

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; CHANGING CERTAIN  
PROVISIONS OF THE BANKING ACT AND OTHER LAWS REGULATING BANKS  
AND OTHER FINANCIAL INSTITUTIONS; AMENDING AND REPEALING  
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-1-3 NMSA 1978 (being Laws 1963,  
Chapter 305, Section 3, as amended) is amended to read:

"58-1-3. DEFINITIONS.--As used in the Banking Act,  
unless the context otherwise requires:

A. "action" in the sense of a judicial proceeding  
means any proceeding in which rights are determined;

B. "allowances for loan and lease losses" means  
the difference between:

(1) the balance of the valuation reserve on  
the date of the most recent federal financial institutions  
examination council report of condition or income plus  
additions to the reserve charged to operations since that  
date; and

(2) losses charged against the allowance,  
net of recoveries;

C. "board" means the board of directors of any  
given bank;

D. "capital" or "capital stock" means the amount

of common stock outstanding and unimpaired plus the amount of perpetual preferred stock outstanding and unimpaired;

E. "capital surplus" means the total of those accounts reflecting:

(1) amounts paid in excess of the par or stated value of capital stock;

(2) amounts contributed to the bank other than for capital stock;

(3) amounts transferred from undivided profits pursuant to Section 58-1-55 NMSA 1978; and

(4) other amounts transferred from undivided profits;

F. "commissioner" or "director" means the director of the financial institutions division of the regulation and licensing department;

G. "community" means a city, town or village in this state;

H. "county" means any of the political subdivisions of this state as defined in Chapter 4 NMSA 1978, except that when applied to locations within the exterior boundaries of a federally recognized Indian reservation or pueblo, "county" means all lands within the exterior boundaries of that reservation or pueblo without regard to the county boundaries established in Chapter 4 NMSA 1978.

For purposes of the Banking Act, the Indian reservation or

pueblo lands defined as a "county" by this subsection shall be considered to be adjoining any of the counties, as defined by Chapter 4 NMSA 1978, which are adjoining the county or counties in which that Indian reservation or pueblo is located;

I. "court" means a court of competent jurisdiction;

J. "cumulative voting" means, in all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected or to cumulate such shares and give one candidate as many votes as the number of directors, multiplied by the number of his shares, shall equal or to distribute them on the same principle among as many candidates as he thinks fit. In deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him, except that this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association or amendments thereto;

K. "department" or "division" means the financial institutions division of the regulation and licensing department;

L. "executive officer", when referring to a bank,

means any person designated as such in the bylaws and includes, whether or not so designated, the president, any vice president, the treasurer, the cashier and the comptroller or auditor, or any person who performs the duties appropriate to those offices;

M. "fiduciary" means a trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

N. "good faith" means honesty in fact in the conduct or transaction concerned;

O. "intangible assets" means those purchased assets that are required to be reported as intangible assets by the federal deposit insurance corporation;

P. "item" means any instrument for the payment of money, even though it is not negotiable, but does not include money;

Q. "legal tender" means coins and currency;

R. "lessee" means a person contracting with a lessor for the use of a safe deposit box;

S. "lessor" means a bank or subsidiary renting safe deposit facilities and includes a safe deposit company organized and operating under the jurisdiction of the division solely for the purpose of leasing safe deposit

facilities;

T. "limited life preferred stock" means preferred stock that has a stated maturity date or may be redeemed at the option of the holder;

U. "mandatory convertible debt" means a subordinated debt instrument that:

(1) unqualifiedly requires the issuer to exchange either common or perpetual preferred stock for the instrument by a date on or before the expiration of twelve years; and

(2) meets the requirements of Subparagraph (b) of Paragraph (2) of Subsection CC of this section or other requirements adopted by the division;

V. "minority interest in consolidated subsidiaries" means the portion of equity capital accounts of all consolidated subsidiaries of the bank that is allocated to minority shareholders of those subsidiaries;

W. "mortgage servicing rights" means the rights owned by the bank to service for a fee mortgage loans that are owned by others;

X. "officer", when referring to a bank, means any person designated as such in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, the chairman of the executive committee and any trust officer, assistant vice president,

assistant treasurer, assistant cashier, assistant comptroller or any person who performs the duties appropriate to those offices;

Y. "perpetual preferred stock" means preferred stock that does not have a stated maturity date and cannot be redeemed at the option of the holder;

Z. "person" means an individual, corporation, partnership, joint venture, trust estate or unincorporated association;

AA. "reason to know" means that, to a person of ordinary intelligence, the fact in question exists or has a substantial chance of existing and that the exercise of reasonable care would predicate conduct upon the assumption of its existence;

BB. "safe deposit box" means a safe deposit box, vault or other safe deposit receptacle maintained by a lessor, and the rules relating thereto apply to property or documents kept in safekeeping in the bank's vault; and

CC. "surplus" or "unimpaired surplus fund":

(1) means:

(a) the difference between: 1) the sum of capital surplus; undivided profits; reserves for contingencies and other capital reserves, excluding accrued dividends on perpetual and limited life preferred stock; minority interests in consolidated subsidiaries; and

allowances for loan and lease losses; and 2) intangible assets, including those, other than mortgage servicing rights, purchased prior to April 15, 1985, but not to exceed twenty-five percent of Item 1) of this subparagraph;

(b) purchased mortgage servicing rights;

(c) mandatory convertible debt to the extent of twenty percent of the sum of Subparagraph (d) and Subparagraphs (a) and (b) of this paragraph; and

(d) other mandatory convertible debt, limited preferred stock and subordinated notes and debentures; and

(2) is subject to the following limitations:

(a) issues of limited life preferred stock and subordinated notes and debentures, except mandatory convertible debt, must have original weighted average maturities of at least five years to be included in surplus;

(b) a subordinated note or debenture must also: 1) be subordinated to the claims of depositors; 2) state on the instrument that it is not a deposit and is not insured by the federal deposit insurance corporation; 3) be approved as capital by the division; 4) be unsecured; 5) be ineligible as collateral for a loan by the issuing bank; 6) provide that once any scheduled payments of principal begin, all scheduled payments shall be made at least annually

and the amount repaid in each year shall be no less than in the prior year; and 7) provide that no accelerated payment by reason of default or otherwise may be made without the prior written approval of the division; and

(c) the total amount of mandatory convertible debt included in Subparagraph (d) of Paragraph (1) of this subsection considered as surplus is limited to fifty percent of the sum of Subparagraphs (a) and (c) of Paragraph (1) of this subsection."

Section 2. Section 58-1-21 NMSA 1978 (being Laws 1963, Chapter 305, Section 21, as amended) is amended to read:

"58-1-21. LOANS.--

A. A state bank may lend on the security of the personal obligation of the borrower.

B. A state bank may lend on the security of personal property but shall not make any loan on the security of its own stock, of stock of another bank where the borrower owns, controls or holds with the power to vote ten percent or more of the outstanding voting securities of both that bank and the lending bank or of its obligation subordinate to deposits.

C. As used in this subsection, "improved farm land" means any land used for crop or livestock production. A state bank may make real estate loans secured by liens upon unimproved real estate, upon improved real estate, including

improved farmland and improved business and residential properties, and upon real estate to be improved by a building to be constructed or in the process of construction in an amount that when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, upon the real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation secured by a mortgage, trust deed or other instrument, which shall constitute a lien on real estate in fee or under such rules and regulations as may be prescribed by the director, on a leasehold under a lease that does not expire for at least ten years beyond the maturity date of both and a state bank may purchase or sell obligations so secured in whole or in part. The amount of any such loan made shall not exceed sixty-six and two-thirds percent of the appraised value if the real estate is unimproved; eighty percent of the appraised value if the real estate is improved farmland or is improved by off-site improvements such as streets, water, sewers or other utilities; seventy-five percent of the appraised value if the real estate is in the process of being improved by a building to be constructed or in the process of construction; or ninety percent of the appraised value if the real estate is improved by a building. If any such loan exceeds sixty-six

and two-thirds percent of the appraised value of the real estate or if the real estate is improved with a one- to four-family dwelling, installment payments shall be required that are sufficient to amortize the entire principal of the loan within a period of not more than thirty years. However:

(1) the limitations and restrictions set forth in this subsection shall not prevent the renewal or extension of loans and shall not apply to real estate loans that are guaranteed or insured by the United States or an agency thereof or by a state or agency or instrumentality thereof; and

(2) loans that are guaranteed or insured as described in Paragraph (1) of this subsection shall not be taken into account in determining the amount of real estate loans that a state bank may make in relation to its capital and surplus or its time and savings deposits or in determining the amount of real estate loans secured by other than first liens. Where the collateral for a loan consists partly of real estate and partly of other security, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate. In no event shall a loan be considered as a real estate loan where there is a valid and binding agreement that is entered into by a financially responsible lender or other party directly with the bank that

is either for the benefit of or has been assigned to the bank and pursuant to which agreement the lender or other party is required to advance to the bank within sixty months from the date of the making of the loan the full amount of the loan to be made by the bank upon the security of real estate. The amount unpaid upon any real estate loan secured by other than a first lien, when added to the amount unpaid upon prior mortgages, liens and encumbrances, shall not exceed in an aggregate sum twenty percent of the amount of the capital stock of the bank paid in and unimpaired plus twenty percent of the amount of its unimpaired surplus fund.

D. A state bank may make real estate loans secured by liens upon forest tracts that are properly managed in all respects. The loans shall be in the form of an obligation secured by mortgage, trust deed or other such instrument, and a state bank may purchase or sell obligations so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, shall not exceed sixty-six and two-thirds percent of the appraised fair market value of the growing timber, lands and improvements thereon offered as security. The loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, exceed sixty-six

and two-thirds percent of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years, except that a loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate of at least six and two-thirds percent per year. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens prescribed in Paragraph (2) of Subsection C of this section, but no state bank shall make forest tract loans in an aggregate sum in excess of fifty percent of its capital stock paid in and unimpaired plus fifty percent of its unimpaired surplus fund.

E. Loans made to finance the construction of a building and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building and loans made to finance the construction of residential or farm buildings and having maturities of not to

exceed forty-two months may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building is being constructed, at the option of each state bank that may have an interest in the loan. No state bank shall invest in or be liable on any such loans classed as commercial loans under this subsection in an aggregate amount in excess of one hundred percent of its actually paid-in and unimpaired capital plus one hundred percent of its unimpaired surplus fund.

F. Notes representing loans made pursuant to provisions of this section to finance the construction of residential or farm buildings and having maturities of not to exceed nine months shall be eligible for discount as commercial paper if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building, entered into by an individual, partnership, association or corporation acceptable to the discounting bank.

G. Loans made to any borrower where the bank looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or loans secured by an assignment of rents under a lease and where the bank wishes to take a

mortgage, deed of trust or other instrument upon real estate, whether or not constituting a first lien, as a precaution against contingencies and loans in which the small business administration cooperates through agreements to participate in an immediate or deferred or guaranteed basis under the federal Small Business Act shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.

H. A state bank may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section if the total unpaid amount loaned, exclusive of loans that subsequently comply with those limitations and restrictions, does not exceed five percent of the amount that a state bank may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that the bank may invest in real estate loans.

I. A loan made by a state bank as a noncomplying loan pursuant to Subsection H of this section may be evidenced by a debt instrument and a security instrument consisting of a mortgage, deed of trust or similar instrument that contain the following provisions:

(1) either fixed rate or adjustable rate interest accrual on the debt;

(2) an authorization for the borrower to

make unscheduled payments to reduce the principal amount of the loan without relieving the borrower from continuing to make payments of installments in the amounts specified in the original debt and security instruments;

(3) the frequency of unscheduled payments shall not exceed the frequency of scheduled payments; and

(4) authorization for the borrower to retrieve by withdrawal part or all of the amount of an unscheduled payment previously made.

J. Loans made pursuant to this section shall be subject to such conditions and limitations as the director may prescribe by rule or regulation."

Section 3. Section 58-1-24 NMSA 1978 (being Laws 1963, Chapter 305, Section 24, as amended) is amended to read:

"58-1-24. DIVERSIFICATION OF LOANS AND INVESTMENTS.--

A. A state bank shall not extend credit directly by means of discount notes, issuance of letters of credit, acceptance of drafts or otherwise, or purchase any bond, note, bill of exchange or any evidence of indebtedness, when by reason of such extension of credit or purchase, the totals of the obligations so acquired which are held by the state bank will exceed:

(1) sixty percent of total deposits or seventy-five percent of savings, whichever is greater, for obligations secured by real estate, together with the current

market value of any real estate owned by the bank and not used in its banking business; or

(2) twenty percent of capital and surplus for obligations of the same obligor.

B. The limitations of Paragraph (2) of Subsection A of this section shall not apply to loans and investments otherwise authorized by the Banking Act if the obligations are:

(1) obligations of the United States, general obligations of a state or a political subdivision thereof or of a federal reserve bank;

(2) secured as to principal and interest by the guarantee, insurance or other like commitment of the United States, an agency of the United States or a federal reserve bank, whether the commitment provides for payment in cash or in obligations of the United States;

(3) secured by obligations of the United States, a state or a political subdivision thereof having a value of one hundred percent of the amount thereof;

(4) upon notes or drafts having a maturity of not more than twelve months exclusive of days of grace, drawn in good faith against actually existing values and secured by an instrument transferring or securing title to goods in process of shipment or to livestock, or creating a lien on livestock to the amount of the value of the security,

but the limitation on such obligations shall be thirty percent of capital and surplus;

(5) upon notes or drafts secured by trust receipts, shipping documents or receipts of a licensed or bonded warehouse or elevator transferring or securing title to readily marketable, nonperishable staples to the amount of eighty percent of the value of the security, and this exemption shall not apply:

(a) unless the staples are insured, if it is customary to insure them; or

(b) for more than ten months to obligations of the same obligor arising from the same transaction or secured by the same staples;

(6) secured by the assignment of accounts receivable to the extent of eighty percent of the amount of such accounts not overdue, but the limitation of these obligations shall be thirty percent of capital and surplus;

(7) those arising out of the daily transaction of the business of any clearinghouse association; or

(8) obligations that are fully secured by a pledge of a time certificate of deposit issued by the same state-chartered bank in an amount equal to or exceeding the amount of the obligation.

C. In calculating, for the purposes of this

section, the obligations of a single obligor or the obligations of a specified class, there shall be included:

(1) the direct liability of the maker; the amount of a loan made to a corporation to the extent that the proceeds of the loan directly or indirectly are to be loaned to the individual;

(2) in the case of obligations of a partnership or association, the obligations of each general partner or of each member of the association; the amount of a loan made to a corporation to the extent that the proceeds of the loan directly or indirectly are to be loaned to the partnership or association;

(3) in the case of obligations of a general partner or a member of an association, the obligations of the partnership or association;

(4) in the case of obligations of a corporation, the obligations of any subsidiaries in which it owns, directly or indirectly, a majority of the outstanding voting stock;

(5) in the case of obligations of a corporation, the amount of a loan made to any other person to the extent that the proceeds of the loan directly or indirectly are to be:

(a) loaned to the corporation;

(b) used for the acquisition from the

corporation of any securities issued by the corporation, other than securities acquired by an underwriter for public offering; or

(c) transferred to the corporation without fair and adequate consideration; and

(6) the discharge of an equivalent amount of debt previously incurred in good faith or value shall be deemed fair and adequate consideration."

Section 4. Section 58-1-25 NMSA 1978 (being Laws 1963, Chapter 305, Section 25, as amended) is amended to read:

"58-1-25. ACQUISITION OF PROPERTY TO SATISFY OR PROTECT PREVIOUS LOAN.--A state bank may take property of any kind to satisfy or protect a loan previously made in good faith and in the ordinary course of business. Property acquired in satisfaction of a loan shall be held subject to the limitations in this section.

A. Stock shall be sold within one hundred eighty days or such period as the director may allow.

B. Real estate may be used in the banking business, subject to the conditions prescribed by the Banking Act for property purchased for such use, or may be rented. Real estate may be improved to facilitate its sale. Unless used in the banking business, real estate shall be sold within five years or such period as the director may allow.

C. Other property, the acquisition of which is

not otherwise authorized by the Banking Act, shall be sold within one hundred eighty days or such longer period as the director may allow.

D. The property shall be entered on the books at cost or fair market value, whichever is less. Upon transfer to other real estate owned, fair value shall be substantiated by a current appraisal prepared by an independent, qualified appraiser. All instructions from the bank to the appraiser shall be in writing. The appraisal shall recite all of the bank's instructions to the appraiser. If the property remains unsold, bank records shall be documented reflecting the bank's diligent efforts to effect sale. On or before each annual anniversary from the date of acquisition while the property remains unsold, the bank shall obtain, from an independent qualified appraiser, a current appraisal or, in letter form, certification that the fair market value has not declined.

E. The requirements for an appraisal upon transfer to other real estate owned, subsequent annual anniversary appraisal or letter certification are waived if the entire property is recorded at or below the lower of five percent of the bank's equity capital exclusive of valuation reserves or seventy-five thousand dollars (\$75,000). The director may require an appraisal on a property of lesser value at his discretion.

F. For other real estate owned, recorded at or below two hundred fifty thousand dollars (\$250,000), the appraisal requirements prescribed will be waived at the option of the bank if the original book value of the property is charged off at a rate of ten percent for the first year, fifteen percent for the second year, twenty percent for the third year, twenty-five percent for the fourth year and thirty percent for the fifth year."

Section 5. Section 58-1-34 NMSA 1978 (being Laws 1963, Chapter 305, Section 33) is amended to read:

"58-1-34. POWERS OF DIRECTOR.--

A. In addition to other powers conferred by law, the director has power to:

(1) restrict the withdrawal of deposits from all or one or more state banks where he finds that extraordinary circumstances make such restriction necessary for the property protection of depositors in the affected institution;

(2) authorize a state bank to:

(a) participate in a public agency created under the laws of this state or of the United States the purpose of which is to afford advantages or safeguards to banks or to depositors and to comply with all requirements and conditions imposed upon such participants;

(b) engage in any banking activity in

which insured depository institutions subject to the jurisdiction of the federal government may be authorized by federal legislation to engage, provided he finds state banks or their depositors may be injured or liable to injury if the authorization is not given; and

(c) offer any product or service that is at the time authorized or permitted to any insured depository institution, provided that powers conferred by this subparagraph shall always be subject to the same limitations and restrictions that are applicable to the insured depository institution offering the product or service;

(3) order the holder of shares in a bank to refrain from voting the shares on any matter if he finds that an order is necessary to protect the institution against reckless, incompetent or careless management, to safeguard the funds of depositors or to prevent the willful violation of the Banking Act or of any lawful rule or order issued pursuant to that act, in which case the shares of such a holder shall not be counted in determining the existence of a quorum or a percentage of the outstanding shares necessary to take any corporate action; and

(4) order any person to cease violating a provision of the Banking Act or a lawful regulation issued pursuant to that act or to cease engaging in any unsound

banking practice.

B. The director may remove or suspend, for a period of not more than three years, a director, trustee, officer or employee of a state bank who becomes ineligible to hold his position or who, after receipt of an order to cease pursuant to Subsection A of this section, violates the Banking Act or a lawful regulation or order issued pursuant to that act or who is dishonest or who is reckless or grossly incompetent in the conduct of banking business. It is unlawful for any such person after receipt of a removal or suspension order to perform any duty or exercise any power of any state bank for a period of three years or the period of suspension. A removal or suspension order shall specify the grounds thereof, and a copy of the order shall be sent to the bank concerned.

C. Notice and hearing shall be provided in advance of any action taken by the director under the authority of this section. The notice shall specify the time and place of the hearing.

D. The director has power to require a state bank to:

(1) maintain its records in accordance with standard banking practices;

(2) observe generally recognized methods and standards which he may prescribe for determining the value of

various types of assets;

(3) charge off the whole or any part of an asset which cannot lawfully be held;

(4) write down an asset to its market value;

(5) file or record liens and other interests in property;

(6) obtain a financial statement from a borrower;

(7) obtain insurance against damage to real estate taken as security;

(8) search or obtain insurance of the title to real estate taken as security; and

(9) maintain adequate insurance against such other risks as the director may determine to be necessary and appropriate for the protection of depositors and the public.

E. The director has the power to subpoena witnesses, compel their attendance, require the production of evidence, administer an oath and examine any person under oath in connection with any subject relating to duty imposed upon or a power vested in the director. These powers shall be enforced by the district court of the district in which the hearing is held.

F. The director may, on petition of any interested person and after hearing, issue a declaratory order with respect to the applicability of the Banking Act or

a rule issued pursuant to that act to any person, property or state of facts. The order shall bind the director and all parties to the proceeding on the state of facts declared unless it is modified or reversed by a court. A declaratory order may be reviewed and enforced in the same manner as other orders of the director, but the refusal to issue a declaratory order shall be reviewable.

G. No person shall be subjected to any civil or criminal liability for any act or omission to act in good faith in reliance upon an existing order, regulation or definition of the director, notwithstanding a subsequent decision by a court invalidating the order, regulation or definition."

Section 6. Section 58-1-39 NMSA 1978 (being Laws 1975, Chapter 330, Section 23) is amended to read:

"58-1-39. BANK RECORDS--PRESCRIBING MANNER OF KEEPING.--

A. The director has the power to require banks under his supervision to keep their records in such manner and form that they will at all times reflect the true condition of the bank and permit it to be readily and thoroughly audited.

B. Every state bank shall retain its business records for such periods as are or may be prescribed by or in accordance with the provisions of this section.

C. Each state bank shall retain permanently the minute books of meetings of its stockholders and directors, its capital stock ledger and capital stock certificate ledger or stubs, its general ledger, its daily statements of condition, its general journal, its investment ledger, its copies of bank examination reports and all records which the director in accordance with the provisions of this section requires to be retained permanently.

D. All other bank records shall be retained for such periods as the director in accordance with the provisions of this section prescribes.

E. The director shall from time to time issue regulations classifying all records kept by the state banks and prescribing the period for which records of each class shall be retained. Periods may be permanent or for a lesser term of years. Regulations may from time to time be amended or repealed. Prior to issuing any such regulation, the director shall consider:

(1) actions at law and administrative proceedings in which the production of bank records might be necessary or desirable;

(2) state and federal statutes of limitation applicable to such actions or proceedings;

(3) the availability of information contained in bank records from other sources; and

(4) such other matters as the director deems pertinent in order that his regulations will require banks to retain their records for as short a period as is commensurate with the interests of bank customers and shareholders and of the people of this state in having bank records available.

F. Any state bank may dispose of any record which has been retained for the period prescribed by or in accordance with the provisions of this section for retention of records of its class and shall thereafter be under no duty to produce that record in any action or proceeding.

G. Any state bank may cause any or all records at any time in its custody to be converted into electronic images or be reproduced by the microphotographic process, and an image or reproduction has the same force and effect as the original and may be admitted in evidence equally with the original.

H. To the extent that they are not in contravention of any law of the United States, the provisions of this section apply to all banks doing business in this state."

Section 7. Section 58-1-54 NMSA 1978 (being Laws 1973, Chapter 130, Section 1, as amended) is amended to read:

"58-1-54. POWERS OF DIRECTOR AND OF STATE BANKS.--In addition to other powers provided for the director and for state banks in the Banking Act notwithstanding any other

provision of laws, the director may grant to state banks any of the powers and authority that national banks or federally chartered or insured depository institutions are or may be authorized, empowered, permitted or otherwise allowed to exercise. As used in this section and in Section 58-1-34 NMSA 1978, "federally chartered or insured depository institution" means a bank, savings bank, savings and loan association or credit union."

Section 8. Section 58-5-7 NMSA 1978 (being Laws 1975, Chapter 330, Section 3, as amended) is amended to read:

"58-5-7. LEGAL HOLIDAYS FOR BANKS.--

A. The following legal holidays may be observed by banks, notwithstanding the provisions of Sections 12-5-1 through 12-5-9 NMSA 1978:

New Year's Day ..... January 1

Martin Luther King, Jr.'s Birthday .... 3rd Monday in  
January

Washington's Birthday ..... 3rd Monday in  
February

Memorial Day ..... the date  
determined by the director to be the date recognized by the  
majority of the federal reserve districts in New Mexico

Independence Day ..... July 4

Labor Day ..... 1st Monday in  
September

Columbus Day ..... 2nd Monday in  
 October

Armistice Day and Veterans' Day ..... November 11

Thanksgiving Day ..... 4th Thursday in  
 November

Christmas Day ..... December 25.

Whenever one of these bank holidays falls on a Sunday,  
 the following Monday is a legal bank holiday. Whenever one  
 of these bank holidays falls on a Saturday, that Saturday and  
 the preceding Friday are legal bank holidays.

B. Nothing in this section shall be deemed to  
 require a bank to close or cease operating any remote  
 financial service unit installed pursuant to the Remote  
 Financial Service Unit Act or any automated teller machines  
 located on the bank premises during all or any part of a  
 legal bank holiday."

Section 9. Section 58-6-5 NMSA 1978 (being Laws 1990,  
 Chapter 45, Section 1) is amended to read:

"58-6-5. CREDIT AGREEMENTS--REQUIREMENTS.--

A. As used in this section, "financial  
 institution" means a bank, savings and loan association or  
 credit union authorized to transact business in the state.

B. A contract, promise or commitment to loan  
 money or to grant, extend or renew credit or any modification  
 thereof, in an amount greater than twenty-five thousand

dollars (\$25,000), not primarily for personal, family or household purposes, made by a financial institution shall not be enforceable unless in writing and signed by the party to be charged or that party's authorized representative."

Section 10. REPEAL.--Sections 58-1-42, 58-6-1 and 58-6-2 NMSA 1978 (being Laws 1975, Chapter 330, Section 26 and Laws 1945, Chapter 122, Sections 1 and 2, as amended) are repealed. \_\_\_\_\_