

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing
5 Section 46 as follows:

6 (205 ILCS 5/46) (from Ch. 17, par. 357)

7 Sec. 46. Misleading practices and names prohibited;
8 penalty.

9 (a) No person, firm, partnership, or corporation that is
10 not a bank shall transact business in this State in a manner
11 which has a substantial likelihood of misleading the public by
12 implying that the business is a bank, or shall use the word
13 "bank", "banker", or "banking" in connection with the
14 business. Any person, firm, partnership or corporation
15 violating this Section shall be deemed guilty of a Class A
16 misdemeanor, and the Attorney General or State's Attorney of
17 the county in which any such violation occurs may restrain
18 such violation by a complaint for injunctive relief.

19 (b) If the Commissioner is of the opinion and finds that a
20 person, firm, partnership, or corporation that is not a bank
21 has transacted or intends to transact business in this State
22 in a manner which has a substantial likelihood of misleading
23 the public by implying that the business is a bank, or has used

1 or intends to use the word "bank", "banker", or "banking" in
2 connection with the business, then the Commissioner may direct
3 that person, firm, partnership, or corporation to cease and
4 desist from transacting the business or using the word "bank",
5 "banker", or "banking". If that person, firm, partnership, or
6 corporation persists in transacting the business or using the
7 word "bank", "banker", or "banking", then the Commissioner may
8 impose a civil penalty of up to \$10,000 for each violation.
9 Each day that the person, firm, partnership, or corporation
10 continues transacting the business or using the word "bank",
11 "banker", or "banking" in connection with the business shall
12 constitute a separate violation of these provisions.

13 (c) A person, firm, partnership, or corporation that is
14 not a bank, and is not transacting or intending to transact
15 business in this State in a manner that has a substantial
16 likelihood of misleading the public by implying that such
17 business is a bank, may apply to the Commissioner for
18 permission to use the word "bank", "banker", or "banking" in
19 connection with the business. If the Commissioner determines
20 that there is no substantial likelihood of misleading the
21 public, and upon such conditions as the Commissioner may
22 impose to prevent the person, firm, partnership, or
23 corporation from holding itself out in a misleading manner,
24 then such person, firm, partnership, or corporation may use
25 the word "bank", "banker", or "banking".

26 (d) (1) Unless otherwise expressly permitted by law,

1 no person, firm, partnership, or corporation may use the
2 name of an existing bank when marketing to or soliciting
3 business from customers or prospective customers if the
4 reference to the existing bank is made without the consent
5 of the existing bank.

6 (1.5) Unless otherwise expressly permitted by law, no
7 person, firm, partnership, or corporation may use a name
8 similar to that of an existing bank when marketing to or
9 soliciting business from customers or prospective
10 customers if the similar name is used in a manner that
11 could cause a reasonable person to believe that the
12 marketing material or solicitation originated from or is
13 endorsed by the existing bank or that the existing bank is
14 in any other way responsible for the marketing material or
15 solicitation.

16 (2) An existing bank may, in addition to any other
17 remedies available under the law, report an alleged
18 violation of this subsection (d) to the Commissioner. If
19 the Commissioner finds the marketing material or
20 solicitation in question to be in violation of this
21 subsection, the Commissioner may direct the person, firm,
22 partnership, or corporation to cease and desist from using
23 that marketing material or solicitation in Illinois. If
24 that person, firm, partnership, or corporation persists in
25 the use of the marketing material or solicitation, then
26 the Commissioner may impose a civil penalty of up to

1 \$10,000 for each violation. Each instance in which the
2 marketing material or solicitation is sent to a customer
3 or prospective customer shall constitute a separate
4 violation of these provisions. The Commissioner is
5 authorized to adopt ~~promulgate~~ rules to administer these
6 provisions.

7 (3) (Blank).

8 (e) If a person, firm, partnership, or corporation that
9 (i) does not accept insured deposits as a substantial portion
10 of its operations and (ii) is not chartered by a State or the
11 United States violates subsection (a), (b), or (c) of this
12 Section, the Commissioner may impose a civil penalty of up to
13 the maximum amount permitted under paragraph (8) of Section 48
14 of this Act for each violation.

15 (Source: P.A. 92-476, eff. 8-23-01; 92-811, eff. 8-21-02.)