**Section 398.10 Pledging Requirements for Illinois Trust Companies**

a) Pursuant to Section 6-13.5 of the Act, each Illinois trust company holding a certificate of authority under Article II of the Act shall pledge to the Secretary a surety bond running to the Secretary or securities or combination thereof in the amount of $2,000,000. The surety bond or pledged securities must be reducible to cash by the Secretary without regard to any priorities, preferences or adverse claims in order to cover costs associated with a receivership of the Illinois trust company. The surety bond or pledged securities shall be utilized only to cover costs associated with a receivership of the pledging Illinois trust company.

b) To the extent the trust company pledges a surety bond, the surety bond shall be issued by a bonding company authorized to do business in the State of Illinois that has a rating in one of the top three rating categories as determined by a national rating service. The surety bond must clearly show that it runs to the benefit of the Secretary. The surety bond must also state that, if the trust company is placed in receivership and the Secretary acts as receiver or appoints a receiver, the Secretary may reduce the bond to cash in order to pay for any costs associated with the receivership*.* The trust company may not obtain a surety bond from any entity in which the trust company has a financial interest or of which the trust company is an affiliate. Any fees associated with obtaining and maintaining a surety bond shall be the responsibility of the trust company.

c) To the extent the trust company pledges securities, the securities shall be held at a Federal Reserve Bank or at a depository institution that is a state or national bank, a state or federal savings bank, or a state or federal savings and loan association approved by the Secretary. The trust company shall not be an affiliate of, or have a financial interest in, the depository institution. The securities pledged pursuant to this subsection shall be securities that qualify as authorized investments for public agencies under Section 2 of the Public Funds Investment Act [30 ILCS 235/2]. Securities pledged pursuant to this subsection shall be in addition to any securities required as part of the trust company's capital. Any fees associated with holding securities pursuant to this subsection shall be the responsibility of the trust company. A trust company choosing to pledge securities shall enter into a single deposit agreement with the Secretary and the Federal Reserve Bank or depository institution that is holding the securities. The deposit agreement shall contain provisions requiring the depository institution and the trust company to meet the requirements set forth in subsections (c)(1) through (3):

1) The depository institution shall segregate on its books and records all accounts of the trust company as assets that the trust company pledges as a part of the assets to be kept by the trust company in Illinois pursuant to the required pledge amount. These accounts shall be held by the depository institution in trust in the name of the Secretary;

2) The depository institution shall provide the Secretary with reports, receipts, confirmation or other documentation that the Secretary may request of the depository institution to determine the trust company's compliance with the requirements of Section 6-13.5 of the Act and this Section; and

3) The trust company shall pledge the securities required under Section 6-13.5 of the Act exclusively to the Secretary.

d) No trust company shall engage in the trust business under the Act unless it is in compliance continuously with this Section.

e) For purposes of this Section, a trust company is an "affiliate of" or has a "financial interest" in:

1) any company that controls the trust company and any other company that is controlled by the company that controls the trust company;

2) a subsidiary of the trust company; or

3) any company:

A) controlled, directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the trust company or any company that controls the trust company; or

B) a majority of the directors or trustees of which constitute a majority of the persons holding any such office with the trust company or any company that controls the trust company.

f) For purposes of this Section, a company or shareholder has control over another company if:

1) the company or shareholder, directly or indirectly, or acting through one or more other persons, owns, controls, or has power to vote 25% or more of any class of voting securities of the other company;

2) the company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

3) the Secretary determines, after notice and opportunity for hearing, that the company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company.

(Source: Amended at 36 Ill. Reg. 8373, effective June 1, 2012)