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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

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A N A C T

RELATING TO TRUST POWERS

Introduced By: Representatives Long, Mumford, and Amaral

Date Introduced: February 12, 2003

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-1-1 of the General Laws in Chapter 19-1 entitled "Definitions
2 and Establishment of Financial Institutions" is hereby amended to read as follows:

3 **19-1-1. Definitions.** -- Unless otherwise specified, the following terms shall have the
4 following meanings throughout this title:

5 (1) "Agreement to form" means the agreement to form a financial institution or the
6 agreement to form a credit union, as applicable, pursuant to this title, and includes, for financial
7 institutions organized before December 31, 1995, the articles of incorporation or the agreement of
8 association of the financial institution, where applicable.

9 (2) "Board of bank incorporation" means the board of bank incorporation as constituted
10 under this title or the predecessor of the board of bank incorporation.

11 (3) "Branch" means any office or place of business, other than the main office or
12 customer-bank-communication-terminal outlets as provided for in this title, at which deposits are
13 received, or checks paid or money lent-, or at which any trust powers are exercised. Any financial
14 institution which had, on or before June 30, 2003, established an office or place of business, other
15 than its main office, at which trust powers are exercised, shall not be required to obtain the
16 approval of the director or the director's designee pursuant to section 19-2-11 of the general laws
17 in chapter 19-2 for any such offices established as of said date.

18 (4) "Credit union" means a credit union duly organized under the laws of this state.

19 (5) "Director" means the director of the department of business regulation.

1 (6) "Division of banking" means the division within the department of business
2 regulation responsible for the supervision and examination of regulated institutions and/or
3 licensees under chapter 14 of this title.

4 (7) "Federal credit union" means a credit union duly organized under the laws of the
5 United States.

6 (8) "Financial institution" means any entity, other than a credit union, duly organized
7 under the laws of this state which has the statutory authority to accept money on deposit pursuant
8 to title 19, including an entity which is prohibited from accepting deposits by its own by-laws or
9 agreement to form; the term includes, but is not limited to banks, trust companies, savings banks,
10 loan and investment banks and savings and loan associations.

11 (9) "Main office" means, in the case of financial institutions or credit unions, the location
12 stated in the agreement to form, as amended, and, otherwise, the location recognized by the
13 institution's primary banking regulator as its main office.

14 (10) "Person" means individuals, partnerships, corporations, limited liability companies
15 or any other entity however organized.

16 (11) "Regulated institution" means any financial institution, credit union or other
17 insured-deposit-taking institution which is authorized to do business in this state including one
18 authorized by operation of an interstate banking statute which allowed its original entry.

19 (12) "Retail installment contract" means any security agreement negotiated or executed
20 in this state or under the laws of this state including, but not limited to, any agreement in the
21 nature of a mortgage, conditional sale contract, or any other agreement whether or not evidenced
22 by any written instrument to pay the retail purchase price of goods, or any part thereof, in
23 installments over any period of time and pursuant to which any security interest is retained or
24 taken by the retail seller for the payment of the purchase price, or any part thereof, of the retail
25 installment contract.

26 (13) "Retail seller" means any person who sells or contracts to sell any goods under a
27 retail installment contract to a retail buyer.

28 (14) "Superintendent" means the associate director and superintendent of banking in the
29 department of business regulation.

30 (15) "Unimpaired capital" means the sum of all capital and allowance accounts minus
31 estimated losses on assets, calculated in accordance with generally accepted accounting
32 principles.

33 SECTION 2. Sections 19-3.1-1 and 19-3.1-6 of the General Laws in Chapter 19-3.1
34 entitled "Trust Powers" are hereby amended to read as follows:

1 **19-3.1-1. Scope.** -- The provisions of this chapter shall apply to any financial institution:

2 (1) Authorized by its agreement to form to exercise trust powers; ~~or~~

3 (2) Permitted to exercise such powers by laws of this state applicable to that financial
4 institution on or before December 31, 1994; and

5 (3) To any bank or trust company duly organized under the laws of and carrying on
6 business in another state that has established a trust branch office in this state subject to the
7 provisions of section 19-3.1-6 of this chapter.

8 **19-3.1-6. Foreign banks and trust companies -- Agent to receive process.** – (a) No
9 person shall exercise any of the powers conferred exclusively upon financial institutions, except
10 that a trust company duly organized under the laws of and carrying on business in another state,
11 or a national banking association located in another state, may act as trustee under any written
12 instrument in which it is named as trustee or may be appointed as trustee of any trust by any court
13 of competent jurisdiction of this state or may be appointed by any probate court of this state as
14 administrator, administrator de bonis non, administrator with the will annexed, guardian of
15 estates, or conservator, or as executor of any will in which it is named as executor, if financial
16 institutions or national banking associations located in this state are permitted to act as trustee,
17 administrator, administrator de bonis non, administrator with the will annexed, guardian of
18 estates, conservator, or executor under similar conditions in the state where the trust company is
19 located. The trust company or national banking association located in another state, as the case
20 may be, shall execute and file in the office of the director or the director's designee a written
21 instrument appointing the director or the director's designee in his or her name of office its true
22 and lawful attorney upon whom all writs and other legal process may be served in any legal
23 proceeding relating to its conduct as trustee, administrator, administrator de bonis non,
24 administrator with the will annexed, guardian, conservator, or executor or affecting any property
25 held by it under the trusts or the will or the appointment, with the same effect as if it were located
26 in this state and had been lawfully served with process.

27 (b) Upon obtaining the consent of the director, or the director's designee, a bank or trust
28 company duly organized under the laws of, and carrying on business in another state, may
29 establish a trust branch or branches within this state if the law of the other state authorizes the
30 bank or trust company to exercise trust powers; provided that, in the case of an out-of-state bank
31 or trust company, the law of the state in which it is principally located authorizes under
32 conditions not substantially more restrictive than those imposed by the laws of this state, as
33 determined by the director or the director's designee, a financial institution to establish a trust
34 branch in that state. The director or the director's designee shall approve an application for a trust

1 branch if the applicant has satisfied the standards and followed the procedures set forth in this
2 title for the establishment of branches for financial institutions in addition to the requirements of
3 this subsection. The bank or trust company located in another state shall execute and file in the
4 office of the director or the director's designee a written instrument appointing the director or the
5 director's designee in his or her name of office its true and lawful attorney upon whom all writs
6 and other legal process may be served in any legal proceeding relating to trust activities
7 conducted in this state.

8 SECTION 3. Section 19-4-17 of the General Laws in Chapter 19-4 entitled "Regulatory
9 Oversight" is hereby amended to read as follows:

10 **19-4-17. Unauthorized banking business.** -- (a) No person, except regulated
11 institutions, including any bank or trust company that has established a trust branch office in this
12 state pursuant to the provisions of section 19-3.1-6(b) of this title, or other insured-deposit-taking
13 institutions organized under the laws of the United States, shall use any sign at the place where its
14 business is transacted, having on it any name containing the word or words "bank", "savings
15 bank", "loan and investment bank", "trust company", "credit union", or other word or words,
16 indicating, in the opinion of the director or the director's designee, that the place or office is the
17 place or office of a regulated institution or other insured-deposit-taking institution duly organized
18 under the laws of the United States. The secretary of state shall not accept for filing any articles
19 of association or incorporation, or amendment thereof, containing the word or words without the
20 approval of the director or the director's designee.

21 (b) No person, except regulated institutions, including any bank or trust company that
22 has established a trust branch office in this state pursuant to the provisions of section 19-3.1-6(b)
23 of this title, or other insured-deposit-taking institutions duly organized under the laws of the
24 United States, shall use or circulate any written or printed or partly written and partly printed
25 paper whatsoever, having on it any name or other word or words indicating that its business is the
26 business of a regulated institution or other insured-deposit-taking institution duly organized under
27 the laws of the United States, nor shall any person receive deposits and transact business in the
28 way or manner of a regulated institution or other insured-deposit-taking institution duly organized
29 under the laws of the United States, or in any way or manner as to lead the public to believe, or
30 as, in the opinion of the director or the director's designee might lead the public to believe, that its
31 business is that of a regulated institution or other insured-deposit-taking institution duly organized
32 under the laws of the United States.

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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1 This act would permit a bank or trust company organized under the laws of another state
2 to establish a trust office in Rhode Island if the law of the state in which it is principally located
3 authorizes under conditions not substantially more restrictive than those imposed by the laws of
4 this state, as determined by the director or the director's designee, a financial institution to
5 exercise trust powers in that state. The bill would also amend existing provisions of law that
6 prohibit a bank or trust company organized under the law of another to use any sign or printed
7 material which would lead the public to believe that it is a bank or trust company and would
8 amend the definition of a branch to include any office at which trust activities are conducted.
9 Enactment of this bill would make this state consistent with other states that permit interstate trust
10 activities.

11 This act would take effect upon passage.

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