreement entered into with the Commissioner, and such violation affects the safe and sound condition and operation of the bank or the severity of the violation calls into question the competency of management or the quality of the operation of the bank;

(2) Is conducting its business in an unauthorized or unsafe or unsound manner;

(3) Is in an unsafe and unsound condition to transact its business;

(4) Has an impairment of its capital;

(5) Has suspended payment of its obligations;

(6) Has neglected or refused to comply with the terms of a duly issued order of the Commissioner;

(7) Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the Department;

(8) Has refused to be examined upon oath regarding its affairs; or

(9) Has neglected, refused or failed to take or continue proceedings for voluntary liquidation in accordance with any of the provisions of this title.

(c) If the Commissioner takes possession of the property or business of a universal bank under this section, the Commissioner shall inform the universal bank of the universal bank’s right to seek review of the Commissioner’s action under subsection (e) of this section.

(d) The Commissioner may maintain possession of the property or business of a universal bank until:

(1) The affairs of the universal bank are finally liquidated;

(2) The universal bank, with the written approval of the Commissioner,

voluntarily winds up its affairs; or

(3) The Commissioner authorizes the universal bank to resume business under section 218.

(e) Within 10 days after the Commissioner takes possession of the property or business of a universal bank under this section, the universal bank may apply to the Superior Court for an order requiring the Commissioner to show cause why the Commissioner should not be enjoined from continuing his or her possession of the property or business. The Superior Court may, upon good cause shown, direct the Commissioner to surrender possession of some or all of the business or property of the universal bank or direct the Commissioner to take, or refrain from taking, any action.

(f) In addition to the authority granted under this section, the Commissioner may appoint a receiver for the universal bank as provided in section 219.

Sec. 218. Resumption of business by a universal bank.

A universal bank of which the Commissioner takes possession or which is operating under restrictions imposed by the Commissioner may be permitted by the Commissioner to resume business in accordance with the provisions of this title and subject to such conditions as may be imposed by the Commissioner.

Sec. 219. Appointment of a receiver for a universal bank.

(a) The Commissioner may petition the Superior Court to appoint a receiver for a universal bank if there is a reasonable basis to believe the universal bank:

(1) Has violated a law, rule, regulation, a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request by the Commissioner, or a term or condition of a written agreement entered into with the Commissioner, and such violation affects the safe and sound condition and operation of the bank or the severity of the violation calls into question the competency of management or the quality of the operation of the bank;

(2) Has violated a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request of the Commissioner, or a written agreement entered into with the Commissioner;

(3) Is conducting its business in an unauthorized, unsafe, or unsound manner;

(4) Is in an unsafe and unsound condition;

(5) Has an impairment of its capital;

(6) Has suspended payment of its obligations;

(7) Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the Department;

(8) Has refused to be examined upon oath regarding its affairs; or

(9) Has neglected, refused, or failed to take or continue proceedings for

voluntary liquidation in accordance with any of the provisions of this title.

(b) If the Commissioner petitions the Superior Court to appoint a receiver for a universal bank, the Commissioner shall request that the Superior Court appoint the Federal Deposit Insurance Corporation as the receiver if any of the deposits in the universal bank are insured by the Federal Deposit Insurance Corporation.

(c) The Superior Court may act upon a petition by the Commissioner for the appointment of a receiver immediately and without notice to any person. The Superior Court may appoint a receiver if the Superior Court determines that a condition set forth in subsection (a) of this section exists and that the bank is operating, or may operate, in an unsafe or unsound manner. The Superior Court may also issue an injunction to require a universal bank to correct any condition set forth in subsection (a) of this section, notwithstanding whether the bank is operating, or may operate, in an unsafe or unsound manner. If the Superior Court appoints a receiver and, after the appointment of a receiver, it appears to the Superior Court that reasons for receivership do not, or no longer, exist, the Superior Court shall dissolve the receivership and terminate any pending proceedings.

(d) Unless otherwise provided by law, a receiver, other than a receiver who is an employee of the Department and acting in his or her official capacity, shall post a bond in an amount to be determined by the Superior Court.

(e) The receiver shall, on a regular basis, report to the Commissioner regarding all matters involving the receivership.

(f) If a universal bank has been closed and placed in receivership, and the Federal Deposit Insurance Corporation pays, or makes available for payment, the insured deposit liabilities of the closed bank, the rights of the Federal Deposit Insurance Corporation, whether or not the Federal Deposit Insurance Corporation is the receiver of the bank, shall be subrogated to all of the rights of the owners of the deposits against the closed universal bank in the same manner and to the same extent as subrogation of the Federal Deposit Insurance Corporation is provided for in section 11(g) of the Federal Deposit Insurance Act, approved September 21, 1950 (64 Stat. 884; 12 U.S.C. § 1821(g)).

Sec. 220. Receiver duties and powers.

(a) Subject to Superior Court approval, a receiver shall:

(1) Take possession of the books, records, and assets of the universal bank and collect all debts, dues, and claims belonging to the universal bank;

(2) Sue, defend, compromise, arbitrate, or otherwise settle all claims involving the universal bank;

(3) Sell all real and personal property;

(4) Exercise all fiduciary functions of the universal bank;

(5) Pay all administrative expenses of the receivership, which expenses shall be a first charge upon the assets of the universal bank and shall be fully paid before a final distribution

or payment of dividends to creditors or shareholders;

(6) Pay, ratably, all debts of the universal bank; provided, that debts not exceeding $500 may be paid in full, but the holders of such debt shall not be entitled to interest on the debt;

(7) Repay, ratably, any amount paid in by a shareholder by reason of an assessment made upon the stock of the universal bank by the Department in accordance with this act;

(8) Pay, ratably, to the shareholders of the universal bank, in proportion to the number of shares held and owned by each, the balance of the net assets of the universal bank after payment or provision for payments as provided in this section;

(9) Have all the powers of the directors, officers, and shareholders of the universal bank as necessary to support an action taken on behalf of the universal bank; and

(10) Hold title to all the bank's property, contracts, and rights of action.

(b) Subject to Superior Court approval, a receiver may:

(1) Borrow money as necessary or expedient in aiding the liquidation of the universal bank and secure the borrowed money by the pledge, hypothecation, or mortgage of the assets of the bank;

(2) Employ agents, legal counsel, accountants, appraisers, consultants, and other personnel, including, with the prior written approval of the Commissioner, personnel of the Department, that the receiver considers necessary or expedient to assist in the performance of the receiver's duties; provided, that the expense of employing Department personnel shall be an administrative expense of the liquidation that shall be payable to the Department; or

(3) Exercise any other power and duty authorized by the Superior Court.

Sec. 221. Lien on property or assets; voidable transfer.

(a) Except as provided in subsection (c) of this section, the transfer of, or a lien on, the property or assets of the universal bank shall be voidable by the receiver if the transfer or lien was:

(1) Made or created within one year before the date the universal bank is ordered into receivership if the receiving transferee or lien holder was at the time an affiliate, officer, director, employee, or principal shareholder of the universal bank or an affiliate of the universal bank;

(2) Made or created within 90 days before the date the universal bank is ordered into receivership, with the intent of giving to a creditor or depositor, or enabling a creditor or depositor to obtain, a greater percentage of the creditor's or depositor's debt than is given or obtained by another creditor or depositor of the same class;

(3) Accepted after the universal bank is ordered into receivership by a creditor or depositor having reasonable cause to believe that a preference, as described in subsection (b) of this section, will occur; or

(4) Voidable by the universal bank and the universal bank may recover the property transferred, or its value, from the person to whom it was transferred or from a person who has received it, unless the transferee or receipient was a bona fide holder for value before the date the Commissioner takes possession of the universal bank or the date the universal bank was ordered into receivership or conservatorship.

(b) A preference in a transfer or grant of an interest in the property or assets of a universal bank shall be deemed to occur when:

(1) There is an intent to hinder, delay, or defraud an entity to which, on or after the date that the transfer or grant of interest was made, the universal bank was or became indebted; or

(2) Less than a reasonably equivalent value is obtained by the universal bank in exchange for the transfer or grant of interest if the universal bank was insolvent when the transfer or grant of interest was made or if the universal bank became insolvent as a result of the transfer or grant of interest.

(c) Notwithstanding any other provision of this title, the receiver shall not void an otherwise voidable transfer under this section if:

(1) The transfer or lien does not exceed $1,000 in value;

(2) The transfer or lien was received in good faith by a person who is not a person described in subsection (a)(1) of this section and who gave value in exchange for the transfer or lien; or

(3) The transfer or lien was intended by the universal bank and the transferee or lien holder to be, and in fact substantially was, a contemporaneous exchange for new value given to the universal bank.

(d) A person acting on behalf of the universal bank who knowingly participated in making or implementing a voidable transfer or lien, and each person receiving property or assets, or the benefit of property or assets, of the universal bank as a result of a voidable transfer or lien, shall be personally liable for the property, assets, or benefit received and shall account to the receiver for the benefit of the universal bank.

Sec. 222. Maintenance and disposal of records by receiver.

(a) With the approval of the Superior Court, a receiver may dispose of records of the universal bank in receivership that are obsolete and unnecessary to the continued administration of the receivership.

(b) The receiver may retain the records of the universal bank and the receivership for a period of time that the receiver considers appropriate or for a period of time as ordered by the Superior Court.

(c) The receiver may devise a method for the effective, efficient, and economical maintenance of the records of the universal bank and of the receiver's office, including maintaining the records on any medium approved by the Superior Court.

(d) The receiver may use assets of a universal bank to:

(1) Procure services to maintain the records of a liquidated universal bank; or

(2) Pay fees, as established by the Commissioner, to the Commissioner necessary for the Commissioner to procure services to maintain the records of a liquidated universal bank.

Sec. 223. Conservator; appointment; bond and security; qualifications; expenses.

(a) If any of the grounds under section 219 authorizing a request for the appointment of a receiver exist or if the Commissioner determines that it is necessary to conserve the assets of a universal bank for the benefit of the depositors, investors, or other creditors of the bank or for the benefit of the general public, the Commissioner may petition the Superior Court to appoint a conservator for a universal bank

(b) The Department shall be reimbursed out of the assets of the conservatorship, as expenses for all sums expended by the Department in connection with the conservatorship.

(c) All expenses of a conservatorship shall be paid out of the assets of the universal bank upon the approval of the Commissioner, shall be a first charge upon the assets of the universal bank, and shall be paid in full before a final distribution or payment of dividends to creditors or shareholders of the universal bank.

Sec. 224. Conservator; rights, powers, and privileges.

(a) Subject to the supervision of the Commissioner, the conservator shall take possession of the books, records, and assets of the bank and shall take any action necessary to conserve the assets of the universal bank pending further disposition of the business of the universal bank as provided by law.

(b) Subject to Superior Court approval and under the supervision of the Commissioner, the conservator shall:

(1) Take possession of the books, records, and assets of the universal bank and collect all debts, dues, and claims belonging to the universal bank;

(2) Sue, defend, compromise, arbitrate, or otherwise settle claims involving the universal bank;

(3) Sell real and personal property if necessary to conserve the assets of the bank;

(4) Exercise all fiduciary functions of the universal bank;

(5) Pay all administrative expenses of the conservatorship, which expenses shall be a first charge upon the assets of the universal bank and shall be fully paid before a final distribution or payment of dividends to creditors or shareholders;

(6) Pay the debts of the universal bank if the conservator determines that payment of the debts is in the best interests of the universal bank;

(7) Have all the powers of the directors, officers, and shareholders of the universal bank as necessary to support an action taken on behalf of the universal bank; and

(8) Hold title to all the bank’s property, contracts, and rights of action.

(c) Subject to Superior Court approval and under the supervision of the Commissioner the conservator may:

(1) Employ agents, legal counsel, accountants, appraisers, consultants, and other personnel, including, with the prior written approval of the Commissioner, personnel of the Department, that the conservator considers necessary or expedient to assist in the performance of the conservator's duties; provided, that the expense of employing Department personnel shall be an administrative expense of the liquidation that shall be payable to the Department; or

(2) Exercise any other power and duty authorized by the Superior Court.

(d) Unless otherwise provided by law, a conservator, other than a conservator who is an employee of the Department and acting in his or her official capacity, shall post a bond in an amount to be determined by the Superior Court.

(e) The conservator shall, on a regular basis, report to the Commissioner regarding all matters involving the conservatorship.

Sec. 225. Deposits received while universal bank in conservatorship.

(a) While a universal bank is in conservatorship, the Commissioner may require the conservator to set aside and make available for withdrawal by depositors or investors and payment to other creditors, ratably, amounts that the Commissioner determines may be used safely and soundly for such withdrawals and payments.

(b) The Commissioner may permit the conservator to receive deposits.

(c) Deposits received while the universal bank is in conservatorship shall not be subject to any limitation on payment or withdrawal. The deposits, and any new assets acquired on account of the deposits, shall be segregated and held for the new deposits and shall not be used to liquidate any indebtedness of the universal bank:

(1) Existing at the time that a conservator was appointed for the universal bank; or

(2) Incurred after a conservator was appointed and was incurred for the purpose of liquidating any indebtedness of the universal bank existing at the time that the conservator was appointed.

(d) Deposits received while the universal bank is in conservatorship shall be kept in cash, invested in direct obligations of the United States, or deposited in depository institutions designated by the Commissioner.

(e) The requirements of subsections (c) and (d) of this section shall remain in effect for 15 days following the date that the conservator returns control of the universal bank to its board of directors, or for such shorter period as the Commissioner may designate.

(f) Before returning control of the universal bank to its board of directors, the conservator shall publish a notice in a paper of general circulation in the District of Columbia in a form approved by the Commissioner, stating the date on which the affairs of the universal bank will be returned to its board of directors and that the provisions of subsection (c) or (d) of this

section will not be in effect after 15 days from that date. The conservator shall send a copy of the notice described in the previous sentence to each person who deposited money in the universal bank after the appointment of the conservator and before the time when control of the universal bank is returned to the board of directors.

Sec. 226. Authority of conservator to borrow money; purpose.

(a) With the prior approval of the Commissioner, the conservator of a universal bank may borrow money to aid in the operation, reorganization, or liquidation of the bank, including the payment of liquidating dividends.

(b) With the prior approval of the Commissioner, the conservator may secure money borrowed under subsection (a) of this section by the pledge, hypothecation, or mortgage of the assets of the universal bank.

Sec. 227. Termination of conservatorship.

(a) If the Commissioner determines that termination of the conservatorship and resumption of the transaction of the universal bank's business by the universal bank can be achieved and maintained in a safe and sound manner and is otherwise in the public interest, the Commissioner may petition the Superior Court to terminate a conservatorship and permit the universal bank to resume the transaction of its business, subject to terms, conditions, restrictions, and limitations as the Commissioner determines are appropriate.

(b) If the Superior Court determines that reasons for the conservatorship no longer exist, the Superior Court may dissolve the conservatorship and terminate any pending proceedings.

(c) If the Commissioner determines that it would be in the public interest, the Commissioner may petition the Superior Court for termination of a conservatorship and appointment of a receiver for the universal bank under section 220.

SUBTITLE G. MISCELLANEOUS PROVISIONS.

Sec. 228. Articles of incorporation and bylaws.

A universal bank may operate under the articles of incorporation and bylaws which were in effect before the universal bank's certification as a universal bank or under subsequently amended articles of incorporation and bylaws which are consistent with the provisions and purposes of this title.

Sec. 229. Acquisitions, mergers and asset purchases.

(a) A universal bank may purchase the assets of, merge with, acquire, or be acquired by, a financial institution, or the holding company of a financial institution, only after a written application to the Commissioner and the written approval of the application by the Commissioner.

(b) An application for approval of the Commissioner under subsection (a) of this section

shall be submitted on a form, and accompanied by a fee, prescribed by the Commissioner. In reviewing and approving or disapproving an application under this section, the Commissioner shall apply the standards required by the District of Columbia Banking Code, including the applicant's general plan of business, proposed plan of capital investment in the District, and community development program.

Sec. 230. Fees.

The Commissioner may establish fees for the filing of documents, the processing of applications, and other services provided by the Commissioner or the Department under this title.

Sec. 231. Rulemaking.

The Commissioner may prescribe rules governing the activities of universal banks and implementing this title, pursuant to Title 1 of the District of Columbia Administrative Procedure Act.

TITLE III. MERCHANT BANK ACT OF 2000.

SUBTITLE A. GENERAL PROVISIONS.

Sec. 301. Short title.

This title may be cited as the "Merchant Bank Act of 2000".

Sec. 302. Definitions.

For the purposes of this title, the term:

(1) "Affiliate" shall have the same meaning as set forth in section 102(1).

(2) "Appropriate financial institutions agency" means the federal or state agency with statutory authority over the financial institution activities of a financial institution.

(3) "Capital" shall have the same meaning as set forth in section 102(6).

(4) "Commissioner" means the Commissioner of the Department of Banking and Financial Institutions.

(5) "Department" means the Department of Banking and Financial Institutions.

(6) "Deposit" means a demand, time, or savings deposit, savings share account, withdrawable or repurchasable share, investment certificate, or other savings account or savings deposit account made by an individual, corporation, partnership, state or federal government unit, or any other government organization, without regard to the location of the depositor.

(7) "District" means the District of Columbia.

(8) "District of Columbia Banking Code" shall have the same meaning as set

forth in section 102(14).

(9) "Financial institution" shall have the same meaning as set forth in section 102(18).

(10) "Merchant bank" means a financial institution that is chartered or organized under the District of Columbia Banking Code as a merchant bank and is under the authority and supervision of the Commissioner.

(11) "Subsidiary" shall have the same meaning as set forth in section 102(24).

(12) "Superior Court" means Superior Court of the District of Columbia.

(13) "Universal bank" shall have the same meaning as set forth in section 202(28).

SUBTITLE B. APPLICATION AND CERTIFICATION AS A MERCHANT BANK.

Sec. 303. Application for merchant bank charter; review and approval or disapproval of application.

(a) A person described in section 309(a) may apply for a merchant bank charter by filing a written application with the Commissioner. The application shall include such information as the Commissioner may require by regulation and shall be on such forms and in accordance with such procedures as the Commissioner may prescribe by regulation.

(b) An application submitted under subsection (a) of this section shall be approved or disapproved in writing by the Commissioner within 60 days after a complete application is submitted to the Commissioner. The Commissioner and the applicant may agree to extend the review period for an additional 60 days.

(c) The Commissioner shall not issue a merchant bank charter to the applicant unless:

(1) The applicant is authorized under its articles of incorporation or other organizational documents to act as a financial institution;

(2) The applicant is in good standing with the Department and there is no investigatory or enforcement action pending against the applicant by the Department;

(3) The applicant is in good standing with appropriate financial institutions agencies and there is no investigatory or enforcement action pending against the applicant by an appropriate financial institutions agency;

(4) The applicant is well capitalized and will maintain a capital level as required by this title and as the Commissioner may require as appropriate for the purposes of safety and soundness;

(5) The applicant does not exhibit a combination of financial, managerial, operational, and compliance weaknesses that are moderately severe or unsatisfactory, as determined by the Commissioner, based upon the Commissioner's assessment of the applicant's capital adequacy of liquidity, and sensitivity to market risk;

(6) The most recent examination that the applicant has received from its federal appropriate financial institutions agency, if any, indicates that the applicant is in compliance with

applicable federal law and regulation;

(7) The applicant agrees to comply with applicable regulations and rules promulgated by the Commissioner;

(8) The applicant agrees to comply with any lawful order of the Commissioner and with any conditions imposed by the Commissioner in connection with the approval of an application, including additional requirements imposed on the applicant that the Commissioner determines are necessary for the protection of the shareholders or creditors of the applicant or of the general public;

(9) The applicant agrees to comply with any written agreement entered into with the Commissioner in connection with the approval of an application;

(10) The Commissioner determines that it is reasonable to believe that the applicant will act in a safe and sound manner and maintain a safe and sound condition; and

(11) The Commissioner determines that issuing a merchant bank charter to the applicant will serve the public interest.

Sec. 304. Issuance of certificate of authority.

If the Commissioner approves the application of an applicant to be a merchant bank, the Commissioner shall issue to the applicant a charter stating that the applicant is authorized to conduct business as a merchant bank under this title.

Sec. 305. Revocation or subsequent limitation of certificate of authority.

If a merchant bank fails to maintain the standards and requirements of this title, the Commissioner shall, by order, revoke or limit the exercise of the powers of the merchant bank's authority.

Sec. 306. Voluntary termination of certification of authority.

An applicant that is chartered as a merchant bank under this title may elect to terminate its charter by giving 60 days prior written notice of the termination to the Commissioner. A termination under this section shall be effective only with the written approval of the Commissioner. An applicant shall, as a condition to a termination under this section, terminate its exercise of all powers granted under this title before the termination of the certification. The Commissioner's written approval of a applicant's termination under this section shall be void if the applicant fails to satisfy the condition to termination under this section.

SUBTITLE C. POWERS AND AUTHORITY OF A MERCHANT BANK.

Sec. 307. Powers of merchant banks; limits on powers.

(a) Except as provided in this title, a merchant bank shall have all the powers and authority of a District-chartered bank or District-chartered savings and loan, including powers and authority with respect to investments, loans, fiduciary and trust functions, and transactions;

provided, that a universal bank shall obtain certification as a universal bank before exercising those powers of a universal bank that a District-chartered bank or District-chartered savings and loan is not authorized to exercise.

(b) A merchant bank shall not solicit, receive, or accept money, or its equivalent, on deposit, or engage in deposit-like activity, as a regular business activity.

(c) A merchant bank may issue a draft drawn on the merchant bank in the form of a treasurer's check or cashier's check.

(d) A merchant bank may deposit cash, whether constituting principal or income, in any financial institution inside or outside the District of Columbia.

(e) A merchant bank shall notify the Commissioner at least 30 days before the merchant bank establishes an office or branch office where the merchant bank intends to transact the business of the merchant bank.

(f) A merchant bank may apply to the Commissioner for certification, chartering, or organization as any other type of financial institution authorized under the District of Columbia Banking Code.

SUBTITLE D. STRUCTURE AND ORGANIZATION OF A MERCHANT BANK; CAPITAL REQUIREMENTS.

Sec. 308. Capital requirements of a merchant bank.

(a) The minimum amount of initial capital for a merchant bank shall be $20 million, of which at least $10 million shall be common stock or an equity interest. The balance may be composed of qualifying subordinated or similar debt as determined under regulations promulgated by the Commissioner. The Commissioner may modify the required minimum amount of initial capital if an applicant files with the Commissioner a written request and application, which application shall include a capital plan and any other documentation required by the Commissioner by regulation or order.

(b) A merchant bank shall maintain minimum capital in at least the same amount as the minimum initial capital required under subsection (a) of this section or in such other amount as the Commissioner may establish by rule or by order, after the filing of a request and application by a merchant bank; provided, the Commissioner shall not establish a minimum capital requirement for a merchant bank that is less than 150% of the tier 1 risk-based capital or 150% of the total risk-based capital established by the Board of Governors of the Federal Reserve System for a well-capitalized bank.

Sec. 309. Structure and organization of merchant banks.

(a) A merchant bank may be organized as a corporation, limited liability company, limited partnership, or limited liability partnership.

(b) The articles of incorporation or other organizational documents of a merchant bank shall contain the following statement: "This [corporation/limited liability company/limited partnership/limited liability partnership] is subject to the requirements of the District of Columbia Banking Code and does not have the power to solicit, receive or accept money or its equivalent on deposit." The appropriate business form listed in the bracketed text in the statement shall be included in the statement. The statement shall not otherwise be amended.

(c) A merchant bank may use as a part of its name the word "bank," "banker", "banking", or any abbreviations of those words.

Sec. 310. Policies of merchant bank's business activities.

(a) The board of directors of a merchant bank, if the merchant bank is a corporation, or its equivalent governing body, if the merchant bank is another type of business entity, shall establish a written policy under which the merchant bank's business activities shall be conducted. The written policy shall include the merchant bank's business plan, operating procedures, investment policies, and lending policies. The written policy shall also address conflicts of interest and shall preclude a merchant bank from making an investment in a small business if the effect is to create the potential of a conflict of interest with a person having an ownership interest in the merchant bank.

(b) The written policy under subsection (a) of this section for business activities shall be reviewed and approved or disapproved by the Commissioner. If the Commissioner finds that the policy does not adequately regulate the business activities of the merchant bank, the Commissioner may require the board of directors, or equivalent governing body, to take corrective action.

SUBTITLE E. COMMISSIONER POSSESSION, RECEIVERSHIP, CONSERVATORSHIP, AND LIQUIDATION OF UNIVERSAL BANKS.

Sec. 311. Liquidation of merchant banks in general.

A merchant bank shall not be liquidated except as provided by this title or in accordance with the order of a court of competent jurisdiction.

Sec. 312. Commissioner taking possession of merchant banks.

(a) Subject to section 215 as it relates to the functional regulatory authority of the Commissioner of the Department of Insurance and Securities Regulation for the liquidation or rehabilitation of an insurance subsidiary or holding company affiliate, the Commissioner may take possession of the business and property of a merchant bank if

the Commissioner has determined that one or more of the events described in subsection (b) of this section has occurred.

(b) The Commissioner may take possession of the properties or business of a merchant bank under subsection (a) of this section if the merchant bank:

(1) Has violated a law, rule, regulation, a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request by the Commissioner, or a term or condition of a written agreement entered into with the Commissioner, and such violation affects the safe and sound condition and operation of the bank or the severity of the violation calls into question the competency of management or the quality of the operation of the bank;

(2) Is conducting its business in an unauthorized or unsafe or unsound manner;

(3) Is in an unsafe and unsound condition to transact its business;

(4) Has an impairment of its capital;

(5) Has suspended payment of its obligations;

(6) Has neglected or refused to comply with the terms of a duly issued order of the Commissioner;

(7) Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the Department;

(8) Has refused to be examined upon oath regarding its affairs; or

(9) Has neglected, refused or failed to take or continue proceedings for voluntary liquidation in accordance with any of the provisions of this title.

(c) If the Commissioner takes possession of the property or business of a merchant bank under this section, the Commissioner shall inform the merchant bank of the merchant bank's right to seek review of the Commissioner's action under subsection (e) of this section.

(d) The Commissioner may maintain possession of the property or business of a merchant bank until:

(1) The affairs of the merchant bank are finally liquidated;

(2) The merchant bank voluntarily winds up its affairs; or

(3) The Commissioner authorizes the merchant bank to resume business under section 313.

(e) Within 10 days after the Commissioner takes possession of the property or business of a merchant bank under this section, the merchant bank may apply to the Superior Court for an order requiring the Commissioner to show cause why the Commissioner should not be enjoined from continuing his or her possession of the property or business. The Superior Court may, upon good cause shown, direct the Commissioner to surrender possession or some or all of the business or property of the merchant bank or direct the Commissioner to take, or refrain from taking, any action.

(f) In addition to the authority granted under this section, the Commissioner may request the appointment of a receiver or conservator for the merchant bank under this title.

Sec. 313. Resumption of business by a merchant bank.

A merchant bank of which the Commissioner takes possession or which is operating under restrictions imposed by the Commissioner may be permitted by the Commissioner to resume business in accordance with the provisions of this title and subject to such conditions as may be imposed by the Commissioner.

Sec. 314. Appointment of a receiver for a merchant bank.

(a) The Commissioner may petition the Superior Court to appoint a receiver for a merchant bank if there is a reasonable basis to believe that the merchant bank:

(1) Has violated a law, rule, regulation, a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request by the Commissioner, or a term or condition of a written agreement entered into with the Commissioner, and such violation affects the safe and sound condition and operation of the bank or the severity of the violation calls into question the competency of management or the quality of the operation of the bank;

(2) Has violated a condition imposed by the Commissioner in connection with the approval of an application, an order or authorized request of the Commissioner, or a written agreement entered into with the Commissioner;

(3) Is conducting its business in an unauthorized, unsafe, or unsound manner;

(4) Is in an unsafe and unsound condition;

(5) Has an impairment of its capital;

(6) Has suspended payment of its obligations;

(7) Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the Department;

(8) Has refused to be examined upon oath regarding its affairs; or

(9) Has neglected, refused, or failed to take or continue proceedings for voluntary liquidation in accordance with any of the provisions of this title.

(b) The Superior Court may act upon a petition by the Commissioner for the appointment of a receiver immediately and without notice to any person. The Superior Court may appoint a receiver if the Superior Court determines that a condition set forth in subsection (a) of this section exists and that the bank is operating, or may operate, in an unsafe or unsound manner. The Superior Court may also issue an injunction to require a universal bank to correct any condition set forth in subsection (a) of this section, whether or not the bank is operating, or may operate, in an unsafe or unsound

manner. If the Superior Court appoints a receiver and, after the appointment of the receiver, it appears to the court that reasons for receivership do not, or no longer, exist, the Superior Court shall dissolve the receivership and terminate any pending proceedings.

(c) Unless otherwise provided by law, a receiver, other than a receiver who is an employee of the Department and acting in his or her official capacity, shall post a bond in an amount to be determined by the Superior Court.

(d) The receiver shall, on a regular basis, report to the Commissioner regarding all matters involving the receivership.

Sec. 315. Receiver duties and powers.

(a) Subject to Superior Court approval, a receiver shall:

(1) Take possession of the books, records, and assets of the merchant bank and collect all debts, dues, and claims belonging to the merchant bank;

(2) Sue, defend, compromise, arbitrate, or otherwise settle all claims involving the merchant bank;

(3) Sell all real and personal property;

(4) Exercise all fiduciary functions of the merchant bank;

(5) Pay all administrative expenses of the receivership, which expenses shall be a first charge upon the assets of the merchant bank and shall be fully paid before a final distribution or payment of dividends to creditors or shareholders;

(6) Pay, ratably, all debts of the merchant bank; provided, that debts not exceeding $500 may be paid in full but the holders of such debt shall not be entitled to interest on the debt;

(7) Repay, ratably, any amount paid in by a shareholder by reason of an assessment made upon the stock of the merchant bank by the Department in accordance with this act;

(8) Pay, ratably, to the shareholders of the merchant bank, in proportion to the number of shares held and owned by each, the balance of the net assets of the merchant bank after payment or provision for payments as provided in this section;

(9) Have all the powers of the directors, officers, and shareholders of the merchant bank as necessary to support an action taken on behalf of the merchant bank; and

(10) Hold title to all the bank’s property, contracts, and rights of action

(b) Subject to Superior Court approval, a receiver may:

(1) Borrow money as necessary or expedient in aiding the liquidation of the merchant bank and secure the borrowed money by the pledge, hypothecation, or mortgage of the assets of the bank;

(2) Employ agents, legal counsel, accountants, appraisers, consultants, and other personnel, including, with the prior written approval of the Commissioner, personnel of the Department, that the receiver considers necessary or expedient to assist in the performance of the receiver's duties; provided, that the expense of employing Department personnel shall be an administrative expense of the liquidation that shall be payable to the Department; or

(3) Exercise any other power and duty authorized by the Superior Court.

Sec. 316. Lien on property or assets; voidable transfer.

(a) Except as provided in subsection (c) of this section, the transfer of, or a lien on, the property or assets of the merchant bank shall be voidable by the receiver if the transfer or lien was:

(1) Made or created within one year before the date the Commissioner takes possession of the merchant bank or the date the merchant bank is ordered into receivership if the receiving transferee or lien holder was at the time an affiliate, officer, director, employee, or principal shareholder of the merchant bank or an affiliate of the merchant bank;

(2) Made or created within 90 days before the date the Commissioner takes possession of the merchant bank or the date the merchant bank is ordered into receivership, with the intent of giving to a creditor or depositor, or enabling a creditor or depositor to obtain, a greater percentage of the creditor's or depositor's debt than is given or obtained by another creditor or depositor of the same class;

(3) Accepted after the date the Commissioner takes possession of the merchant bank or the date the merchant bank is ordered into receivership by a creditor or depositor having reasonable cause to believe that a preference, as described in subsection (b) of this section, will occur; or

(4) Voidable by the merchant bank and the merchant bank may recover the property transferred, or its value, from the person to whom it was transferred or from a person who has received it, unless the transferee or recipient was a bona fide holder for value before the date the Commissioner takes possession of the merchant bank or the date the merchant bank is ordered into receivership or conservatorship.

(b) A preference in a transfer or grant of an interest in the property or assets of a merchant bank shall be deemed to occur when:

(1) There is an intent to hinder, delay, or defraud an entity to which, on or after the date that the transfer or grant of interest was made, the merchant bank was or became indebted; or

(2) Less than a reasonably equivalent value is obtained by the merchant

bank in exchange for the transfer or grant of interest if the merchant bank was insolvent when the transfer or grant of interest was made or if the merchant bank became insolvent as a result of the transfer or grant of interest.

(c) Notwithstanding any other provision of this title, the Commissioner or the receiver shall not void an otherwise voidable transfer under this section if:

(1) The transfer or lien does not exceed $1,000 in value;

(2) The transfer or lien was received in good faith by a person who is not a described in subsection (a)(1) of this section and who gave value in exchange for the transfer or lien; or

(3) The transfer or lien was intended by the merchant bank and the transferee or lien holder to be, and in fact substantially was, a contemporaneous exchange for new value given to the merchant bank.

(d) A person acting on behalf of the merchant bank who knowingly participated in making or implementing a voidable transfer or lien, and each person receiving property or assets, or the benefit of property or assets, of the merchant bank as a result of a voidable transfer or lien, shall be personally liable for the property, assets, or benefit received and shall account to the receiver for the benefit of the merchant bank.

Sec. 317. Maintenance and disposal of records by receiver.

(a) With the approval of the Superior Court, a receiver may dispose of records of the merchant bank in receivership that are obsolete and unnecessary to the continued administration of the receivership.

(b) The receiver may retain the records of the merchant bank and the receivership for a period of time that the receiver considers appropriate or for a period of time as ordered by the Superior Court.

(c) The receiver may devise a method for the effective, efficient, and economical maintenance of the records of the merchant bank and of the receiver's office, including maintaining the records on any medium approved by the Superior Court.

(d) The receiver may use assets of a merchant bank to:

(1) Procure services to maintain the records of a liquidated merchant bank; or

(2) Pay fees, as established by the Commissioner, to the Commissioner necessary for the Commissioner to procure services to maintain the records of a liquidated merchant bank.

Sec. 318. Conservator; appointment; bond and security; qualifications; expenses.

(a) If any of the grounds under section 312 authorizing the request for the appointment of a receiver exist or if the Commissioner determines that it is necessary to conserve the assets of a merchant bank for the benefit of the depositors, investors, or other creditors of the bank or for the benefit of the general public, the Commissioner may petition the Superior Court to appoint a conservator for a merchant bank.

(b) The Department shall be reimbursed out of the assets of the conservatorship, for all sums expended by the Department in connection with the conservatorship.

(c) All expenses of a conservatorship shall be paid out of the assets of the merchant bank upon the approval of the Commissioner, shall be a first charge upon the assets of the merchant bank, and shall be paid in full before a final distribution or payment of dividends to creditors or shareholders of the merchant bank.

Sec. 319. Conservator; rights, powers, and privileges.

(a) Under the supervision of the Commissioner, the conservator shall take possession of the books, records, and assets of the bank and shall take any action necessary to conserve the assets of the merchant bank pending further disposition of the business of the merchant bank as provided by law.

(b) Subject to Superior Court approval and under the supervision of the Commissioner, a conservator shall:

(1) Take possession of the books, records, and assets of the merchant bank and collect all debts, dues, and claims belonging to the merchant bank;

(2) Sue, defend, compromise, arbitrate, or otherwise settle all claims involving the merchant bank;

(3) Sell real and personal property if necessary to conserve the assets of the merchant bank;

(4) Exercise all fiduciary functions of the merchant bank;

(5) Pay all administrative expenses of the conservatorship, which expenses shall be a first charge upon the assets of the merchant bank and shall be fully paid before a final distribution or payment of dividends to creditors or shareholders;

(6) Pay the debts of the merchant bank if the conservator determines that payment of the debts is in the best interests of the merchant bank;

(7) Have all the powers of the directors, officers, and shareholders of the merchant bank as necessary to support an action taken on behalf of the merchant bank; and

(8) Hold title to all the bank's property, contracts, and rights of action.

(c) Subject to Superior Court approval and under the supervision of the Commissioner, a conservator may:

(1) Employ agents, legal counsel, accountants, appraisers, consultants,

and other personnel, including, with the prior written approval of the Commissioner, personnel of the Department, that the conservator considers necessary or expedient to assist in the performance of the conservator's duties; provided, that the expense of employing Department personnel shall be an administrative expense of the liquidation that shall be payable to the Department; or

(2) Exercise any other power and duty authorized by the Superior Court.

(d) Unless otherwise provided by law, a conservator, other than a conservator who is an employee of the Department and acting in his or her official capacity, may be required to post a bond in an amount to be determined by the Superior Court.

(e) The conservator shall, on a regular basis, report to the Commissioner regarding all matters involving the conservatorship.

Sec. 320. Authority of conservator to borrow money; purpose.

(a) With the prior approval of the Commissioner, the conservator of a merchant bank may borrow money to aid in the operation, reorganization, or liquidation of the bank, including the payment of liquidating dividends.

(b) With the prior approval of the Commissioner, the conservator may secure money borrowed under subsection (a) of this section by the pledge, hypothecation, or mortgage of the assets of the merchant bank.

Sec. 321. Termination of conservatorship.

(a) If the Commissioner determines that termination of the conservatorship and resumption of the transaction of the merchant bank's business by the merchant bank can be achieved and maintained in a safe and sound manner and is otherwise in the public interest, the Commissioner may petition the Superior Court to terminate a conservatorship and permit the merchant bank to resume the transaction of its business, subject to terms, conditions, restrictions, and limitations as the Commissioner determines are appropriate.

(b) If the Superior Court determines that reasons for the conservatorship no longer exist, the Superior Court may dissolve the conservatorship and terminate any pending proceedings.

(c) If the Commissioner determines that it would be in the public interest, the Commissioner may petition the Superior Court for termination of a conservatorship and appointment of a receiver for the merchant bank under section 312.

SUBTITLE F. MISCELLANEOUS PROVISIONS.

Sec. 322. Rules.

The Commissioner may prescribe rules governing the activities of merchant

banks and implementing this title pursuant to Title 1 of the District of Columbia Administrative Procedure Act. The rules shall take into account the objective of merchant banks to provide needed capital to businesses and the nondepository nature of merchant banks.

TITLE IV. COMMUNITY DEVELOPMENT ACT OF 2000.

Sec. 401. Short title.

This title may be cited as the "Community Development Act of 2000".

Sec. 402. Definitions.

For the purposes of this title, the term:

(1) "Community development" means:

(A) Affordable housing (including single-family and multi-family rental
housing and homeownership) for low-income or moderate-income individuals and families and related retail and community facilities development;

(B) Community services targeted to low-income or moderate-income individuals and families;

(C) Activities that promote economic development by financing businesses that meet the size eligibility standards of the Small Business Administration Certified Development Company Program or the Small Business Administration Small Business Investment Company Program or have gross annual revenues of $1 million or less;

(D) Activities that revitalize or stabilize low-income or moderate-income areas; or

(E) Activities that seek to prevent defaults or foreclosures on loans made for the purposes described in subparagraphs (A) and (C) of this paragraph.

(2) "Community Reinvestment Act" shall mean the Community Reinvestment Act of 1977, approved October 12, 1977 (91 Stat. 1147; 12 U.S.C. § 2901 *et seq.*).

(3) "Commissioner" means the Commissioner of the Department of Banking and Financial Institutions.

(4) "Department" means the Department of Banking and Financial Institutions.

(5) "Designated development areas" means any of the following located in the District:

(A) A low-income or moderate-income area;

(B) An area designated as underserved or economically disadvantaged by the Commissioner; or

(C) A commercial, industrial, residential, or other economic development project which the Commissioner determines will benefit the District.

(6) "Federal financial supervisory agency" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and any successor to any of the foregoing agencies, as applicable to the specific type of bank.

(7) "Financial institution" shall have the same meaning as in section 102(18).

(8) "Low-income" shall have the same meaning as set forth in section 202(21).

(9) "Low-income area" means a census tract or block numbering area in which the median individual or family income does not exceed 65% of the median income of the Washington, D.C., metropolitan area as determined by the statistics of the United States Department of Housing and Urban Development.

(10) "Moderate-income" shall have the same meaning as set forth in section 202(22).

(11) "Moderate-income area" means a census tract or block numbering area in which the median individual or family income does not exceed 80% of the median income for the Washington, D.C. metropolitan area as determined by the statistics of the United States Department of Housing and Urban Development.

(12) "Minority group" means African-Americans, Hispanic-Americans, Latinos, Asian-Americans, Pacific Islander-Americans, American Indians, Native Americans, or Alaskan-Natives.

(13) "Minority-owned business" means a business in which:

(A) At least 51% ownership and control is held by individuals who are members of a minority group;

(B) At least 51% of the individuals that make policy decisions and actively manage day-to-day operations are members of a minority group; and

(C) More than 50% of the net profit or loss accrues to owners who are members of a minority group.

(14) "Mortgage loan" means a loan that is secured by residential real property.

(15) "Small business loan" means a small business loan as defined in Federal Reserve System Regulation BB, 12 C.F.R. Part 228.

(16) "Women-owned business" means a business in which:

(A) At least 51% of the ownership and control is held by a woman or women;

(B) A woman or women constitute at least 51% of the individuals that make policy decisions and actively manage day-to-day operations; and

(C) More than 50% of the net profit or loss accrues to a woman owner or women owners.

Sec. 403. Community needs obligation.

A financial institution shall have a continuing and affirmative obligation to meet the credit needs of its local communities, including low-income and moderate-income area, consistent with the safe and sound operation of the financial institution.

Sec. 404. Community development plan requirement.

(a)(1) A financial institution shall submit a community development plan stating the financial institution's plans for meeting the credit and financial services needs of the residents of the District, particularly in designated development areas. A financial institution shall submit a community development plan annually, when there is a revision to the plan, and at such times as the Commissioner, by rule, may require.

(2) The community development plan submitted under paragraph (1) of this subsection shall commit the financial institution and its subsidiaries to:

(A) Provide monitoring reports on forms designated by, and at intervals specified by, the Commissioner;

(B) Provide additional information as requested by the Commissioner to monitor compliance;

(C) Permit examinations of the records of the financial institution to the extent considered necessary by the Commissioner to monitor and enforce compliance with the community development plan;

(D) Participate in meetings on the community development performance of the financial institution at times designated by the Commissioner; and

(E) Provide that the commitment shall be a binding agreement on the financial institution and the financial institution's successors and assignees.

(b) The Commissioner shall assess the record of a financial institution, determine whether the financial institution is satisfying its continuing and affirmative obligation to meet the credit needs of its local communities, including low-income and moderate-income areas, consistent with the safe and sound operation of the financial institution, and shall prepare a report on the assessment and determination:

(1) In connection with an application for a certificate of authority under the District of Columbia Banking Code;

(2) In connection with the acquisition of a bank, savings institution, or holding company located in the District under the Regional Interstate Banking Act of 1985; and

(3) As required under section 405.

(c) In determining whether the financial institution is satisfying its continuing

and affirmative obligation to meet the credit needs of its local communities, including low-income and moderate-income neighborhoods, the Commission shall consider:

(1) The financial institution's Community Reinvestment Act rating and prior evaluations and any community development evaluations from the 3 prior years;

(2) Plans of the financial institution to make mortgage loans in the District
and in designated development areas;

(3) Plans of the financial institution to make consumer loans, other than mortgage loans, in the District and in designated development areas;

(4) Plans of the financial institution to:

(A) Open or close branches in the District and in designated development areas;

(B) Provide basic deposit and checking accounts, such as lifeline
accounts, and electronic transfer accounts designed for low-income persons; and

(C) Provide check-cashing services to non-account holders;

(5) Plans of the financial institution to:

(A) Procure services or supplies from District businesses, including
minority-owned and women-owned District businesses; and

(B) Hire District residents;

(6) Plans of the financial institution to seek and place District residents, including women and members of minority groups, on the board of directors of the financial institution, subsidiaries or affiliates of the financial institution, and the holding company of the financial institution;

(7) Plans of the financial institution to:

(A) Provide seminars and individualized counseling on consumer and commercial lending in the District and in designated development areas; and

(B) Establish and maintain flexible credit terms and underwriting guidelines;

(8) Plans of the financial institution regarding the marketing of, and marketing budget for, the community development plan in the District, including plans to market the community development plan in the designated development areas as well as the types of media to be used;

(9) Plans of the financial institution to:

(A) Enter into partnerships with nonprofit and community groups, for-profit developers, District agencies, and colleges and universities and other proposed activities that promote public/private partnerships and lending programs with

community-based development organizations; and

(B) Participate in other community programs that foster community development in the District;

(10) Designation of a senior lending officer responsible for implementing and overseeing the community development plan; and

(11) If the determination is in connection with the acquisition of a bank, savings institution, or holding company:

(A) The status of the prior community development commitments of the financial institution to be acquired; and

(B) Plans of the acquiring entity to continue the prior commitments.

(d) A report prepared under subsection (b) of this section shall include the assessment factors utilized to determine the financial institution's descriptive rating, the financial institution's descriptive rating, and the basis for the Commissioner's determination of the financial institution's descriptive rating.

(e) A report prepared under subsection (b) of this section shall be available to the public upon request.

Sec. 405. Monitoring compliance with the community development plan.

(a) The Commissioner shall monitor whether a financial institution is satisfying its continuing and affirmative obligation to meet the credit needs of its local communities, including low-income and moderate-income areas, consistent with safe and sound operation of the financial institution.

(b) The Commissioner shall issue an annual report to the Mayor and the Council on each financial institution's compliance with its community development plan. In the annual report, the Commissioner shall include an assessment of the community reinvestment performance of each financial institution using the applicable methodology set forth in the Community Reinvestment Act and shall include the rating for each financial institution under the system developed under section 406.

Sec. 406. Rating system for community development performance.

(a) The Commissioner shall establish, by regulation, a system to rate the community development performance of a financial institution. The system shall include the following rating categories:

(1) Outstanding record of performance in meeting the credit needs of its local communities;

(2) Highly satisfactory record of performance in meeting the credit needs of its local communities;

(3) Satisfactory record of performance in meeting the credit needs of its

local communities;

(4) Needs to improve record of performance in meeting the credit needs of its local communities; and

(5) Substantial noncompliance in meeting the credit needs of its local communities.

(b) The Commissioner shall consider the compliance of the financial institution with the community development plan submitted under section 403 in assessing and rating the community development performance of the financial institution.

Sec. 407. Examinations in cooperation with other regulators.

(a) The Commissioner may enter into cooperative agreements with financial institutions regulators in jurisdictions other than the District, including federal regulators, for the coordination of, or joint participation, in a community performance evaluation and the amount and assessment of fees for the examination or actions related to the examination.

(b) The Commissioner may accept evaluations performed under the agreements described in subsection (a) of this section.

Sec. 408. Authority of Commissioner to issue rules and regulations.

The Commissioner may promulgate rules and regulations to implement the provisions of this title pursuant to Title 1 of the District of Columbia Administrative Procedure Act.

TITLE V. AUTOMATED TELLER MACHINE ACT OF 2000.

Sec. 501. Short title.

This title may be cited as the "Automated Teller Machine Act of 2000".

Sec. 502. Definitions.

For the purposes of this title, the term:

(1) "Access area" means a paved walkway or sidewalk which is within 50 feet of an automated teller machine. The term "access area" shall not include publicly maintained walkways, sidewalks, or roads.

(2) "Access device" shall have the same meaning as set forth in Federal Reserve System Regulation E, 12 C.F.R. Part 205.

(3) "Automated teller machine" means a stationary or mobile unattended device at which banking transactions, including deposits, withdrawals, or transfers, may be conduced. The term shall include satellite devices and any electronic

information-processing device located in the District which accepts or dispenses cash in connection with a credit, deposit, or convenience account. The term shall not include a device which is used solely to facilitate a check guarantee or check authorization or which is used in connection with the acceptance or dispensing of cash on a person-to-person basis, such as by a store cashier.

(4) "Bank" shall have the same meaning as set forth in section 102(3).

(5) "Candlefoot power" means the light intensity of candles on a horizontal plane at 36 inches above ground level and 5 feet in front of the area to be measured.

(6) "Commissioner" means the Commissioner of the Department of Banking.

(7) "Control" means the authority to determine how, when, and by whom an access area, defined parking area, or automated teller machine is to be used and how the access area, defined parking area, or automated teller machine is to be maintained, lighted, and landscaped.

(8) "Customer" means a natural person to whom an access device has been issued for personal, family, or household use.

(9) "Defined parking area" means the portion of a parking area open for customer parking which is: (A) contiguous to an access area; and (B) regularly, principally, and lawfully used for parking, standing, or stopping by persons conducting automated teller machine transactions during hours of darkness. The term "defined parking area" shall not include a parking area which is not open or regularly used for parking by persons conducting automated teller machine transactions during hours of darkness. A parking area shall not be considered open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple level parking area would otherwise be considered a defined parking area under the definition above, only the single parking level deemed by the operator of the automated teller machine to be the most directly accessible to the users of the automated teller machine shall be considered a defined parking area.

(10) "District" means the District of Columbia.

(11) "District bank" shall have the same meaning as set forth in section 102(12).

(12) "District credit union" shall have the same meaning as set forth in section 102(13).

(13) "District of Columbia Banking Code" shall have the same meaning as set forth in section 102(14).

(14) "Federal credit union" means a credit union which has its principal office in the District and is chartered or organized as a federal credit union under the laws of the United States.

(15) "Financial institution" shall have the same meaning as set forth in section 102(18).

(16) "Hours of darkness" means the period that commences 30 minutes after sunset and ends 30 minutes before sunrise.

(17) "Network" means one or more financial institutions or other persons that:

(A) Own and operate one or more network of satellite devices or point-of-sale terminals; or

(B) Provide communications or processing services to one or more automated teller machines, point-of-sale terminals, or similar retail electronic banking facilities located in the District.

(18) "Operator" means, with respect to an automated teller machine or a point-of-sale terminal, the person who imposes the fee on, or receives the fee from, a customer using the automated teller machine or point-of-sale terminal.

(19) "Out-of-state" means a state other than the District or any foreign country.

(20) "Out-of-state bank" means a bank that is chartered out-of-state and that is not chartered by the District.

(21) "Out-of-state credit union" means a credit union that is chartered out-of-state and that is not chartered by the District.

(22) "Person" shall have the same meaning as set forth in section 102(21).

(23) "Point-of-sale terminal" means a device located in a business establishment that is used for the purchase of a good or service where a personal identification number is required and where sales transactions can be charged directly to the buyer's deposit, loan, or credit account, but at which deposit transactions cannot be conducted. The term "point-of-sale terminal" shall not include an access device.

(24) "Satellite device" means an automated teller machine of a bank or credit union which is not located at a physical office of the bank or credit union.

(25) "Surcharge" means a charge, or portion of a charge, imposed by the operator of an automated teller machine or point-of-sale terminal for use of the automated teller machine or point-of-sale terminal.

Sec. 503. Establishment of an automated teller machine or point-of-sale terminal.

(a) A District bank, federal bank, District credit union, or federal credit union may establish in the District, and operate on a transaction fee basis, an automated teller machine. A District bank or a District credit union may establish and operate outside of the District an automated teller machine.

(b) An out-of-state bank that maintains a branch in the District or an out-of-state credit union that maintains a subsidiary office in the District may establish and operate on a transaction fee basis an automated teller machine in the District.

(c) A District bank, federal bank, out-of-state bank, District credit union, federal credit union, out-of-state credit union, or other person may establish and operate a point-of-sale terminal in the District.

Sec. 504. Satellite device or point-of-sale terminal.

(a) A District bank, federal bank, out-of-state bank, District credit union, federal credit union, or out-of-state credit union which has established a satellite device or point-of-sale terminal in the District shall make the satellite device or point-of-sale terminal available on a nondiscriminatory basis for use by any other bank or credit union; provided, the establishing bank or credit union may require the other bank or credit union to pay a non-discriminatory and reasonably proportionate share of all acquisition, installation, and operating costs for the satellite device or point-of-sale terminal. The satellite device or point-of-sale terminal shall identify with equal prominence all of the banks, credit unions, or networks which use the satellite device or point-of-sale terminal.

(b) A District bank, federal bank, out-of-state bank, District credit union, federal credit union, or out-of-state credit union which has established in the District an automated teller machine which is not a satellite device may permit any other bank or credit union to use the automated teller machine; provided, that if such permission is granted:

(1)(A) The automated teller machine which is not a satellite device shall be made available on a nondiscriminatory basis for use by any other bank or credit union; and

(B) The establishing bank or credit union may require a payment by the other bank or credit union of a nondiscriminatory and reasonably proportionate share of all acquisition, installation, and operating costs; and

(2) The automated teller machine shall identify with equal prominence all of the banks, credit unions, and networks which use the automated teller machine.

(c) For the purposes of subsections (a) and (b) of this subsection, the proportionality of the charge shall be based on the number of transactions processed at the satellite device or point-of-sale terminal.

Sec. 505. Evaluation of automated teller machine safety.

(a) An operator of, or person controlling, an automated teller machine shall adopt procedures for evaluating the safety of an automated teller machine. The

procedures shall include a consideration of the following:

(1) The extent to which the lighting for the automated teller machine complies, or will comply, with the standards required by this title;

(2) The presence of obstructions, including landscaping and vegetation, in the area of the automated teller machine, the access area, and the defined parking area; and

(3) The incidence of crimes of violence in the immediate neighborhood of the automated teller machine, as reflected in the records of the local law enforcement agency.

(b) This title shall not impose a duty to relocate or modify an automated teller machine upon the occurrence of a particular event or circumstance.

Sec. 506. Lighting of automated teller machine area.

(a) A person who controls an access area or a defined parking area shall provide lighting for the access area or defined parking area, and the operator or person controlling an automated teller machine shall provide lighting for the automated teller machine and the exterior of an enclosed automated teller machine installation, during hours of darkness if the automated teller machine is open and operating, according to the following standards:

(1) There shall be a minimum of 10 candlefoot power at the face of the automated teller machine extending unobstructed outward 5 feet.

(2) There shall be a minimum of 2 candlefoot power within 50 feet in all unobstructed directions from the face of the automated teller machine.

(3) If the automated teller machine is located within 10 feet of the corner of a building and the automated teller machine is generally accessible from the adjacent side of the building, there shall be a minimum of 2 candlefoot power along the first 40 unobstructed feet of the adjacent side of the building.

(4) There shall be a minimum of 2 candlefoot power in the portion of the defined parking area within 60 feet of the automated teller machine.

(b) This section shall not apply to an automated teller machine which is located inside a building:

(1) Unless the building is a freestanding installation that exists for the sole purpose of providing an enclosure for the automated teller machine; or

(2) If an automated teller machine transaction can be conducted from outside the building.

Sec. 507. Automated teller machine surcharge disclosure.

(a) An operator of an automated teller machine in the District shall not impose

a surcharge upon a customer for the use of an automated teller machine, including a use where there is a sale of a good or service, unless the surcharge is clearly disclosed to the customer electronically on the automated teller machine. After the disclosure is made, the person using the automated teller machine shall be provided an opportunity to cancel the use of the automated teller machine without incurring a surcharge.

(b) If person using an automated teller machine uses an access device issued by a person other than the operator of the automated teller machine, the operator of the automated teller machine shall disclose to the person using the automated teller machine that, in addition to any surcharge charged by the operator, a fee may be charged by the person's financial institution for the use of the automated teller machine.

Sec. 508. Point-of-sale terminal surcharge disclosure.

(a) An operator of a point-of-sale terminal in the District shall not impose a surcharge upon a person for the use of the point-of-sale terminal unless the surcharge is clearly disclosed to the person before the surcharge is incurred and before the customer is obligated to pay for a good or service.

(b) A disclosure under subsection (a) of this section shall be made as follows:

(1) If the point-of-sale device is purchased before the effective date of this act or does not have an electronic display, the fee disclosure shall be on a label meeting federal standards or such other standards as may be promulgated by the Commissioner consistent with the purposes of this act.

(2) If the point-of-sale device is purchased on or after the effective date of this act and has an electronic display, the fee disclosure shall be on a label meeting federal standards or such other standards as may be promulgated by the Commissioner consistent with the purposes of this act and shall be displayed on the electronic display before the surcharge is incurred and before the person using the point-of-sale terminal is obligated to pay for the good or service being purchased.

Sec. 509. Complaints against an operator of an automated teller machine.

(a) An operator of an automated teller machine shall clearly and conspicuously disclose on a label or sign posted on the automated teller machine, or in clear view of a person viewing the automated teller machine, the name, address, and telephone number of the Department and the operator. The label or sign shall also state that a person may send comments or complaints regarding the automated teller machine to the Department and shall state that the Department is an agency of the District.

(b) The Commissioner may investigate a complaint, in whatever form received, regarding an automated teller machine. The investigation of the Commissioner under this subsection may include an examination of the automated teller machine. The operator of the automated teller machine shall pay to the Commissioner the reasonable

costs and expenses incurred by the Commissioner for the examination or investigation.

Sec. 510. Registration of automated teller machines.

(a) An automated teller machine operated in the District shall be registered with the Commissioner by the operator of the automated teller machine. The operator shall pay annually to the Commissioner a nonrefundable registration fee of $500 for the first automated teller machine operated by the operator in the District and $50 for each additional automated teller machine operated by the operator in the District. If the operator does not pay the total annual fee imposed under this subsection, each automated teller machine of the operator in the District shall be considered not to be registered under this subsection.

(b) No refund or abatement of a registration fee paid under this section shall be made if the registration is surrendered, cancelled, revoked, or suspended before the expiration of the period for which the fee was paid.

(c) The Commissioner may suspend, revoke, or refuse to renew the registration of an operator under this section if the Commissioner finds that the operator or an owner, director, officer, member, partner, trustee, employee, or agent of the operator has:

(1) Made a material misstatement in the application for registration;

(2) Committed a fraud, engaged in dishonest activity, or made a misrepresentation in connection with the operation of the automated teller machine;

(3) Demonstrated a lack of competence in connection with the operation of the automated teller machine; or

(4) Violated any provision of this act or any regulation promulgated under this act.

Sec. 511. Record keeping requirements.

An operator of an automated teller machine in the District shall maintain and, upon request, make available to the Commissioner, in a form satisfactory to the Commissioner, such books, records, and accounts as will enable the Commissioner to verify the daily activity at each of the operator's automated teller machines. An operator shall retain the books, records, and accounts referred to in the previous sentence for at least 90 days from the date of the daily activity.

Sec. 512. Penalties.

If the Commissioner finds, after notice and a hearing, that a person has violated this title or a rule or regulation promulgated, or order issued, under this title, the Commissioner may order the person to pay to the Department a civil penalty in such amount as the Commissioner determines is appropriate; provided, that the amount of

the penalty shall not exceed $1,000 for a violation; provided further, that if there is a continuing violation, the penalty may be no more than the greater of $1,000 or $100 multiplied by the number of days that the violation has continued.

Sec. 513. Authority of Commissioner to issue rules and regulations.

The Commissioner may promulgate rules and regulations to implement the provisions of this title in accordance with title 1 of the District of Columbia Administrative Procedure Act.

TITLE VI. CABLE FRANCHISE TRANSFER.

Sec. 601. Short title.

The title may be cited as the "Approval of the Application for Transfer of the Franchise and the Cable Television System of District Cablevision Limited Partnership from AT&T Broadband to Comcast Cablevision Act of 2000".

Sec. 602. Definitions.

For the purpose of this act, the term:

(1) "AT&T" means AT&T Broadband, LLC, a Delaware corporation.

(2) "Cable Act" means the Cable Television Communications Act of 1981.

(3) "CFA" means the Cable Franchise Agreement, dated September 30, 1985, as amended, between the District of Columbia and District Cablevision Limited Partnership.

(4) "Chairman" means the Chairman of the Council of the District of Columbia.

(5) "Comcast" means Comcast Cablevision of the District, LLC, a District of Columbia corporation, a wholly owned subsidiary of Comcast Cablevision of the South, Inc.

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(6) "Comcast South" means Comcast Cablevision of the South, Inc., a Colorado Corporation.

(7) "Committee" means the Council's Committee on Economic Development.

(8) "Council" means the Council of the District of Columbia.

(9) "DCLP" means District Cablevision Limited Partnership, a District of Columbia Limited Partnership.

(10) "District" means the District of Columbia.

(11) "Franchise" means the nonexclusive right to provide cable television service in the District of Columbia granted pursuant to the Cable Ordinance and other applicable law, and subject to the terms and conditions of the CFA.

(12) "Franchisee" means District Cablevision Limited Partnership or DCLP.

(13) "OCTT" means the Office of Cable Television & Telecommunications.

(14) "Proposed Transaction" means the Asset Exchange Agreement dated as of August 11, 2000, between AT&T Corp. and the AT&T Parties and Comcast Corporation and the Comcast Parties and the transfer of the Franchise and substantially all of the cable television assets of DCLP to Comcast.

(15) "Settlement Agreement" means the binding contractual agreement between the District of Columbia, AT&T, and DCLP dated December 2000, which sets forth the details regarding the resolution of past compliance violations and associated issues.

(16) "System" means the cable system currently serving the District of Columbia.

(17) "Transfer Agreement" means the binding contractual agreement between the District of Columbia, AT&T, DCLP, Comcast South and Comcast dated December 2000, which sets forth the details regarding the transfer.

(18) "Transfer Application" means the filed Federal Communications Commission Form 394, together with all exhibits.

Sec. 603. Findings.

The Council finds that:

(1) DCLP currently holds a Franchise from the District, subject to the Cable Act and other applicable laws, and subject to the terms and conditions of the CFA.

(2) AT&T and Comcast have entered into the Proposed Transaction.

(3) At the present time, AT&T is the parent corporation of DCLP and wholly owns the general partner, District Cablevision, Inc., and the limited partner, TCI of D.C., Inc.

(4) On August 30, 2000, DCLP and Comcast filed materials, including a Transfer Application, with the District seeking the District's consent to the Proposed Transaction by which DCLP would transfer the Franchise and System to Comcast.

(5) The Council has legal authority to approve or deny the transfer that

would result from the Proposed Transaction pursuant to section 21 of the Cable Act and Section 3.11.03 of the CFA.

(6) Pursuant to section 617 of the Communications Act of 1934, approved October 5, 1992 (106 Stat. 1489; 47 U.S.C. § 537) ("Communication Act"), the Council (the local franchising authority) has 120 days following the filing of the Transfer Application to render a final decision thereon or the Transfer Application will be deemed to be granted.

(7) Pursuant to section 21(g) of the Cable Act, and section 3.11.05 of the CFA, OCTT must make a recommendation to the Council concerning the final action that the Council should take on the transfer application.

(8) Pursuant to section 21(g) of the Cable Act, and section 3.11.05 of the CFA, OCTT has reviewed the Transfer Application, supplemental information submitted by DCLP, AT&T, and Comcast, and has reviewed the qualifications of Comcast.

(9) The Committee held a public hearing on the Proposed Transfer Application on November 13, 2000, "On the Matter of: An Application for Franchise Authority Consent to Assignment of the District of Columbia Cable Television Franchise."

(10) DCLP, AT&T, Comcast South, Comcast, and the District have entered into a Transfer Agreement to certify the District's consent to the Proposed Transaction and to establish the parties' rights in connection with the transfer.

(11) DCLP, AT&T and the District have entered into a Settlement Agreement to settle past contract and system compliance issues as cited by OCTT and the District.

(12) Comcast has committed to adhere to the terms of the CFA in the Transfer Agreement.

(13) Based on the foregoing, it is recommended by OCTT that the Council approve the Transfer Application.

Sec. 604. Consideration of recommendation.

The Council has reviewed the recommendation of OCTT and has received and considered comments, evidence, and information from the public and interested parties, including DCLP, AT&T, and Comcast.

Sec. 605. Adoption of recommendation.

Pursuant to authority granted under the Cable Act and the findings contained in section 603, the Council hereby adopts OCTT's recommendation regarding the proposed transfer from DCLP and AT&T to Comcast.

Sec. 606. Approval.

By adoption of the recommendation, pursuant to section 605, the Council hereby approves the Transfer Application. The Council approves the Transfer Agreement and Settlement Agreement, allowing the transfer from DCLP to Comcast.

Sec. 607. Interpretation.

The Council, as the franchising authority, intends that this act constitutes a "final decision" of the franchising authority for purposes of section 617 of the Communications Act and the "consent of the Council" required under the Cable Act.

Sec. 608. Authorization to sign.

This act authorizes the Chairman of the Council to sign on behalf of the Council, the Transfer Agreement, referred to herein and approved by the approval of this act.

Sec. 609. Allocation of funds and spending authority.

The revenue received as a result of the Settlement Agreement and Transfer Agreement shall be allocated upon receipt as follows:

(1) $300,000 to the Mayor for a program to consider and make grants to public or private organizations to engage in telecommunications and technological initiatives;

(2) $2.1 million to the Office of the Chief Technology Officer for construction and operation of the Wide Area Network and the Institutional Network;

(3) $1.6 million to the Office of Cable Television and Telecommunications for the purchase of a mobile production microwave truck, purchase of equipment to provide closed captioning and costs associated with closed captioning, and payment of attorney and consultant fees associated with the transfer;

(4) $750,000 to the Public Access Corporation for building renovations, equipment, and costs associated with the operation of the public access stations;

(5) $125,000 to the District of Columbia Public Schools for the operation of the educational access station; and

(6) $125,000 to the University of the District of Columbia for equipment and costs associated with the operation of the educational access station; and

(7) Any remaining revenue to the General Fund.

Sec. 610. Applicability date.

This title shall apply as of December 27, 2000.

TITLE VII. EFFECTIVE DATE AND FISCAL IMPACT STATEMENT.

Sec. 701. Fiscal impact statement.

The Council adopts the attached fiscal impact statement for Titles I through V dated November 7, 2000 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)). The Council adopts the attached fiscal impact statement for Title VI dated December 15, 2000 as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 702. This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

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Chairman
Council of the District of Columbia

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Mayor
District of Columbia