

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 346
BANKING DEVELOPMENT DISTRICT ACT

Section

- 346.10 Authority for Rulemaking
- 346.20 Definitions
- 346.30 Application for Creation of a Banking Development District
- 346.35 Mandatory Pre-Application Conference
- 346.40 Review and Disposition of Applications
- 346.45 Availability of Illinois Community Reinvestment Act Credit
- 346.50 Deposits of State Funds
- 346.60 Reporting Requirements
- 346.70 Fees for Applications and Other Services
- 346.80 Enforcement

AUTHORITY: Implementing and authorized by Section 35 of the Illinois Banking Development District Act [205 ILCS 745/1]

SOURCE: Repealed at 41 Ill. Reg. 11334; effective August 28, 2017; adopted at 48 Ill. Reg. _____, effective _____.

Section 346.10 Authority for Rulemaking

The authority for adoption of these rules is provided by Section 35 of the Illinois Banking Development District Act [205 ILCS 745/1].

Section 346.20 Definitions

For the purposes of this Part:

"Act" shall mean Public Act 102-0802, the Banking Development District Act.

"Banking branch" shall mean a full-service branch of a depository institution that provides most or all banking services at a physical location and maintains ordinary and routine business hours.

"Banking development district" shall mean a proposed or approved banking development district as provided for under the Act.

43 "Banking services" shall mean services provided by a depository institution and
44 shall include, but not be limited to, deposit taking, check-cashing, sale of money
45 orders, money transmittal, origination of residential or commercial mortgages,
46 consumer loans, and commercial loans.

47
48 "Community Based Organization (CBO)" shall mean a not-for-profit organization
49 with offices or significant membership within the boundaries of the proposed
50 banking development district and whose statement of purpose includes
51 development of services to the underbanked or unbanked populations with the
52 proposed banking development district or other services sufficiently similar as
53 determined by the Secretary.

54
55 "Department" shall mean the Department of Financial and Professional
56 Regulation.

57
58 "Depository institution" shall mean *a bank, savings bank, savings and loan*
59 *association, or credit union organized or chartered under the laws of this State or*
60 *any other state or under the laws of the United States.*

61
62 "Division" shall mean the Department of Financial and Professional Regulation-
63 Division of Banking, with the authority delegated by the Secretary.

64
65 "Local government" shall mean *a municipality, county, township, or other unit of*
66 *local government.*

67
68 "Reasonable distance" means the travel distance to available full-service banking
69 facilities to the unbanked or underbanked community that may be conveniently
70 accessed by means of private transportation or safe, affordable and reliable public
71 transportation.

72
73 "Remote Service Facility (RSF)" means an automated, unstaffed banking facility
74 owned or operated by, or operated exclusively for, the bank, such as an automated
75 teller machine, cash dispensing machine, point-of-sale terminal, or other remote
76 electronic facility, at which deposits are received, cash dispersed, or money lent.

77
78 "State Treasurer" shall mean the State Treasurer or the State Treasurer's designee
79 as identified by the State Treasurer.

80
81 "Unbanked person" means an individual that does not have a checking or savings
82 account with an insured depository institution.

83
84 "Underbanked person" means an individual that has a checking or savings
85 account with an insured depository institution but that used financial products or

86 services other than those offered by an insured depository institution within the
87 past 12 months.

88
89 **Section 346.30 Application for Creation of a Banking Development District**

90
91 *The governing board of a local government, in conjunction with a depository institution, may*
92 *submit an application to the Department for the designation of a banking development district.*

93 Each application shall be submitted to the Secretary on a form, which is to be prescribed by the
94 Secretary following consultation with the State Treasurer, and shall include all of the following
95 information:

- 96
97 a) identification of the depository institution and of any unit of local government or
98 portion thereof submitting the application along with documentation of the
99 approval of the application by the governing board of the unit of local
100 government;
- 101
102 b) a map, a legal description of the property, and description of geographic
103 boundaries of the proposed banking development district which specifically
104 identifies the location of the proposed banking branch within the proposed
105 banking development district;
- 106
107 c) documentation of all current zoning classifications within the proposed banking
108 development district and the boundaries of each identified zoning area;
- 109
110 d) the number of residents of the proposed banking development district along with
111 detailed demographic information describing the members of the population as
112 identified in the application form to be provided;
- 113
114 e) an identification of the specific needed banking services which are not being
115 provided within the proposed banking development district at the time of the
116 application;
- 117
118 f) an identification of the number, location of existing sites of banking services
119 within the proposed banking development district and within a reasonable
120 distance of the proposed banking development district which identification shall
121 include, but not be limited to:
- 122
123 1) the identification and location of all full-service branches of all depository
124 banking institutions;
- 125
126 2) the identification and location of all sites which offer deposit-taking
127 ATMs;
- 128

- 129 3) the identification and location of all existing alternatives to providers of
130 banking services including, but not limited to, currency exchanges, money
131 transmitters, payday lenders or pawnbrokers;
132
- 133 4) the identification and location of deposit-taking RSFs (other than those
134 sited at full-service branches); and
135
- 136 5) the identification and location of non-deposit-taking RSFs (other than
137 those sited at full-service branches);
138
- 139 g) income measures of the proposed banking development district, including, but not
140 limited to, per capita annual income and median household annual income
141 utilizing either the most recent United States Census Bureau data or the most
142 recent Department of Housing and Urban Development ("HUD") annual income
143 estimates;
144
- 145 h) other economic indicators, where readily available, including, but not limited to,
146 unemployment data, percentage of the population at or below the poverty level,
147 percentage of the population at or below 200 percent of the poverty level, and
148 percentage of the population receiving public assistance within the proposed
149 banking development district. Unemployment data may be submitted for a
150 political subdivision in which the proposed District is located;
151
- 152 i) description of the public transportation systems and major roadways, if any, in the
153 proposed banking development district maps and/or diagrams may be included in
154 the description;
155
- 156 j) narrative establishing that a branch would be economically viable within the
157 banking development district if a deposit of public funds as identified by Section
158 25 of the Act is provided, along with a statement of any limitations on the types of
159 public funds the branch would be willing to accept;
160
- 161 k) specification of whether the proposed banking development district, or any
162 portion thereof, lies within an area which has been designated an enterprise or
163 empowerment zone or has received similar designation from any Federal, State,
164 or local government entity;
165
- 166 l) a narrative description of the natural and man-made geographic barriers, if any,
167 that may impede physical access to existing banking services;
168
- 169 m) a narrative description of the distances and travel times from the applicant's
170 proposed site to banking institutions and alternative providers of banking services

- 171 both within the proposed banking development district and within the reasonable
172 distance specified in subsection (f);
173
174 n) affirmation by the applicant depository institution that it will not establish the
175 proposed banking development district branch with the intention of closing or
176 relocating any existing nearby branch or branches;
177
178 o) an identification of all CBOs that are in favor of the establishment of the proposed
179 District along with all written statements of support, if any, from all supporting
180 CBOs;
181
182 p) a description of all banking and financial educational programs that will be
183 provided by the branch directly or in cooperation with a CBO;
184
185 q) documentation of the most recent rating given to the depository institution under
186 the Illinois Community Reinvestment Act [205 ILCS 735/35-1], if any;
187
188 r) a description of the criteria generally employed to determine whether to continue
189 maintaining a branch in operation and whether the branch proposed in the
190 application would be evaluated under any different criteria; if any different
191 criteria would apply, please state them;
192
193 s) a statement describing any preliminary or final understanding or agreement
194 between the municipality and the applicant depository institution as to the
195 anticipated duration of the proposed branch; and
196
197 t) such other documents or information as the Secretary may deem necessary.
198

199 **Section 346.35 Mandatory Pre-Application Conference**
200

201 An application for approval and creation of a banking development district shall be preceded by
202 a pre-application conference to be attended by representatives of the municipal corporation and
203 the depository institution applicants, the Division and any other parties as agreed to by the
204 parties. The purpose of the pre-application conference is to promote open communication
205 between prospective applicants and the Division regarding the specifics of the application,
206 regulatory expectations, and the application review process. Prior to the pre-application, the
207 representatives of the municipal corporation and the depository institution applicants shall
208 submit an outline of their proposed discussion regarding the topics listed below. The Secretary
209 will consult with the State Treasurer as needed. The topics to be discussed at the pre-application
210 conference shall include, but are not limited to:

- 211
212 a) availability and sources of demographic, geographic, financial and other relevant
213 information necessary for completion of the application;

214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256

- b) the means of measurement of the anticipated economic development benefits of the banking development district should the application be approved;
- c) the support for the proposed banking development district being offered by CBOs;
- d) the process the Division will employ in its review of the application; and
- e) such other topics as agreed to in advance of the pre-application conference.

Section 346.40 Review and Disposition of Applications

In determining whether to approve an application for the designation of a proposed banking development district, the Secretary, in consultation with the State Treasurer, which consultation may include sending a copy of the application to the State Treasurer and seeking comment from the State Treasurer, shall take into consideration the following criteria:

- a) the location, number, and proximity to applicant's proposed site or sites where banking services are available within the proposed banking development district;
- b) the location, number, and proximity to applicant's proposed site or sites where banking services are available within a reasonable distance of the proposed banking development district;
- c) the identification of consumer needs for banking services within the proposed banking development district;
- d) the economic viability and local credit need of the community within the proposed banking development district;
- e) the existing commercial development within the proposed banking development district;
- f) the impact additional banking services would have on potential economic development in the proposed banking development district;
- g) the physical size of the proposed banking development district;
- h) the nature of the community to be served, including, but not limited to, the demographic and economic characteristics of the proposed banking development district;

- 257 i) the financial condition and managerial ability of the applicant depository
258 institution as determined by the appropriate bank regulator or other reliable
259 sources;
- 260
- 261 j) compliance with all other applicable branching statutes and regulations;
- 262
- 263 k) history of prolonged lack of service to the proposed banking development district;
- 264
- 265 l) the likelihood that an existing branch will remain open if the application is not
266 approved, if applicable;
- 267
- 268 m) the importance and benefits of preserving the banking services offered by the
269 existing branch, if applicable; and
- 270
- 271 n) such other criteria which the Secretary, in consultation with the State Treasurer,
272 identifies as appropriate.
- 273

274 *The Secretary, in consultation with the State Treasurer, shall issue a determination on the*
275 *application within 60 days after receiving the application.*

276

277 **Section 346.45 Availability of Illinois Community Reinvestment Act Credit**

278

279 An approved and operational banking development district shall be considered by the
280 Department under any assessment of the depository institution's performance in meeting its
281 obligations under the Illinois Community Reinvestment Act [205 ILCS 735].

282

283 **Section 346.50 Deposits of State Funds**

284

285 The State Treasurer may deposit funds, at a reduced rate of interest, with a depository institution
286 in an approved banking development district provided that the depository institution remains an
287 approved State depository, submits all required forms and documentation, and uses the deposited
288 funds for the purpose of economic and community development in the State of Illinois in
289 accordance with Section 7 of the Deposit of State Moneys Act [15 ILCS 520/7].

290

291 **Section 346.60 Reporting Requirements**

292

293 The local government applicant and the depository institution shall submit a report of the
294 operations of the banking development district to the Secretary and the Treasurer each year on
295 the anniversary of the banking development district being approved by the Secretary. Each
296 report shall provide the following information:

297

- 298 a) an identification of each new product or service specifically designed for the
299 banking development district community to address the needs for banking
300 services identified in the application to create the banking development district;
301
- 302 b) the number of customers residing in the banking development district who are
303 first-time consumers of the new banking services;
304
- 305 c) the number of customers for each specific type of banking services including, but
306 not limited to, check cashing services, low-cost checking accounts, money
307 transfer services or any other such program created or designed to address the
308 needs for banking services as identified herein;
309
- 310 d) a description of each educational program or service provided, including, but not
311 limited to, an identification of the local government employee, depository
312 institution employee, CBO employee or consultant who provided the educational
313 program, the frequency of the program being held and the number of persons
314 attending each program;
315
- 316 e) a description of the mechanisms employed by the local government and the
317 depository institution to evaluate the success of the banking development district
318 in meeting the identified unmet needs for banking services along with a
319 description of intended changes to more thoroughly meet the unmet needs for
320 banking services in the banking development district; and
321
- 322 f) copies of all reports, memoranda, correspondence or analyses prepared by or
323 received by the banking development district which evaluate, comment upon or
324 otherwise discuss the banking development district's activities to address the
325 unmet banking needs within the banking development district.
326

327 **Section 346.70 Fees for Applications and Other Services**

- 328
- 329 a) Fees under this Part shall be as follows:
330
- 331 Application for Approval of a Banking Development District \$2,000
332 Application fees shall be submitted to the Division at the time of submission of
333 any application. All fees filed in connection with an application are
334 nonrefundable, regardless of whether the application is ultimately approved,
335 denied, withdrawn, or abandoned. Other fees shall be paid within 30 days after
336 receipt of the billing.
337
- 338 b) Pursuant to Section 35(2) of the Act, the Secretary, in consultation with the State
339 Treasurer, may from time to time review the amount of the above fees.
340

341 **Section 346.80 Enforcement**

342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362

- a) If the Secretary determines after an examination of the activities of a banking development district that some or all of the banking services identified in the approved application for the banking development district have not been performed, the Secretary may take the following actions after notice to the approved applicant and an opportunity to be heard at an administrative hearing:
 - 1) require the approved applicant to make such modifications to the banking development district's banking services to achieve the goals identified in the application for approval of a banking development district; or
 - 2) suspend the approved applicant's participation in the banking development district program for a stated period of time; or
 - 3) terminate the approved applicant's participation in the banking development program.

- b) All administrative hearings shall be conducted in accordance with 38 Ill. Adm. Code 100. The Secretary shall notify the State Treasurer of any actions taken pursuant to subsections (a)(1) through (3), and the outcome of any related administrative hearing.