



## 93RD GENERAL ASSEMBLY

### State of Illinois

#### 2003 and 2004

Introduced 2/4/2004, by Terry Link

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/84 new

Amends the Illinois Banking Act. Adds provisions concerning investments and participation by affiliates of any bank or trust company acting in its fiduciary capacity. Provides that any bank or trust company may purchase services or products from an affiliate provided that the purchase is otherwise prudent and not prohibited by the instrument governing the fiduciary relationship. Provides that the compensation for the service or product may be in addition to the compensation which the bank, trust company, or its affiliate is otherwise entitled as a fiduciary. Provides that the bank or trust company must disclose, in a specified manner, any purchase authorized by the new provisions. Applies to any bank or trust company doing banking or trust business in this State including any national bank, national trust company, or any of its affiliates. Effective January 1, 2005.

LRB093 18195 SAS 43890 b

1 AN ACT concerning financial 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 adding  
5 Section 84 as follows:

6 (205 ILCS 5/84 new)

7 Sec. 84. Investments and participation by affiliates.

8 (a) Any bank or trust company acting in its fiduciary  
9 capacity may purchase services or products, including, but not  
10 limited to, life insurance, equity derivatives, or securities  
11 underwritten or otherwise distributed by an affiliate of such  
12 bank or trust company or its affiliate directly from such  
13 affiliate or from a syndicate or selling group which includes  
14 the bank, trust company, or its affiliate, provided that the  
15 purchase is otherwise prudent and not prohibited by the  
16 instrument governing the fiduciary relationship. The  
17 provisions of this Section shall apply to such purchases of  
18 services or products made at the time of the initial offering  
19 thereof or at any time thereafter.

20 (b) The compensation for the services or products may be in  
21 addition to the compensation to which the bank, trust company,  
22 or its affiliate is otherwise entitled as fiduciary.

23 (c) Any bank or trust company acting in its fiduciary  
24 capacity may effect such purchases of services or products with  
25 or through its affiliate, provided that the fees paid to its  
26 affiliate and the terms and conditions of such purchases are  
27 reasonable and the transaction is not prohibited by the  
28 instrument governing the fiduciary relationship.

29 (d) A bank or a trust company shall disclose at least  
30 annually any purchase authorized by this Section that was made  
31 by the bank or trust company during the reporting period. The  
32 disclosure shall be given, in writing or electronically, to all

1 persons entitled to receive statements of account activity, and  
2 shall include any capacities in which the bank or trust company  
3 or an affiliate acts for the issuer of the securities or the  
4 provider of the products or services and the fact that the  
5 bank, trust company or an affiliate may have an interest in the  
6 products or services.

7 (e) Notwithstanding the applicable provisions of Illinois  
8 law, including Section 2 of this Act, the provisions of this  
9 Section apply to any bank or trust company doing banking or  
10 trust business in this State, including, without limiting the  
11 generality of the foregoing, any national bank, national trust  
12 company, or any of its affiliates even if its principal place  
13 of business is not in this State.

14 Section 99. Effective date. This Act takes effect January  
15 1, 2005.