



Rep. Joseph M. Lyons

Filed: 5/31/2008

09500SB2513ham002

LRB095 18312 MJR 51775 a

1 AMENDMENT TO SENATE BILL 2513

2 AMENDMENT NO. _____. Amend Senate Bill 2513 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding
5 Sections 5.710 and 6z-73 new as follows:

6 (30 ILCS 105/5.710 new)

7 Sec. 5.710. The Financial Institutions Settlement of 2008
8 Fund.

9 (30 ILCS 105/6z-73 new)

10 Sec. 6z-73. Financial Institutions Settlement of 2008
11 Fund. The Financial Institutions Settlement of 2008 Fund is
12 created as a nonappropriated trust fund to be held outside the
13 State Treasury, with the State Treasurer as custodian. Moneys
14 in the Fund shall be used by the Comptroller solely for the
15 purpose of payment of outstanding vouchers as of the effective

1 date of this amendatory Act of the 95th General Assembly for
2 expenses related to medical assistance under the Illinois
3 Public Aid Code, the Children's Health Insurance Program Act,
4 the Covering ALL KIDS Health Insurance Act, and the Senior
5 Citizens and Disabled Persons Property Tax Relief and
6 Pharmaceutical Assistance Act. The Department of Health and
7 Family Services must submit all necessary and proper
8 documentation to the Comptroller for administration of this
9 Fund.

10 Section 10. The Illinois Banking Act is amended by changing
11 Sections 2 and 48 and by adding Section 48.05 as follows:

12 (205 ILCS 5/2) (from Ch. 17, par. 302)

13 Sec. 2. General definitions. In this Act, unless the
14 context otherwise requires, the following words and phrases
15 shall have the following meanings:

16 "Accommodation party" shall have the meaning ascribed to
17 that term in Section 3-419 of the Uniform Commercial Code.

18 "Action" in the sense of a judicial proceeding includes
19 recoupments, counterclaims, set-off, and any other proceeding
20 in which rights are determined.

21 "Affiliate facility" of a bank means a main banking
22 premises or branch of another commonly owned bank. The main
23 banking premises or any branch of a bank may be an "affiliate
24 facility" with respect to one or more other commonly owned

1 banks.

2 "Appropriate federal banking agency" means the Federal
3 Deposit Insurance Corporation, the Federal Reserve Bank of
4 Chicago, or the Federal Reserve Bank of St. Louis, as
5 determined by federal law.

6 "Bank" means any person doing a banking business whether
7 subject to the laws of this or any other jurisdiction.

8 A "banking house", "branch", "branch bank" or "branch
9 office" shall mean any place of business of a bank at which
10 deposits are received, checks paid, or loans made, but shall
11 not include any place at which only records thereof are made,
12 posted, or kept. A place of business at which deposits are
13 received, checks paid, or loans made shall not be deemed to be
14 a branch, branch bank, or branch office if the place of
15 business is adjacent to and connected with the main banking
16 premises, or if it is separated from the main banking premises
17 by not more than an alley; provided always that (i) if the
18 place of business is separated by an alley from the main
19 banking premises there is a connection between the two by
20 public or private way or by subterranean or overhead passage,
21 and (ii) if the place of business is in a building not wholly
22 occupied by the bank, the place of business shall not be within
23 any office or room in which any other business or service of
24 any kind or nature other than the business of the bank is
25 conducted or carried on. A place of business at which deposits
26 are received, checks paid, or loans made shall not be deemed to

1 be a branch, branch bank, or branch office (i) of any bank if
2 the place is a terminal established and maintained in
3 accordance with paragraph (17) of Section 5 of this Act, or
4 (ii) of a commonly owned bank by virtue of transactions
5 conducted at that place on behalf of the other commonly owned
6 bank under paragraph (23) of Section 5 of this Act if the place
7 is an affiliate facility with respect to the other bank.

8 "Branch of an out-of-state bank" means a branch established
9 or maintained in Illinois by an out-of-state bank as a result
10 of a merger between an Illinois bank and the out-of-state bank
11 that occurs on or after May 31, 1997, or any branch established
12 by the out-of-state bank following the merger.

13 "Bylaws" means the bylaws of a bank that are adopted by the
14 bank's board of directors or shareholders for the regulation
15 and management of the bank's affairs. If the bank operates as a
16 limited liability company, however, "bylaws" means the
17 operating agreement of the bank.

18 "Call report fee" means the fee to be paid to the
19 Commissioner by each State bank pursuant to paragraph (a) of
20 subsection (3) of Section 48 of this Act.

21 "Capital" includes the aggregate of outstanding capital
22 stock and preferred stock.

23 "Cash flow reserve account" means the account within the
24 books and records of the Commissioner of Banks and Real Estate
25 used to record funds designated to maintain a reasonable Bank
26 and Trust Company Fund operating balance to meet agency

1 obligations on a timely basis.

2 "Charter" includes the original charter and all amendments
3 thereto and articles of merger or consolidation.

4 "Commissioner" means the Commissioner of Banks and Real
5 Estate, except that beginning on the effective date of this
6 amendatory Act of the 95th General Assembly, all references in
7 this Act to the Commissioner of Banks and Real Estate are
8 deemed, in appropriate contexts, to be references to the
9 Secretary of Financial and Professional Regulation ~~or a person~~
10 ~~authorized by the Commissioner, the Office of Banks and Real~~
11 ~~Estate Act, or this Act to act in the Commissioner's stead.~~

12 "Commonly owned banks" means 2 or more banks that each
13 qualify as a bank subsidiary of the same bank holding company
14 pursuant to Section 18 of the Federal Deposit Insurance Act;
15 "commonly owned bank" refers to one of a group of commonly
16 owned banks but only with respect to one or more of the other
17 banks in the same group.

18 "Community" means a city, village, or incorporated town and
19 also includes the area served by the banking offices of a bank,
20 but need not be limited or expanded to conform to the
21 geographic boundaries of units of local government.

22 "Company" means a corporation, limited liability company,
23 partnership, business trust, association, or similar
24 organization and, unless specifically excluded, includes a
25 "State bank" and a "bank".

26 "Consolidating bank" means a party to a consolidation.

1 "Consolidation" takes place when 2 or more banks, or a
2 trust company and a bank, are extinguished and by the same
3 process a new bank is created, taking over the assets and
4 assuming the liabilities of the banks or trust company passing
5 out of existence.

6 "Continuing bank" means a merging bank, the charter of
7 which becomes the charter of the resulting bank.

8 "Converting bank" means a State bank converting to become a
9 national bank, or a national bank converting to become a State
10 bank.

11 "Converting trust company" means a trust company
12 converting to become a State bank.

13 "Court" means a court of competent jurisdiction.

14 "Director" means a member of the board of directors of a
15 bank. In the case of a manager-managed limited liability
16 company, however, "director" means a manager of the bank and,
17 in the case of a member-managed limited liability company,
18 "director" means a member of the bank. The term "director" does
19 not include an advisory director, honorary director, director
20 emeritus, or similar person, unless the person is otherwise
21 performing functions similar to those of a member of the board
22 of directors.

23 "Eligible depository institution" means an insured savings
24 association that is in default, an insured savings association
25 that is in danger of default, a State or national bank that is
26 in default or a State or national bank that is in danger of

1 default, as those terms are defined in this Section, or a new
2 bank as that term defined in Section 11(m) of the Federal
3 Deposit Insurance Act or a bridge bank as that term is defined
4 in Section 11(n) of the Federal Deposit Insurance Act or a new
5 federal savings association authorized under Section
6 11(d) (2) (f) of the Federal Deposit Insurance Act.

7 "Fiduciary" means trustee, agent, executor, administrator,
8 committee, guardian for a minor or for a person under legal
9 disability, receiver, trustee in bankruptcy, assignee for
10 creditors, or any holder of similar position of trust.

11 "Financial institution" means a bank, savings and loan
12 association, credit union, or any licensee under the Consumer
13 Installment Loan Act or the Sales Finance Agency Act and, for
14 purposes of Section 48.3, any proprietary network, funds
15 transfer corporation, or other entity providing electronic
16 funds transfer services, or any corporate fiduciary, its
17 subsidiaries, affiliates, parent company, or contractual
18 service provider that is examined by the Commissioner.

19 "Foundation" means the Illinois Bank Examiners' Education
20 Foundation.

21 "General obligation" means a bond, note, debenture,
22 security, or other instrument evidencing an obligation of the
23 government entity that is the issuer that is supported by the
24 full available resources of the issuer, the principal and
25 interest of which is payable in whole or in part by taxation.

26 "Guarantee" means an undertaking or promise to answer for

1 payment of another's debt or performance of another's duty,
2 liability, or obligation whether "payment guaranteed" or
3 "collection guaranteed".

4 "In danger of default" means a State or national bank, a
5 federally chartered insured savings association or an Illinois
6 state chartered insured savings association with respect to
7 which the Commissioner or the appropriate federal banking
8 agency has advised the Federal Deposit Insurance Corporation
9 that:

10 (1) in the opinion of the Commissioner or the
11 appropriate federal banking agency,

12 (A) the State or national bank or insured savings
13 association is not likely to be able to meet the
14 demands of the State or national bank's or savings
15 association's obligations in the normal course of
16 business; and

17 (B) there is no reasonable prospect that the State
18 or national bank or insured savings association will be
19 able to meet those demands or pay those obligations
20 without federal assistance; or

21 (2) in the opinion of the Commissioner or the
22 appropriate federal banking agency,

23 (A) the State or national bank or insured savings
24 association has incurred or is likely to incur losses
25 that will deplete all or substantially all of its
26 capital; and

1 (B) there is no reasonable prospect that the
2 capital of the State or national bank or insured
3 savings association will be replenished without
4 federal assistance.

5 "In default" means, with respect to a State or national
6 bank or an insured savings association, any adjudication or
7 other official determination by any court of competent
8 jurisdiction, the Commissioner, the appropriate federal
9 banking agency, or other public authority pursuant to which a
10 conservator, receiver, or other legal custodian is appointed
11 for a State or national bank or an insured savings association.

12 "Insured savings association" means any federal savings
13 association chartered under Section 5 of the federal Home
14 Owners' Loan Act and any State savings association chartered
15 under the Illinois Savings and Loan Act of 1985 or a
16 predecessor Illinois statute, the deposits of which are insured
17 by the Federal Deposit Insurance Corporation. The term also
18 includes a savings bank organized or operating under the
19 Savings Bank Act.

20 "Insured savings association in recovery" means an insured
21 savings association that is not an eligible depository
22 institution and that does not meet the minimum capital
23 requirements applicable with respect to the insured savings
24 association.

25 "Issuer" means for purposes of Section 33 every person who
26 shall have issued or proposed to issue any security; except

1 that (1) with respect to certificates of deposit, voting trust
2 certificates, collateral-trust certificates, and certificates
3 of interest or shares in an unincorporated investment trust not
4 having a board of directors (or persons performing similar
5 functions), "issuer" means the person or persons performing the
6 acts and assuming the duties of depositor or manager pursuant
7 to the provisions of the trust, agreement, or instrument under
8 which the securities are issued; (2) with respect to trusts
9 other than those specified in clause (1) above, where the
10 trustee is a corporation authorized to accept and execute
11 trusts, "issuer" means the entrusters, depositors, or creators
12 of the trust and any manager or committee charged with the
13 general direction of the affairs of the trust pursuant to the
14 provisions of the agreement or instrument creating the trust;
15 and (3) with respect to equipment trust certificates or like
16 securities, "issuer" means the person to whom the equipment or
17 property is or is to be leased or conditionally sold.

18 "Letter of credit" and "customer" shall have the meanings
19 ascribed to those terms in Section 5-102 of the Uniform
20 Commercial Code.

21 "Main banking premises" means the location that is
22 designated in a bank's charter as its main office.

23 "Maker or obligor" means for purposes of Section 33 the
24 issuer of a security, the promisor in a debenture or other debt
25 security, or the mortgagor or grantor of a trust deed or
26 similar conveyance of a security interest in real or personal

1 property.

2 "Merged bank" means a merging bank that is not the
3 continuing, resulting, or surviving bank in a consolidation or
4 merger.

5 "Merger" includes consolidation.

6 "Merging bank" means a party to a bank merger.

7 "Merging trust company" means a trust company party to a
8 merger with a State bank.

9 "Mid-tier bank holding company" means a corporation that
10 (a) owns 100% of the issued and outstanding shares of each
11 class of stock of a State bank, (b) has no other subsidiaries,
12 and (c) 100% of the issued and outstanding shares of the
13 corporation are owned by a parent bank holding company.

14 "Municipality" means any municipality, political
15 subdivision, school district, taxing district, or agency.

16 "National bank" means a national banking association
17 located in this State and after May 31, 1997, means a national
18 banking association without regard to its location.

19 "Out-of-state bank" means a bank chartered under the laws
20 of a state other than Illinois, a territory of the United
21 States, or the District of Columbia.

22 "Parent bank holding company" means a corporation that is a
23 bank holding company as that term is defined in the Illinois
24 Bank Holding Company Act of 1957 and owns 100% of the issued
25 and outstanding shares of a mid-tier bank holding company.

26 "Person" means an individual, corporation, limited

1 liability company, partnership, joint venture, trust, estate,
2 or unincorporated association.

3 "Public agency" means the State of Illinois, the various
4 counties, townships, cities, towns, villages, school
5 districts, educational service regions, special road
6 districts, public water supply districts, fire protection
7 districts, drainage districts, levee districts, sewer
8 districts, housing authorities, the Illinois Bank Examiners'
9 Education Foundation, the Chicago Park District, and all other
10 political corporations or subdivisions of the State of
11 Illinois, whether now or hereafter created, whether herein
12 specifically mentioned or not, and shall also include any other
13 state or any political corporation or subdivision of another
14 state.

15 "Public funds" or "public money" means current operating
16 funds, special funds, interest and sinking funds, and funds of
17 any kind or character belonging to, in the custody of, or
18 subject to the control or regulation of the United States or a
19 public agency. "Public funds" or "public money" shall include
20 funds held by any of the officers, agents, or employees of the
21 United States or of a public agency in the course of their
22 official duties and, with respect to public money of the United
23 States, shall include Postal Savings funds.

24 "Published" means, unless the context requires otherwise,
25 the publishing of the notice or instrument referred to in some
26 newspaper of general circulation in the community in which the

1 bank is located at least once each week for 3 successive weeks.
2 Publishing shall be accomplished by, and at the expense of, the
3 bank required to publish. Where publishing is required, the
4 bank shall submit to the Commissioner that evidence of the
5 publication as the Commissioner shall deem appropriate.

6 "Qualified financial contract" means any security
7 contract, commodity contract, forward contract, including spot
8 and forward foreign exchange contracts, repurchase agreement,
9 swap agreement, and any similar agreement, any option to enter
10 into any such agreement, including any combination of the
11 foregoing, and any master agreement for such agreements. A
12 master agreement, together with all supplements thereto, shall
13 be treated as one qualified financial contract. The contract,
14 option, agreement, or combination of contracts, options, or
15 agreements shall be reflected upon the books, accounts, or
16 records of the bank, or a party to the contract shall provide
17 documentary evidence of such agreement.

18 "Recorded" means the filing or recording of the notice or
19 instrument referred to in the office of the Recorder of the
20 county wherein the bank is located.

21 "Resulting bank" means the bank resulting from a merger or
22 conversion.

23 "Secretary" means the Secretary of Financial and
24 Professional Regulation, or a person authorized by the
25 Secretary or by this Act to act in the Secretary's stead.

26 "Securities" means stocks, bonds, debentures, notes, or

1 other similar obligations.

2 "Stand-by letter of credit" means a letter of credit under
3 which drafts are payable upon the condition the customer has
4 defaulted in performance of a duty, liability, or obligation.

5 "State bank" means any banking corporation that has a
6 banking charter issued by the Commissioner under this Act.

7 "State Banking Board" means the State Banking Board of
8 Illinois.

9 "Subsidiary" with respect to a specified company means a
10 company that is controlled by the specified company. For
11 purposes of paragraphs (8) and (12) of Section 5 of this Act,
12 "control" means the exercise of operational or managerial
13 control of a corporation by the bank, either alone or together
14 with other affiliates of the bank.

15 "Surplus" means the aggregate of (i) amounts paid in excess
16 of the par value of capital stock and preferred stock; (ii)
17 amounts contributed other than for capital stock and preferred
18 stock and allocated to the surplus account; and (iii) amounts
19 transferred from undivided profits.

20 "Tier 1 Capital" and "Tier 2 Capital" have the meanings
21 assigned to those terms in regulations promulgated for the
22 appropriate federal banking agency of a state bank, as those
23 regulations are now or hereafter amended.

24 "Trust company" means a limited liability company or
25 corporation incorporated in this State for the purpose of
26 accepting and executing trusts.

1 "Undivided profits" means undistributed earnings less
2 discretionary transfers to surplus.

3 "Unimpaired capital and unimpaired surplus", for the
4 purposes of paragraph (21) of Section 5 and Sections 32, 33,
5 34, 35.1, 35.2, and 47 of this Act means the sum of the state
6 bank's Tier 1 Capital and Tier 2 Capital plus such other
7 shareholder equity as may be included by regulation of the
8 Commissioner. Unimpaired capital and unimpaired surplus shall
9 be calculated on the basis of the date of the last quarterly
10 call report filed with the Commissioner preceding the date of
11 the transaction for which the calculation is made, provided
12 that: (i) when a material event occurs after the date of the
13 last quarterly call report filed with the Commissioner that
14 reduces or increases the bank's unimpaired capital and
15 unimpaired surplus by 10% or more, then the unimpaired capital
16 and unimpaired surplus shall be calculated from the date of the
17 material event for a transaction conducted after the date of
18 the material event; and (ii) if the Commissioner determines for
19 safety and soundness reasons that a state bank should calculate
20 unimpaired capital and unimpaired surplus more frequently than
21 provided by this paragraph, the Commissioner may by written
22 notice direct the bank to calculate unimpaired capital and
23 unimpaired surplus at a more frequent interval. In the case of
24 a state bank newly chartered under Section 13 or a state bank
25 resulting from a merger, consolidation, or conversion under
26 Sections 21 through 26 for which no preceding quarterly call

1 report has been filed with the Commissioner, unimpaired capital
2 and unimpaired surplus shall be calculated for the first
3 calendar quarter on the basis of the effective date of the
4 charter, merger, consolidation, or conversion.

5 (Source: P.A. 92-483, eff. 8-23-01; 93-561, eff. 1-1-04.)

6 (205 ILCS 5/48) (from Ch. 17, par. 359)

7 Sec. 48. Secretary's ~~Commissioner's~~ powers; duties. The
8 Secretary ~~Commissioner~~ shall have the powers and authority, and
9 is charged with the duties and responsibilities designated in
10 this Act, and a State bank shall not be subject to any other
11 visitorial power other than as authorized by this Act, except
12 those vested in the courts, or upon prior consultation with the
13 Secretary ~~Commissioner~~, a foreign bank regulator with an
14 appropriate supervisory interest in the parent or affiliate of
15 a state bank. In the performance of the Secretary's
16 ~~Commissioner's~~ duties:

17 (1) The Commissioner shall call for statements from all
18 State banks as provided in Section 47 at least one time during
19 each calendar quarter.

20 (2) (a) The Commissioner, as often as the Commissioner
21 shall deem necessary or proper, and no less frequently than 18
22 months following the preceding examination, shall appoint a
23 suitable person or persons to make an examination of the
24 affairs of every State bank, except that for every eligible
25 State bank, as defined by regulation, the Commissioner in lieu

1 of the examination may accept on an alternating basis the
2 examination made by the eligible State bank's appropriate
3 federal banking agency pursuant to Section 111 of the Federal
4 Deposit Insurance Corporation Improvement Act of 1991,
5 provided the appropriate federal banking agency has made such
6 an examination. A person so appointed shall not be a
7 stockholder or officer or employee of any bank which that
8 person may be directed to examine, and shall have powers to
9 make a thorough examination into all the affairs of the bank
10 and in so doing to examine any of the officers or agents or
11 employees thereof on oath and shall make a full and detailed
12 report of the condition of the bank to the Commissioner. In
13 making the examination the examiners shall include an
14 examination of the affairs of all the affiliates of the bank,
15 as defined in subsection (b) of Section 35.2 of this Act, or
16 subsidiaries of the bank as shall be necessary to disclose
17 fully the conditions of the subsidiaries or affiliates, the
18 relations between the bank and the subsidiaries or affiliates
19 and the effect of those relations upon the affairs of the bank,
20 and in connection therewith shall have power to examine any of
21 the officers, directors, agents, or employees of the
22 subsidiaries or affiliates on oath. After May 31, 1997, the
23 Commissioner may enter into cooperative agreements with state
24 regulatory authorities of other states to provide for
25 examination of State bank branches in those states, and the
26 Commissioner may accept reports of examinations of State bank

1 branches from those state regulatory authorities. These
2 cooperative agreements may set forth the manner in which the
3 other state regulatory authorities may be compensated for
4 examinations prepared for and submitted to the Commissioner.

5 (b) After May 31, 1997, the Commissioner is authorized to
6 examine, as often as the Commissioner shall deem necessary or
7 proper, branches of out-of-state banks. The Commissioner may
8 establish and may assess fees to be paid to the Commissioner
9 for examinations under this subsection (b). The fees shall be
10 borne by the out-of-state bank, unless the fees are borne by
11 the state regulatory authority that chartered the out-of-state
12 bank, as determined by a cooperative agreement between the
13 Commissioner and the state regulatory authority that chartered
14 the out-of-state bank.

15 (2.5) Whenever any State bank, any subsidiary or affiliate
16 of a State bank, or after May 31, 1997, any branch of an
17 out-of-state bank causes to be performed, by contract or
18 otherwise, any bank services for itself, whether on or off its
19 premises:

20 (a) that performance shall be subject to examination by
21 the Commissioner to the same extent as if services were
22 being performed by the bank or, after May 31, 1997, branch
23 of the out-of-state bank itself on its own premises; and

24 (b) the bank or, after May 31, 1997, branch of the
25 out-of-state bank shall notify the Commissioner of the
26 existence of a service relationship. The notification

1 shall be submitted with the first statement of condition
2 (as required by Section 47 of this Act) due after the
3 making of the service contract or the performance of the
4 service, whichever occurs first. The Commissioner shall be
5 notified of each subsequent contract in the same manner.

6 For purposes of this subsection (2.5), the term "bank
7 services" means services such as sorting and posting of checks
8 and deposits, computation and posting of interest and other
9 credits and charges, preparation and mailing of checks,
10 statements, notices, and similar items, or any other clerical,
11 bookkeeping, accounting, statistical, or similar functions
12 performed for a State bank, including but not limited to
13 electronic data processing related to those bank services.

14 (3) The expense of administering this Act, including the
15 expense of the examinations of State banks as provided in this
16 Act, shall to the extent of the amounts resulting from the fees
17 provided for in paragraphs (a), (a-2), and (b) of this
18 subsection (3) be assessed against and borne by the State
19 banks:

20 (a) Each bank shall pay to the Secretary ~~Commissioner~~ a
21 Call Report Fee which shall be paid in quarterly
22 installments equal to one-fourth of the sum of the annual
23 fixed fee of \$800, plus a variable fee based on the assets
24 shown on the quarterly statement of condition delivered to
25 the Secretary ~~Commissioner~~ in accordance with Section 47
26 for the preceding quarter according to the following

1 schedule: 16¢ per \$1,000 of the first \$5,000,000 of total
2 assets, 15¢ per \$1,000 of the next \$20,000,000 of total
3 assets, 13¢ per \$1,000 of the next \$75,000,000 of total
4 assets, 9¢ per \$1,000 of the next \$400,000,000 of total
5 assets, 7¢ per \$1,000 of the next \$500,000,000 of total
6 assets, and 5¢ per \$1,000 of all assets in excess of
7 \$1,000,000,000, of the State bank. The Call Report Fee
8 shall be calculated by the Secretary ~~Commissioner~~ and
9 billed to the banks for remittance at the time of the
10 quarterly statements of condition provided for in Section
11 47. The Secretary ~~Commissioner~~ may require payment of the
12 fees provided in this Section by an electronic transfer of
13 funds or an automatic debit of an account of each of the
14 State banks. In case more than one examination of any bank
15 is deemed by the Secretary ~~Commissioner~~ to be necessary in
16 any examination frequency cycle specified in subsection
17 2(a) of this Section, and is performed at his direction,
18 the Secretary ~~Commissioner~~ may assess a reasonable
19 additional fee to recover the cost of the additional
20 examination; provided, however, that an examination
21 conducted at the request of the State Treasurer pursuant to
22 the Uniform Disposition of Unclaimed Property Act shall not
23 be deemed to be an additional examination under this
24 Section. In lieu of the method and amounts set forth in
25 this paragraph (a) for the calculation of the Call Report
26 Fee, the Secretary ~~Commissioner~~ may specify by rule that

1 the Call Report Fees provided by this Section may be
2 assessed semiannually or some other period and may provide
3 in the rule the formula to be used for calculating and
4 assessing the periodic Call Report Fees to be paid by State
5 banks.

6 (a-1) If in the opinion of the Commissioner an
7 emergency exists or appears likely, the Commissioner may
8 assign an examiner or examiners to monitor the affairs of a
9 State bank with whatever frequency he deems appropriate,
10 including but not limited to a daily basis. The reasonable
11 and necessary expenses of the Commissioner during the
12 period of the monitoring shall be borne by the subject
13 bank. The Commissioner shall furnish the State bank a
14 statement of time and expenses if requested to do so within
15 30 days of the conclusion of the monitoring period.

16 (a-2) On and after January 1, 1990, the reasonable and
17 necessary expenses of the Commissioner during examination
18 of the performance of electronic data processing services
19 under subsection (2.5) shall be borne by the banks for
20 which the services are provided. An amount, based upon a
21 fee structure prescribed by the Commissioner, shall be paid
22 by the banks or, after May 31, 1997, branches of
23 out-of-state banks receiving the electronic data
24 processing services along with the Call Report Fee assessed
25 under paragraph (a) of this subsection (3).

26 (a-3) After May 31, 1997, the reasonable and necessary

1 expenses of the Commissioner during examination of the
2 performance of electronic data processing services under
3 subsection (2.5) at or on behalf of branches of
4 out-of-state banks shall be borne by the out-of-state
5 banks, unless those expenses are borne by the state
6 regulatory authorities that chartered the out-of-state
7 banks, as determined by cooperative agreements between the
8 Commissioner and the state regulatory authorities that
9 chartered the out-of-state banks.

10 (b) "Fiscal year" for purposes of this Section 48 is
11 defined as a period beginning July 1 of any year and ending
12 June 30 of the next year. The Commissioner shall receive
13 for each fiscal year, commencing with the fiscal year
14 ending June 30, 1987, a contingent fee equal to the lesser
15 of the aggregate of the fees paid by all State banks under
16 paragraph (a) of subsection (3) for that year, or the
17 amount, if any, whereby the aggregate of the administration
18 expenses, as defined in paragraph (c), for that fiscal year
19 exceeds the sum of the aggregate of the fees payable by all
20 State banks for that year under paragraph (a) of subsection
21 (3), plus any amounts transferred into the Bank and Trust
22 Company Fund from the State Pensions Fund for that year,
23 plus all other amounts collected by the Commissioner for
24 that year under any other provision of this Act, plus the
25 aggregate of all fees collected for that year by the
26 Commissioner under the Corporate Fiduciary Act, excluding

1 the receivership fees provided for in Section 5-10 of the
2 Corporate Fiduciary Act, and the Foreign Banking Office
3 Act. The aggregate amount of the contingent fee thus
4 arrived at for any fiscal year shall be apportioned
5 amongst, assessed upon, and paid by the State banks and
6 foreign banking corporations, respectively, in the same
7 proportion that the fee of each under paragraph (a) of
8 subsection (3), respectively, for that year bears to the
9 aggregate for that year of the fees collected under
10 paragraph (a) of subsection (3). The aggregate amount of
11 the contingent fee, and the portion thereof to be assessed
12 upon each State bank and foreign banking corporation,
13 respectively, shall be determined by the Commissioner and
14 shall be paid by each, respectively, within 120 days of the
15 close of the period for which the contingent fee is
16 computed and is payable, and the Commissioner shall give 20
17 days advance notice of the amount of the contingent fee
18 payable by the State bank and of the date fixed by the
19 Commissioner for payment of the fee.

20 (c) The "administration expenses" for any fiscal year
21 shall mean the ordinary and contingent expenses for that
22 year incident to making the examinations provided for by,
23 and for otherwise administering, this Act, the Corporate
24 Fiduciary Act, excluding the expenses paid from the
25 Corporate Fiduciary Receivership account in the Bank and
26 Trust Company Fund, the Foreign Banking Office Act, the

1 Electronic Fund Transfer Act, and the Illinois Bank
2 Examiners' Education Foundation Act, including all
3 salaries and other compensation paid for personal services
4 rendered for the State by officers or employees of the
5 State, including the Commissioner and the Deputy
6 Commissioners, all expenditures for telephone and
7 telegraph charges, postage and postal charges, office
8 stationery, supplies and services, and office furniture
9 and equipment, including typewriters and copying and
10 duplicating machines and filing equipment, surety bond
11 premiums, and travel expenses of those officers and
12 employees, employees, expenditures or charges for the
13 acquisition, enlargement or improvement of, or for the use
14 of, any office space, building, or structure, or
15 expenditures for the maintenance thereof or for furnishing
16 heat, light, or power with respect thereto, all to the
17 extent that those expenditures are directly incidental to
18 such examinations or administration. The Commissioner
19 shall not be required by paragraphs (c) or (d-1) of this
20 subsection (3) to maintain in any fiscal year's budget
21 appropriated reserves for accrued vacation and accrued
22 sick leave that is required to be paid to employees of the
23 Commissioner upon termination of their service with the
24 Commissioner in an amount that is more than is reasonably
25 anticipated to be necessary for any anticipated turnover in
26 employees, whether due to normal attrition or due to

1 layoffs, terminations, or resignations.

2 (d) The aggregate of all fees collected by the
3 Secretary ~~Commissioner~~ under this Act, the Corporate
4 Fiduciary Act, or the Foreign Banking Office Act on and
5 after July 1, 1979, shall be paid promptly after receipt of
6 the same, accompanied by a detailed statement thereof, into
7 the State treasury and shall be set apart in a special fund
8 to be known as the "Bank and Trust Company Fund", except as
9 provided in paragraph (c) of subsection (11) of this
10 Section. All earnings received from investments of funds in
11 the Bank and Trust Company Fund shall be deposited in the
12 Bank and Trust Company Fund and may be used for the same
13 purposes as fees deposited in that Fund. The amount from
14 time to time deposited into the Bank and Trust Company Fund
15 shall be used: (i) to offset the ordinary administrative
16 expenses of the Secretary ~~Commissioner of Banks and Real~~
17 ~~Estate~~ as defined in this Section or (ii) as a credit
18 against fees under paragraph (d-1) of this subsection (3).

19 Nothing in this amendatory Act of 1979 shall prevent
20 continuing the practice of paying expenses involving
21 salaries, retirement, social security, and State-paid
22 insurance premiums of State officers by appropriations
23 from the General Revenue Fund. However, the General Revenue
24 Fund shall be reimbursed for those payments made on and
25 after July 1, 1979, by an annual transfer of funds from the
26 Bank and Trust Company Fund. Moneys in the Bank and Trust

1 Company Fund may be transferred to the Professions Indirect
2 Cost Fund, as authorized under Section 2105-300 of the
3 Department of Professional Regulation Law of the Civil
4 Administrative Code of Illinois.

5 Notwithstanding provisions in the State Finance Act,
6 as now or hereafter amended, or any other law to the
7 contrary, the sum of \$18,788,847 shall be transferred from
8 the Bank and Trust Company Fund to the Financial
9 Institutions Settlement of 2008 Fund on the effective date
10 of this amendatory Act of the 95th General Assembly, or as
11 soon thereafter as practical.

12 Notwithstanding provisions in the State Finance Act,
13 as now or hereafter amended, or any other law to the
14 contrary, the Governor may, during any fiscal year through
15 January 10, 2011, from time to time direct the State
16 Treasurer and Comptroller to transfer a specified sum not
17 exceeding 10% of the revenues to be deposited into the Bank
18 and Trust Company Fund during that fiscal year from that
19 Fund to the General Revenue Fund in order to help defray
20 the State's operating costs for the fiscal year.

21 Notwithstanding provisions in the State Finance Act, as now
22 or hereafter amended, or any other law to the contrary, the
23 total sum transferred during any fiscal year through
24 January 10, 2011, from the Bank and Trust Company Fund to
25 the General Revenue Fund pursuant to this provision shall
26 not exceed during any fiscal year 10% of the revenues to be

1 deposited into the Bank and Trust Company Fund during that
2 fiscal year. The State Treasurer and Comptroller shall
3 transfer the amounts designated under this Section as soon
4 as may be practicable after receiving the direction to
5 transfer from the Governor.

6 (d-1) Adequate funds shall be available in the Bank and
7 Trust Company Fund to permit the timely payment of
8 administration expenses. In each fiscal year the total
9 administration expenses shall be deducted from the total
10 fees collected by the Commissioner and the remainder
11 transferred into the Cash Flow Reserve Account, unless the
12 balance of the Cash Flow Reserve Account prior to the
13 transfer equals or exceeds one-fourth of the total initial
14 appropriations from the Bank and Trust Company Fund for the
15 subsequent year, in which case the remainder shall be
16 credited to State banks and foreign banking corporations
17 and applied against their fees for the subsequent year. The
18 amount credited to each State bank and foreign banking
19 corporation shall be in the same proportion as the Call
20 Report Fees paid by each for the year bear to the total
21 Call Report Fees collected for the year. If, after a
22 transfer to the Cash Flow Reserve Account is made or if no
23 remainder is available for transfer, the balance of the
24 Cash Flow Reserve Account is less than one-fourth of the
25 total initial appropriations for the subsequent year and
26 the amount transferred is less than 5% of the total Call

1 Report Fees for the year, additional amounts needed to make
2 the transfer equal to 5% of the total Call Report Fees for
3 the year shall be apportioned amongst, assessed upon, and
4 paid by the State banks and foreign banking corporations in
5 the same proportion that the Call Report Fees of each,
6 respectively, for the year bear to the total Call Report
7 Fees collected for the year. The additional amounts
8 assessed shall be transferred into the Cash Flow Reserve
9 Account. For purposes of this paragraph (d-1), the
10 calculation of the fees collected by the Commissioner shall
11 exclude the receivership fees provided for in Section 5-10
12 of the Corporate Fiduciary Act.

13 (e) The Commissioner may upon request certify to any
14 public record in his keeping and shall have authority to
15 levy a reasonable charge for issuing certifications of any
16 public record in his keeping.

17 (f) In addition to fees authorized elsewhere in this
18 Act, the Commissioner may, in connection with a review,
19 approval, or provision of a service, levy a reasonable
20 charge to recover the cost of the review, approval, or
21 service.

22 (4) Nothing contained in this Act shall be construed to
23 limit the obligation relative to examinations and reports of
24 any State bank, deposits in which are to any extent insured by
25 the United States or any agency thereof, nor to limit in any
26 way the powers of the Commissioner with reference to

1 examinations and reports of that bank.

2 (5) The nature and condition of the assets in or investment
3 of any bonus, pension, or profit sharing plan for officers or
4 employees of every State bank or, after May 31, 1997, branch of
5 an out-of-state bank shall be deemed to be included in the
6 affairs of that State bank or branch of an out-of-state bank
7 subject to examination by the Commissioner under the provisions
8 of subsection (2) of this Section, and if the Commissioner
9 shall find from an examination that the condition of or
10 operation of the investments or assets of the plan is unlawful,
11 fraudulent, or unsafe, or that any trustee has abused his
12 trust, the Commissioner shall, if the situation so found by the
13 Commissioner shall not be corrected to his satisfaction within
14 60 days after the Commissioner has given notice to the board of
15 directors of the State bank or out-of-state bank of his
16 findings, report the facts to the Attorney General who shall
17 thereupon institute proceedings against the State bank or
18 out-of-state bank, the board of directors thereof, or the
19 trustees under such plan as the nature of the case may require.

20 (6) The Commissioner shall have the power:

21 (a) To promulgate reasonable rules for the purpose of
22 administering the provisions of this Act.

23 (a-5) To impose conditions on any approval issued by
24 the Commissioner if he determines that the conditions are
25 necessary or appropriate. These conditions shall be
26 imposed in writing and shall continue in effect for the

1 period prescribed by the Commissioner.

2 (b) To issue orders against any person, if the
3 Commissioner has reasonable cause to believe that an unsafe
4 or unsound banking practice has occurred, is occurring, or
5 is about to occur, if any person has violated, is
6 violating, or is about to violate any law, rule, or written
7 agreement with the Commissioner, or for the purpose of
8 administering the provisions of this Act and any rule
9 promulgated in accordance with this Act.

10 (b-1) To enter into agreements with a bank establishing
11 a program to correct the condition of the bank or its
12 practices.

13 (c) To appoint hearing officers to execute any of the
14 powers granted to the Commissioner under this Section for
15 the purpose of administering this Act and any rule
16 promulgated in accordance with this Act and otherwise to
17 authorize, in writing, an officer or employee of the Office
18 of Banks and Real Estate to exercise his powers under this
19 Act.

20 (d) To subpoena witnesses, to compel their attendance,
21 to administer an oath, to examine any person under oath,
22 and to require the production of any relevant books,
23 papers, accounts, and documents in the course of and
24 pursuant to any investigation being conducted, or any
25 action being taken, by the Commissioner in respect of any
26 matter relating to the duties imposed upon, or the powers

1 vested in, the Commissioner under the provisions of this
2 Act or any rule promulgated in accordance with this Act.

3 (e) To conduct hearings.

4 (7) Whenever, in the opinion of the Commissioner, any
5 director, officer, employee, or agent of a State bank or any
6 subsidiary or bank holding company of the bank or, after May
7 31, 1997, of any branch of an out-of-state bank or any
8 subsidiary or bank holding company of the bank shall have
9 violated any law, rule, or order relating to that bank or any
10 subsidiary or bank holding company of the bank, shall have
11 obstructed or impeded any examination or investigation by the
12 Commissioner, shall have engaged in an unsafe or unsound
13 practice in conducting the business of that bank or any
14 subsidiary or bank holding company of the bank, or shall have
15 violated any law or engaged or participated in any unsafe or
16 unsound practice in connection with any financial institution
17 or other business entity such that the character and fitness of
18 the director, officer, employee, or agent does not assure
19 reasonable promise of safe and sound operation of the State
20 bank, the Commissioner may issue an order of removal. If, in
21 the opinion of the Commissioner, any former director, officer,
22 employee, or agent of a State bank or any subsidiary or bank
23 holding company of the bank, prior to the termination of his or
24 her service with that bank or any subsidiary or bank holding
25 company of the bank, violated any law, rule, or order relating
26 to that State bank or any subsidiary or bank holding company of

1 the bank, obstructed or impeded any examination or
2 investigation by the Commissioner, engaged in an unsafe or
3 unsound practice in conducting the business of that bank or any
4 subsidiary or bank holding company of the bank, or violated any
5 law or engaged or participated in any unsafe or unsound
6 practice in connection with any financial institution or other
7 business entity such that the character and fitness of the
8 director, officer, employee, or agent would not have assured
9 reasonable promise of safe and sound operation of the State
10 bank, the Commissioner may issue an order prohibiting that
11 person from further service with a bank or any subsidiary or
12 bank holding company of the bank as a director, officer,
13 employee, or agent. An order issued pursuant to this subsection
14 shall be served upon the director, officer, employee, or agent.
15 A copy of the order shall be sent to each director of the bank
16 affected by registered mail. The person affected by the action
17 may request a hearing before the State Banking Board within 10
18 days after receipt of the order. The hearing shall be held by
19 the Board within 30 days after the request has been received by
20 the Board. The Board shall make a determination approving,
21 modifying, or disapproving the order of the Commissioner as its
22 final administrative decision. If a hearing is held by the
23 Board, the Board shall make its determination within 60 days
24 from the conclusion of the hearing. Any person affected by a
25 decision of the Board under this subsection (7) of Section 48
26 of this Act may have the decision reviewed only under and in

1 accordance with the Administrative Review Law and the rules
2 adopted pursuant thereto. A copy of the order shall also be
3 served upon the bank of which he is a director, officer,
4 employee, or agent, whereupon he shall cease to be a director,
5 officer, employee, or agent of that bank. The Commissioner may
6 institute a civil action against the director, officer, or
7 agent of the State bank or, after May 31, 1997, of the branch
8 of the out-of-state bank against whom any order provided for by
9 this subsection (7) of this Section 48 has been issued, and
10 against the State bank or, after May 31, 1997, out-of-state
11 bank, to enforce compliance with or to enjoin any violation of
12 the terms of the order. Any person who has been the subject of
13 an order of removal or an order of prohibition issued by the
14 Commissioner under this subsection or Section 5-6 of the
15 Corporate Fiduciary Act may not thereafter serve as director,
16 officer, employee, or agent of any State bank or of any branch
17 of any out-of-state bank, or of any corporate fiduciary, as
18 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of
19 any other entity that is subject to licensure or regulation by
20 the Commissioner or the Office of Banks and Real Estate unless
21 the Commissioner has granted prior approval in writing.

22 For purposes of this paragraph (7), "bank holding company"
23 has the meaning prescribed in Section 2 of the Illinois Bank
24 Holding Company Act of 1957.

25 (8) The Commissioner may impose civil penalties of up to
26 \$10,000 against any person for each violation of any provision

1 of this Act, any rule promulgated in accordance with this Act,
2 any order of the Commissioner, or any other action which in the
3 Commissioner's discretion is an unsafe or unsound banking
4 practice.

5 (9) The Commissioner may impose civil penalties of up to
6 \$100 against any person for the first failure to comply with
7 reporting requirements set forth in the report of examination
8 of the bank and up to \$200 for the second and subsequent
9 failures to comply with those reporting requirements.

10 (10) All final administrative decisions of the
11 Commissioner hereunder shall be subject to judicial review
12 pursuant to the provisions of the Administrative Review Law.
13 For matters involving administrative review, venue shall be in
14 either Sangamon County or Cook County.

15 (11) The endowment fund for the Illinois Bank Examiners'
16 Education Foundation shall be administered as follows:

17 (a) (Blank).

18 (b) The Foundation is empowered to receive voluntary
19 contributions, gifts, grants, bequests, and donations on
20 behalf of the Illinois Bank Examiners' Education
21 Foundation from national banks and other persons for the
22 purpose of funding the endowment of the Illinois Bank
23 Examiners' Education Foundation.

24 (c) The aggregate of all special educational fees
25 collected by the Commissioner and property received by the
26 Commissioner on behalf of the Illinois Bank Examiners'

1 Education Foundation under this subsection (11) on or after
2 June 30, 1986, shall be either (i) promptly paid after
3 receipt of the same, accompanied by a detailed statement
4 thereof, into the State Treasury and shall be set apart in
5 a special fund to be known as "The Illinois Bank Examiners'
6 Education Fund" to be invested by either the Treasurer of
7 the State of Illinois in the Public Treasurers' Investment
8 Pool or in any other investment he is authorized to make or
9 by the Illinois State Board of Investment as the board of
10 trustees of the Illinois Bank Examiners' Education
11 Foundation may direct or (ii) deposited into an account
12 maintained in a commercial bank or corporate fiduciary in
13 the name of the Illinois Bank Examiners' Education
14 Foundation pursuant to the order and direction of the Board
15 of Trustees of the Illinois Bank Examiners' Education
16 Foundation.

17 (12) (Blank).

18 (Source: P.A. 94-91, eff. 7-1-05.)

19 (205 ILCS 5/48.05 new)

20 Sec. 48.05. Regulatory fees. For the fiscal year beginning
21 July 1, 2007 and every year thereafter, each state bank
22 regulated by the Department shall pay a regulatory fee to the
23 Department based upon its total assets as shown by its year-end
24 Call Report at the following rates:

25 19.295¢ per \$1,000 of the first \$5,000,000 of total

1 assets;

2 18.16¢ per \$1,000 of the next \$20,000,000 of total

3 assets;

4 15.89¢ per \$1,000 of the next \$75,000,000 of total

5 assets;

6 10.7825¢ per \$1,000 of the next \$400,000,000 of total

7 assets;

8 8.5125¢ per \$1,000 of the next \$500,000,000 of total

9 assets;

10 6.2425¢ per \$1,000 of the next \$19,000,000,000 of total

11 assets;

12 2.27¢ per \$1,000 of the next \$30,000,000,000 of total

13 assets;

14 1.135¢ per \$1,000 of the next \$50,000,000,000 of total

15 assets; and

16 0.5675¢ per \$1,000 of all assets in excess of

17 \$100,000,000,000 of the state bank.

18 Section 15. The Illinois Savings and Loan Act of 1985 is
19 amended by adding Sections 1-10.39 and 7-3.05 and by changing
20 Sections 7-3 and 7-19.1 as follows:

21 (205 ILCS 105/1-10.39 new)

22 Sec. 1-10.39. Secretary of the Department of Financial and
23 Professional Regulation. For purposes of this Act, "Secretary"
24 means the Secretary of the Department of Financial and

1 Professional Regulation, or a person authorized by the
2 Secretary or by this Act to act in the Secretary's stead.

3 (205 ILCS 105/7-3) (from Ch. 17, par. 3307-3)

4 Sec. 7-3. Personnel, records, files, actions and duties,
5 etc.

6 (a) The Secretary ~~Commissioner~~ shall appoint, subject to
7 applicable provisions of the Personnel Code, a supervisor, such
8 examiners, employees, experts and special assistants as may be
9 necessary to carry out effectively this Act. The Secretary
10 ~~Commissioner~~ shall require each supervisor, examiner, expert
11 and special assistant employed or appointed by him to give
12 bond, with security to be approved by the Secretary
13 ~~Commissioner~~, not less in any case than \$15,000, conditioned
14 for the faithful discharge of his duties. The premium on such
15 bond shall be paid by the Secretary ~~Commissioner~~ from funds
16 appropriated for that purpose. The bond, along with
17 verification of payment of the premium on such bond, shall be
18 filed in the office of the Secretary of State.

19 (b) The Secretary ~~Commissioner~~ shall have the following
20 duties and powers:

21 (1) To exercise the rights, powers and duties set forth in
22 this Act or in any other related Act;

23 (2) To establish such regulations as may be reasonable or
24 necessary to accomplish the purposes of this Act;

25 (3) To direct and supervise all the administrative and

1 technical activities of this office and create an Advisory
2 Committee which upon request will make recommendations to him;

3 (4) To make an annual report regarding the work of his
4 office as he may consider desirable to the Governor, or as the
5 Governor may request;

6 (5) To cause a suit to be filed in his name to enforce any
7 law of this State that applies to an association, subsidiary of
8 an association, or holding company operating under this Act and
9 shall include the enforcement of any obligation of the
10 officers, directors or employees of any association;

11 (6) To prescribe a uniform manner in which the books and
12 records of every association are to be maintained; and

13 (7) To establish reasonable and rationally based fee
14 structures for each association and holding company operating
15 under this Act and for their service corporations and
16 subsidiaries, which fees shall include but not be limited to
17 annual fees, application fees, regular and special examination
18 fees, and such other fees as the Secretary ~~Commissioner~~
19 establishes and demonstrates to be directly resultant from his
20 responsibilities under this Act and as are directly
21 attributable to individual entities operating under this Act.

22 (Source: P.A. 85-313.)

23 (205 ILCS 105/7-3.05 new)

24 Sec. 7-3.05. Regulatory fees.

25 (a) For the fiscal year beginning July 1, 2007 and every

1 year thereafter, each association and each service corporation
2 operating under the provisions of this Act shall pay a fixed
3 fee of \$520, plus a variable fee based on the total assets of
4 the association or service corporation at the following rates:

5 28.75¢ per \$1,000 of the first \$2,000,000 of total
6 assets;

7 24.97¢ per \$1,000 of the next \$3,000,000 of total
8 assets;

9 22.70¢ per \$1,000 of the next \$5,000,000 of total
10 assets;

11 19.295¢ per \$1,000 of the next \$15,000,000 of total
12 assets;

13 17.025¢ per \$1,000 of the next \$25,000,000 of total
14 assets;

15 13.62¢ per \$1,000 of the next \$50,000,000 of total
16 assets;

17 11.35¢ per \$1,000 of the next \$400,000,000 of total
18 assets;

19 7.945¢ per \$1,000 of the next \$500,000,000 of total
20 assets; and

21 5.675¢ per \$1,000 of all total assets in excess of
22 \$1,000,000,000 of such association or service corporation.

23 (b) The Secretary shall receive and there shall be paid to
24 the Secretary an additional fee as an adjustment to the
25 supervisory fee, based upon the difference between the total
26 assets of the association or service corporation as shown by

1 its financial report filed with the Secretary for the reporting
2 period of the calendar year ended December 31 on which the
3 supervisory fee was based and the total assets of the
4 association or service corporation as shown by its financial
5 report filed with the Secretary for the reporting period of the
6 calendar year ended December 31 in which the quarterly payments
7 are made according to the following schedule:

8 28.75¢ per \$1,000 of the first \$2,000,000 of total
9 assets;

10 24.97¢ per \$1,000 of the next \$3,000,000 of total
11 assets;

12 22.70¢ per \$1,000 of the next \$5,000,000 of total
13 assets;

14 19.295¢ per \$1,000 of the next \$15,000,000 of total
15 assets;

16 17.025¢ per \$1,000 of the next \$25,000,000 of total
17 assets;

18 13.62¢ per \$1,000 of the next \$50,000,000 of total
19 assets;

20 11.35¢ per \$1,000 of the next \$400,000,000 of total
21 assets;

22 7.945¢ per \$1,000 of the next \$500,000,000 of total
23 assets; and

24 5.675¢ per \$1,000 of all total assets in excess of
25 \$1,000,000,000 of such association or service corporation.

26 (c) The Secretary shall receive and there shall be paid to

1 the Secretary by each association and each service corporation
2 a fee of \$520 for each approved branch office or facility
3 office established under the Illinois Administrative Code. The
4 determination of the fees shall be made annually as of the
5 close of business of the prior calendar year ended December 31.

6 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

7 Sec. 7-19.1. Savings and Residential Finance Regulatory
8 Fund.

9 (a) The aggregate of all fees collected by the Secretary
10 ~~Commissioner~~ under this Act shall be paid promptly after
11 receipt of the same, accompanied by a detailed statement
12 thereof, into the State treasury and shall be set apart in the
13 Savings and Residential Finance Regulatory Fund, a special fund
14 hereby created in the State treasury. The amounts deposited
15 into the Fund shall be used for the ordinary and contingent
16 expenses of the Department of Financial and Professional
17 Regulation and the Division of Banking, or their successors, in
18 administering and enforcing the Illinois Savings and Loan Act
19 of 1985, the Savings Bank Act, and the Residential Mortgage
20 License Act of 1987 and other laws, rules, and regulations as
21 may apply to the administration and enforcement of the
22 foregoing laws, rules, and regulations as amended from time to
23 time ~~Office of Banks and Real Estate~~. Nothing in this Act shall
24 prevent continuing the practice of paying expenses involving
25 salaries, retirement, social security, and State-paid

1 insurance of State officers by appropriation from the General
2 Revenue Fund.

3 (b) Except as otherwise provided in subsection (b-5),
4 moneys in the Savings and Residential Finance Regulatory Fund
5 may not be appropriated, assigned, or transferred to another
6 State fund. The moneys in the Fund shall be for the sole
7 benefit of the institutions assessed.

8 (b-5) Moneys in the Savings and Residential Finance
9 Regulatory Fund may be transferred to the Professions Indirect
10 Cost Fund, as authorized under Section 2105-300 of the
11 Department of Professional Regulation Law of the Civil
12 Administrative Code of Illinois.

13 (b-10) Notwithstanding provisions in the State Finance
14 Act, as now or hereafter amended, or any other law to the
15 contrary, the sum of \$27,481,638 shall be transferred from the
16 Savings and Residential Finance Regulatory Fund to the
17 Financial Institutions Settlement of 2008 Fund on the effective
18 date of this amendatory Act of the 95th General Assembly, or as
19 soon thereafter as practical.

20 Notwithstanding provisions in the State Finance Act, as now
21 or hereafter amended, or any other law to the contrary, the
22 Governor may, during any fiscal year through January 10, 2011,
23 from time to time direct the State Treasurer and Comptroller to
24 transfer a specified sum not exceeding 10% of the revenues to
25 be deposited into the Savings and Residential Finance
26 Regulatory Fund during that fiscal year from that Fund to the

1 General Revenue Fund in order to help defray the State's
2 operating costs for the fiscal year. Notwithstanding
3 provisions in the State Finance Act, as now or hereafter
4 amended, or any other law to the contrary, the total sum
5 transferred during any fiscal year through January 10, 2011,
6 from the Savings and Residential Finance Regulatory Fund to the
7 General Revenue Fund pursuant to this provision shall not
8 exceed during any fiscal year 10% of the revenues to be
9 deposited into the Savings and Residential Finance Regulatory
10 Fund during that fiscal year. The State Treasurer and
11 Comptroller shall transfer the amounts designated under this
12 Section as soon as may be practicable after receiving the
13 direction to transfer from the Governor.

14 (c) All earnings received from investments of funds in the
15 Savings and Residential Finance Regulatory Fund shall be
16 deposited into the Savings and Residential Finance Regulatory
17 Fund and may be used for the same purposes as fees deposited
18 into that Fund.

19 (d) When the balance in the Savings and Residential Finance
20 Regulatory Fund at the end of a fiscal year apportioned to the
21 fees collected under the Illinois Savings and Loan Act of 1985
22 and the Savings Bank Act exceeds 25% of the total actual
23 administrative and operational expenses incurred by the State
24 for that fiscal year in administering and enforcing the
25 Illinois Savings and Loan Act of 1985 and the Savings Bank Act
26 and such other laws, rules, and regulations as may apply to the

1 administration and enforcement of the foregoing laws, rules,
2 and regulations, the excess shall be credited to the
3 appropriate institutions and entities and applied against
4 their regulatory fees for the subsequent fiscal year. The
5 amount credited to each institution or entity shall be in the
6 same proportion that the regulatory fees paid by the
7 institution or entity for the fiscal year in which the excess
8 is produced bear to the aggregate amount of all fees collected
9 by the Secretary under the Illinois Savings and Loan Act of
10 1985 and the Savings Bank Act for the same fiscal year. For the
11 purpose of this Section, "fiscal year" means the period
12 beginning July 1 of any year and ending June 30 of the next
13 calendar year.

14 (Source: P.A. 94-91, eff. 7-1-05.)

15 Section 20. The Savings Bank Act is amended by adding
16 Sections 1007.135 and 9002.5 and by changing Section 9002 as
17 follows:

18 (205 ILCS 205/1007.135 new)

19 Sec. 1007.135. Secretary of the Department of Financial and
20 Professional Regulation. "Secretary" means the Secretary of
21 the Department of Financial and Professional Regulation, or a
22 person authorized by the Secretary or by this Act to act in the
23 Secretary's stead.

1 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

2 Sec. 9002. Powers of Secretary Commissioner. The Secretary
3 ~~Commissioner~~ shall have the following powers and duties:

4 (1) To exercise the rights, powers, and duties set forth in
5 this Act or in any related Act.

6 (2) To establish regulations as may be reasonable or
7 necessary to accomplish the purposes of this Act.

8 (3) To make an annual report regarding the work of his
9 office under this Act as he may consider desirable to the
10 Governor, or as the Governor may request.

11 (4) To cause a suit to be filed in his name to enforce any
12 law of this State that applies to savings banks, their service
13 corporations, subsidiaries, affiliates, or holding companies
14 operating under this Act, including the enforcement of any
15 obligation of the officers, directors, agents, or employees of
16 any savings bank.

17 (5) To prescribe a uniform manner in which the books and
18 records of every savings bank are to be maintained.

19 (6) To establish a reasonable fee structure for savings
20 banks and holding companies operating under this Act and for
21 their service corporations and subsidiaries. The fees shall
22 include, but not be limited to, annual fees, application fees,
23 regular and special examination fees, and other fees as the
24 Secretary Commissioner establishes and demonstrates to be
25 directly resultant from the Secretary's ~~Commissioner's~~
26 responsibilities under this Act and as are directly

1 attributable to individual entities operating under this Act.
2 The aggregate of all fees collected by the Secretary
3 ~~Commissioner~~ on and after the effective date of this Act shall
4 be paid promptly after receipt of the same, accompanied by a
5 detailed statement thereof, into the Savings and Residential
6 Finance Regulatory Fund subject to the provisions of Section
7 7-19.1 of the Illinois Savings and Loan Act of 1985 including
8 without limitation the provision for credits against
9 regulatory fees. The amounts deposited into the Fund shall be
10 used for the ordinary and contingent expenses of the Office of
11 Banks and Real Estate. Nothing in this Act shall prevent
12 continuing the practice of paying expenses involving salaries,
13 retirement, social security, and State-paid insurance of State
14 officers by appropriation from the General Revenue Fund.

15 (Source: P.A. 89-508, eff. 7-3-96.)

16 (205 ILCS 205/9002.5 new)

17 Sec. 9002.5. Regulatory fees.

18 (a) For the fiscal year beginning July 1, 2007 and every
19 year thereafter, each savings bank and each service corporation
20 operating under this Act shall pay a fixed fee of \$520, plus a
21 variable fee based on the total assets of the savings bank or
22 service corporation at the following rates:

23 24.97¢ per \$1,000 of the first \$2,000,000 of total

24 assets;

25 22.70¢ per \$1,000 of the next \$3,000,000 of total

1 assets;

2 20.43¢ per \$1,000 of the next \$5,000,000 of total

3 assets;

4 17.025¢ per \$1,000 of the next \$15,000,000 of total

5 assets;

6 14.755¢ per \$1,000 of the next \$25,000,000 of total

7 assets;

8 12.485¢ per \$1,000 of the next \$50,000,000 of total

9 assets;

10 10.215¢ per \$1,000 of the next \$400,000,000 of total

11 assets;

12 6.81¢ per \$1,000 of the next \$500,000,000 of total

13 assets; and

14 4.54¢ per \$1,000 of all total assets in excess of

15 \$1,000,000,000 of such savings bank or service

16 corporation.

17 (b) The Secretary shall receive and there shall be paid to

18 the Secretary an additional fee as an adjustment to the

19 supervisory fee, based upon the difference between the total

20 assets of each savings bank and each service corporation as

21 shown by its financial report filed with the Secretary for the

22 reporting period of the calendar year ended December 31 on

23 which the supervisory fee was based and the total assets of

24 each savings bank and each service corporation as shown by its

25 financial report filed with the Secretary for the reporting

26 period of the calendar year ended December 31 in which the

1 quarterly payments are made according to the following
2 schedule:

3 24.97¢ per \$1,000 of the first \$2,000,000 of total
4 assets;

5 22.70¢ per \$1,000 of the next \$3,000,000 of total
6 assets;

7 20.43¢ per \$1,000 of the next \$5,000,000 of total
8 assets;

9 17.025¢ per \$1,000 of the next \$15,000,000 of total
10 assets;

11 14.755¢ per \$1,000 of the next \$25,000,000 of total
12 assets;

13 12.485¢ per \$1,000 of the next \$50,000,000 of total
14 assets;

15 10.215¢ per \$1,000 of the next \$400,000,000 of total
16 assets;

17 6.81¢ per \$1,000 of the next \$500,000,000 of total
18 assets; and

19 4.54¢ per \$1,000 of all total assets in excess of
20 \$1,000,000,000 of such savings bank or service
21 corporation.

22 (c) The Secretary shall receive and there shall be paid to
23 the Secretary by each savings bank and each service corporation
24 a fee of \$520 for each approved branch office or facility
25 office established under the Illinois Administrative Code. The
26 determination of the fees shall be made annually as of the

1 close of business of the prior calendar year ended December 31.

2 Section 25. The Illinois Credit Union Act is amended by
3 changing Sections 1.1 and 12 as follows:

4 (205 ILCS 305/1.1) (from Ch. 17, par. 4402)

5 Sec. 1.1. Definitions.

6 Credit Union - The term "credit union" means a cooperative,
7 non-profit association, incorporated under this Act, under the
8 laws of the United States of America or under the laws of
9 another state, for the purposes of encouraging thrift among its
10 members, creating a source of credit at a reasonable rate of
11 interest, and providing an opportunity for its members to use
12 and control their own money in order to improve their economic
13 and social conditions. The membership of a credit union shall
14 consist of a group or groups each having a common bond as set
15 forth in this Act.

16 Common Bond - The term "common bond" refers to groups of
17 people who meet one of the following qualifications:

18 (1) Persons belonging to a specific association, group
19 or organization, such as a church, labor union, club or
20 society and members of their immediate families which shall
21 include any relative by blood or marriage or foster and
22 adopted children.

23 (2) Persons who reside in a reasonably compact and well
24 defined neighborhood or community, and members of their

1 immediate families which shall include any relative by
2 blood or marriage or foster and adopted children.

3 (3) Persons who have a common employer or who are
4 members of an organized labor union or an organized
5 occupational or professional group within a defined
6 geographical area, and members of their immediate families
7 which shall include any relative by blood or marriage or
8 foster and adopted children.

9 Shares - The term "shares" or "share accounts" means any
10 form of shares issued by a credit union and established by a
11 member in accordance with standards specified by a credit
12 union, including but not limited to common shares, share draft
13 accounts, classes of shares, share certificates, special
14 purpose share accounts, shares issued in trust, custodial
15 accounts, and individual retirement accounts or other plans
16 established pursuant to Section 401(d) or (f) or Section 408(a)
17 of the Internal Revenue Code, as now or hereafter amended, or
18 similar provisions of any tax laws of the United States that
19 may hereafter exist.

20 Credit Union Organization - The term "credit union
21 organization" means any organization established to serve the
22 needs of credit unions, the business of which relates to the
23 daily operations of credit unions.

24 Department - The term "Department" means the Illinois
25 Department of Financial Institutions.

26 Director - The term "Director" means the Director of the

1 Illinois Department of Financial Institutions, except that
2 beginning on the effective date of this amendatory Act of the
3 95th General Assembly, all references in this Act to the
4 Director of the Department of Financial Institutions are
5 deemed, in appropriate contexts, to be references to the
6 Secretary of Financial and Professional Regulation.

7 NCUA - The term "NCUA" means the National Credit Union
8 Administration, an agency of the United States Government
9 charged with the supervision of credit unions chartered under
10 the laws of the United States of America.

11 Central Credit Union - The term "central credit union"
12 means a credit union incorporated primarily to receive shares
13 from and make loans to credit unions and Directors, Officers,
14 committee members and employees of credit unions. A central
15 credit union may also accept as members persons who were
16 members of credit unions which were liquidated and persons from
17 occupational groups not otherwise served by another credit
18 union.

19 Corporate Credit Union - The term "corporate credit union"
20 means a credit union which is a cooperative, non-profit
21 association, the membership of which is limited primarily to
22 other credit unions.

23 Insolvent - "Insolvent" means the condition that results
24 when the total of all liabilities and shares exceeds net assets
25 of the credit union.

26 Danger of insolvency - For purposes of Section 61, a credit

1 union is in "danger of insolvency" if its net worth to asset
2 ratio falls below 2%. In calculating the danger of insolvency
3 ratio, secondary capital shall be excluded. For purposes of
4 Section 61, a credit union is also in "danger of insolvency" if
5 the Department is unable to ascertain, upon examination, the
6 true financial condition of the credit union.

7 Net Worth - "Net worth" means the retained earnings balance
8 of the credit union, as determined under generally accepted
9 accounting principles, and forms of secondary capital approved
10 by the Director pursuant to rulemaking.

11 Secretary - The term "Secretary" means the Secretary of the
12 Department of Financial and Professional Regulation, or a
13 person authorized by the Secretary or this Act to act in the
14 Secretary's stead.

15 (Source: P.A. 92-608, eff. 7-1-02.)

16 (205 ILCS 305/12) (from Ch. 17, par. 4413)

17 Sec. 12. Regulatory fees.

18 (1) For the fiscal year beginning July 1, 2007, a ~~A~~ credit
19 union regulated by the Department shall pay a regulatory fee to
20 the Department based upon its total assets as shown by its
21 Year-end Call Report at the following rates or at a lesser rate
22 established by the Secretary in a manner proportionately
23 consistent with the following rates and sufficient to fund the
24 actual administrative and operational expenses of the Credit
25 Union Section pursuant to subsection (4) of this Section:

1	TOTAL ASSETS	REGULATORY FEE
2	\$25,000 or less	\$100
3	Over \$25,000 and not over	
4	\$100,000	\$100 plus \$4 per
5		\$1,000 of assets in excess of
6		\$25,000
7	Over \$100,000 and not over	
8	\$200,000	\$400 plus \$3 per
9		\$1,000 of assets in excess of
10		\$100,000
11	Over \$200,000 and not over	
12	\$500,000	\$700 plus \$2 per
13		\$1,000 of assets in excess of
14		\$200,000
15	Over \$500,000 and not over	
16	\$1,000,000	\$1,300 plus \$1.40
17		per \$1,000 of assets in excess
18		of \$500,000
19	Over \$1,000,000 and not	
20	over \$5,000,000	\$2,000 plus \$0.50
21		per \$1,000 of assets in
22		excess of \$1,000,000
23	Over \$5,000,000 and not	
24	over \$30,000,000	<u>\$4,540</u> \$5,080 plus <u>\$0.397</u> \$0.44
25		per \$1,000 assets
26		in excess of \$5,000,000

1	Over \$30,000,000 and not over	
2	\$100,000,000	<u>\$14,471</u> \$16,192 plus <u>\$0.34</u>
3		\$0.38 per \$1,000 of assets
4		in excess of \$30,000,000
5		
6	Over \$100,000,000 and not	
7	over \$500,000,000	<u>\$38,306</u> \$42,862 plus <u>\$0.17</u>
8		\$0.19 per \$1,000 of assets
9		in excess of \$100,000,000
10	Over \$500,000,000	<u>\$106,406</u> \$140,625 plus <u>\$0.056</u>
11		\$0.075 per \$1,000 of assets
12		in excess of \$500,000,000

13 (2) The Secretary ~~Director~~ shall review the regulatory fee
14 schedule in subsection (1) and the projected earnings on those
15 fees on an annual basis and adjust the fee schedule no more
16 than 5% annually if necessary to defray the estimated
17 administrative and operational expenses of the Credit Union
18 Section of the Department as defined in subsection (5).
19 However, the fee schedule shall not be increased if the amount
20 remaining in the Credit Union Fund at the end of any fiscal
21 year is greater than 25% of the total actual and operational
22 expenses incurred by the State in administering and enforcing
23 the Illinois Credit Union Act and other laws, rules, and
24 regulations as may apply to the administration and enforcement
25 of the foregoing laws, rules, and regulations as amended from
26 time to time for the preceding fiscal year. The regulatory fee

1 for the next fiscal year shall be calculated by the Secretary
2 based on the credit union's total assets as of December 31 of
3 the preceding calendar year. The Secretary ~~Director~~ shall
4 provide credit unions with written notice of any adjustment
5 made in the regulatory fee schedule.

6 (3) Beginning with the calendar quarter commencing on
7 January 1, 2009 ~~Not later than March 1 of each calendar year,~~ a
8 credit union shall pay to the Department a regulatory fee in
9 quarterly installments equal to one-fourth of the regulatory
10 fee due ~~for that calendar year~~ in accordance with the
11 regulatory fee schedule in subsection (1), on the basis of
12 assets as of the Year-end Call Report of the preceding calendar
13 year. The total annual regulatory fee shall not be less than
14 \$100 or more than \$141,875 ~~\$187,500~~, provided that the
15 regulatory fee cap of \$141,875 ~~\$187,500~~ shall be adjusted to
16 incorporate the same percentage increase as the Secretary
17 ~~Director~~ makes in the regulatory fee schedule from time to time
18 under subsection (2). No regulatory fee shall be collected from
19 a credit union until it has been in operation for one year. The
20 regulatory fee shall be billed to credit unions on a quarterly
21 basis commencing with the quarter ending March 31, 2009, and it
22 shall be payable by credit unions on the due date for the Call
23 Report for the subject quarter.

24 (4) The aggregate of all fees collected by the Department
25 under this Act shall be paid promptly after they are received,
26 accompanied by a detailed statement thereof, into the State

1 Treasury and shall be set apart in the Credit Union Fund, a
2 special fund hereby created in the State treasury. The amount
3 from time to time deposited in the Credit Union Fund and shall
4 be used to offset the ordinary administrative and operational
5 expenses of the Credit Union Section of the Department under
6 this Act. All earnings received from investments of funds in
7 the Credit Union Fund shall be deposited into the Credit Union
8 Fund and may be used for the same purposes as fees deposited
9 into that Fund. Moneys deposited in the Credit Union Fund may
10 be transferred to the Professions Indirect Cost Fund, as
11 authorized under Section 2105-300 of the Department of
12 Professional Regulation Law of the Civil Administrative Code of
13 Illinois.

14 Notwithstanding provisions in the State Finance Act, as now
15 or hereafter amended, or any other law to the contrary, the sum
16 of \$4,404,515 shall be transferred from the Credit Union Fund
17 to the Financial Institutions Settlement of 2008 Fund as of the
18 effective date of this amendatory Act of the 95th General
19 Assembly, or as soon thereafter as practical.

20 Notwithstanding provisions in the State Finance Act, as now
21 or hereafter amended, or any other law to the contrary, the
22 Governor may, during any fiscal year through January 10, 2011,
23 from time to time direct the State Treasurer and Comptroller to
24 transfer a specified sum not exceeding 10% of the revenues to
25 be deposited into the Credit Union Fund during that fiscal year
26 from that Fund to the General Revenue Fund in order to help

1 defray the State's operating costs for the fiscal year.
2 Notwithstanding provisions in the State Finance Act, as now or
3 hereafter amended, or any other law to the contrary, the total
4 sum transferred from the Credit Union Fund to the General
5 Revenue Fund pursuant to this provision shall not exceed during
6 any fiscal year 10% of the revenues to be deposited into the
7 Credit Union Fund during that fiscal year. The State Treasurer
8 and Comptroller shall transfer the amounts designated under
9 this Section as soon as may be practicable after receiving the
10 direction to transfer from the Governor.

11 (5) The administrative and operational expenses for any
12 fiscal ~~calendar~~ year shall mean the ordinary and contingent
13 expenses for that year incidental to making the examinations
14 provided for by, and for administering, this Act, including all
15 salaries and other compensation paid for personal services
16 rendered for the State by officers or employees of the State to
17 enforce this Act; all expenditures for telephone and telegraph
18 charges, postage and postal charges, office supplies and
19 services, furniture and equipment, office space and
20 maintenance thereof, travel expenses and other necessary
21 expenses; all to the extent that such expenditures are directly
22 incidental to such examination or administration.

23 (6) When the balance in the Credit Union Fund at the end of
24 a fiscal year exceeds 25% ~~aggregate of all fees collected by~~
25 ~~the Department under this Act and all earnings thereon for any~~
26 ~~calendar year exceeds 150%~~ of the total administrative and

1 operational expenses incurred by the State in administering and
2 enforcing the Illinois Credit Union Act and other laws, rules,
3 and regulations as may apply to the administration and
4 enforcement of the foregoing laws, rules, and regulations as
5 amended from time to time ~~under this Act~~ for that fiscal year,
6 such excess shall be credited to credit unions and applied
7 against their regulatory fees for the subsequent fiscal year.
8 The amount credited to each a credit union shall be in the same
9 proportion as the regulatory fee paid by such credit union for
10 the fiscal ~~calendar~~ year in which the excess is produced bears
11 to the aggregate amount of all ~~the~~ fees collected by the
12 Department under this Act for the same fiscal year.

13 (7) (Blank). ~~Examination fees for the year 2000 statutory~~
14 ~~examinations paid pursuant to the examination fee schedule in~~
15 ~~effect at that time shall be credited toward the regulatory fee~~
16 ~~to be assessed the credit union in calendar year 2001.~~

17 (8) Nothing in this Act shall prohibit the General Assembly
18 from appropriating funds to the Department from the General
19 Revenue Fund for the purpose of administering this Act.

20 (9) For purposes of this Section, "fiscal year" means a
21 period beginning on July 1 of any calendar year and ending on
22 June 30 of the next calendar year.

23 (Source: P.A. 93-32, eff. 7-1-03; 93-652, eff. 1-8-04; 94-91,
24 eff. 7-1-05.)

25 Section 30. The Residential Mortgage License Act of 1987 is

1 amended by changing Sections 1-4, 2-2, 2-6, and 4-11 as
2 follows:

3 (205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

4 Sec. 1-4. Definitions.

5 (a) "Residential real property" or "residential real
6 estate" shall mean real property located in this State improved
7 by a one-to-four family dwelling used or occupied, wholly or
8 partly, as the home or residence of one or more persons and may
9 refer, subject to regulations of the Commissioner, to
10 unimproved real property upon which those kinds dwellings are
11 to be constructed.

12 (b) "Making a residential mortgage loan" or "funding a
13 residential mortgage loan" shall mean for compensation or gain,
14 either directly or indirectly, advancing funds or making a
15 commitment to advance funds to a loan applicant for a
16 residential mortgage loan.

17 (c) "Soliciting, processing, placing, or negotiating a
18 residential mortgage loan" shall mean for compensation or gain,
19 either directly or indirectly, accepting or offering to accept
20 an application for a residential mortgage loan, assisting or
21 offering to assist in the processing of an application for a
22 residential mortgage loan on behalf of a borrower, or
23 negotiating or offering to negotiate the terms or conditions of
24 a residential mortgage loan with a lender on behalf of a
25 borrower including, but not limited to, the submission of

1 credit packages for the approval of lenders, the preparation of
2 residential mortgage loan closing documents, including a
3 closing in the name of a broker.

4 (d) "Exempt person or entity" shall mean the following:

5 (1) (i) Any banking organization or foreign banking
6 corporation licensed by the Illinois Commissioner of Banks
7 and Real Estate or the United States Comptroller of the
8 Currency to transact business in this State; (ii) any
9 national bank, federally chartered savings and loan
10 association, federal savings bank, federal credit union;
11 (iii) any pension trust, bank trust, or bank trust company;
12 (iv) any bank, savings and loan association, savings bank,
13 or credit union organized under the laws of this or any
14 other state; (v) any Illinois Consumer Installment Loan Act
15 licensee; (vi) any insurance company authorized to
16 transact business in this State; (vii) any entity engaged
17 solely in commercial mortgage lending; (viii) any service
18 corporation of a savings and loan association or savings
19 bank organized under the laws of this State or the service
20 corporation of a federally chartered savings and loan
21 association or savings bank having its principal place of
22 business in this State, other than a service corporation
23 licensed or entitled to reciprocity under the Real Estate
24 License Act of 2000; or (ix) any first tier subsidiary of a
25 bank, the charter of which is issued under the Illinois
26 Banking Act by the Illinois Commissioner of Banks and Real

1 Estate, or the first tier subsidiary of a bank chartered by
2 the United States Comptroller of the Currency and that has
3 its principal place of business in this State, provided
4 that the first tier subsidiary is regularly examined by the
5 Illinois Commissioner of Banks and Real Estate or the
6 Comptroller of the Currency, or a consumer compliance
7 examination is regularly conducted by the Federal Reserve
8 Board.

9 (1.5) Any employee of a person or entity mentioned in
10 item (1) of this subsection.

11 (2) Any person or entity that does not originate
12 mortgage loans in the ordinary course of business making or
13 acquiring residential mortgage loans with his or her or its
14 own funds for his or her or its own investment without
15 intent to make, acquire, or resell more than 10 residential
16 mortgage loans in any one calendar year.

17 (3) Any person employed by a licensee to assist in the
18 performance of the activities regulated by this Act who is
19 compensated in any manner by only one licensee.

20 (4) Any person licensed pursuant to the Real Estate
21 License Act of 2000, who engages only in the taking of
22 applications and credit and appraisal information to
23 forward to a licensee or an exempt entity under this Act
24 and who is compensated by either a licensee or an exempt
25 entity under this Act, but is not compensated by either the
26 buyer (applicant) or the seller.

1 (5) Any individual, corporation, partnership, or other
2 entity that originates, services, or brokers residential
3 mortgage loans, as these activities are defined in this
4 Act, and who or which receives no compensation for those
5 activities, subject to the Commissioner's regulations with
6 regard to the nature and amount of compensation.

7 (6) A person who prepares supporting documentation for
8 a residential mortgage loan application taken by a licensee
9 and performs ministerial functions pursuant to specific
10 instructions of the licensee who neither requires nor
11 permits the preparer to exercise his or her discretion or
12 judgment; provided that this activity is engaged in
13 pursuant to a binding, written agreement between the
14 licensee and the preparer that:

15 (A) holds the licensee fully accountable for the
16 preparer's action; and

17 (B) otherwise meets the requirements of this
18 Section and this Act, does not undermine the purposes
19 of this Act, and is approved by the Commissioner.

20 (e) "Licensee" or "residential mortgage licensee" shall
21 mean a person, partnership, association, corporation, or any
22 other entity who or which is licensed pursuant to this Act to
23 engage in the activities regulated by this Act.

24 (f) "Mortgage loan" "residential mortgage loan" or "home
25 mortgage loan" shall mean a loan to or for the benefit of any
26 natural person made primarily for personal, family, or

1 household use, primarily secured by either a mortgage on
2 residential real property or certificates of stock or other
3 evidence of ownership interests in and proprietary leases from,
4 corporations, partnerships, or limited liability companies
5 formed for the purpose of cooperative ownership of residential
6 real property, all located in Illinois.

7 (g) "Lender" shall mean any person, partnership,
8 association, corporation, or any other entity who either lends
9 or invests money in residential mortgage loans.

10 (h) "Ultimate equitable owner" shall mean a person who,
11 directly or indirectly, owns or controls an ownership interest
12 in a corporation, foreign corporation, alien business
13 organization, trust, or any other form of business organization
14 regardless of whether the person owns or controls the ownership
15 interest through one or more persons or one or more proxies,
16 powers of attorney, nominees, corporations, associations,
17 partnerships, trusts, joint stock companies, or other entities
18 or devices, or any combination thereof.

19 (i) "Residential mortgage financing transaction" shall
20 mean the negotiation, acquisition, sale, or arrangement for or
21 the offer to negotiate, acquire, sell, or arrange for, a
22 residential mortgage loan or residential mortgage loan
23 commitment.

24 (j) "Personal residence address" shall mean a street
25 address and shall not include a post office box number.

26 (k) "Residential mortgage loan commitment" shall mean a

1 contract for residential mortgage loan financing.

2 (l) "Party to a residential mortgage financing
3 transaction" shall mean a borrower, lender, or loan broker in a
4 residential mortgage financing transaction.

5 (m) "Payments" shall mean payment of all or any of the
6 following: principal, interest and escrow reserves for taxes,
7 insurance and other related reserves, and reimbursement for
8 lender advances.

9 (n) "Commissioner" shall mean the Commissioner of Banks and
10 Real Estate, except that beginning on the effective date of
11 this amendatory Act of the 95th General Assembly, all
12 references in this Act to the Commissioner of Banks and Real
13 Estate are deemed, in appropriate contexts, to be references to
14 the Secretary of Financial and Professional Regulation ~~or a~~
15 ~~person authorized by the Commissioner, the Office of Banks and~~
16 ~~Real Estate Act, or this Act to act in the Commissioner's~~
17 ~~stead.~~

18 (o) "Loan brokering", "brokering", or "brokerage service"
19 shall mean the act of helping to obtain from another entity,
20 for a borrower, a loan secured by residential real estate
21 situated in Illinois or assisting a borrower in obtaining a
22 loan secured by residential real estate situated in Illinois in
23 return for consideration to be paid by either the borrower or
24 the lender including, but not limited to, contracting for the
25 delivery of residential mortgage loans to a third party lender
26 and soliciting, processing, placing, or negotiating

1 residential mortgage loans.

2 (p) "Loan broker" or "broker" shall mean a person,
3 partnership, association, corporation, or limited liability
4 company, other than those persons, partnerships, associations,
5 corporations, or limited liability companies exempted from
6 licensing pursuant to Section 1-4, subsection (d), of this Act,
7 who performs the activities described in subsections (c) and
8 (o) of this Section.

9 (q) "Servicing" shall mean the collection or remittance for
10 or the right or obligation to collect or remit for any lender,
11 noteowner, noteholder, or for a licensee's own account, of
12 payments, interests, principal, and trust items such as hazard
13 insurance and taxes on a residential mortgage loan in
14 accordance with the terms of the residential mortgage loan; and
15 includes loan payment follow-up, delinquency loan follow-up,
16 loan analysis and any notifications to the borrower that are
17 necessary to enable the borrower to keep the loan current and
18 in good standing.

19 (r) "Full service office" shall mean office and staff in
20 Illinois reasonably adequate to handle efficiently
21 communications, questions, and other matters relating to any
22 application for, or an existing home mortgage secured by
23 residential real estate situated in Illinois with respect to
24 which the licensee is brokering, funding originating,
25 purchasing, or servicing. The management and operation of each
26 full service office must include observance of good business

1 practices such as adequate, organized, and accurate books and
2 records; ample phone lines, hours of business, staff training
3 and supervision, and provision for a mechanism to resolve
4 consumer inquiries, complaints, and problems. The Commissioner
5 shall issue regulations with regard to these requirements and
6 shall include an evaluation of compliance with this Section in
7 his or her periodic examination of each licensee.

8 (s) "Purchasing" shall mean the purchase of conventional or
9 government-insured mortgage loans secured by residential real
10 estate situated in Illinois from either the lender or from the
11 secondary market.

12 (t) "Borrower" shall mean the person or persons who seek
13 the services of a loan broker, originator, or lender.

14 (u) "Originating" shall mean the issuing of commitments for
15 and funding of residential mortgage loans.

16 (v) "Loan brokerage agreement" shall mean a written
17 agreement in which a broker or loan broker agrees to do either
18 of the following:

19 (1) obtain a residential mortgage loan for the borrower
20 or assist the borrower in obtaining a residential mortgage
21 loan; or

22 (2) consider making a residential mortgage loan to the
23 borrower.

24 (w) "Advertisement" shall mean the attempt by publication,
25 dissemination, or circulation to induce, directly or
26 indirectly, any person to enter into a residential mortgage

1 loan agreement or residential mortgage loan brokerage
2 agreement relative to a mortgage secured by residential real
3 estate situated in Illinois.

4 (x) "Residential Mortgage Board" shall mean the
5 Residential Mortgage Board created in Section 1-5 of this Act.

6 (y) "Government-insured mortgage loan" shall mean any
7 mortgage loan made on the security of residential real estate
8 insured by the Department of Housing and Urban Development or
9 Farmers Home Loan Administration, or guaranteed by the Veterans
10 Administration.

11 (z) "Annual audit" shall mean a certified audit of the
12 licensee's books and records and systems of internal control
13 performed by a certified public accountant in accordance with
14 generally accepted accounting principles and generally
15 accepted auditing standards.

16 (aa) "Financial institution" shall mean a savings and loan
17 association, savings bank, credit union, or a bank organized
18 under the laws of Illinois or a savings and loan association,
19 savings bank, credit union or a bank organized under the laws
20 of the United States and headquartered in Illinois.

21 (bb) "Escrow agent" shall mean a third party, individual or
22 entity charged with the fiduciary obligation for holding escrow
23 funds on a residential mortgage loan pending final payout of
24 those funds in accordance with the terms of the residential
25 mortgage loan.

26 (cc) "Net worth" shall have the meaning ascribed thereto in

1 Section 3-5 of this Act.

2 (dd) "Affiliate" shall mean:

3 (1) any entity that directly controls or is controlled
4 by the licensee and any other company that is directly
5 affecting activities regulated by this Act that is
6 controlled by the company that controls the licensee;

7 (2) any entity:

8 (A) that is controlled, directly or indirectly, by
9 a trust or otherwise, by or for the benefit of
10 shareholders who beneficially or otherwise control,
11 directly or indirectly, by trust or otherwise, the
12 licensee or any company that controls the licensee; or

13 (B) a majority of the directors or trustees of
14 which constitute a majority of the persons holding any
15 such office with the licensee or any company that
16 controls the licensee;

17 (3) any company, including a real estate investment
18 trust, that is sponsored and advised on a contractual basis
19 by the licensee or any subsidiary or affiliate of the
20 licensee.

21 The Commissioner may define by rule and regulation any
22 terms used in this Act for the efficient and clear
23 administration of this Act.

24 (ee) "First tier subsidiary" shall be defined by regulation
25 incorporating the comparable definitions used by the Office of
26 the Comptroller of the Currency and the Illinois Commissioner

1 of Banks and Real Estate.

2 (ff) "Gross delinquency rate" means the quotient
3 determined by dividing (1) the sum of (i) the number of
4 government-insured residential mortgage loans funded or
5 purchased by a licensee in the preceding calendar year that are
6 delinquent and (ii) the number of conventional residential
7 mortgage loans funded or purchased by the licensee in the
8 preceding calendar year that are delinquent by (2) the sum of
9 (i) the number of government-insured residential mortgage
10 loans funded or purchased by the licensee in the preceding
11 calendar year and (ii) the number of conventional residential
12 mortgage loans funded or purchased by the licensee in the
13 preceding calendar year.

14 (gg) "Delinquency rate factor" means the factor set by rule
15 of the Commissioner that is multiplied by the average gross
16 delinquency rate of licensees, determined annually for the
17 immediately preceding calendar year, for the purpose of
18 determining which licensees shall be examined by the
19 Commissioner pursuant to subsection (b) of Section 4-8 of this
20 Act.

21 (hh) "Loan originator" means any natural person who, for
22 compensation or in the expectation of compensation, either
23 directly or indirectly makes, offers to make, solicits, places,
24 or negotiates a residential mortgage loan.

25 (ii) "Confidential supervisory information" means any
26 report of examination, visitation, or investigation prepared

1 by the Commissioner under this Act, any report of examination
2 visitation, or investigation prepared by the state regulatory
3 authority of another state that examines a licensee, any
4 document or record prepared or obtained in connection with or
5 relating to any examination, visitation, or investigation, and
6 any record prepared or obtained by the Commissioner to the
7 extent that the record summarizes or contains information
8 derived from any report, document, or record described in this
9 subsection. "Confidential supervisory information" does not
10 include any information or record routinely prepared by a
11 licensee and maintained in the ordinary course of business or
12 any information or record that is required to be made publicly
13 available pursuant to State or federal law or rule.

14 (jj) "Secretary" means the Secretary of the Department of
15 Financial and Professional Regulation, or a person authorized
16 by the Secretary or by this Act to act in the Secretary's
17 stead.

18 (Source: P.A. 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

19 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

20 Sec. 2-2. Application process; investigation; fee.

21 (a) The Secretary ~~Commissioner~~ shall issue a license upon
22 completion of all of the following:

23 (1) The filing of an application for license.

24 (2) The filing with the Secretary ~~Commissioner~~ of a
25 listing of judgments entered against, and bankruptcy

1 petitions by, the license applicant for the preceding 10
2 years.

3 (3) The payment, in certified funds, of investigation
4 and application fees, the total of which shall be in an
5 amount equal to \$2,043 ~~\$2,700~~ annually, ~~however, the~~
6 ~~Commissioner may increase the investigation and~~
7 ~~application fees by rule as provided in Section 4-11.~~

8 (4) Except for a broker applying to renew a license,
9 the filing of an audited balance sheet including all
10 footnotes prepared by a certified public accountant in
11 accordance with generally accepted accounting principles
12 and generally accepted auditing principles which evidences
13 that the applicant meets the net worth requirements of
14 Section 3-5.

15 (5) The filing of proof satisfactory to the
16 Commissioner that the applicant, the members thereof if the
17 applicant is a partnership or association, the members or
18 managers thereof that retain any authority or
19 responsibility under the operating agreement if the
20 applicant is a limited liability company, or the officers
21 thereof if the applicant is a corporation have 3 years
22 experience preceding application in real estate finance.
23 Instead of this requirement, the applicant and the
24 applicant's officers or members, as applicable, may
25 satisfactorily complete a program of education in real
26 estate finance and fair lending, as approved by the

1 Commissioner, prior to receiving the initial license. The
2 Commissioner shall promulgate rules regarding proof of
3 experience requirements and educational requirements and
4 the satisfactory completion of those requirements. The
5 Commissioner may establish by rule a list of duly licensed
6 professionals and others who may be exempt from this
7 requirement.

8 (6) An investigation of the averments required by
9 Section 2-4, which investigation must allow the
10 Commissioner to issue positive findings stating that the
11 financial responsibility, experience, character, and
12 general fitness of the license applicant and of the members
13 thereof if the license applicant is a partnership or
14 association, of the officers and directors thereof if the
15 license applicant is a corporation, and of the managers and
16 members that retain any authority or responsibility under
17 the operating agreement if the license applicant is a
18 limited liability company are such as to command the
19 confidence of the community and to warrant belief that the
20 business will be operated honestly, fairly and efficiently
21 within the purpose of this Act. If the Commissioner shall
22 not so find, he or she shall not issue such license, and he
23 or she shall notify the license applicant of the denial.

24 The Commissioner may impose conditions on a license if the
25 Commissioner determines that the conditions are necessary or
26 appropriate. These conditions shall be imposed in writing and

1 shall continue in effect for the period prescribed by the
2 Commissioner.

3 (b) All licenses shall be issued in duplicate with one copy
4 being transmitted to the license applicant and the second being
5 retained with the Commissioner.

6 Upon receipt of such license, a residential mortgage
7 licensee shall be authorized to engage in the business
8 regulated by this Act. Such license shall remain in full force
9 and effect until it expires without renewal, is surrendered by
10 the licensee or revoked or suspended as hereinafter provided.

11 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

12 (205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

13 Sec. 2-6. License issuance and renewal; fee.

14 (a) Beginning July 1, 2003, licenses shall be renewed every
15 year on the anniversary of the date of issuance of the original
16 license. Properly completed renewal application forms and
17 filing fees must be received by the Secretary ~~Commissioner~~ 60
18 days prior to the renewal date.

19 (b) It shall be the responsibility of each licensee to
20 accomplish renewal of its license; failure of the licensee to
21 receive renewal forms absent a request sent by certified mail
22 for such forms will not waive said responsibility. Failure by a
23 licensee to submit a properly completed renewal application
24 form and fees in a timely fashion, absent a written extension
25 from the Secretary ~~Commissioner~~, will result in the assessment

1 of additional fees, as follows:

2 (1) A fee of \$567.50 ~~\$750~~ will be assessed to the
3 licensee 30 days after the proper renewal date and \$1,135
4 ~~\$1,500~~ each month thereafter, until the license is either
5 renewed or expires pursuant to Section 2-6, subsections (c)
6 and (d), of this Act.

7 (2) Such fee will be assessed without prior notice to
8 the licensee, but will be assessed only in cases wherein
9 the Secretary ~~Commissioner~~ has in his or her possession
10 documentation of the licensee's continuing activity for
11 which the unrenewed license was issued.

12 (c) A license which is not renewed by the date required in
13 this Section shall automatically become inactive. No activity
14 regulated by this Act shall be conducted by the licensee when a
15 license becomes inactive. The Commissioner may require the
16 licensee to provide a plan for the disposition of any
17 residential mortgage loans not closed or funded when the
18 license becomes inactive. The Commissioner may allow a licensee
19 with an inactive license to conduct activities regulated by
20 this Act for the sole purpose of assisting borrowers in the
21 closing or funding of loans for which the loan application was
22 taken from a borrower while the license was active. An inactive
23 license may be reactivated by the Commissioner upon payment of
24 the renewal fee, and payment of a reactivation fee equal to the
25 renewal fee.

26 (d) A license which is not renewed within one year of

1 becoming inactive shall expire.

2 (e) A licensee ceasing an activity or activities regulated
3 by this Act and desiring to no longer be licensed shall so
4 inform the Commissioner in writing and, at the same time,
5 convey the license and all other symbols or indicia of
6 licensure. The licensee shall include a plan for the withdrawal
7 from regulated business, including a timetable for the
8 disposition of the business. Upon receipt of such written
9 notice, the Commissioner shall issue a certified statement
10 canceling the license.

11 (Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018,
12 eff. 1-1-05.)

13 (205 ILCS 635/4-11) (from Ch. 17, par. 2324-11)

14 Sec. 4-11. Costs of Supervision; Examination and
15 Investigative Fees. The expenses of administering this Act,
16 including investigations and examinations provided for in this
17 Act shall be borne by and assessed against entities regulated
18 by this Act. Subject to the limitations set forth in Section
19 2-2 of this Act, the Secretary ~~The Commissioner~~ shall establish
20 fees by regulation in at least the following categories:

- 21 (1) application fees;
22 (2) investigation of license applicant fees;
23 (3) examination fees;
24 (4) contingent fees;

25 and such other categories as may be required to administer this

1 Act.

2 (Source: P.A. 85-735.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".