

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Banking Act is amended by changing Sections 2, 5, 13, 15, 16, 16.5, 32.1, 48, 48.1, and 48.2 as follows:

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

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

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

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

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

"Appropriate federal banking agency" means the Federal Deposit Insurance Corporation, the Federal Reserve Bank of Chicago, or the Federal Reserve Bank of St. Louis, as

determined by federal law.

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

A "banking house", "branch", "branch bank", or "branch office" shall mean any place of business of a bank at which deposits are received, checks paid, or loans made, but shall not include any place at which only records thereof are made, posted, or kept. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office if the place of business is adjacent to and connected with the main banking premises, or if it is separated from the main banking premises by not more than an alley; provided always that (i) if the place of business is separated by an alley from the main banking premises there is a connection between the 2 ~~two~~ by public or private way or by subterranean or overhead passage, and (ii) if the place of business is in a building not wholly occupied by the bank, the place of business shall not be within any office or room in which any other business or service of any kind or nature other than the business of the bank is conducted or carried on. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office (i) of any bank if the place is a terminal established and maintained in accordance with paragraph (17) of Section 5 of this Act, or (ii) of a commonly owned bank by virtue of transactions

conducted at that place on behalf of the other commonly owned bank under paragraph (23) of Section 5 of this Act if the place is an affiliate facility with respect to the other bank.

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

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

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

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

"Cash flow reserve account" means the account within the books and records of the Commissioner of Banks and Real Estate used to record funds designated to maintain a reasonable Bank and Trust Company Fund operating balance to meet agency obligations on a timely basis.

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

"Commissioner" means the Commissioner of Banks and Real Estate, except that beginning on April 6, 2009 (the effective date of Public Act 95-1047), all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

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

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

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

"Consolidating bank" means a party to a consolidation.

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

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

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

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

"Court" means a court of competent jurisdiction.

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

"Director of Banking" means the Director of the Division of Banking of the Department of Financial and Professional Regulation.

"Eligible depository institution" means an insured savings association that is in default, an insured savings association that is in danger of default, a State or national bank that is in default or a State or national bank that is in danger of default, as those terms are defined in this Section, or a new bank as that term is defined in Section 11(m) of the Federal

Deposit Insurance Act or a bridge bank as that term is defined in Section 11(n) of the Federal Deposit Insurance Act or a new federal savings association authorized under Section 11(d) (2) (f) of the Federal Deposit Insurance Act.

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

"Financial institution" means a bank, savings bank, savings and loan association, credit union, or any licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act and, for purposes of Section 48.3, any proprietary network, funds transfer corporation, or other entity providing electronic funds transfer services, or any corporate fiduciary, its subsidiaries, affiliates, parent company, or contractual service provider that is examined by the Commissioner. For purposes of Section 5c and subsection (b) of Section 13 of this Act, "financial institution" includes any proprietary network, funds transfer corporation, or other entity providing electronic funds transfer services, and any corporate fiduciary.

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

"General obligation" means a bond, note, debenture, security, or other instrument evidencing an obligation of the government entity that is the issuer that is supported by the

full available resources of the issuer, the principal and interest of which is payable in whole or in part by taxation.

"Guarantee" means an undertaking or promise to answer for payment of another's debt or performance of another's duty, liability, or obligation whether "payment guaranteed" or "collection guaranteed".

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

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

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

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

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

(A) the State or national bank or insured savings

association has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

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

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

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

"Insured savings association in recovery" means an insured savings association that is not an eligible depository institution and that does not meet the minimum capital

requirements applicable with respect to the insured savings association.

"Issuer" means for purposes of Section 33 every person who shall have issued or proposed to issue any security; except that (1) with respect to certificates of deposit, voting trust certificates, collateral-trust certificates, and certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions), "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust, agreement, or instrument under which the securities are issued; (2) with respect to trusts other than those specified in clause (1) above, where the trustee is a corporation authorized to accept and execute trusts, "issuer" means the entrusters, depositors, or creators of the trust and any manager or committee charged with the general direction of the affairs of the trust pursuant to the provisions of the agreement or instrument creating the trust; and (3) with respect to equipment trust certificates or like securities, "issuer" means the person to whom the equipment or property is or is to be leased or conditionally sold.

"Letter of credit" ~~and "customer"~~ shall have the same meaning as that term is given ~~meanings ascribed to those terms~~ in Section 5-102 of the Uniform Commercial Code.

"Main banking premises" means the location that is

designated in a bank's charter as its main office.

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

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

"Merger" includes consolidation.

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

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

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

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

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

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

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

"Person" means an individual, corporation, limited liability company, partnership, joint venture, trust, estate, or unincorporated association.

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

"Public funds" or "public money" means current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to, in the custody of, or subject to the control or regulation of the United States or a public agency. "Public funds" or "public money" shall include funds held by any of the officers, agents, or employees of the United States or of a public agency in the course of their

official duties and, with respect to public money of the United States, shall include Postal Savings funds.

"Published" means, ~~unless the context requires otherwise,~~ the publishing of the notice ~~or instrument~~ referred to in some newspaper of general circulation in the community in which the bank is located at least once each week for 3 successive weeks. Publishing shall be accomplished by, and at the expense of, the bank required to publish. Where publishing is required, the bank shall submit to the Commissioner that evidence of the publication as the Commissioner shall deem appropriate.

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

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

"Resulting bank" means the bank resulting from a merger or

conversion.

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

"Securities" means stocks, bonds, debentures, notes, or other similar obligations.

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

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

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

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

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

"Tier 1 Capital" and "Tier 2 Capital" have the meanings assigned to those terms in regulations promulgated for the

appropriate federal banking agency of a state bank, as those regulations are now or hereafter amended.

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

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

"Unimpaired capital and unimpaired surplus", for the purposes of paragraph (21) of Section 5 and Sections 32, 33, 34, 35.1, 35.2, and 47 of this Act means the sum of the state bank's Tier 1 Capital and Tier 2 Capital plus such other shareholder equity as may be included by regulation of the Commissioner. Unimpaired capital and unimpaired surplus shall be calculated on the basis of the date of the last quarterly call report filed with the Commissioner preceding the date of the transaction for which the calculation is made, provided that: (i) when a material event occurs after the date of the last quarterly call report filed with the Commissioner that reduces or increases the bank's unimpaired capital and unimpaired surplus by 10% or more, then the unimpaired capital and unimpaired surplus shall be calculated from the date of the material event for a transaction conducted after the date of the material event; and (ii) if the Commissioner determines for safety and soundness reasons that a state bank should calculate unimpaired capital and unimpaired surplus more frequently than provided by this paragraph, the Commissioner

may by written notice direct the bank to calculate unimpaired capital and unimpaired surplus at a more frequent interval. In the case of a state bank newly chartered under Section 13 or a state bank resulting from a merger, consolidation, or conversion under Sections 21 through 26 for which no preceding quarterly call report has been filed with the Commissioner, unimpaired capital and unimpaired surplus shall be calculated for the first calendar quarter on the basis of the effective date of the charter, merger, consolidation, or conversion.

(Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09; 96-1000, eff. 7-2-10; 96-1163, eff. 1-1-11; revised 8-6-24.)

(205 ILCS 5/5) (from Ch. 17, par. 311)

Sec. 5. General corporate powers. A bank organized under this Act or subject hereto shall be a body corporate and politic and shall, without specific mention thereof in the charter, have all the powers conferred by this Act and the following additional general corporate powers:

(1) To sue and be sued, complain, and defend in its corporate name.

(2) To have a corporate seal, which may be altered at pleasure, and to use the same by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced, provided that the affixing of a corporate seal to an instrument shall not give the instrument additional force or effect, or change the construction thereof, and

the use of a corporate seal is not mandatory.

(3) To make, alter, amend, and repeal bylaws, not inconsistent with its charter or with law, for the administration of the affairs of the bank. If this Act does not provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act of 1983 may be used if so provided in the bylaws, and if the bank is a limited liability company, the provisions of the Limited Liability Company Act shall be used.

(4) To elect or appoint and remove officers and agents of the bank and define their duties and fix their compensation.

(5) To adopt and operate reasonable bonus plans, profit-sharing plans, stock-bonus plans, stock-option plans, pension plans, and similar incentive plans for its directors, officers and employees.

(5.1) To manage, operate, and administer a fund for the investment of funds by a public agency or agencies, including any unit of local government or school district, or any person. The fund for a public agency shall invest in the same type of investments and be subject to the same limitations provided for the investment of public funds. The fund for public agencies shall maintain a separate ledger showing the amount of investment for each public agency in the fund. "Public funds" and "public agency" as used in this Section shall have the meanings ascribed to

them in Section 1 of the Public Funds Investment Act.

(6) To make reasonable donations for the public welfare or for charitable, scientific, religious or educational purposes.

(7) To borrow or incur an obligation; and to pledge its assets:

(a) to secure its borrowings, its lease of personal or real property or its other nondeposit obligations;

(b) to enable it to act as agent for the sale of obligations of the United States;

(c) to secure deposits of public money of the United States, whenever required by the laws of the United States, including, without being limited to, revenues and funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees and Postal Savings funds;

(d) to secure deposits of public money of any state or of any political corporation or subdivision thereof, including, without being limited to, revenues and funds the deposit of which is subject to the control or regulation of any state or of any political corporation or subdivisions thereof or of any of their officers, agents, or employees;

(e) to secure deposits of money whenever required

by the National Bankruptcy Act;

(f) (blank); ~~and~~

(g) to secure trust funds commingled with the bank's funds, whether deposited by the bank or an affiliate of the bank, pursuant to Section 2-8 of the Corporate Fiduciary Act; ~~and-~~

(h) to secure deposits.

(8) To own, possess, and carry as assets all or part of the real estate necessary in or with which to do its banking business, either directly or indirectly through the ownership of all or part of the capital stock, shares or interests in any corporation, association, trust engaged in holding any part or parts or all of the bank premises, engaged in such business and in conducting a safe deposit business in the premises or part of them, or engaged in any activity that the bank is permitted to conduct in a subsidiary pursuant to paragraph (12) of this Section 5.

(9) To own, possess, and carry as assets other real estate to which it may obtain title in the collection of its debts or that was formerly used as a part of the bank premises, but title to any real estate except as herein permitted may only ~~shall not~~ be retained by the bank, either directly or by or through a subsidiary, as permitted by subsection (12) of this Section for a total period of ~~more than~~ 10 years after acquiring title or for a

total period equal to the maximum period, including the maximum extensions, permitted to a national bank under federal law after acquiring title, whichever is greater, either directly or indirectly.

(10) To do any act, including the acquisition of stock, necessary to obtain insurance of its deposits, or part thereof, and any act necessary to obtain a guaranty, in whole or in part, of any of its loans or investments by the United States or any agency thereof, and any act necessary to sell or otherwise dispose of any of its loans or investments to the United States or any agency thereof, and to acquire and hold membership in the Federal Reserve System.

(11) Notwithstanding any other provisions of this Act or any other law, to do any act and to own, possess, and carry as assets property of the character, including stock, that is at the time authorized or permitted to national banks by an Act of Congress, but subject always to the same limitations and restrictions as are applicable to national banks by the pertinent federal law and subject to applicable provisions of the Financial Institutions Insurance Sales Law.

(12) To own, possess, and carry as assets stock of one or more corporations that is, or are, engaged in one or more of the following businesses:

(a) holding title to and administering assets

acquired as a result of the collection or liquidating of loans, investments, or discounts; or

(b) holding title to and administering personal property acquired by the bank, directly or indirectly through a subsidiary, for the purpose of leasing to others, provided the lease or leases and the investment of the bank, directly or through a subsidiary, in that personal property otherwise comply with Section 35.1 of this Act; or

(c) carrying on or administering any of the activities excepting the receipt of deposits or the payment of checks or other orders for the payment of money in which a bank may engage in carrying on its general banking business; provided, however, that nothing contained in this paragraph (c) shall be deemed to permit a bank organized under this Act or subject hereto to do, either directly or indirectly through any subsidiary, any act, including the making of any loan or investment, or to own, possess, or carry as assets any property that if done by or owned, possessed, or carried by the State bank would be in violation of or prohibited by any provision of this Act.

The provisions of this subsection (12) shall not apply to and shall not be deemed to limit the powers of a State bank with respect to the ownership, possession, and

carrying of stock that a State bank is permitted to own, possess, or carry under this Act.

Any bank intending to establish a subsidiary under this subsection (12) shall give written notice to the Commissioner 60 days prior to the subsidiary's commencing of business or, as the case may be, prior to acquiring stock in a corporation that has already commenced business. After receiving the notice, the Commissioner may waive or reduce the balance of the 60-day notice period. The Commissioner may specify the form of the notice, may designate the types of subsidiaries not subject to this notice requirement, and may promulgate rules and regulations to administer this subsection (12).

(13) To accept for payment at a future date not exceeding one year from the date of acceptance, drafts drawn upon it by its customers; and to issue, advise, or confirm letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents.

(14) To own and lease personal property acquired by the bank at the request of a prospective lessee and upon the agreement of that person to lease the personal property provided that the lease, the agreement with respect thereto, and the amount of the investment of the bank in the property comply with Section 35.1 of this Act.

(15)(a) To establish and maintain, in addition to the main banking premises, branches offering any banking

services permitted at the main banking premises of a State bank.

(b) To establish and maintain, after May 31, 1997, branches in another state that may conduct any activity in that state that is authorized or permitted for any bank that has a banking charter issued by that state, subject to the same limitations and restrictions that are applicable to banks chartered by that state.

(16) (Blank).

(17) To establish and maintain terminals, as authorized by the Electronic Fund Transfer Act.

(18) To establish and maintain temporary service booths at any International Fair held in this State which is approved by the United States Department of Commerce, for the duration of the international fair for the sole purpose of providing a convenient place for foreign trade customers at the fair to exchange their home countries' currency into United States currency or the converse. This power shall not be construed as establishing a new place or change of location for the bank providing the service booth.

(19) To indemnify its officers, directors, employees, and agents, as authorized for corporations under Section 8.75 of the Business Corporation Act of 1983.

(20) To own, possess, and carry as assets stock of, or be or become a member of, any corporation, mutual company,

association, trust, or other entity formed exclusively for the purpose of providing directors' and officers' liability and bankers' blanket bond insurance or reinsurance to and for the benefit of the stockholders, members, or beneficiaries, or their assets or businesses, or their officers, directors, employees, or agents, and not to or for the benefit of any other person or entity or the public generally.

(21) To make debt or equity investments in corporations or projects, whether for profit or not for profit, designed to promote the development of the community and its welfare, provided that the aggregate investment in all of these corporations and in all of these projects does not exceed 10% of the unimpaired capital and unimpaired surplus of the bank and provided that this limitation shall not apply to creditworthy loans by the bank to those corporations or projects. Upon written application to the Commissioner, a bank may make an investment that would, when aggregated with all other such investments, exceed 10% of the unimpaired capital and unimpaired surplus of the bank. The Commissioner may approve the investment if he is of the opinion and finds that the proposed investment will not have a material adverse effect on the safety and soundness of the bank.

(22) To own, possess, and carry as assets the stock of a corporation engaged in the ownership or operation of a

travel agency or to operate a travel agency as a part of its business.

(23) With respect to affiliate facilities:

(a) to conduct at affiliate facilities for and on behalf of another commonly owned bank, if so authorized by the other bank, all transactions that the other bank is authorized or permitted to perform; and

(b) to authorize a commonly owned bank to conduct for and on behalf of it any of the transactions it is authorized or permitted to perform at one or more affiliate facilities.

Any bank intending to conduct or to authorize a commonly owned bank to conduct at an affiliate facility any of the transactions specified in this paragraph (23) shall give written notice to the Commissioner at least 30 days before any such transaction is conducted at the affiliate facility.

(24) To act as the agent for any fire, life, or other insurance company authorized by the State of Illinois, by soliciting and selling insurance and collecting premiums on policies issued by such company; and to receive for services so rendered such fees or commissions as may be agreed upon between the bank and the insurance company for which it may act as agent; provided, however, that no such bank shall in any case assume or guarantee the payment of

any premium on insurance policies issued through its agency by its principal; and provided further, that the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(25) Notwithstanding any other provisions of this Act or any other law, to offer any product or service that is at the time authorized or permitted to any insured savings association or out-of-state bank by applicable law, provided that powers conferred only by this subsection (25):

(a) shall always be subject to the same limitations and restrictions that are applicable to the insured savings association or out-of-state bank for the product or service by such applicable law;

(b) shall be subject to applicable provisions of the Financial Institutions Insurance Sales Law;

(c) shall not include the right to own or conduct a real estate brokerage business for which a license would be required under the laws of this State; and

(d) shall not be construed to include the establishment or maintenance of a branch, nor shall they be construed to limit the establishment or maintenance of a branch pursuant to subsection (11).

Not less than 30 days before engaging in any activity under the authority of this subsection, a bank shall provide written notice to the Commissioner of its intent

to engage in the activity. The notice shall indicate the specific federal or state law, rule, regulation, or interpretation the bank intends to use as authority to engage in the activity.

(26) To provide data processing services to others on a for-profit basis. The total revenue attributable to the bank's data processing activities must be derived predominantly from processing banking, financial, or economic data, and other types of data if the derivative or resultant product is banking, financial, or economic data.

(27) To invest in commodities derivatives, with the management and controls necessary to ensure that such activities are carried out according to safe and sound banking practices.

Nothing in this Section shall be construed to require the filing of a notice or application for approval with the United States Office of the Comptroller of the Currency or a bank supervisor of another state as a condition to the right of a State bank to exercise any of the powers conferred by this Section in this State.

(Source: P.A. 99-362, eff. 8-13-15; 100-863, eff. 8-14-18.)

(205 ILCS 5/13) (from Ch. 17, par. 320)

Sec. 13. Issuance of charter.

(a) When the directors have organized as provided in

Section 12 of this Act, and the capital stock and the preferred stock, if any, together with a surplus of not less than 50% of the capital, has been all fully paid in and a record of the same filed with the Commissioner, the Commissioner or some competent person of the Commissioner's appointment shall make a thorough examination into the affairs of the proposed bank, and if satisfied (i) that all the requirements of this Act have been complied with, (ii) that no intervening circumstance has occurred to change the Commissioner's findings made pursuant to Section 10 of this Act, and (iii) that the prior involvement by any stockholder who will own a sufficient amount of stock to have control, as defined in Section 18 of this Act, of the proposed bank with any other financial institution, whether as stockholder, director, officer, or customer, was conducted in a safe and sound manner, upon payment into the Commissioner's office of the reasonable expenses of the examination, as determined by the Commissioner, the Commissioner shall issue a charter authorizing the bank to commence business as authorized in this Act. All charters issued by the Commissioner or any predecessor agency which chartered State banks, including any charter outstanding as of September 1, 1989, shall be perpetual. For the 2 years after the Commissioner has issued a charter to a bank, the bank shall request and obtain from the Commissioner prior written approval before it may change senior management personnel or directors.

The original charter, duly certified by the Commissioner, or a certified copy shall be evidence in all courts and places of the existence and authority of the bank to do business. Upon the issuance of the charter by the Commissioner, the bank shall be deemed fully organized and may proceed to do business. The Commissioner may, in the Commissioner's discretion, withhold the issuing of the charter when the Commissioner has reason to believe that the bank is organized for any purpose other than that contemplated by this Act. The Commissioner shall revoke the charter and order liquidation in the event that the bank does not commence a general banking business within one year from the date of the issuance of the charter, unless a request has been submitted, in writing, to the Commissioner for an extension and the request has been approved. After commencing a general banking business, a bank may change its name by filing written notice with the Commissioner at least 30 days prior to the effective date of such change. A bank chartered under this Act may change its main banking premises by filing written notice ~~application~~ with the Commissioner, on forms prescribed by the Commissioner, provided (i) the change shall not be a removal to a new location without complying with the capital requirements of Section 7 and of subsection (1) of Section 10 of this Act; and (ii) ~~the Commissioner approves the relocation~~ ~~or change; and (iii)~~ the bank complies with any applicable federal law or regulation. ~~The application shall be deemed to~~

~~be approved if the Commissioner has not acted on the application within 30 days after receipt of the application, unless within the 30-day time frame the Commissioner informs the bank that an extension of time is necessary prior to the Commissioner's action on the application.~~

(b) (1) The Commissioner may also issue a charter to a bank that is owned exclusively by other depository institutions or depository institution holding companies and is organized to engage exclusively in providing services to or for other financial institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing services at the request of other financial institutions or their holding companies (also referred to as a "bankers' bank"). The bank may also provide products and services to its officers, directors, and employees.

(2) A bank chartered pursuant to paragraph (1) shall, except as otherwise specifically determined or limited by the Commissioner in an order or pursuant to a rule, be vested with the same rights and privileges and subject to the same duties, restrictions, penalties, and liabilities now or hereafter imposed under this Act.

(c) A bank chartered under this Act shall, at all times while it accepts or retains deposits, maintain with the Federal Deposit Insurance Corporation, or such other instrumentality of or corporation chartered by the United

States, deposit insurance as authorized under federal law.

(d)(i) A bank that has a banking charter issued by the Commissioner under this Act may, pursuant to a written purchase and assumption agreement, transfer substantially all of its assets to another State bank or national bank in consideration, in whole or in part, for the transferee banks' assumption of any part or all of its liabilities. Such a transfer shall in no way be deemed to impair the charter of the transferor bank or cause the transferor bank to forfeit any of its rights, powers, interests, franchises, or privileges as a State bank, nor shall any voluntary reduction in the transferor bank's activities resulting from the transfer have any such effect; provided, however, that a State bank that transfers substantially all of its assets pursuant to this subsection (d) and following the transfer does not accept deposits and make loans, shall not have any rights, powers, interests, franchises, or privileges under subsection (15) of Section 5 of this Act until the bank has resumed accepting deposits and making loans.

(ii) The fact that a State bank does not resume accepting deposits and making loans for a period of 24 months commencing on September 11, 1989 or on a date of the transfer of substantially all of a State bank's assets, whichever is later, or such longer period as the Commissioner may allow in writing, may be the basis for a finding by the Commissioner under Section 51 of this Act that the bank is unable to

continue operations.

(iii) The authority provided by subdivision (i) of this subsection (d) shall terminate on May 31, 1997, and no bank that has transferred substantially all of its assets pursuant to this subsection (d) shall continue in existence after May 31, 1997.

(Source: P.A. 95-924, eff. 8-26-08; 96-1365, eff. 7-28-10.)

(205 ILCS 5/15) (from Ch. 17, par. 322)

Sec. 15. Stock and stockholders. Unless otherwise provided for in this Act, provisions of general application to capital stock, preferred stock, and stockholders of a State bank shall be as follows:

(1) There shall be an annual meeting of the stockholders for the election of directors each year on the first business day in January, unless some other date shall be fixed by the by-laws. A special meeting of the stockholders may be called at any time by the board of directors, and otherwise as may be provided in the bylaws.

(2) Written or printed notice stating the place, day, and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than 10 nor more than 40 days before the date of the meeting either personally, electronically, or by mail, by or at the direction of the president, or the secretary, or the officer or persons calling the meeting, to

each stockholder of record entitled to vote at the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail with postage thereon prepaid addressed to the stockholder at his address as it appears on the records of the bank.

(3) Except as provided below in this paragraph (3), each outstanding share shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders. Shares of its own stock belonging to a bank shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding shares at any given time, but shares of its own stock held by it in a fiduciary capacity may be voted and shall be counted in determining the total number of outstanding shares at any given time. A stockholder may vote either in person or by proxy executed in writing by the stockholder or by his duly authorized attorney-in-fact. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Except as provided below in this paragraph (3), in all elections for directors every stockholder (or subscriber to the stock prior to the issuance of a charter) shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors to be elected, or to cumulate the shares and give one candidate as many votes as the number of directors multiplied by the number of his or her

shares of stock shall equal, or to distribute them on the same principle among as many candidates as he or she shall think fit. The bank charter of any bank organized on or after January 1, 1984 may limit or eliminate cumulative voting rights in all or specified circumstances, or may eliminate voting rights entirely, as to any class or classes or series of stock of the bank; provided that one class of shares or series thereof shall always have voting rights in respect of all matters in the bank. A bank organized prior to January 1, 1984 may amend its charter to eliminate cumulative voting rights under all or specified circumstances, or to eliminate voting rights entirely, as to any class or classes or series of stock of the bank; provided that one class of shares or series thereof shall always have voting rights in respect of all matters in the bank, and provided further that the proposal to eliminate the voting rights receives the approval of the holders of 70% of the outstanding shares of stock entitled to vote as provided in paragraph (b) (7) of Section 17. A majority of the outstanding shares represented in person or by proxy shall constitute a quorum at a meeting of stockholders. In the absence of a quorum a meeting may be adjourned from time to time without notice to the stockholders.

(4) Whenever additional stock of a class is offered for sale, stockholders of record of the same class on the date of the offer shall have the right to subscribe to the proportion of the shares as the stock of the class held by them bears to

the total of the outstanding stock of the class, and the price thereof may be in excess of par value. This right shall be transferable but shall terminate if not exercised within 60 days of the offer, unless the Commissioner shall authorize a shorter time. If the right is not exercised, the stock shall not be re-offered for sale to others at a lower price without the stockholders of the same class again being accorded a preemptive right to subscribe at the lower price. Notwithstanding any of the provisions of this paragraph (4) or any other provision of law, stockholders shall not have any preemptive or other right to subscribe for or to purchase or acquire shares of capital stock issued or to be issued under a stock-option plan or upon conversion of preferred stock or convertible debentures or other convertible indebtedness that has been approved by stockholders in the manner required by the provisions of subsection (5) of Section 14 hereof or to treasury stock acquired pursuant to subsection (6) of Section 14.

(5) For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or stockholders entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other proper purpose, the board of directors of a bank may provide that the stock transfer books shall be closed for a stated period not to exceed, in any case, 40 days. In lieu of closing the stock transfer books, the board of directors may fix in

advance a date as the record date for any determination of stockholders, the date in any case to be not more than 40 days, and in case of a meeting of stockholders, not less than 10 days prior to the date on which the particular action, requiring the determination of stockholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders, or stockholders entitled to receive payment of a dividend, the date on which notice of a meeting is delivered ~~mailed~~ or the date on which the resolution of the board of directors declaring the dividend is adopted, as the case may be, shall be the record date for the determination of stockholders.

(6) Stock standing in the name of another corporation, domestic or foreign, may be voted by the officer, agent, or proxy as the by-laws of the corporation may prescribe, or, in the absence of such provision, as the board of directors of the corporation may determine. Stock standing in the name of a deceased person may be voted by his or her administrator or executor, either in person or by proxy. Stock standing in the name of a guardian or trustee may be voted by that fiduciary either in person or by proxy. Shares standing in the name of a receiver may be voted by the receiver, and shares held by or under control of a receiver may be voted by the receiver without the transfer thereof into his or her name if authority so to do be contained in an appropriate order of the court by

which the receiver was appointed. A stockholder whose shares of stock are pledged shall be entitled to vote those shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(7) Shares of stock shall be transferable in accordance with the general laws of this State governing the transfer of corporate shares.

(8) The president and any other officer designated by the board of directors of every State bank shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the State bank and the number of shares held by each in the office where its business is transacted. The list shall be subject to the inspection of all the shareholders of the State bank and the officers authorized to assess taxes under State authority during business hours of each day in which business may be legally transacted or shall be kept on a reasonably accessible electronic network, at the State bank's election. A copy of the list, verified by the oath of the president or cashier, shall be transmitted to the Commissioner of Banks and Real Estate within 10 days of any demand therefor made by the Commissioner.

(9) Any number of shareholders of a bank may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote or otherwise represent their shares

for a period of not to exceed 10 years by entering into a written voting trust agreement specifying the terms and conditions of the voting trust and by transferring their shares to the trustee or trustees for the purposes of the agreement. The trust agreement shall not become effective until a counterpart of the agreement is deposited with the bank at its main banking premises. The counterpart of the voting trust agreement so deposited with the bank shall be subject to the same right of examination by a shareholder of the bank, in person or by agent or attorney, as is the record of shareholders of the bank and shall be subject to examination by any holder of a beneficial interest in the voting trust, either in person or by agent or attorney, at any reasonable time for any proper purpose.

(10) Voting agreements. Shareholders may provide for the voting of their shares by signing an agreement for that purpose. A voting agreement created under this paragraph is not subject to the provisions of paragraph (9).

A voting agreement created under this paragraph is specifically enforceable in accordance with the principles of equity.

(11) Unless expressly prohibited by the charter or bylaws and subject to applicable requirements of this Act, the board of directors may provide by resolution that stockholders may attend, participate in, act in, and vote at any annual meeting or special meeting through the use of a conference telephone

or interactive technology, including, but not limited to, electronic transmission, Internet usage, or remote communication, by means of which all persons participating in the meeting can communicate with each other. Participation through the use of a conference telephone or interactive technology shall constitute attendance, presence, and representation in person at the annual meeting or special meeting of the person or persons so participating and count toward the quorum required to conduct business at the meeting. The following conditions shall apply to any virtual meeting of the stockholders:

(a) the bank must internally possess or retain the technological capacity to facilitate virtual meeting attendance, participation, communication, and voting; and

(b) the stockholders must receive notice of the use of a virtual meeting format and appropriate instructions for joining, participating, and voting during the virtual meeting at least 7 days before the virtual meeting.

(Source: P.A. 95-924, eff. 8-26-08.)

(205 ILCS 5/16) (from Ch. 17, par. 323)

Sec. 16. Directors. The business and affairs of a State bank shall be managed by its board of directors that shall exercise its powers as follows:

(1) Directors shall be elected as provided in this Act. Any omission to elect a director or directors shall not impair

any of the rights and privileges of the bank or of any person in any way interested. The existing directors shall hold office until their successors are elected and qualify.

(2) (a) Notwithstanding the provisions of any charter heretofore or hereafter issued, the number of directors, not fewer than 5 nor more than 25, may be fixed from time to time by the stockholders at any meeting of the stockholders called for the purpose of electing directors or changing the number thereof by the affirmative vote of at least two-thirds of the outstanding stock entitled to vote at the meeting, and the number so fixed shall be the board regardless of vacancies until the number of directors is thereafter changed by similar action.

(b) Notwithstanding the minimum number of directors specified in paragraph (a) of this subsection, a State bank that has been in existence for 10 years or more and has less than \$20,000,000 in assets, as of the December 31 immediately preceding the annual meeting of shareholders at which directors are elected, may, subject to the approval of the Commissioner, have a minimum of 3 directors; provided that if a State bank has fewer than 5 directors, at least one director shall not be an officer or employee of the bank. The Commissioner shall annually review the appropriateness of the grant of authority to have a reduced minimum number of directors pursuant to this paragraph (b).

(3) Except as otherwise provided in this paragraph (3), directors shall hold office until the next annual meeting of the stockholders succeeding their election or until their successors are elected and qualify. If the board of directors consists of 6 or more members, in lieu of electing the membership of the whole board of directors annually, the charter or by-laws of a State bank may provide that the directors shall be divided into either 2 or 3 classes, each class to be as nearly equal in number as is possible. The term of office of directors of the first class shall expire at the first annual meeting of the stockholders after their election, that of the second class shall expire at the second annual meeting after their election, and that of the third class, if any, shall expire at the third annual meeting after their election. At each annual meeting after classification, the number of directors equal to the number of the class whose terms expire at the time of the meeting shall be elected to hold office until the second succeeding annual meeting, if there be 2 classes, or until the third succeeding annual meeting, if there be 3 classes. Vacancies may be filled by stockholders at a special meeting called for the purpose.

If authorized by the bank's by-laws or an amendment thereto, the directors of a State bank may properly fill a vacancy or vacancies arising between shareholders' meetings, but at no time may the number of directors selected to fill a vacancy in this manner during any interim period between

shareholders' meetings exceed 33 1/3% of the total membership of the board of directors.

(4) The board of directors shall hold regular meetings at least once each month, provided that, upon prior written approval by the Commissioner, the board of directors may hold regular meetings less frequently than once each month but at least once each calendar quarter. A special meeting of the board of directors may be held as provided by the by-laws. A special meeting of the board of directors may also be held upon call by the Commissioner or a bank examiner appointed under the provisions of this Act upon not less than 12 hours notice of the meeting by personal service of the notice, by electronic delivery of the notice, or by mailing the notice to each of the directors at his residence as shown by the books of the bank. A majority of the board of directors shall constitute a quorum for the transaction of business unless a greater number is required by the charter or the by-laws. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors unless the act of a greater number is required by the charter or by the by-laws.

(5) A member of the board of directors shall be elected president. The board of directors may appoint other officers, as the by-laws may provide, and fix their salaries to carry on the business of the bank. The board of directors may make and amend by-laws (not inconsistent with this Act) for the

government of the bank and may, by the affirmative vote of a majority of the board of directors, establish reasonable compensation of all directors for services to the corporation as directors, officers, or otherwise. An officer, whether elected or appointed by the board of directors or appointed pursuant to the by-laws, may be removed by the board of directors at any time.

(6) The board of directors shall cause suitable books and records of all the bank's transactions to be kept.

(7) (a) In discharging the duties of their respective positions, the board of directors, committees of the board, and individual directors may, in considering the best long-term ~~long-term~~ and short-term ~~short-term~~ interests of the bank, consider the effects of any action (including, without limitation, action that may involve or relate to a merger or potential merger or to a change or potential change in control of the bank) upon employees, depositors, suppliers, and customers of the corporation or its subsidiaries, communities in which the main banking premises, branches, offices, or other establishments of the bank or its subsidiaries are located, and all pertinent factors.

(b) In discharging the duties of their respective positions, the board of directors, committees of the board, and individual directors shall be entitled to rely on advice, information, opinions, reports or statements,

including financial statements and financial data, prepared or presented by: (i) one or more officers or employees of the bank whom the director believes to be reliable and competent in the matter presented; (ii) one or more counsels, accountants, or other consultants as to matters that the director believes to be within that person's professional or expert competence; or (iii) a committee of the board upon which the director does not serve, as to matters within that committee's designated authority; provided that the director's reliance under this paragraph (b) is placed in good faith, after reasonable inquiry if the need for such inquiry is apparent under the circumstances and without knowledge that would cause such reliance to be unreasonable.

(Source: P.A. 91-452, eff. 1-1-00; 92-476, eff. 8-23-01.)

(205 ILCS 5/16.5)

Sec. 16.5. Employment of persons with convictions. Except with the prior written consent of the Commissioner, no State bank shall knowingly employ or otherwise permit an individual to serve as an officer, director, employee, or agent of the State bank if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust. Notwithstanding the provisions of this Section, a State bank in compliance with the provisions of 12 U.S.C. 1829 and administrative regulations issued under 12 U.S.C. 1829 by the

State bank's primary federal financial institution regulator shall be deemed in compliance with this Section.

(Source: P.A. 90-301, eff. 8-1-97.)

(205 ILCS 5/32.1) (from Ch. 17, par. 340)

Sec. 32.1. Loans to single individuals ~~Single Females~~.

(a) For purposes of this Section, "single" means not currently married.

(b) No State bank shall require that single individuals who have reached the age of majority ~~females~~ to whom loans are made have cosigners on promissory notes negotiated to secure such loans unless such bank shall, under the same or similar circumstances, also require that single males who have reached the age of majority have cosigners on promissory notes negotiated to secure loans.

(Source: P.A. 79-556.)

(205 ILCS 5/48)

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

Secretary's duties:

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

(2) (a) The Commissioner, as often as the Commissioner shall deem necessary or proper, and no less frequently than 18 months following the preceding examination, shall appoint a suitable person or persons to make an examination of the affairs of every State bank, except that for every eligible State bank, as defined by regulation, the Commissioner in lieu of the examination may accept on an alternating basis the examination made by the eligible State bank's appropriate federal banking agency pursuant to Section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991, provided the appropriate federal banking agency has made such an examination. A person so appointed shall not be a stockholder or officer or employee of any bank which that person may be directed to examine, and shall have powers to make a thorough examination into all the affairs of the bank and in so doing to examine any of the officers or agents or employees thereof on oath and shall make a full and detailed report of the condition of the bank to the Commissioner. In making the examination the examiners shall include an examination of the affairs of all the affiliates of the bank, as defined in subsection (b) of

Section 35.2 of this Act, or subsidiaries of the bank as shall be necessary to disclose fully the conditions of the subsidiaries or affiliates, the relations between the bank and the subsidiaries or affiliates and the effect of those relations upon the affairs of the bank, and in connection therewith shall have power to examine any of the officers, directors, agents, or employees of the subsidiaries or affiliates on oath. After May 31, 1997, the Commissioner may enter into cooperative agreements with state regulatory authorities of other states to provide for examination of State bank branches in those states, and the Commissioner may accept reports of examinations of State bank branches from those state regulatory authorities. These cooperative agreements may set forth the manner in which the other state regulatory authorities may be compensated for examinations prepared for and submitted to the Commissioner.

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

Commissioner and the state regulatory authority that chartered the out-of-state bank.

(2.1) Pursuant to paragraph (a) of subsection (6) of this Section, the Secretary shall adopt rules that ensure consistency and due process in the examination process. The Secretary may also establish guidelines that (i) define the scope of the examination process and (ii) clarify examination items to be resolved. The rules, formal guidance, interpretive letters, or opinions furnished to State banks by the Secretary may be relied upon by the State banks.

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

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

(b) the bank or, after May 31, 1997, branch of the out-of-state bank shall notify the Commissioner of the existence of a service relationship. The notification shall be submitted with the first statement of condition (as required by Section 47 of this Act) due

after the making of the service contract or the performance of the service, whichever occurs first. The Commissioner shall be notified of each subsequent contract in the same manner.

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

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

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

the following schedule: 16¢ per \$1,000 of the first \$5,000,000 of total assets, 15¢ per \$1,000 of the next \$20,000,000 of total assets, 13¢ per \$1,000 of the next \$75,000,000 of total assets, 9¢ per \$1,000 of the next \$400,000,000 of total assets, 7¢ per \$1,000 of the next \$500,000,000 of total assets, and 5¢ per \$1,000 of all assets in excess of \$1,000,000,000, of the State bank. The Call Report Fee shall be calculated by the Secretary and billed to the banks for remittance at the time of the quarterly statements of condition provided for in Section 47. The Secretary may require payment of the fees provided in this Section by an electronic transfer of funds or an automatic debit of an account of each of the State banks. In case more than one examination of any bank is deemed by the Secretary to be necessary in any examination frequency cycle specified in subsection 2(a) of this Section, and is performed at his direction, the Secretary may assess a reasonable additional fee to recover the cost of the additional examination. In lieu of the method and amounts set forth in this paragraph (a) for the calculation of the Call Report Fee, the Secretary may specify by rule that the Call Report Fees provided by this Section may be assessed semiannually or some other period and may provide in the rule the formula to be used for

calculating and assessing the periodic Call Report Fees to be paid by State banks.

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

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

(a-3) After May 31, 1997, the reasonable and necessary expenses of the Commissioner during

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

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

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

(c) The "administration expenses" for any fiscal year shall mean the ordinary and contingent expenses for that year incident to making the examinations

provided for by, and for otherwise administering, this Act, the Corporate Fiduciary Act, excluding the expenses paid from the Corporate Fiduciary Receivership account in the Bank and Trust Company Fund, the Foreign Banking Office Act, excluding the expenses paid from the Foreign Banking Office Non-insured Institutions Receivership account in the Bank and Trust Company Fund, the Electronic Fund Transfer Act, and the Illinois Bank Examiners' Education Foundation Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State, including the Commissioner and the Deputy Commissioners, communication equipment and services, office furnishings, surety bond premiums, and travel expenses of those officers and employees, employees, expenditures or charges for the acquisition, enlargement or improvement of, or for the use of, any office space, building, or structure, or expenditures for the maintenance thereof or for furnishing heat, light, or power with respect thereto, all to the extent that those expenditures are directly incidental to such examinations or administration. The Commissioner shall not be required by paragraph (c) or (d-1) of this subsection (3) to maintain in any fiscal year's budget appropriated reserves for accrued

vacation and accrued sick leave that is required to be paid to employees of the Commissioner upon termination of their service with the Commissioner in an amount that is more than is reasonably anticipated to be necessary for any anticipated turnover in employees, whether due to normal attrition or due to layoffs, terminations, or resignations.

(c-1) At the conclusion of each fiscal year, beginning in fiscal year 2025, the Department shall separately identify the direct administrative and operational expenses and allocable indirect costs of the Division of Banking of the Department incidental to conducting the examinations required or authorized by the Illinois Community Reinvestment Act and implementing rules adopted by the Department. Pursuant to Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois, the Department shall make copies of the analyses available to the banking industry in a timely manner. The administrative and operational expenses of the Division of Banking of the Department in conducting examinations required or authorized by the Illinois Community Reinvestment Act shall have the same meaning and scope as the administration expenses of the Division of Banking of the Department, as defined in paragraph (c) of subsection (3).

(d) The aggregate of all fees collected by the Secretary under this Act, the Corporate Fiduciary Act, or the Foreign Banking Office Act on and after July 1, 1979, and from State banks and savings banks pursuant to the Illinois Community Reinvestment Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund to be known as the Bank and Trust Company Fund, except as provided in paragraph (c) of subsection (11) of this Section. All earnings received from investments of funds in the Bank and Trust Company Fund shall be deposited into the Bank and Trust Company Fund and may be used for the same purposes as fees deposited into that Fund. The amount from time to time deposited into the Bank and Trust Company Fund shall be used: (i) to offset the ordinary administrative expenses of the Secretary as defined in this Section or (ii) except earnings received from investments of funds in the Corporate Fiduciary Receivership account and the Foreign Banking Office Non-insured Institutions Receivership account, as a credit against fees under paragraph (d-1) of this subsection (3). Nothing in Public Act 81-131 shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance

premiums of State officers by appropriations from the General Revenue Fund. However, the General Revenue Fund shall be reimbursed for those payments made on and after July 1, 1979, by an annual transfer of funds from the Bank and Trust Company Fund. Moneys in the Bank and Trust Company Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the total sum transferred during any fiscal year through January 10, 2011, from the Bank and Trust Company Fund to the General Revenue Fund pursuant to this provision shall not exceed during any fiscal year 10% of the revenues

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

(d-1) Adequate funds shall be available in the Bank and Trust Company Fund to permit the timely payment of administration expenses. In each fiscal year the total administration expenses shall be deducted from the total fees collected by the Commissioner and the remainder transferred into the Cash Flow Reserve Account, unless the balance of the Cash Flow Reserve Account prior to the transfer equals or exceeds one-fourth of the total initial appropriations from the Bank and Trust Company Fund for the subsequent year, in which case the remainder shall be credited to State banks and foreign banking corporations and applied against their fees for the subsequent year. The amount credited to each State bank and foreign banking corporation shall be in the same proportion as the Call Report Fees paid by each for the year bear to the total Call Report Fees collected for the year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for transfer, the balance of the Cash Flow Reserve Account is less than one-fourth of the total

initial appropriations for the subsequent year and the amount transferred is less than 5% of the total Call Report Fees for the year, additional amounts needed to make the transfer equal to 5% of the total Call Report Fees for the year shall be apportioned among, assessed upon, and paid by the State banks and foreign banking corporations in the same proportion that the Call Report Fees of each, respectively, for the year bear to the total Call Report Fees collected for the year. The additional amounts assessed shall be transferred into the Cash Flow Reserve Account. For purposes of this paragraph (d-1), the calculation of the fees collected by the Commissioner shall exclude all fees collected pursuant to the Student Loan Servicing Rights Act, the Foreign Banking Office Act, and the Foreign Bank Representative Office Act and the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act.

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

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

approval, or service.

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

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

nature of the case may require.

(6) The Commissioner shall have the power:

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

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

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

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

(c) To appoint hearing officers to execute any of the powers granted to the Commissioner under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act and

otherwise to authorize, in writing, an officer or employee of the Office of Banks and Real Estate to exercise his powers under this Act.

(d) To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Commissioner in respect of any matter relating to the duties imposed upon, or the powers vested in, the Commissioner under the provisions of this Act or any rule promulgated in accordance with this Act.

(e) To conduct hearings.

(7) Whenever, in the opinion of the Secretary, any director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank or, after May 31, 1997, of any branch of an out-of-state bank or any subsidiary or bank holding company of the bank shall have violated any law, rule, or order relating to that bank or any subsidiary or bank holding company of the bank, shall have obstructed or impeded any examination or investigation by the Secretary, shall have engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or shall have violated any law or engaged or

participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the State bank, the Secretary may issue an order of removal. If, in the opinion of the Secretary, any former director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank, prior to the termination of his or her service with that bank or any subsidiary or bank holding company of the bank, violated any law, rule, or order relating to that State bank or any subsidiary or bank holding company of the bank, obstructed or impeded any examination or investigation by the Secretary, engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the State bank, the Secretary may issue an order prohibiting that person from further service with a bank or any subsidiary or bank holding company of the bank as a director, officer, employee, or agent. An order issued

pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank affected by registered mail. A copy of the order shall also be served upon the bank of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank. The Secretary may institute a civil action against the director, officer, or agent of the State bank or, after May 31, 1997, of the branch of the out-of-state bank against whom any order provided for by this subsection (7) of this Section 48 has been issued, and against the State bank or, after May 31, 1997, out-of-state bank, to enforce compliance with or to enjoin any violation of the terms of the order. Any person who has been the subject of an order of removal or an order of prohibition issued by the Secretary under this subsection or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any State bank or of any branch of any out-of-state bank, or of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the Division of Banking unless the Secretary has granted prior approval in writing.

For purposes of this paragraph (7), "bank holding

company" has the meaning prescribed in Section 2 of the Illinois Bank Holding Company Act of 1957.

(7.5) Notwithstanding the provisions of this Section, the Secretary shall not:

(1) issue an order against a State bank or any subsidiary organized under this Act for unsafe or unsound banking practices solely because the entity provides or has provided financial services to a cannabis-related legitimate business;

(2) prohibit, penalize, or otherwise discourage a State bank or any subsidiary from providing financial services to a cannabis-related legitimate business solely because the entity provides or has provided financial services to a cannabis-related legitimate business;

(3) recommend, incentivize, or encourage a State bank or any subsidiary not to offer financial services to an account holder or to downgrade or cancel the financial services offered to an account holder solely because:

(A) the account holder is a manufacturer or producer, or is the owner, operator, or employee of a cannabis-related legitimate business;

(B) the account holder later becomes an owner or operator of a cannabis-related legitimate business; or

(C) the State bank or any subsidiary was not aware that the account holder is the owner or operator of a cannabis-related legitimate business; and

(4) take any adverse or corrective supervisory action on a loan made to an owner or operator of:

(A) a cannabis-related legitimate business solely because the owner or operator owns or operates a cannabis-related legitimate business; or

(B) real estate or equipment that is leased to a cannabis-related legitimate business solely because the owner or operator of the real estate or equipment leased the equipment or real estate to a cannabis-related legitimate business.

(8) The Commissioner may impose civil penalties of up to \$100,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action which in the Commissioner's discretion is an unsafe or unsound banking practice.

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

requirements.

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

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

(a) (Blank).

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

(c) The aggregate of all special educational fees collected by the Secretary and property received by the Secretary on behalf of the Illinois Bank Examiners' Education Foundation under this subsection (11) on or after June 30, 1986, shall be either (i) promptly paid after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund to be known as the Illinois Bank Examiners' Education Fund to be invested by either the Treasurer of the State of

Illinois in the Public Treasurers' Investment Pool or in any other investment he is authorized to make or by the Illinois State Board of Investment as the State Banking Board of Illinois may direct or (ii) deposited into an account maintained in a commercial bank or corporate fiduciary in the name of the Illinois Bank Examiners' Education Foundation pursuant to the order and direction of the Board of Trustees of the Illinois Bank Examiners' Education Foundation.

(12) (Blank).

(13) The Secretary may borrow funds from the General Revenue Fund on behalf of the Bank and Trust Company Fund if the Director of Banking certifies to the Governor that there is an economic emergency affecting banking that requires a borrowing to provide additional funds to the Bank and Trust Company Fund. The borrowed funds shall be paid back within 3 years and shall not exceed the total funding appropriated to the Agency in the previous year.

(14) In addition to the fees authorized in this Act, the Secretary may assess reasonable receivership fees against any State bank that does not maintain insurance with the Federal Deposit Insurance Corporation. All fees collected under this subsection (14) shall be paid into the Non-insured Institutions Receivership account in the Bank and Trust Company Fund, as established by the Secretary. The fees assessed under this subsection (14)

shall provide for the expenses that arise from the administration of the receivership of any such institution required to pay into the Non-insured Institutions Receivership account, whether pursuant to this Act, the Corporate Fiduciary Act, the Foreign Banking Office Act, or any other Act that requires payments into the Non-insured Institutions Receivership account. The Secretary may establish by rule a reasonable manner of assessing fees under this subsection (14).

(Source: P.A. 102-558, eff. 8-20-21; 103-154, eff. 6-30-23.)

(205 ILCS 5/48.1) (from Ch. 17, par. 360)

Sec. 48.1. Customer financial records; confidentiality.

(a) For the purpose of this Section, the term "financial records" means any original, any copy, or any summary of:

(1) a document granting signature authority over a deposit or account;

(2) a statement, ledger card or other record on any deposit or account, which shows each transaction in or with respect to that account;

(3) a check, draft or money order drawn on a bank or issued and payable by a bank; or

(4) any other item containing information pertaining to any relationship established in the ordinary course of a bank's business between a bank and its customer, including financial statements or other financial

information provided by the customer.

(b) This Section does not prohibit:

(1) The preparation, examination, handling or maintenance of any financial records by any officer, employee or agent of a bank having custody of the records, or the examination of the records by a certified public accountant engaged by the bank to perform an independent audit.

(2) The examination of any financial records by, or the furnishing of financial records by a bank to, any officer, employee or agent of (i) the Commissioner of Banks and Real Estate, (ii) after May 31, 1997, a state regulatory authority authorized to examine a branch of a State bank located in another state, (iii) the Comptroller of the Currency, (iv) the Federal Reserve Board, or (v) the Federal Deposit Insurance Corporation for use solely in the exercise of his duties as an officer, employee, or agent.

(3) The publication of data furnished from financial records relating to customers where the data cannot be identified to any particular customer or account.

(4) The making of reports or returns required under Chapter 61 of the Internal Revenue Code of 1986.

(5) Furnishing information concerning the dishonor of any negotiable instrument permitted to be disclosed under the Uniform Commercial Code.

(6) The exchange in the regular course of business of (i) credit information between a bank and other banks or financial institutions or commercial enterprises, directly or through a consumer reporting agency or (ii) financial records or information derived from financial records between a bank and other banks or financial institutions or commercial enterprises for the purpose of conducting due diligence pursuant to a purchase or sale involving the bank or assets or liabilities of the bank.

(7) The furnishing of information to the appropriate law enforcement authorities where the bank reasonably believes it has been the victim of a crime.

(8) The furnishing of information under the Revised Uniform Unclaimed Property Act.

(9) The furnishing of information under the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act.

(10) The furnishing of information under the federal Currency and Foreign Transactions Reporting Act Title 31, United States Code, Section 1051 et seq.

(11) The furnishing of information under any other statute that by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(12) The furnishing of information about the existence of an account of a person to a judgment creditor of that

person who has made a written request for that information.

(13) The exchange in the regular course of business of information between commonly owned banks in connection with a transaction authorized under paragraph (23) of Section 5 and conducted at an affiliate facility.

(14) The furnishing of information in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Any bank governed by this Act shall enter into an agreement for data exchanges with a State agency provided the State agency pays to the bank a reasonable fee not to exceed its actual cost incurred. A bank providing information in accordance with this item shall not be liable to any account holder or other person for any disclosure of information to a State agency, for encumbering or surrendering any assets held by the bank in response to a lien or order to withhold and deliver issued by a State agency, or for any other action taken pursuant to this item, including individual or mechanical errors, provided the action does not constitute gross negligence or willful misconduct. A bank shall have no obligation to hold, encumber, or surrender assets until it has been served with a subpoena, summons, warrant, court or administrative order, lien, or levy.

(15) The exchange in the regular course of business of information between a bank and any commonly owned

affiliate of the bank, subject to the provisions of the Financial Institutions Insurance Sales Law.

(16) The furnishing of information to law enforcement authorities, the Illinois Department on Aging and its regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians: (i) upon subpoena by the investigatory entity or the guardian, or (ii) if there is suspicion by the bank that a customer who is an elderly person or person with a disability has been or may become the victim of financial exploitation. For the purposes of this item (16), the term: (i) "elderly person" means a person who is 60 or more years of age, (ii) "~~disabled~~ person with a disability" means a person who has or reasonably appears to the bank to have a physical or mental disability that impairs his or her ability to seek or obtain protection from or prevent financial exploitation, and (iii) "financial exploitation" means tortious or illegal use of the assets or resources of an elderly ~~or disabled~~ person or person with a disability, and includes, without limitation, misappropriation of the ~~elderly or disabled person's~~ assets or resources of the elderly person or person with a disability by undue influence, breach of fiduciary relationship, intimidation, fraud, deception, extortion, or the use of assets or resources in any manner contrary to law. A bank or person

furnishing information pursuant to this item (16) shall be entitled to the same rights and protections as a person furnishing information under the Adult Protective Services Act and the Illinois Domestic Violence Act of 1986.

(17) The disclosure of financial records or information as necessary to effect, administer, or enforce a transaction requested or authorized by the customer, or in connection with:

(A) servicing or processing a financial product or service requested or authorized by the customer;

(B) maintaining or servicing a customer's account with the bank; or

(C) a proposed or actual securitization or secondary market sale (including sales of servicing rights) related to a transaction of a customer.

Nothing in this item (17), however, authorizes the sale of the financial records or information of a customer without the consent of the customer.

(18) The disclosure of financial records or information as necessary to protect against actual or potential fraud, unauthorized transactions, claims, or other liability.

(19) (A) The disclosure of financial records or information related to a private label credit program between a financial institution and a private label party in connection with that private label credit program. Such

information is limited to outstanding balance, available credit, payment and performance and account history, product references, purchase information, and information related to the identity of the customer.

(B) (1) For purposes of this paragraph (19) of subsection (b) of Section 48.1, a "private label credit program" means a credit program involving a financial institution and a private label party that is used by a customer of the financial institution and the private label party primarily for payment for goods or services sold, manufactured, or distributed by a private label party.

(2) For purposes of this paragraph (19) of subsection (b) of Section 48.1, a "private label party" means, with respect to a private label credit program, any of the following: a retailer, a merchant, a manufacturer, a trade group, or any such person's affiliate, subsidiary, member, agent, or service provider.

(20) (A) The furnishing of financial records of a customer to the Department to aid the Department's initial determination or subsequent re-determination of the customer's eligibility for Medicaid and Medicaid long-term care benefits for long-term care services, provided that the bank receives the written consent and authorization of the customer, which shall:

(1) have the customer's signature notarized;

(2) be signed by at least one witness who certifies that he or she believes the customer to be of sound mind and memory;

(3) be tendered to the bank at the earliest practicable time following its execution, certification, and notarization;

(4) specifically limit the disclosure of the customer's financial records to the Department; and

(5) be in substantially the following form:

CUSTOMER CONSENT AND AUTHORIZATION
FOR RELEASE OF FINANCIAL RECORDS

I, , hereby authorize
(Name of Customer)

.....
(Name of Financial Institution)

.....
(Address of Financial Institution)

to disclose the following financial records:

any and all information concerning my deposit, savings, money market, certificate of deposit, individual retirement,

retirement plan, 401(k) plan, incentive plan, employee benefit plan, mutual fund and loan accounts (including, but not limited to, any indebtedness or obligation for which I am a co-borrower, co-obligor, guarantor, or surety), and any and all other accounts in which I have an interest and any other information regarding me in the possession of the Financial Institution,

to the Illinois Department of Human Services or the Illinois Department of Healthcare and Family Services, or both ("the Department"), for the following purpose(s):

to aid in the initial determination or re-determination by the State of Illinois of my eligibility for Medicaid long-term care benefits, pursuant to applicable law.

I understand that this Consent and Authorization may be revoked by me in writing at any time before my financial records, as described above, are disclosed, and that this Consent and Authorization is valid until the Financial Institution receives my written revocation. This Consent and Authorization shall constitute valid authorization for the Department identified above to inspect all such financial records set forth above, and to request and receive copies of such financial records from the Financial Institution (subject to such records search and reproduction reimbursement policies

as the Financial Institution may have in place). An executed copy of this Consent and Authorization shall be sufficient and as good as the original and permission is hereby granted to honor a photostatic or electronic copy of this Consent and Authorization. Disclosure is strictly limited to the Department identified above and no other person or entity shall receive my financial records pursuant to this Consent and Authorization. By signing this form, I agree to indemnify and hold the Financial Institution harmless from any and all claims, demands, and losses, including reasonable attorneys fees and expenses, arising from or incurred in its reliance on this Consent and Authorization. As used herein, "Customer" shall mean "Member" if the Financial Institution is a credit union.

.....

(Date)

(Signature of Customer)

.....

.....

(Address of Customer)

.....

(Customer's birth date)

(month/day/year)

The undersigned witness certifies that,
known to me to be the same person whose name is subscribed as
the customer to the foregoing Consent and Authorization,
appeared before me and the notary public and acknowledged
signing and delivering the instrument as his or her free and
voluntary act for the uses and purposes therein set forth. I
believe him or her to be of sound mind and memory. The
undersigned witness also certifies that the witness is not an
owner, operator, or relative of an owner or operator of a
long-term care facility in which the customer is a patient or
resident.

Dated:

(Signature of Witness)

.....

(Print Name of Witness)

.....

.....

(Address of Witness)

State of Illinois)

) ss.

County of)

The undersigned, a notary public in and for the above county and state, certifies that, known to me to be the same person whose name is subscribed as the customer to the foregoing Consent and Authorization, appeared before me together with the witness,, in person and acknowledged signing and delivering the instrument as the free and voluntary act of the customer for the uses and purposes therein set forth.

Dated:

Notary Public:

My commission expires:

(B) In no event shall the bank distribute the customer's financial records to the long-term care facility from which the customer seeks initial or continuing residency or long-term care services.

(C) A bank providing financial records of a customer in good faith relying on a consent and authorization executed and tendered in accordance with this paragraph (20) shall not be liable to the customer or any other person in relation to the bank's disclosure of the customer's financial records to the Department. The customer signing the consent and authorization shall indemnify and hold the bank harmless that relies in good faith upon the consent and authorization and incurs a loss

because of such reliance. The bank recovering under this indemnification provision shall also be entitled to reasonable attorney's fees and the expenses of recovery.

(D) A bank shall be reimbursed by the customer for all costs reasonably necessary and directly incurred in searching for, reproducing, and disclosing a customer's financial records required or requested to be produced pursuant to any consent and authorization executed under this paragraph (20). The requested financial records shall be delivered to the Department within 10 days after receiving a properly executed consent and authorization or at the earliest practicable time thereafter if the requested records cannot be delivered within 10 days, but delivery may be delayed until the final reimbursement of all costs is received by the bank. The bank may honor a photostatic or electronic copy of a properly executed consent and authorization.

(E) Nothing in this paragraph (20) shall impair, abridge, or abrogate the right of a customer to:

(1) directly disclose his or her financial records to the Department or any other person; or

(2) authorize his or her attorney or duly appointed agent to request and obtain the customer's financial records and disclose those financial records to the Department.

(F) For purposes of this paragraph (20), "Department"

means the Department of Human Services and the Department of Healthcare and Family Services or any successor administrative agency of either agency.

(21) The furnishing of financial records of a deceased customer to a public administrator of any county or other governmental jurisdiction for the purpose of facilitating burial of the customer.

(c) Except as otherwise provided by this Act, a bank may not disclose to any person, except to the customer or his duly authorized agent, any financial records or financial information obtained from financial records relating to that customer of that bank unless:

(1) the customer has authorized disclosure to the person;

(2) the financial records are disclosed in response to a lawful subpoena, summons, warrant, citation to discover assets, or court order which meets the requirements of subsection (d) of this Section; or

(3) the bank is attempting to collect an obligation owed to the bank and the bank complies with the provisions of Section 2I of the Consumer Fraud and Deceptive Business Practices Act.

(d) A bank shall disclose financial records under paragraph (2) of subsection (c) of this Section under a lawful subpoena, summons, warrant, citation to discover assets, or court order only after the bank sends a copy of the subpoena,

summons, warrant, citation to discover assets, or court order to the person establishing the relationship with the bank, if living, and, otherwise the person's personal representative, if known, at the person's last known address by first class mail, postage prepaid, through a third-party commercial carrier or courier with delivery charge fully prepaid, by hand delivery, or by electronic delivery at an email address on file with the bank (if the person establishing the relationship with the bank has consented to receive electronic delivery and, if the person establishing the relationship with the bank is a consumer, the person has consented under the consumer consent provisions set forth in Section 7001 of Title 15 of the United States Code), unless the bank is specifically prohibited from notifying the person by order of court or by applicable State or federal law. A bank shall not mail a copy of a subpoena to any person pursuant to this subsection if the subpoena was issued by a grand jury ~~under the Statewide Grand Jury Act.~~

(e) Any officer or employee of a bank who knowingly and willfully furnishes financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(f) Any person who knowingly and willfully induces or attempts to induce any officer or employee of a bank to disclose financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be

fined not more than \$1,000.

(g) A bank shall be reimbursed for costs that are reasonably necessary and that have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced pursuant to a lawful subpoena, summons, warrant, citation to discover assets, or court order. The Commissioner shall determine the rates and conditions under which payment may be made.

(Source: P.A. 101-81, eff. 7-12-19; 102-873, eff. 5-13-22.)

(205 ILCS 5/48.2) (from Ch. 17, par. 360.1)

Sec. 48.2. Prohibition against certain activities.

(a) Any bank, subsidiary, affiliate, officer or employee of such bank subject to this Act shall not:

(1) grant any loan on the prior condition, agreement or understanding that the borrower contract with any specific person or organization for the following:

- (A) insurance services of an agent or broker;
- (B) legal services rendered to the borrower;
- (C) services of a real estate agent or broker; or
- (D) real estate or property management services;

(2) require that insurance services, legal services, real estate services or property management services be placed with any subsidiary, affiliate, officer or employee of any bank.

(b) Any bank or subsidiary, affiliate, employee, officer, banking house, branch bank, branch office, additional office or agency of such bank that is transacting an insurance business in this State shall comply with Article XLIV of the Illinois Insurance Code.

(c) Any officer or employee of a bank or its affiliates or subsidiaries who violates this Section is guilty of a business offense, and upon conviction shall be fined not more than \$1,000. This Section does not create a private cause of action for civil damages.

(d) In any contract or loan which is secured by a mortgage, deed of trust, or conveyance in the nature of a mortgage, on residential real estate, the interest which is computed, calculated, charged, or collected pursuant to such contract or loan, or pursuant to any regulation or rule promulgated pursuant to this Act, may not be computed, calculated, charged or collected for any period of time occurring after the date on which the total indebtedness, with the exception of late payment penalties, is paid in full. For purposes of this subsection (d) of this Section 48.2, a prepayment shall mean the payment of the total indebtedness, with the exception of late payment penalties if incurred or charged, on any date before the date specified in the contract or loan agreement on which the total indebtedness shall be paid in full, or before the date on which all payments, if timely made, shall have been made. In the event of a prepayment of the indebtedness which is

made on a date after the date on which interest on the indebtedness was last computed, calculated, charged, or collected but before the next date on which interest on the indebtedness was to be calculated, computed, charged, or collected, the lender may calculate, charge and collect interest on the indebtedness for the period which elapsed between the date on which the prepayment is made and the date on which interest on the indebtedness was last computed, calculated, charged or collected at a rate equal to $1/360$ of the annual rate for each day which so elapsed, which rate shall be applied to the indebtedness outstanding as of the date of prepayment. The lender shall refund to the borrower any interest charged or collected which exceeds that which the lender may charge or collect pursuant to the preceding sentence. The provisions of this amendatory Act of 1985 shall apply only to contracts or loans entered into on or after January 1, 1986.

(e) Any bank, affiliate or subsidiary of such bank which shall engage in making residential mortgage financing transactions, shall with respect to each such transaction, provide the following:

(1) if a contractual obligation is intended to a borrower, a mortgage commitment which shall set forth the material terms, conditions and contingencies of such commitment;

(2) if the servicing of a residential mortgage shall

be transferred from the original mortgagee, within 45 days of such transfer, written notice sent by first-class ~~certified mail, return receipt requested,~~ to the mortgagor at the address of the property, unless the mortgagor shall have directed correspondence from the mortgagee shall be sent to another address, which notice shall set forth: the name and address of the transferee; the name, address and telephone number to which inquiries by the residential mortgagor should be addressed; and the name and address to which the next 3 monthly installments are to be submitted to the transferee and the amount of each of such monthly installment; and

(3) if the servicing of a residential mortgage shall be transferred again or if the information in paragraph (2) above shall change, the notice with the corrected information shall be provided within 45 days of such subsequent transfer or change in information by the transferee of the servicing of the mortgage at that time.

(Source: P.A. 90-41, eff. 10-1-97.)

Section 10. The Savings Bank Act is amended by changing Sections 1008, 4002, 4003, 4013, 6002, 7005, 8002, and 11008 as follows:

(205 ILCS 205/1008) (from Ch. 17, par. 7301-8)

Sec. 1008. General corporate powers.

(a) A savings bank operating under this Act shall be a body corporate and politic and shall have all of the powers conferred by this Act including, but not limited to, the following powers:

(1) To sue and be sued, complain, and defend in its corporate name and to have a common seal, which it may alter or renew at pleasure.

(2) To obtain and maintain insurance by a deposit insurance corporation as defined in this Act.

(3) To act as a fiscal agent for the United States, the State of Illinois or any department, branch, arm, or agency of the State or any unit of local government or school district in the State, when duly designated for that purpose, and as agent to perform reasonable functions as may be required of it.

(4) To become a member of or deal with any corporation or agency of the United States or the State of Illinois, to the extent that the agency assists in furthering or facilitating its purposes or powers and to that end to purchase stock or securities thereof or deposit money therewith, and to comply with any other conditions of membership or credit.

(5) To make donations in reasonable amounts for the public welfare or for charitable, scientific, religious, or educational purposes.

(6) To adopt and operate reasonable insurance, bonus,

profit sharing, and retirement plans for officers and employees and for directors including, but not limited to, advisory, honorary, and emeritus directors, who are not officers or employees.

(7) To reject any application for membership; to retire deposit accounts by enforced retirement as provided in this Act and the bylaws; and to limit the issuance of, or payments on, deposit accounts, subject, however, to contractual obligations.

(8) To purchase stock or membership interests in service corporations and to invest in any form of indebtedness of any service corporation as defined in this Act, subject to regulations of the Secretary.

(9) To purchase stock of a corporation whose principal purpose is to operate a safe deposit company or escrow service company.

(10) To exercise all the powers necessary to qualify as a trustee or custodian under federal or State law, provided that the authority to accept and execute trusts is subject to the provisions of the Corporate Fiduciary Act and to the supervision of those activities by the Secretary.

(11) (Blank) .

(12) To establish, maintain, and operate terminals as authorized by the Electronic Fund Transfer Act.

(13) To borrow or incur an obligation; and to pledge

its assets:

(A) to enable it to act as agent for the sale of obligations of the United States;

(B) to secure deposits;

(C) to secure deposits of money whenever required by the National Bankruptcy Act;

(D) (blank); and

(E) to secure trust funds commingled with the savings bank's funds, whether deposited by the savings bank or an affiliate of the savings bank, as required under Section 2-8 of the Corporate Fiduciary Act.

(14) To accept for payment at a future date not to exceed one year from the date of acceptance, drafts drawn upon it by its customers; and to issue, advise, or confirm letters of credit authorizing holders thereof to draw drafts upon it or its correspondents.

(15) Subject to the regulations of the Secretary, to own and lease personal property acquired by the savings bank at the request of a prospective lessee and, upon the agreement of that person, to lease the personal property.

(16) To establish temporary service booths at any International Fair in this State that is approved by the United States Department of Commerce for the duration of the international fair for the purpose of providing a convenient place for foreign trade customers to exchange their home countries' currency into United States currency

or the converse. To provide temporary periodic service to persons residing in a bona fide nursing home, senior citizens' retirement home, or long-term care facility. These powers shall not be construed as establishing a new place or change of location for the savings bank providing the service booth.

(17) To indemnify its officers, directors, employees, and agents, as authorized for corporations under Section 8.75 of the Business Corporation Act of 1983.

(18) To provide data processing services to others on a for-profit basis.

(19) To utilize any electronic technology to provide customers with home banking services.

(20) Subject to the regulations of the Secretary, to enter into an agreement to act as a surety.

(21) Subject to the regulations of the Secretary, to issue credit cards, extend credit therewith, and otherwise engage in or participate in credit card operations.

(22) To purchase for its own account shares of stock of a bankers' bank, described in Section 13(b)(1) of the Illinois Banking Act, on the same terms and conditions as a bank may purchase such shares. In no event shall the total amount of such stock held by a savings bank in such bankers' bank exceed 10% of its capital and surplus (including undivided profits) and in no event shall a savings bank acquire more than 15% ~~5%~~ of any class of

voting securities of such bankers' bank.

(23) With respect to affiliate facilities:

(A) to conduct at affiliate facilities any of the following transactions for and on behalf of any affiliated depository institution, if so authorized by the affiliate or affiliates: receiving deposits; renewing deposits; cashing and issuing checks, drafts, money orders, travelers checks, or similar instruments; changing money; receiving payments on existing indebtedness; ~~and~~ conducting ministerial functions with respect to loan applications, servicing loans, and providing loan account information; and, on behalf of another commonly owned bank, if so authorized by the other bank, all transactions that the other bank is authorized or permitted to perform; and

(B) to authorize an affiliated depository institution to conduct for and on behalf of it, any of the transactions listed in this subsection at one or more affiliate facilities.

A savings bank intending to conduct or to authorize an affiliated depository institution to conduct at an affiliate facility any of the transactions specified in this subsection shall give written notice to the Secretary at least 30 days before any such transaction is conducted at an affiliate facility. All conduct under this

subsection shall be on terms consistent with safe and sound banking practices and applicable law.

(24) Subject to Article XLIV of the Illinois Insurance Code, to act as the agent for any fire, life, or other insurance company authorized by the State of Illinois, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said savings bank and the insurance company for which it may act as agent; provided, however, that no such savings bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal; and provided further, that the savings bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(25) To become a member of the Federal Home Loan Bank and to have the powers granted to a savings association organized under the Illinois Savings and Loan Act of 1985 or the laws of the United States, subject to regulations of the Secretary.

(26) To offer any product or service that is at the time authorized or permitted to a bank by applicable law, but subject always to the same limitations and restrictions that are applicable to the bank for the product or service by such applicable law and subject to

the applicable provisions of the Financial Institutions Insurance Sales Law and rules of the Secretary.

(b) If this Act or the regulations adopted under this Act fail to provide specific guidance in matters of corporate governance, the provisions of the Business Corporation Act of 1983 may be used, or if the savings bank is a limited liability company, the provisions of the Limited Liability Company Act shall be used.

(c) A savings bank may be organized as a limited liability company, may convert to a limited liability company, or may merge with and into a limited liability company, under the applicable laws of this State and of the United States, including any rules promulgated thereunder. A savings bank organized as a limited liability company shall be subject to the provisions of the Limited Liability Company Act in addition to this Act, provided that if a provision of the Limited Liability Company Act conflicts with a provision of this Act or with any rule of the Secretary, the provision of this Act or the rule of the Secretary shall apply.

Any filing required to be made under the Limited Liability Company Act shall be made exclusively with the Secretary, and the Secretary shall possess the exclusive authority to regulate the savings bank as provided in this Act.

Any organization as, conversion to, and merger with or into a limited liability company shall be subject to the prior approval of the Secretary.

A savings bank that is a limited liability company shall be subject to all of the provisions of this Act in the same manner as a savings bank that is organized in stock form.

The Secretary may promulgate rules to ensure that a savings bank that is a limited liability company (i) is operating in a safe and sound manner and (ii) is subject to the Secretary's authority in the same manner as a savings bank that is organized in stock form.

(Source: P.A. 102-558, eff. 8-20-21.)

(205 ILCS 205/4002) (from Ch. 17, par. 7304-2)

Sec. 4002. Annual and special meetings. Dates of annual meetings of members or stockholders shall be specified in the bylaws. Failure to hold an annual meeting shall not cause a forfeiture or dissolution of the savings bank. Special meetings may be called by the board of directors, the holders of not less than 25% of the outstanding capital stock shares, or by any other person as the bylaws may designate. The Commissioner may also call a special meeting with not less than 12 hours written or oral notice. Every annual or special meeting shall be held at the business office of the savings bank ~~or, if the space is inadequate,~~ in another place within the same county as shall be specifically designated in the notice of the meeting, or virtually. Unless expressly prohibited by the articles of incorporation or bylaws and subject to applicable requirements of this Act, the board of

directors may provide by resolution that members or stockholders may attend, participate in, act in, and vote at any annual meeting or special meeting through the use of a conference telephone or interactive technology, including, but not limited to, electronic transmission, Internet usage, or remote communication, by means of which all persons participating in the meeting can communicate with each other. Participation through the use of a conference telephone or interactive technology shall constitute attendance, presence, and representation in person at the annual meeting or special meeting of the person or persons so participating and count toward the quorum required to conduct business at the meeting. The following conditions shall apply to any virtual meeting of members or stockholders:

(a) the savings bank must internally possess or retain the technological capacity to facilitate virtual meeting attendance, participation, communication, and voting; and

(b) members or stockholders must receive notice of the use of a virtual meeting format and appropriate instructions for joining, participating, and voting during the virtual meeting at least 7 days before the virtual meeting.

(Source: P.A. 86-1213.)

(205 ILCS 205/4003) (from Ch. 17, par. 7304-3)

Sec. 4003. Notice of meetings.

(a) Notice of an annual meeting shall be published once

not fewer than 10 days nor more than 40 days before the date of the meeting. The notice shall also be displayed at the place of business of the savings bank in a manner to be prescribed by the Commissioner. The notice must state the time, place, and purpose of the meeting.

(b) For any special meeting or for any annual meeting that is to consider any proposition that requires an affirmative vote of two-thirds of the members or stockholders or any proposition to amend the articles of incorporation of the savings bank, the notice must be delivered personally, electronically, or by mail to the holders of stock, capital accounts, and membership entitled to notice of or to vote at the meeting, ~~by mail, postmarked~~ between 10 and 40 days before the date of the meeting, ~~and must also be posted at the savings bank's offices as if for an annual meeting, beginning on the date notice is given.~~ All notices must state the time, place, and purpose of the meeting. If mailed, the notice shall be deemed to be delivered on the date on which it has been postmarked.

(Source: P.A. 89-74, eff. 6-30-95.)

(205 ILCS 205/4013) (from Ch. 17, par. 7304-13)

Sec. 4013. Access to books and records; communication with members and shareholders.

(a) Every member or shareholder shall have the right to inspect books and records of the savings bank that pertain to

his accounts. Otherwise, the right of inspection and examination of the books and records shall be limited as provided in this Act, and no other person shall have access to the books and records nor shall be entitled to a list of the members or shareholders.

(b) For the purpose of this Section, the term "financial records" means any original, any copy, or any summary of (1) a document granting signature authority over a deposit or account; (2) a statement, ledger card, or other record on any deposit or account that shows each transaction in or with respect to that account; (3) a check, draft, or money order drawn on a savings bank or issued and payable by a savings bank; or (4) any other item containing information pertaining to any relationship established in the ordinary course of a savings bank's business between a savings bank and its customer, including financial statements or other financial information provided by the member or shareholder.

(c) This Section does not prohibit:

(1) The preparation, examination, handling, or maintenance of any financial records by any officer, employee, or agent of a savings bank having custody of records or examination of records by a certified public accountant engaged by the savings bank to perform an independent audit.

(2) The examination of any financial records by, or the furnishing of financial records by a savings bank to,

any officer, employee, or agent of the Commissioner of Banks and Real Estate or the federal depository institution regulator for use solely in the exercise of his duties as an officer, employee, or agent.

(3) The publication of data furnished from financial records relating to members or holders of capital where the data cannot be identified to any particular member, shareholder, or account.

(4) The making of reports or returns required under Chapter 61 of the Internal Revenue Code of 1986.

(5) Furnishing information concerning the dishonor of any negotiable instrument permitted to be disclosed under the Uniform Commercial Code.

(6) The exchange in the regular course of business of (i) credit information between a savings bank and other savings banks or financial institutions or commercial enterprises, directly or through a consumer reporting agency or (ii) financial records or information derived from financial records between a savings bank and other savings banks or financial institutions or commercial enterprises for the purpose of conducting due diligence pursuant to a purchase or sale involving the savings bank or assets or liabilities of the savings bank.

(7) The furnishing of information to the appropriate law enforcement authorities where the savings bank reasonably believes it has been the victim of a crime.

(8) The furnishing of information pursuant to the Revised Uniform Unclaimed Property Act.

(9) The furnishing of information pursuant to the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act.

(10) The furnishing of information pursuant to the federal Currency and Foreign Transactions Reporting Act, (Title 31, United States Code, Section 1051 et seq.).

(11) The furnishing of information pursuant to any other statute which by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant, or court order.

(12) The furnishing of information in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Any savings bank governed by this Act shall enter into an agreement for data exchanges with a State agency provided the State agency pays to the savings bank a reasonable fee not to exceed its actual cost incurred. A savings bank providing information in accordance with this item shall not be liable to any account holder or other person for any disclosure of information to a State agency, for encumbering or surrendering any assets held by the savings bank in response to a lien or order to withhold and deliver issued by a State agency, or for any other action taken pursuant

to this item, including individual or mechanical errors, provided the action does not constitute gross negligence or willful misconduct. A savings bank shall have no obligation to hold, encumber, or surrender assets until it has been served with a subpoena, summons, warrant, court or administrative order, lien, or levy.

(13) The furnishing of information to law enforcement authorities, the Illinois Department on Aging and its regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians: (i) upon subpoena by the investigatory entity or the guardian, or (ii) if there is suspicion by the savings bank that a customer who is an elderly person or person with a disability has been or may become the victim of financial exploitation. For the purposes of this item (13), the term: (i) "elderly person" means a person who is 60 or more years of age, (ii) "person with a disability" means a person who has or reasonably appears to the savings bank to have a physical or mental disability that impairs his or her ability to seek or obtain protection from or prevent financial exploitation, and (iii) "financial exploitation" means tortious or illegal use of the assets or resources of an elderly person or person with a disability, and includes, without limitation, misappropriation of the assets or resources of the elderly person or person with a disability by undue

influence, breach of fiduciary relationship, intimidation, fraud, deception, extortion, or the use of assets or resources in any manner contrary to law. A savings bank or person furnishing information pursuant to this item (13) shall be entitled to the same rights and protections as a person furnishing information under the Adult Protective Services Act and the Illinois Domestic Violence Act of 1986.

(14) The disclosure of financial records or information as necessary to effect, administer, or enforce a transaction requested or authorized by the member or holder of capital, or in connection with:

(A) servicing or processing a financial product or service requested or authorized by the member or holder of capital;

(B) maintaining or servicing an account of a member or holder of capital with the savings bank; or

(C) a proposed or actual securitization or secondary market sale (including sales of servicing rights) related to a transaction of a member or holder of capital.

Nothing in this item (14), however, authorizes the sale of the financial records or information of a member or holder of capital without the consent of the member or holder of capital.

(15) The exchange in the regular course of business of

information between a savings bank and any commonly owned affiliate of the savings bank, subject to the provisions of the Financial Institutions Insurance Sales Law.

(16) The disclosure of financial records or information as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.

(17)(a) The disclosure of financial records or information related to a private label credit program between a financial institution and a private label party in connection with that private label credit program. Such information is limited to outstanding balance, available credit, payment and performance and account history, product references, purchase information, and information related to the identity of the customer.

(b)(1) For purposes of this paragraph (17) of subsection (c) of Section 4013, a "private label credit program" means a credit program involving a financial institution and a private label party that is used by a customer of the financial institution and the private label party primarily for payment for goods or services sold, manufactured, or distributed by a private label party.

(2) For purposes of this paragraph (17) of subsection (c) of Section 4013, a "private label party" means, with respect to a private label credit program, any of the

following: a retailer, a merchant, a manufacturer, a trade group, or any such person's affiliate, subsidiary, member, agent, or service provider.

(18)(a) The furnishing of financial records of a customer to the Department to aid the Department's initial determination or subsequent re-determination of the customer's eligibility for Medicaid and Medicaid long-term care benefits for long-term care services, provided that the savings bank receives the written consent and authorization of the customer, which shall:

(1) have the customer's signature notarized;

(2) be signed by at least one witness who certifies that he or she believes the customer to be of sound mind and memory;

(3) be tendered to the savings bank at the earliest practicable time following its execution, certification, and notarization;

(4) specifically limit the disclosure of the customer's financial records to the Department; and

(5) be in substantially the following form:

CUSTOMER CONSENT AND AUTHORIZATION
FOR RELEASE OF FINANCIAL RECORDS

I, , hereby authorize
(Name of Customer)

.....
(Name of Financial Institution)

.....
(Address of Financial Institution)

to disclose the following financial records:

any and all information concerning my deposit, savings, money market, certificate of deposit, individual retirement, retirement plan, 401(k) plan, incentive plan, employee benefit plan, mutual fund and loan accounts (including, but not limited to, any indebtedness or obligation for which I am a co-borrower, co-obligor, guarantor, or surety), and any and all other accounts in which I have an interest and any other information regarding me in the possession of the Financial Institution,

to the Illinois Department of Human Services or the Illinois Department of Healthcare and Family Services, or both ("the Department"), for the following purpose(s):

to aid in the initial determination or re-determination by the State of Illinois of my eligibility for Medicaid long-term care benefits, pursuant to applicable law.

I understand that this Consent and Authorization may be revoked by me in writing at any time before my financial records, as described above, are disclosed, and that this Consent and Authorization is valid until the Financial Institution receives my written revocation. This Consent and Authorization shall constitute valid authorization for the Department identified above to inspect all such financial records set forth above, and to request and receive copies of such financial records from the Financial Institution (subject to such records search and reproduction reimbursement policies as the Financial Institution may have in place). An executed copy of this Consent and Authorization shall be sufficient and as good as the original and permission is hereby granted to honor a photostatic or electronic copy of this Consent and Authorization. Disclosure is strictly limited to the Department identified above and no other person or entity shall receive my financial records pursuant to this Consent and Authorization. By signing this form, I agree to indemnify and hold the Financial Institution harmless from any and all claims, demands, and losses, including reasonable attorneys fees and expenses, arising from or incurred in its reliance on this Consent and Authorization. As used herein, "Customer" shall mean "Member" if the Financial Institution is a credit union.

.....

(Date)

(Signature of Customer)

.....

.....

(Address of Customer)

.....

(Customer's birth date)

(month/day/year)

The undersigned witness certifies that,
known to me to be the same person whose name is subscribed as
the customer to the foregoing Consent and Authorization,
appeared before me and the notary public and acknowledged
signing and delivering the instrument as his or her free and
voluntary act for the uses and purposes therein set forth. I
believe him or her to be of sound mind and memory. The
undersigned witness also certifies that the witness is not an
owner, operator, or relative of an owner or operator of a
long-term care facility in which the customer is a patient or
resident.

Dated:

(Signature of Witness)

.....

(Print Name of Witness)

.....

.....

(Address of Witness)

State of Illinois)

) ss.

County of)

The undersigned, a notary public in and for the above county and state, certifies that, known to me to be the same person whose name is subscribed as the customer to the foregoing Consent and Authorization, appeared before me together with the witness,, in person and acknowledged signing and delivering the instrument as the free and voluntary act of the customer for the uses and purposes therein set forth.

Dated:

Notary Public:

My commission expires:

(b) In no event shall the savings bank distribute the customer's financial records to the long-term care

facility from which the customer seeks initial or continuing residency or long-term care services.

(c) A savings bank providing financial records of a customer in good faith relying on a consent and authorization executed and tendered in accordance with this paragraph (18) shall not be liable to the customer or any other person in relation to the savings bank's disclosure of the customer's financial records to the Department. The customer signing the consent and authorization shall indemnify and hold the savings bank harmless that relies in good faith upon the consent and authorization and incurs a loss because of such reliance. The savings bank recovering under this indemnification provision shall also be entitled to reasonable attorney's fees and the expenses of recovery.

(d) A savings bank shall be reimbursed by the customer for all costs reasonably necessary and directly incurred in searching for, reproducing, and disclosing a customer's financial records required or requested to be produced pursuant to any consent and authorization executed under this paragraph (18). The requested financial records shall be delivered to the Department within 10 days after receiving a properly executed consent and authorization or at the earliest practicable time thereafter if the requested records cannot be delivered within 10 days, but delivery may be delayed until the final reimbursement of

all costs is received by the savings bank. The savings bank may honor a photostatic or electronic copy of a properly executed consent and authorization.

(e) Nothing in this paragraph (18) shall impair, abridge, or abrogate the right of a customer to:

(1) directly disclose his or her financial records to the Department or any other person; or

(2) authorize his or her attorney or duly appointed agent to request and obtain the customer's financial records and disclose those financial records to the Department.

(f) For purposes of this paragraph (18), "Department" means the Department of Human Services and the Department of Healthcare and Family Services or any successor administrative agency of either agency.

(19) The furnishing of financial records of a deceased customer to a public administrator of any county or other governmental jurisdiction for the purpose of facilitating burial of the customer.

(d) A savings bank may not disclose to any person, except to the member or holder of capital or his duly authorized agent, any financial records relating to that member or shareholder of the savings bank unless:

(1) the member or shareholder has authorized disclosure to the person; or

(2) the financial records are disclosed in response to

a lawful subpoena, summons, warrant, citation to discover assets, or court order that meets the requirements of subsection (e) of this Section.

(e) A savings bank shall disclose financial records under subsection (d) of this Section pursuant to a lawful subpoena, summons, warrant, citation to discover assets, or court order only after the savings bank sends a copy of the subpoena, summons, warrant, citation to discover assets, or court order to the person establishing the relationship with the savings bank, if living, and otherwise, the person's personal representative, if known, at the person's last known address by first class mail, postage prepaid, through a third-party commercial carrier or courier with delivery charge fully prepaid, by hand delivery, or by electronic delivery at an email address on file with the savings bank (if the person establishing the relationship with the savings bank has consented to receive electronic delivery and, if the person establishing the relationship with the savings bank is a consumer, the person has consented under the consumer consent provisions set forth in Section 7001 of Title 15 of the United States Code), unless the savings bank is specifically prohibited from notifying the person by order of court or by applicable State or federal law. A savings bank shall not mail a copy of a subpoena to any customer pursuant to this subsection if the subpoena was issued by a grand jury.

(f) Any officer or employee of a savings bank who

knowingly and willfully furnishes financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(g) Any person who knowingly and willfully induces or attempts to induce any officer or employee of a savings bank to disclose financial records in violation of this Section is guilty of a business offense and, upon conviction, shall be fined not more than \$1,000.

(h) If any member or shareholder desires to communicate with the other members or shareholders of the savings bank with reference to any question pending or to be presented at an annual or special meeting, the savings bank shall give that person, upon request, a statement of the approximate number of members or shareholders entitled to vote at the meeting and an estimate of the cost of preparing and delivering ~~mailing~~ the communication. The requesting member shall submit the communication to the Commissioner who, upon finding it to be appropriate and truthful, shall direct that it be prepared and delivered ~~mailed~~ to the members upon the requesting member's or shareholder's payment or adequate provision for payment of the expenses of preparation and delivery ~~mailing~~.

(i) A savings bank shall be reimbursed for costs that are necessary and that have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data ~~of a customer~~ required to be reproduced pursuant to a lawful subpoena, warrant, citation to discover assets, or

court order.

(j) Notwithstanding the provisions of this Section, a savings bank may sell or otherwise make use of lists of ~~customers'~~ names and addresses of persons who have obtained a financial product or service from the savings bank. All other information ~~regarding a customer's account~~ is subject to the disclosure provisions of this Section. At the request of any person who has obtained a financial product or service from the savings bank ~~customer~~, that person's ~~customer's~~ name and address shall be deleted from any list that is to be sold or used in any other manner beyond identification of the person's ~~customer's~~ accounts.

(Source: P.A. 102-873, eff. 5-13-22.)

(205 ILCS 205/6002) (from Ch. 17, par. 7306-2)

Sec. 6002. Investment in loans.

(a) Subject to the regulations of the Commissioner, a savings bank may loan funds as follows:

(1) On the security of deposit accounts, but no such loan shall exceed the withdrawal value of the pledged account.

(2) On the security of real estate:

(A) of a value, determined in accordance with this Act, sufficient to provide good and ample security for the loan;

(B) with a fee simple title or a leasehold title;

(C) with the title established by evidence of title as is consistent with sound lending practices in the locality;

(D) with the security interest in the real estate evidenced by an appropriate written instrument and the loan evidenced by a note, bond, or similar written instrument; a loan on the security of the whole of the beneficial interest in a land trust satisfies the requirements of this paragraph if the title to the land is held by a corporate trustee and if the real estate held in the land trust meets the other requirements of this subsection;

(E) with a mortgage loan not to exceed 40 years.

(3) For the purpose of repair, improvement, rehabilitation, furnishing, or equipment of real estate.

(4) For the purpose of financing or refinancing an existing ownership interest in certificates of stock, certificates of beneficial interest, other evidence of an ownership interest in, or a proprietary lease from a corporation, trust, or partnership formed for the purpose of the cooperative ownership of real estate, secured by the assignment or transfer of certificates or other evidence of ownership of the borrower.

(5) Through the purchase of loans that, at the time of purchase, the savings bank could make in accordance with this Section and the bylaws.

(6) Through the purchase of installment contracts for the sale of real estate and title thereto that is subject to the contracts, but in each instance only if the savings bank, at the time of purchase, could make a mortgage loan of the same amount and for the same length of time on the security of the real estate.

(7) Through loans guaranteed or insured, wholly or in part, by the United States or any of its instrumentalities.

(8) Subject to regulations adopted by the Commissioner, through secured or unsecured loans for business, corporate, commercial, or agricultural purposes; provided that the total of all loans granted under this paragraph shall not exceed 15% of the savings bank's total assets unless a greater amount is authorized in writing by the Commissioner.

(9) For the purpose of manufactured home financing subject, however, to the regulation of the Commissioner. As used in this Section, "manufactured home" means a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code.

(10) Through loans secured by the cash surrender value of any life insurance policy or any collateral that would be a legal investment under the terms of this Act if made by the savings bank.

(11) Any provision of this Act or any other law,

except for paragraph (18) of Section 6003, to the contrary notwithstanding, but subject to the Financial Institutions Insurance Sales Law and subject to the Commissioner's regulations, any savings bank may make any loan or investment or engage in any activity that it could make or engage in if it were organized under State law as a savings and loan association or under federal law as a federal savings and loan association or federal savings bank.

(12) A savings bank may issue letters of credit or other similar arrangements only as provided for by regulation of the Commissioner with regard to aggregate amounts permitted, take out commitments for stand-by letters of credit, underlying documentation and underwriting, legal limitations on loans of the savings bank, control and subsidiary records, and other procedures deemed necessary by the Commissioner.

(13) For the purpose of automobile financing, subject to the regulation of the Commissioner.

(14) For the purpose of financing primary, secondary, undergraduate, or postgraduate education.

(15) Through revolving lines of credit on the security of a first or junior lien on the borrower's personal residence, based primarily on the borrower's equity, the proceeds of which may be used for any purpose; those loans being commonly referred to as home equity loans.

(16) As secured or unsecured credit to cover the

payment of checks, drafts, or other funds transfer orders in excess of the available balance of an account on which they are drawn, subject to the regulations of the Commissioner.

(17) Through the purchase of fixed rate annuity contracts, if:

(A) the savings bank's purchase of fixed rate annuities from any one issuer does not exceed 25% of the amount of the savings bank's unimpaired capital and unimpaired surplus;

(B) consistent with safe and sound operation of the savings bank and applicable federal regulatory guidance, and prior to any purchase of fixed rate annuities, the saving bank establishes reasonable internal concentration limits for its combined holdings from all issuers, and the savings bank's purchase of annuities remains within those limits;

(C) consistent with safe and sound operation of the savings bank and applicable federal regulatory guidance, and prior to purchasing each fixed rate annuity, the savings bank conducts an independent analysis to determine that the annuity will meet the savings bank's internal underwriting standards. At a minimum, the savings bank must:

(i) perform a full financial statement analysis on the issuer (obligor);

(ii) assess the issuer's industry position, pricing power, and management strength;

(iii) assess and evaluate the issuer's source of repayment and collateral value, if any;

(iv) gain appropriate credit approvals of the savings bank's management and board of directors, or a committee thereof;

(v) assign a risk rating; and

(vi) ensure their lending policy addresses the type of exposure the savings bank plans to acquire;

(D) after purchase of the annuity, the savings bank reviews the credit exposure on an ongoing basis and updates the risk rating as appropriate;

(E) the terms of the annuity contract include charges or penalties for early withdrawal (surrender), the savings bank conducts independent analysis of the reasonableness of and associated risks of the charges or penalties;

(F) except for payment of charges or penalties that the savings bank determines reasonable under subparagraph (C), the savings bank is permitted to surrender (terminate) the annuity at any time before maturity and receive immediate access to the full value of the annuity, including principal and accrued interest; and

(G) the savings bank does not exercise any option it may have to convert its fixed rate annuity to a variable return status or any other status other than a fixed rate annuity as described in this Section.

(b) For purposes of this Section, "real estate" includes a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code which is real property as defined in Section 5-35 of the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act.

(Source: P.A. 98-749, eff. 7-16-14.)

(205 ILCS 205/7005) (from Ch. 17, par. 7307-5)

Sec. 7005. Holders of deposit accounts.

(a) Deposit accounts of a savings bank may be held as follows:

(1) by any individual in his own right, regardless of age or marital status, or by 2 or more individuals;

(2) by a fiduciary when authorized by law;

(3) by a government or governmental instrumentality when authorized by law; and

(4) by any corporation or other person when not prohibited by law.

(b) A savings bank may accept deposits made by a minor and may open an account in the name of the minor, and the rules and regulations of the savings bank with respect to each deposit and account of the minor shall be as binding upon the minor as

if the minor were of full age and legal capacity. The receipt, acquittance, or order of payment of the minor on such account or deposit or any part thereof shall be as binding upon the minor as if the minor were of full age and legal capacity.

(Source: P.A. 86-1213.)

(205 ILCS 205/8002) (from Ch. 17, par. 7308-2)

Sec. 8002. Procedure to amend articles.

(a) The procedure to effect an amendment of articles of incorporation shall be as follows:

(1) The board of directors shall adopt a resolution setting forth the proposed amendment and direct that it be submitted to a vote at an annual or special meeting of the members or stockholders.

(2) The proposed amendment shall be set forth in the notice of meeting delivered ~~mailed~~ as prescribed in Section 4003 of this Act.

(3) The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the votes entitled to be cast, unless the articles of incorporation set forth a requirement that amendments of the articles of incorporation shall be adopted by an affirmative vote of two-thirds of the total number of votes entitled to be cast.

(b) A report of proceedings, including the notice given, the time of delivery ~~mailing~~, the amendment adopted, the vote

thereon, and the total number of votes entitled to be cast, verified by the president, vice president, or managing officer and attested to by the secretary of the savings bank, shall be filed with the Secretary within 5 business days after the vote.

(c) Each adopted amendment shall be subject to the same inquiry as the corresponding provision in the original articles. If the Secretary approves an amendment he shall issue to the savings bank a certificate setting forth the amendment and his approval thereof. The Secretary shall approve an amendment, or state any objections to an amendment, within 30 days after the receipt of the amendment adopted by the board. If no objections are specified by the Secretary within that time frame, the amendment will be deemed to be approved by the Secretary. The amendment shall become effective upon issuance of the certificate.

(d) An amendment of the articles of incorporation approved by the board of directors, the Secretary, and members as part of merger, sale of substantially all assets, change in control, holding company reorganization, or mutual to stock form conversion need not be approved under this Section.

(e) No amendment of articles of incorporation shall affect any existing cause of action either in favor of or against the savings bank or any pending action in which the savings bank shall be a party or the existing rights of persons other than members of the savings bank.

(Source: P.A. 97-492, eff. 1-1-12.)

(205 ILCS 205/11008) (from Ch. 17, par. 7311-8)

Sec. 11008. Unauthorized participation by convicted individual.

(a) Except with the prior written consent of the Commissioner, no person who has been convicted of any criminal offense involving dishonesty or a breach of trust may own or control directly or indirectly more than 0.001% of the capital stock of, receive benefit directly or indirectly from, or participate directly or indirectly in any manner in the affairs of a savings bank.

(b) A savings bank may not permit participation by a person described in subsection (a).

(c) Except with the prior written consent of the Secretary, no savings bank shall knowingly employ or otherwise permit an individual to serve as an officer, director, employee, or agent of the savings bank if the individual has been convicted of a felony or of any criminal offense relating to dishonesty or breach of trust. Notwithstanding the provisions of this Section, a savings bank in compliance with the provisions of 12 U.S.C. 1829 and administrative regulations issued under 12 U.S.C. 1829 by the savings bank's primary federal financial institution regulator shall be deemed in compliance with this Section.

(d) Whoever knowingly violates subsection (a), ~~or~~ (b), or

(c) is guilty of a Class 3 felony and may be fined not more than \$10,000 for each day of violation.

(Source: P.A. 91-97, eff. 7-9-99; 92-483, eff. 8-23-01.)

(205 ILCS 205/1007.100 rep.)

(205 ILCS 205/11011 rep.)

Section 15. The Savings Bank Act is amended by repealing Sections 1007.100 and 11011.

Section 20. The Illinois Credit Union Act is amended by changing Section 10 as follows:

(205 ILCS 305/10) (from Ch. 17, par. 4411)

Sec. 10. Credit union records; member financial records.

(1) A credit union shall establish and maintain books, records, accounting systems and procedures which accurately reflect its operations and which enable the Department to readily ascertain the true financial condition of the credit union and whether it is complying with this Act.

(2) A photostatic or photographic reproduction of any credit union records shall be admissible as evidence of transactions with the credit union.

(3)(a) For the purpose of this Section, the term "financial records" means any original, any copy, or any summary of (1) a document granting signature authority over an account, (2) a statement, ledger card or other record on any

account which shows each transaction in or with respect to that account, (3) a check, draft or money order drawn on a financial institution or other entity or issued and payable by or through a financial institution or other entity, or (4) any other item containing information pertaining to any relationship established in the ordinary course of business between a credit union and its member, including financial statements or other financial information provided by the member.

(b) This Section does not prohibit:

(1) The preparation, examination, handling or maintenance of any financial records by any officer, employee or agent of a credit union having custody of such records, or the examination of such records by a certified public accountant engaged by the credit union to perform an independent audit.

(2) The examination of any financial records by or the furnishing of financial records by a credit union to any officer, employee or agent of the Department, the National Credit Union Administration, Federal Reserve board or any insurer of share accounts for use solely in the exercise of his duties as an officer, employee or agent.

(3) The publication of data furnished from financial records relating to members where the data cannot be identified to any particular member or ~~customer of~~ account.

(4) The making of reports or returns required under Chapter 61 of the Internal Revenue Code of 1954.

(5) Furnishing information concerning the dishonor of any negotiable instrument permitted to be disclosed under the Uniform Commercial Code.

(6) The exchange in the regular course of business of (i) credit information between a credit union and other credit unions or financial institutions or commercial enterprises, directly or through a consumer reporting agency or (ii) financial records or information derived from financial records between a credit union and other credit unions or financial institutions or commercial enterprises for the purpose of conducting due diligence pursuant to a merger or a purchase or sale of assets or liabilities of the credit union.

(7) The furnishing of information to the appropriate law enforcement authorities where the credit union reasonably believes it has been the victim of a crime.

(8) The furnishing of information pursuant to the Revised Uniform Unclaimed Property Act.

(9) The furnishing of information pursuant to the Illinois Income Tax Act and the Illinois Estate and Generation-Skipping Transfer Tax Act.

(10) The furnishing of information pursuant to the federal Currency and Foreign Transactions Reporting Act, Title 31, United States Code, Section 1051 et sequentia.

(11) The furnishing of information pursuant to any other statute which by its terms or by regulations promulgated thereunder requires the disclosure of financial records other than by subpoena, summons, warrant or court order.

(12) The furnishing of information in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Any credit union governed by this Act shall enter into an agreement for data exchanges with a State agency provided the State agency pays to the credit union a reasonable fee not to exceed its actual cost incurred. A credit union providing information in accordance with this item shall not be liable to any account holder or other person for any disclosure of information to a State agency, for encumbering or surrendering any assets held by the credit union in response to a lien or order to withhold and deliver issued by a State agency, or for any other action taken pursuant to this item, including individual or mechanical errors, provided the action does not constitute gross negligence or willful misconduct. A credit union shall have no obligation to hold, encumber, or surrender assets until it has been served with a subpoena, summons, warrant, court or administrative order, lien, or levy.

(13) The furnishing of information to law enforcement authorities, the Illinois Department on Aging and its

regional administrative and provider agencies, the Department of Human Services Office of Inspector General, or public guardians: (i) upon subpoena by the investigatory entity or the guardian, or (ii) if there is suspicion by the credit union that a member who is an elderly person or person with a disability has been or may become the victim of financial exploitation. For the purposes of this item (13), the term: (i) "elderly person" means a person who is 60 or more years of age, (ii) "person with a disability" means a person who has or reasonably appears to the credit union to have a physical or mental disability that impairs his or her ability to seek or obtain protection from or prevent financial exploitation, and (iii) "financial exploitation" means tortious or illegal use of the assets or resources of an elderly person or person with a disability, and includes, without limitation, misappropriation of the ~~elderly or disabled person's~~ assets or resources of the elderly person or person with a disability by undue influence, breach of fiduciary relationship, intimidation, fraud, deception, extortion, or the use of assets or resources in any manner contrary to law. A credit union or person furnishing information pursuant to this item (13) shall be entitled to the same rights and protections as a person furnishing information under the Adult Protective Services Act and the Illinois Domestic Violence Act of 1986.

(14) The disclosure of financial records or information as necessary to effect, administer, or enforce a transaction requested or authorized by the member, or in connection with:

(A) servicing or processing a financial product or service requested or authorized by the member;

(B) maintaining or servicing a member's account with the credit union; or

(C) a proposed or actual securitization or secondary market sale (including sales of servicing rights) related to a transaction of a member.

Nothing in this item (14), however, authorizes the sale of the financial records or information of a member without the consent of the member.

(15) The disclosure of financial records or information as necessary to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability.

(16)(a) The disclosure of financial records or information related to a private label credit program between a financial institution and a private label party in connection with that private label credit program. Such information is limited to outstanding balance, available credit, payment and performance and account history, product references, purchase information, and information related to the identity of the customer.

(b) (1) For purposes of this item (16), "private label credit program" means a credit program involving a financial institution and a private label party that is used by a customer of the financial institution and the private label party primarily for payment for goods or services sold, manufactured, or distributed by a private label party.

(2) For purposes of this item (16), "private label party" means, with respect to a private label credit program, any of the following: a retailer, a merchant, a manufacturer, a trade group, or any such person's affiliate, subsidiary, member, agent, or service provider.

(17)(a) The furnishing of financial records of a member to the Department to aid the Department's initial determination or subsequent re-determination of the member's eligibility for Medicaid and Medicaid long-term care benefits for long-term care services, provided that the credit union receives the written consent and authorization of the member, which shall:

(1) have the member's signature notarized;

(2) be signed by at least one witness who certifies that he or she believes the member to be of sound mind and memory;

(3) be tendered to the credit union at the earliest practicable time following its execution, certification, and notarization;

(4) specifically limit the disclosure of the member's financial records to the Department; and

(5) be in substantially the following form:

CUSTOMER CONSENT AND AUTHORIZATION
FOR RELEASE OF FINANCIAL RECORDS

I, , hereby authorize
(Name of Customer)

.....
(Name of Financial Institution)

.....
(Address of Financial Institution)

to disclose the following financial records:

any and all information concerning my deposit, savings, money market, certificate of deposit, individual retirement, retirement plan, 401(k) plan, incentive plan, employee benefit plan, mutual fund and loan accounts (including, but not limited to, any indebtedness or obligation for which I am a co-borrower, co-obligor, guarantor, or surety), and any and all other accounts in which I have an interest and any other information regarding me in the possession of the Financial

Institution,

to the Illinois Department of Human Services or the Illinois Department of Healthcare and Family Services, or both ("the Department"), for the following purpose(s):

to aid in the initial determination or re-determination by the State of Illinois of my eligibility for Medicaid long-term care benefits, pursuant to applicable law.

I understand that this Consent and Authorization may be revoked by me in writing at any time before my financial records, as described above, are disclosed, and that this Consent and Authorization is valid until the Financial Institution receives my written revocation. This Consent and Authorization shall constitute valid authorization for the Department identified above to inspect all such financial records set forth above, and to request and receive copies of such financial records from the Financial Institution (subject to such records search and reproduction reimbursement policies as the Financial Institution may have in place). An executed copy of this Consent and Authorization shall be sufficient and as good as the original and permission is hereby granted to honor a photostatic or electronic copy of this Consent and Authorization. Disclosure is strictly limited to the Department identified above and no other person or entity

shall receive my financial records pursuant to this Consent and Authorization. By signing this form, I agree to indemnify and hold the Financial Institution harmless from any and all claims, demands, and losses, including reasonable attorneys fees and expenses, arising from or incurred in its reliance on this Consent and Authorization. As used herein, "Customer" shall mean "Member" if the Financial Institution is a credit union.

.....

(Date)

(Signature of Customer)

.....

.....

(Address of Customer)

.....

(Customer's birth date)

(month/day/year)

The undersigned witness certifies that, known to me to be the same person whose name is subscribed as the customer to the foregoing Consent and Authorization, appeared before me and the notary public and acknowledged signing and delivering the instrument as his or her free and voluntary act for the uses and purposes therein set forth. I

believe him or her to be of sound mind and memory. The undersigned witness also certifies that the witness is not an owner, operator, or relative of an owner or operator of a long-term care facility in which the customer is a patient or resident.

Dated:

(Signature of Witness)

.....

(Print Name of Witness)

.....

.....

(Address of Witness)

State of Illinois)

) ss.

County of)

The undersigned, a notary public in and for the above county and state, certifies that, known to me to be the same person whose name is subscribed as the customer to the foregoing Consent and Authorization, appeared before me together with the witness,, in person and acknowledged signing and delivering the instrument as the free

and voluntary act of the customer for the uses and purposes therein set forth.

Dated:

Notary Public:

My commission expires:

(b) In no event shall the credit union distribute the member's financial records to the long-term care facility from which the member seeks initial or continuing residency or long-term care services.

(c) A credit union providing financial records of a member in good faith relying on a consent and authorization executed and tendered in accordance with this item (17) shall not be liable to the member or any other person in relation to the credit union's disclosure of the member's financial records to the Department. The member signing the consent and authorization shall indemnify and hold the credit union harmless that relies in good faith upon the consent and authorization and incurs a loss because of such reliance. The credit union recovering under this indemnification provision shall also be entitled to reasonable attorney's fees and the expenses of recovery.

(d) A credit union shall be reimbursed by the member for all costs reasonably necessary and directly incurred

in searching for, reproducing, and disclosing a member's financial records required or requested to be produced pursuant to any consent and authorization executed under this item (17). The requested financial records shall be delivered to the Department within 10 days after receiving a properly executed consent and authorization or at the earliest practicable time thereafter if the requested records cannot be delivered within 10 days, but delivery may be delayed until the final reimbursement of all costs is received by the credit union. The credit union may honor a photostatic or electronic copy of a properly executed consent and authorization.

(e) Nothing in this item (17) shall impair, abridge, or abrogate the right of a member to:

(1) directly disclose his or her financial records to the Department or any other person; or

(2) authorize his or her attorney or duly appointed agent to request and obtain the member's financial records and disclose those financial records to the Department.

(f) For purposes of this item (17), "Department" means the Department of Human Services and the Department of Healthcare and Family Services or any successor administrative agency of either agency.

(18) The furnishing of the financial records of a member to an appropriate law enforcement authority,

without prior notice to or consent of the member, upon written request of the law enforcement authority, when reasonable suspicion of an imminent threat to the personal security and safety of the member exists that necessitates an expedited release of the member's financial records, as determined by the law enforcement authority. The law enforcement authority shall include a brief explanation of the imminent threat to the member in its written request to the credit union. The written request shall reflect that it has been authorized by a supervisory or managerial official of the law enforcement authority. The decision to furnish the financial records of a member to a law enforcement authority shall be made by a supervisory or managerial official of the credit union. A credit union providing information in accordance with this item (18) shall not be liable to the member or any other person for the disclosure of the information to the law enforcement authority.

(19) The furnishing of financial records of a deceased member to a public administrator of any county or other governmental jurisdiction for the purpose of facilitating burial of the customer.

(c) Except as otherwise provided by this Act, a credit union may not disclose to any person, except to the member or his duly authorized agent, any financial records relating to that member of the credit union unless:

(1) the member has authorized disclosure to the person;

(2) the financial records are disclosed in response to a lawful subpoena, summons, warrant, citation to discover assets, or court order that meets the requirements of subparagraph (3)(d) of this Section; or

(3) the credit union is attempting to collect an obligation owed to the credit union and the credit union complies with the provisions of Section 2I of the Consumer Fraud and Deceptive Business Practices Act.

(d) A credit union shall disclose financial records under item (3)(c)(2) of this Section pursuant to a lawful subpoena, summons, warrant, citation to discover assets, or court order only after the credit union sends a copy of the subpoena, summons, warrant, citation to discover assets, or court order to the person establishing the relationship with the credit union, if living, and otherwise the person's personal representative, if known, at the person's last known address by first class mail, postage prepaid, through a third-party commercial carrier or courier with delivery charge fully prepaid, by hand delivery, or by electronic delivery at an email address on file with the credit union (if the person establishing the relationship with the credit union has consented to receive electronic delivery and, if the person establishing the relationship with the credit union is a consumer, the person has consented under the consumer consent

provisions set forth in Section 7001 of Title 15 of the United States Code), unless the credit union is specifically prohibited from notifying the person by order of court or by applicable State or federal law. In the case of a grand jury subpoena, a credit union shall not mail a copy of a subpoena to any person pursuant to this subsection if the subpoena was issued by a grand jury ~~under the Statewide Grand Jury Act~~ or notifying the person would constitute a violation of the federal Right to Financial Privacy Act of 1978.

(e)(1) Any officer or employee of a credit union who knowingly and willfully furnishes financial records in violation of this Section is guilty of a business offense and upon conviction thereof shall be fined not more than \$1,000.

(2) Any person who knowingly and willfully induces or attempts to induce any officer or employee of a credit union to disclose financial records in violation of this Section is guilty of a business offense and upon conviction thereof shall be fined not more than \$1,000.

(f) A credit union shall be reimbursed for costs which are reasonably necessary and which have been directly incurred in searching for, reproducing or transporting books, papers, records or other data of a member required or requested to be produced pursuant to a lawful subpoena, summons, warrant, citation to discover assets, or court order. The Secretary and the Director may determine, by rule, the rates and conditions under which payment shall be made. Delivery of requested

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documents may be delayed until final reimbursement of all costs is received.

(Source: P.A. 101-81, eff. 7-12-19; 102-873, eff. 5-13-22.)

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

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Statutes amended in order of appearance

205 ILCS 5/2	from Ch. 17, par. 302
205 ILCS 5/5	from Ch. 17, par. 311
205 ILCS 5/13	from Ch. 17, par. 320
205 ILCS 5/15	from Ch. 17, par. 322
205 ILCS 5/16	from Ch. 17, par. 323
205 ILCS 5/16.5	
205 ILCS 5/32.1	from Ch. 17, par. 340
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205 ILCS 5/48.1	from Ch. 17, par. 360
205 ILCS 5/48.2	from Ch. 17, par. 360.1
205 ILCS 205/1008	from Ch. 17, par. 7301-8
205 ILCS 205/4002	from Ch. 17, par. 7304-2
205 ILCS 205/4003	from Ch. 17, par. 7304-3
205 ILCS 205/4013	from Ch. 17, par. 7304-13
205 ILCS 205/6002	from Ch. 17, par. 7306-2
205 ILCS 205/7005	from Ch. 17, par. 7307-5
205 ILCS 205/8002	from Ch. 17, par. 7308-2
205 ILCS 205/11008	from Ch. 17, par. 7311-8
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205 ILCS 305/10	from Ch. 17, par. 4411