

2. THE BANK OR TRUST COMPANY FAILS TO SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING SUCH LOAN DID NOT OCCUR WITHIN THIS STATE.

(IV) IN THE CASE OF A LOAN WHICH IS ASSIGNED BY THE BANK OR TRUST COMPANY TO A PLACE IN ANOTHER STATE WHICH IS NOT A REGULAR PLACE OF BUSINESS, IT SHALL BE PRESUMED, SUBJECT TO REBUTTAL BY THE BANK OR TRUST COMPANY ON A SHOWING SUPPORTED BY THE PREPONDERANCE OF EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING THE LOAN OCCURRED WITHIN THIS STATE IF, AT THE TIME THE LOAN WAS MADE THE BANK OR TRUST COMPANY'S COMMERCIAL DOMICILE WAS WITHIN THIS STATE.

(V) TO DETERMINE THE STATE IN WHICH THE PREPONDERANCE OF SUBSTANTIVE CONTACTS RELATING TO A LOAN HAVE OCCURRED, THE FACTS AND CIRCUMSTANCES REGARDING THE LOAN AT ISSUE SHALL BE REVIEWED ON A CASE BY CASE BASIS AND CONSIDERATION SHALL BE GIVEN TO SUCH ACTIVITIES AS THE SOLICITATION, INVESTIGATION, NEGOTIATION, APPROVAL AND ADMINISTRATION OF THE LOAN. THE TERMS "SOLICITATION", "INVESTIGATION", "NEGOTIATION", "APPROVAL", AND "ADMINISTRATION" ARE DEFINED AS FOLLOWS:

1. "SOLICITATION" IS EITHER ACTIVE OR PASSIVE. ACTIVE SOLICITATION OCCURS WHEN AN EMPLOYEE OF THE BANK OR TRUST COMPANY INITIATES THE CONTACT WITH THE CUSTOMER. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE BANK OR TRUST COMPANY'S EMPLOYEE IS REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEE WERE ACTUALLY PERFORMED. PASSIVE SOLICITATION OCCURS WHEN THE CUSTOMER INITIATES THE CONTACT WITH THE BANK OR TRUST COMPANY. IF THE CUSTOMER'S INITIAL CONTACT WAS NOT AT A REGULAR PLACE OF BUSINESS OF THE BANK OR TRUST COMPANY, THE REGULAR PLACE OF BUSINESS, IF ANY, WHERE THE PASSIVE SOLICITATION OCCURRED IS DETERMINED BY THE FACTS IN EACH CASE.

2. "INVESTIGATION" IS THE PROCEDURE WHEREBY EMPLOYEES OF THE BANK OR TRUST COMPANY DETERMINE THE CREDITWORTHINESS OF THE CUSTOMER AS WELL AS THE DEGREE OF RISK INVOLVED IN MAKING A PARTICULAR AGREEMENT. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE BANK OR TRUST COMPANY'S EMPLOYEES ARE REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEES WERE ACTUALLY PERFORMED.

3. "NEGOTIATION" IS THE PROCEDURE WHEREBY EMPLOYEES OF THE BANK OR TRUST COMPANY AND ITS CUSTOMER DETERMINE THE TERMS OF THE AGREEMENT SUCH AS THE AMOUNT, DURATION, INTEREST RATE, FREQUENCY OF REPAYMENT, CURRENCY DENOMINATION AND SECURITY REQUIRED. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE BANK OR TRUST COMPANY'S EMPLOYEES ARE REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEES WERE ACTUALLY PERFORMED.